

WASHINGTON SUBURBAN SANITARY COMMISSION

MINUTES OF THE COMMISSION MEETING

**Wednesday, May 21, 2014
Laurel, Maryland**

Chair Gene W. Counihan called the meeting to order at 8:49 a.m., in the Auditorium of the Washington Suburban Sanitary Commission (hereinafter "WSSC") Richard G. Hocevar Building, 14501 Sweitzer Lane, Laurel, Maryland, 20707, with due notice having been given to all members of the Commission and the public. In addition to Chair Counihan, Commissioners Chris Lawson (Vice Chair), Omar M. Boulware, Adrienne A. Mandel, Roscoe M. Moore, Jr., and Mary Hopkins Navies, were present at the meeting, reflecting the presence of a quorum. Also in attendance were WSSC General Manager and Chief Executive Officer Jerry N. Johnson, General Counsel Jerome K. Blask, and Corporate Secretary Sheila R. Finlayson, Esq., who recorded the minutes of the meeting. Other members of WSSC management were also called upon, during certain portions of the meeting, to provide information to the Commission.

PLEDGE OF ALLEGIANCE

Chair Counihan opened the meeting by welcoming everyone and asking Commissioner Boulware to lead the pledge of allegiance.

AGENDA APPROVAL

Commissioner Lawson moved to adopt the Commission's Public Meeting Agenda of May 21, 2014, as drafted, to which Commissioner Mandel seconded the motion. The motion carried unanimously with six affirmative votes.

APPROVAL OF MINUTES

Commissioner Mandel then moved to approve the open session minutes of the April 16, 2014 Commission Meeting, as drafted. Commissioner Boulware seconded the motion. The motion carried unanimously with six votes in the affirmative.

WSSC RETIREES

Richard Baker, WSSC Employees' Retirement Plan Group Leader, recognized the following WSSC Retirees for the month of May 2014:

Kenny L. Sandusky, Plant Operator/Wastewater, Seneca/Damascus/Hyattstown Group/Damascus, retired with 36 years of service; Laurie S. Pullman, Supervisor, Regulatory Services Group/Consolidated Office Building, retired with 33 years and 2 months of service; Donald J. General, Technician, Customer Care Support Services Group/Seneca, retired with 25 years and 6 months of service; Reginald D. Thorpe, Information Support Group Leader, Information Technology Team/Consolidated Office Building, retired with 24 years and 7 months of service; Paul W. Smith, Senior Production Support Application Developer, Information Technology Team/Consolidated Office Building, retired with 15 years and 9 months of service; and, Steven T. Law (present at meeting), Unit Coordinator, Infrastructure Systems Group/Consolidated Office Building, retired with 25 years and 6 months of service.

COMMUNICATIONS VIDEO

Communications and Community Relations Director Jim Neustadt presented a video on the Office of the General Counsel ("OGC"), which highlighted the many services provided by the OGC.

COMMISSIONER/PUBLIC COMMENTS

Commissioner Moore took an opportunity to remind everyone that this month marks the 60th Anniversary of the *Brown v. Board of Education* decision, recognizing one of the lead attorneys, Oliver Hill, sharing that Mr. Hill was second in his class at Howard University School of Law (Thurgood Marshall was first) and that Mr. Hill was extended family to him as he was married to his mother's first cousin.

The Chair commended Jim Neustadt and the General Manager for a job well done with respect to the Bi-County Tunnel Tour event held last week (Wednesday, May 14, 2014), pointing out the great turnout and positive media coverage that resulted.

There were no comments from the public.

GENERAL MANAGER'S REPORT

General Manager and Chief Executive Officer Jerry Johnson began by reporting on the call center, noting that WSSC has seen some upward movement; answer rate increased from 85.7% last month to

90% this month. Consultant is in the fifth of a 12-week engagement; will provide management with a road map of where it needs to go to ensure future progress.

Delinquencies took a slight reduction; down about \$1,000,000 from last month; majority in residential accounts.

Wastewater treatment plants sanitary sewer overflow numbers are up, largely due to the significant rain events experienced last month; highest since March of 2010. There were zero drinking water quality permit violations; however, the Western Branch Wastewater Treatment Plant experienced five effluent National Pollutant Discharge Elimination System ("NPDES") non-compliance events during the course of the month due to the rainfall and extensive construction activities in the biological basins that have prevented the plant from effectively nitrifying, de-nitrifying and disinfecting during the plant treatment process. The significant rain events at the end of April also had a major impact on WSSC's water operations and in particular, WSSC water reservoirs and dams. The General Manager directed Commissioners to a report provided in the Commission materials and appended to his monthly report that details the actions taken by WSSC personnel during the April rain event. The General Manager also walked through the circumstances that led to the release of water from the T. Howard Duckett dam in Laurel on April 27, 2014 as a result of the significant rain event.

