

**MINUTES OF A SPECIAL MEETING  
OF THE NEW YORK CITY WATER BOARD**

A Special Meeting of the New York City Water Board (the “Board”) was held on February 26, 2007 at 8:30 a.m. at St. John’s University, 101 Murray Street, New York, N.Y.

10007. The following members of the Board were present:

James T.B. Tripp, Chair,

Donald Capoccia;

Dawn S. Davis; and

Maria Santos Valentin,

constituting a quorum. Mr. Tripp chaired the meeting, and Albert F. Moncure, Jr., served as Secretary of the meeting.

**Adoption of Minutes**

The first item on the agenda was approval of the Minutes of the Board’s prior meeting held on January 19, 2007. Mr. Capoccia asked for the correction of a remark attributed to him in the Minutes. There being no further discussion, upon motion duly made and seconded, the Minutes of the Board’s meeting held on January 19, 2007 revised to reflect Mr. Capoccia’s comments were unanimously adopted.

**Approval of Transfer of Certain City-owned Lands to the Village of Brewster**

The next item on the agenda was reconsideration of the disposition of the Brewster Wastewater Treatment Plant previously considered by the Board at its last meeting. Board action was deferred at that time pending receipt of summary financial information relating to the costs and benefits of the project. The project is described in the Minutes of the last meeting.

DEP General Counsel, Mark Hoffer, summarized the benefits of the proposed transaction which are described more fully in his memorandum to the Board filed with the Minutes of the meeting. The City would be relieved of the obligation to pay annual real estate taxes and to operate the plant and comply with the terms and conditions of the State Pollutant Discharge Elimination System permit. The Town of Brewster would make an annual operating and maintenance cost contribution with respect to the plant and would also construct new exclusive laboratory space for DEP. The new plant meets state of the art tertiary treatment requirements which provide for the removal of 95% of pollutants from wastewater.

A brief discussion ensued. Mr. Capoccia, who had previously expressed reservations about the disposition, now stated his approval of the transaction. He also reiterated his suggestion that the Department seek and obtain an environmental indemnity when relinquishing real property in the future. There being no further discussion, upon motion duly made and seconded, the following resolution was unanimously adopted.

**WHEREAS**, the City of New York (the “City”) acting by and through the New York City Department of Environmental Protection (“DEP”) entered into an agreement with the Village of Brewster (the “Village”), in Putnam County, dated July 24, 2000 (the “Agreement”), for the design, reconstruction and upgrade of the Brewster Wastewater Treatment Plan (“WWTP”) which is owned and operated by the City; and,

**WHEREAS**, the City desires to relocate and reconstruct the Brewster WWTP from its present location at Railroad Avenue and Morningthorpe Avenue, identified as the “Site”, for the purpose of removing the Brewster WWTP from the flood plain of the East Branch of the Croton River, to another parcel of City owned property located at Marvin Avenue and Park Street, identified as the “Property”; and

**WHEREAS**, there is a potential threat to water quality posed by failing septic systems throughout the Village that could be eliminated by the establishment of a sewer collection system that includes, where necessary, the repair or replacement of

the existing sewers and the construction of new sewers that together will collect sewage from throughout the Village and convey and treat it at the Brewster WWTP (Sewer System); and,

**WHEREAS**, the Village sought financial assistance to design and construct the Sewer System to collect sewage from the entire Village and to have the Brewster WWTP treat all sewage received from the Sewer System; and,

**WHEREAS**, in exchange for financial assistance from the City to the Village for the design and construction of the Sewer System, the Village has offered to relocate and reconstruct the Brewster WWTP on the Property, upgrade it to meet the “Watershed Regulations” pursuant to the “Rules and Regulations for the Protection from Contamination, Degradation and Pollution of the New York City Water Supply and its Sources”, and thereafter to own and operate the Sewer System and Brewster WWTP and the underlying property in perpetuity; and,

**WHEREAS**, the planning, design and reconstruction of the Brewster WWTP includes the design for the reconstruction of the Brewster WWTP on the Property, the upgrade of the Brewster WWTP on the Property to meet the requirements of the Watershed Regulations, the demolition of the existing Brewster WWTP on the site, the removal of the impervious surfaces to grade at the site, and the conversion of the site to a previous passive recreation area; and,

**WHEREAS**, the Village will include in the design of the Brewster WWTP a seven thousand five hundred square foot laboratory for the exclusive use by DEP that meets laboratory facility plans and specifications provided by DEP and the Village will include in the design of such laboratory facility water, gas and electric utility services, the cost of which will be included in the Operation and Maintenance of the WWTP; and,

**WHEREAS**, the conveyance of a WWTP and the property beneath it constitutes a disposition of real property subject to the Agreement of Lease, dated as of July 1, 1985, as amended (as so amended, the “Lease”) between the City and the New York City Water Board (the “Board”); and,

**WHEREAS**, pursuant to Section 11.1 (d) (ii) of the Lease, the City may, with the prior written consent of the Board, dispose of certain portions of the Leased property which, in the reasonable judgment of the Board, do not interfere with the

operation and maintenance of the sewer systems and the collection of revenues from such system; and,

**WHEREAS**, by letter dated January 18, 2007, William Pfang, P.E., Project Director, Metcalf & Eddy of New York, Inc. confirmed that they have evaluated the property transfer from the City of New York to the Village of Brewster, and have concluded that such transfer provides benefits to the City, and that it will have no adverse impact on the operation of the water and wastewater system serving the City of New York, and

**WHEREAS**, the New York State General Municipal Law, Article 5 Section 72H authorizes the transfer of real property between municipalities; and,

**WHEREAS**, the Board, at its meeting on January 19, 2007 requested additional information be provided before consenting to the dispositions contemplated and such additional information has been provided to the Board in the form of a memorandum dated January 29, 2007, from Mark Hoffer, DEP General Counsel, it is therefore,

**RESOLVED**, that the Board hereby gives its consent to convey the Brewster WWTP and the parcel of land underlying it to the Village in fee simple; and be it further

**RESOLVED**, that the Board hereby gives its consent to convey the Parking Garage premises to the Village with the City retaining a right of reverter in the event that the premises is required for water quality purposes; and be it further

**RESOLVED**, that the officers of the Board be, and each of them hereby is, authorized and empowered, in the name and on behalf of the Board to execute such agreements and other instruments, and to take such other actions, as they or any of them deem necessary or appropriate to effectuate the foregoing resolution.

### **Approval of Consultant for Commercial Food Waste Disposal Study**

The next item on the agenda concerned approval of a consultant to study the impact on the water and wastewater system and the environment of the use of food waste disposal devices in New York City. The use of such devices in the City is currently prohibited.

Executive Director, Steven Lawitts described the request for proposals process used to select the consultant being recommended by the evaluation committee, and the scope of the proposed engagement the consultant would undertake.

Discussion ensued among Mr. Tripp and Ms. Davis. Mr. Tripp stressed the fact that the study should analyze the impact attributable to the use of food waste disposal devices on current and future nitrogen levels at all 14 in-City wastewater treatment plants. Responding to a question from Davis about the places in the City where food waste disposal will be surveyed, Mr. Lawitts said the study will sample institutional food waste disposal at certain statistically valid locations in the City to gauge the impact of food waste disposal devices on the water and wastewater system throughout the City as a whole.