Water main breaks and leaks are down as compared to previous months. Water main construction is also down due to the weather; however, the cumulative number for new water main installations is well over the targeted projection. Sewer main repairs continue to lag due to lack of permits; laterals continue to remain well-ahead. WSSC has begun to make payments under the Consent Decree/MOU to the Maryland Department of Natural Resources ("DNR") and should be able to begin related work soon.

Financial projections are on target with regard to revenue and expenses. The General Manager circulated the WSSC 2013 Annual Report along with the Annual Strategic Performance Report for Fiscal Year 2013 (at this meeting), highlighting some of the information contained in the reports. The Fiscal Year 2013 SLMBE Legislative Report distributed in October 2013 contained an error; WSSC has reissued a revised report in April 2014 as a result.

The Annual Children's Water Festival held on May 7-8, 2014 at Brighton Dam was a huge success despite the rain; over 650 students from local schools participated. The Family Fishing Derby held on Saturday, May 17th was also well-attended.

Lastly, the General Manager provided information on other items of interest, which included an update on the Montgomery County Purple Line construction project, the ESD matter and the Piscataway Drive Slope Emergency situation in Prince George's County, and the efforts by WSSC to work with the local jurisdictions to address the issues and related impact on WSSC's infrastructure.

Following discussion, the General Manager and Chief Executive Officer's Report, was received as information.

INTERNAL AUDIT REPORT

Monthly Activity Report. Internal Audit Manager Maxene Bardwell reported on the monthly activities of the Internal Audit Office (IAO) for the period of April 7, 2014 through May 2, 2014. Fiscal year-to-date savings for the System Development Charge (SDC) Audits total approximately \$852,408. Two SDC Audits have been completed during the reporting period. Out of the nine audit requests in process; six are active and three are inactive. For Fiscal Year 2014 Risk-Based Audits, IAO is conducting field work on the Customer Relations Group Operational Audit and the Blue Plains Audit. The Construction Contracts Change Orders Special Audit has been postponed until completion of the Blue Plains audit. With respect to Fiscal Year 2013 Carryover Audit projects, management's responses are being incorporated into the discussion drafts for both the Information Technology Inventory Audit and the Industrial Asset Management Group Inventory Audit. Under internal audit follow-up activities, one management action item has been closed since the last status report and a review is being conducted on the six implemented-pending Internal Audit verification action items.

Hotline. The next quarterly report to be presented at the June Commission Meeting.

Board of Ethics. The Board held its regularly-scheduled meeting on April 10, 2014; several open and closed items were reviewed.

Code of Ethics Training. The Ethics Officer provided training to 9 new hires on April 28, 2014.

External Auditors. The external auditors are currently on-site conducting audit work through the end of the month.

The report of the Internal Audit Office, as presented by the Internal Audit Manager, was received as information.

DEPARTMENT BRIEFINGS

ENGINEERING AND CONSTRUCTION

Contracts for Commission Approval

Chief Engineer Gary Gumm, of Engineering & Construction, presented five construction contracts and one architect/engineer contract, for Commission approval. [Such contracts were approved as part of the May Meeting Consent Calendar].

CONSENT CALENDAR

Chair Counihan then called for a vote of the six items listed on the Consent Calendar for the May Commission Meeting.

Whereupon, Commissioner Boulware moved that the Commission adopt Resolution 2014-2048, approving the six contracts included on the Consent Calendar for the May 21, 2014 Commission Meeting, as follows:

A. Engineering and Construction

Construction Contracts

1. AC5538A13, Option Term, Area Water and Sewer House Connection Construction, to Fort Myer Construction Corporation, in the amount of \$1,669,220.00.
2. LC5541A13, Option Term, Area Water and Sewer House Connection Renewals, to Fort Myer Construction Corporation, in the amount of \$2,095,515.00.
3. LC5542A13, Option Term, Area Water and Sewer House Connection Renewals, to Fort Myer Construction Corporation, in the amount of \$2,095,165.00.
4. LC5539A13, Option Term, Area Water and Sewer House Connection Renewals, to Fort Myer Construction Corporation, in the amount of \$2,124,165.00.