There being no further discussion, upon motion duly made and seconded, the following resolution was unanimously adopted:

**WHEREAS**, pursuant to Section 1045-g(8) of the New York City Municipal Water Finance Authority Act (the "Act"), the Board is authorized to enter into contracts and to retain private consultants on a contract basis for the purpose of obtaining professional or technical services to assist the Board in carrying out its responsibilities; and,

**WHEREAS**, the New York City ("NYC") Solid Waste Management Plan tasked the NYC Department of Environmental Protection ("DEP"), with support from the Department of Sanitation ("DOS") and the Economic Development Corporation ("EDC"), to evaluate the economic, engineering, infrastructure and environmental impacts of commercial food waste disposal methods, including the current land based approach and the alternative of allowing the installation of commercial food waste disposal devices; and

**WHEREAS**, the expanded installation and usage of commercial food waste disposal devices in food service establishments in NYC will impact the Board's water supply and wastewater system infrastructure and the capital and operating

costs thereof by generating increased water consumption and by introducing a new waste stream into the wastewater system; and

**WHEREAS**, it was anticipated that DEP would lead the City's multi-agency task force that is evaluating food waste disposal alternatives and that the assistance of professional consultant expertise would be necessary to complete a comprehensive assembly and evaluation of food waste disposal data; and

**WHEREAS**, in recognition of the need to develop detailed information with respect to the probable impacts on the water and wastewater system and the environment resulting from the expanded installation and use of food waste disposal devices in NYC, the Board's FY2007 Expense Fund included funding for a consulting services contract; and

**WHEREAS**, a Request for Proposals ("RFP") was issued in January 2007 for qualified consultants to conduct a comprehensive evaluation of the impact of food waste disposal alternatives and thirty-seven firms requested and received the RFP; and

**WHEREAS**, a proposer's conference was held wherein three firms expressed interest to serve as prime consultants and seven firms expressed interest to provide various services as sub-consultants; and

**WHEREAS**, on February 2, 2007, three proposals were received which were subsequently reviewed and rated by a Technical Evaluation Committee consisting of representatives from DEP's Bureau of Environmental Planning and Assessment, Bureau of Wastewater Treatment, and Bureau of Environmental Design and Construction, and from DOS and EDC; and,

**WHEREAS**, the Evaluation Committee rated the firm of AKRF, Inc. as the highest on technical merit and submitted a memorandum to the Board recommending that the Board authorize a contract with AKRF, Inc. to conduct the food waste disposal evaluation provided for in the City's Solid Waste Management Plan; and

**WHEREAS**, in accordance with the Water Board's Policy on the Procurement of Goods and Services, in particular, Section 4 (selection based on the best combination of technical merit and price) and Section 5.i. (prior approval of contracts where

the cumulative value exceeds \$100,000), the Board finds the selection of AKRF, Inc. appropriate; be it, therefore,

**RESOLVED**, that the Executive Director is hereby authorized and directed to execute an agreement with AKRF, Inc., upon such terms and conditions as the Executive Director may deem reasonable and appropriate, to conduct a comprehensive evaluation of food waste disposal management alternatives, provided however that the total compensation for services performed shall not exceed \$1,450,000.

**Approval of Amendment to Booz Allen Hamilton Contract Providing Operations Review and Benchmarking Services With Respect to the Bureau of Customer Services.**

The next item on the agenda concerned additional funding and an amendment to the scope of services for the Booz Allen Hamilton consultant contract to provide a benchmarking evaluation of the DEP Bureau of Customer Services. Mr. Lawitts described the proposed amendments. There would be a new task to review existing DEP customer segmentation analysis and develop specific treatment recommendations for each customer segment which will result in increased collections. There would also be a new task to create a comprehensive customer service assessment and improvement plan to evaluate DEP's call center, correspondence functions and walk-in customer service delivery.

Responding to a question from Mr. Capoccia, Mr. Lawitts said the Board's \$600 million accounts receivable balance attributable to delinquent accounts is reflected on the Water System's financial statements as an asset subject to a \$100 million allowance for uncollectible amounts.

Responding to a further question from Mr. Tripp, Mr. Lawitts indicated that implementation of the consultant's recommendations will likely result in higher confidence levels in the accuracy of DEP's delinquent accounts so as to encourage the City Council to grant

the Board expanded enforcement tools such as water-only lien sales authority for residential accounts.