5. LC5540A13, Option Term, Area Water and Sewer House Connection Renewals, to Fort Myer Construction Corporation, in the amount of \$2,095,165.00.

Architect/Engineer Contract

1. CD4260A05/CD4260B05, Seneca Wastewater Treatment Plant Enhanced Nutrient Removal (ENR) and Expansion for Design Services During Construction, Change Order No. 1, to Atkins North America, Inc., in the amount of \$1,222,464.00.

Commissioner Moore seconded the motion. The motion carried with five affirmative votes (one absent). Commissioner Lawson left the room temporarily and was absent from the vote.

HUMAN RESOURCES

Collective Bargaining Agreement. Acting Human Resources Director Carolyn White presented, for the Board's adoption, Resolution 2014-2050, which authorizes the General Manager to Execute the Collective Bargaining Agreement between WSSC and the American Federation of State, County and Municipal Employees, AFL-CIO Council 67 and Local 2898 ("AFSCME").

Whereupon, a motion was made by Commissioner Lawson and seconded by Commissioner Mandel to adopt Resolution 2014-2050, delegating and authorizing the General Manager/CEO to execute and sign the Collective Bargaining Agreement with the American Federation of State, County and Municipal Employees (AFSCME) on behalf of the Commission. Such agreement to be effective July 1, 2014 through June 30, 2017.

The motion carried unanimously with six affirmative votes.

ADDITIONAL BRIEFINGS

Amendment to Standard Procedure for Adjudicatory Hearings.

General Counsel Jerome Blask presented a revised Standard Procedure/Regulation governing WSSC's adjudicatory hearings, for the Commission's consideration and adoption. The proposed new Regulation (REG-LGS-GC-2014-002), which sets forth the policies and procedures that WSSC is to follow with respect to conducting adjudicatory hearings in contested cases pursuant to the Maryland

Administrative Procedures Act, would replace the existing Regulation covering such procedures (SP L-07-02). The revised Regulation, reclassifies contract disputes and bid protests as matters that are resolved in accordance with procedures in WSSC's Procurement Regulations (and thus, are exempt from adjudicatory hearing procedures); updates citations to revised WSSC Standard Procedures and to the Public Utilities Article; and, makes clarifying changes to the text of the SP/Regulation.

Following some discussion, the Commission determined by unanimous consent to special order this item until later in the meeting.

WSSC Ad Hoc Committee on Large Diameter Water Mains. The General Manager provided a brief overview of the final report provided to the Commission at last month's meeting (with written report provided to Commissioners at this meeting) and is recommending that the Commission formally accept the report as information. The Ad Hoc Committee produced 21 specific recommendations focused on the broad categories of prevention of large-diameter water main breaks, mitigation of such breaks and emergency response and community outreach, in the wake of these large scale events.

Following discussion, a motion was made by Commissioner Mandel and properly seconded by Commissioner Boulware to adopt Resolution 2014-2049, acknowledging the conclusion of the work of the WSSC Ad Hoc Committee on the Pipeline Design Manual Study and accepting the Report, as provided to the Commission at the April 16, 2014 Commission Meeting.

The motion carried unanimously by a vote of six-to-zero.

Commissioners tasked management with analyzing the recommendations closely and reporting back to the Commission on feasibility.

COMMISSION OFFICE

Corporate Secretary Report. Corporate Secretary Sheila Finlayson provided an overview of her activities for the month, sharing, among other things, that she is continuing to monitor the outreach efforts and application process for this year's Counihan/Starks Engineering Scholarship Program. The Corporate Secretary has personally reached out to local universities to ensure awareness of the scholarship program and to hopefully gain more traction

with regard to applicant submissions. Application deadline is May 30, 2014.

The Commission received the Corporate Secretary's report as information.

WSSC Employees' Retirement Plan Board of Trustees. Commissioner Moore reported that, as of March 31, 2014, the Plan's assets were \$742.6 million, which reflects a year-to-date investment gain of \$9.8 million or an increase of 1.4% from December to March. The next meeting of the Board is scheduled for Wednesday, May 28, 2014.

The Commission received the report of the WSSC Employees' Retirement Plan Board Sub-Committee, as information.

Personnel, Governance & Legislation. Commissioner Mandel provided an update of the Committee's activities for the month, which included monitoring and review of personnel matters, pending management issues and follow-up items from Commission meetings.

The Commission received the Personnel, Governance and Legislation Committee report, as information.

Bi-County Infrastructure Funding Working Group. The General Manager indicated that there was nothing to report this month and that the final report of the working group would be presented to the Commission at the next meeting.

Adoption of Audit Committee Charter. The Internal Audit Manager presented a proposed Audit Committee Charter/Standard Procedure that sets forth the specific functions, powers and duties of the newly-established Audit Committee for the Commission's adoption, to which a motion was made by Commissioner Mandel and seconded by Commissioner Boulware to approve Resolution 2014-2051, adopting the Charter of the newly-constituted Audit Committee.

The motion carried unanimously by a vote of six-to-zero.

The Chair called for a motion to go into Closed while in Open Session. Following the vote, the Commission will recess for lunch and reconvene in Closed Session in the Commissioners' Conference

Room following lunch. The Special Ordered item to be considered in Open Session prior to adjournment.

CLOSED SESSION

Whereby at 11:02 a.m., Commissioner Mandel moved that the Commission go into Closed Session pursuant to Maryland Code Annotated, State Government Article: Section 10-508(a)(13) to approve the April 16, 2014 Closed Session Minutes; Sections 10-508(a)(7) and 10-508(a)(8) to consult with counsel to obtain legal advice on pending litigation, a contract termination for convenience claim and the proposed Standard Procedure for adjudicatory hearings; Section 10-508(a)(12) to discuss an investigative proceeding; and, Section 10-508(a)(1) to discuss personnel matters with the General Manager pertaining to one or more specific individuals. Commissioner Lawson seconded the motion. The motion carried unanimously with six affirmative votes.

At 11:02 a.m., Chair Counihan declared the meeting was Closed. The Chair then called for a recess. The meeting reconvened into Closed at 1:11 p.m.

ATTENDEES: Chair Gene Counihan; Vice Chair Chris Lawson; Commissioners Omar Boulware, Adrienne Mandel, Mary Hopkins Navies and Roscoe Moore, Jr. Staff present: General Manager Jerry Johnson, General Counsel Jerry Blask, Corporate Secretary Sheila Finlayson, Chief Procurement Officer Cathy Martin and Senior Counsel Vicki Webb. Mmes. Martin and Webb departed at 1:55 p.m. The General Counsel and Corporate Secretary were excused at 2:16 p.m. while the Commission met with the General Manager in executive session.

Closed Session Minutes - On motion made by Commissioner Mandel and properly seconded by Commissioner Boulware, the Commission voted unanimously by a vote of six-to-zero, to approve the closed session minutes of its April 16, 2014 Commission Meeting, as drafted.

Pending Litigation/Legal Advice - Commissioners were briefed by counsel on pending litigation and other confidential/privileged legal matters affecting the Commission including a termination for convenience claim and a bid protest.

The Commission unanimously voted to deny the pending termination for convenience claim and to reject any proposed settlement of such claim (Mover - Commissioner Boulware; Seconder - Commissioner Moore; motion carried by a vote of six-to-zero).

Personnel Matter - Commissioners met with the General Manager/CEO in executive session to discuss recruitment and personnel matters.

At 2:30 p.m., Commissioner Boulware moved to end the Closed Session. Commissioner Moore seconded the motion. The motion carried unanimously with six affirmative votes.

OPEN SESSION RESUMED

Board Strategy Planning Sessions. The General Manager circulated a draft agenda for the Board Strategic Planning Sessions to be conducted on June 25-26, 2014 at a location in Montgomery County, Maryland.

Adoption of Regulation LGS-GC-2014-002 - Procedure for Adjudicatory Hearings.

On motion made by Commissioner Mandel and properly seconded by Commissioner Lawson, the Commission voted to approve the new Regulation LGS-GC-2014-002 - Procedure for Adjudicatory Hearings which amends and replaces Standard Procedure L-07-02 (WSSC's former Regulation governing WSSC adjudicatory hearings), as recommended by the WSSC General Counsel. The motion carried unanimously by a vote of six-to-zero.

ADJOURNMENT

There being no additional business, the Chair called for a motion to adjourn, to which Commissioner Moore moved to adjourn the meeting. Commissioner Mandel seconded the motion. The motion carried unanimously with six affirmative votes.

At 2:50 p.m., the meeting was declared adjourned.

Respectfully submitted,

//signed//

Sheila R. Finlayson, Esq.
Corporate Secretary