There being no further discussion, upon motion duly made and seconded, the following resolution was unanimously adopted:

**WHEREAS**, pursuant to Section 1045-g(8) of the New York City Municipal Water Finance Authority Act (the "Act"), the Board is authorized to enter into contracts and to retain private consultants on a contract basis for the purpose of obtaining professional or technical services to assist the Board in carrying out its responsibilities; and,

**WHEREAS**, on November 17, 2006, the Board authorized the execution and delivery of a contract between the Board and Booz Allen Hamilton ("BAH") to provide assistance in designing and implementing a "Best Practices Model" for the New York City Department of Environmental Protection, Bureau of Customer Services ("BCS") in the interest of providing superior services to customers, efficient revenue collection and the promotion of water conservation; and

**WHEREAS**, on December 20, 2006, the Board entered into a Consulting Agreement with BAH (the "Consulting Agreement") to provide such assistance; and

**WHEREAS**, BCS has determined that two additional tasks are required in order to address improvements in both collections and customer service delivery channels, and

**WHEREAS**, the Deputy Commissioner of BCS in a memorandum dated February 15, 2007<sup>1</sup> has summarized for the Board the justification for the additional tasks wherein it is recommended that the Board authorize the Executive Director to increase the authorized amount of the Consulting Agreement by \$286,875.84 for BAH's performance of the additional tasks; and

**WHEREAS**, in accordance with the Water Board's Policy on the Procurement of Goods and Services, in particular, Section 5.i (prior Board approval of contracts where the cumulative value exceeds \$100,000) and Section 6.iv (waiver of competitive solicitation where the procurement is a continuation of existing services and it is desirable for purposes of continuity and

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<sup>1</sup> Filed with Minutes of the Meeting.



compatibility), the Board finds such justification reasonable and appropriate in the present circumstances; it is therefore,

**RESOLVED**, that the Executive Director is hereby authorized and directed to execute an amendment to the Consulting Agreement, upon such terms and conditions as he may deem reasonable and appropriate, so as to increase the maximum compensation payable to BAH by \$286,875.84 to an amended amount not to exceed of \$783,586.84.

## **Financial Reports: Current Status/Summary; Preliminary Outlook for FY2008**

- **New 10-Year Capital Plan**

Mr. Lawitts next described the 10-year Capital Plan. He said the January target for the Plan had been \$18 billion. This was increased to \$23 billion or 29% in the Plan actually submitted to OMB. Mr. Lawitts then described the Plan components by category: Mandated Projects, Long-term Sustainability, Development, State of Good Repair, Revenue and Contingency. He attributed the bulk of the 29% increase to Mandated Projects such as Croton Filtration Plant costs which have risen to reflect new construction bids. He also provided a breakdown of Plan components by DEP Bureau noting that the Bureau of Wastewater Treatment accounts for the largest portion of Plan costs.

- **Year-to-Date Revenue Performance**

Mr. Lawitts next discussed year to date revenues. Collections are 0.3% below projected amounts but statistically on target to meet the plan estimate of \$2 billion. Mr. Lawitts attributed the strong revenue performance, despite a 2 ½% to 3% decline in consumption over forecast amounts, to improved collections of delinquent charges. Responding to a question from Mr. Tripp, Mr. Lawitts said he did not believe the reduction in water usage is attributable to last year's rate increase.

- **Operations & Maintenance Expenses**

Mr. Lawitts said DEP's preliminary operating budget had been submitted to OMB but was not yet in final form for public dissemination. He stated, however, that although Environmental Health and Safety ("EH&S") costs have not been fully quantified, they are likely to be substantial. Mr. Capoccia asked why EH&S charges should exceed costs mandated by the Federal monitor appointed to oversee DEP compliance with its plea agreement with the U.S. Attorney. Mr. Lawitts explained that DEP must not only fund initial compliance with the monitor's requirements and but must also sustain compliance over the long term. Responding to a question from Mr. Tripp about the status of DEP's greenhouse gas inventory, Mr. Lawitts said that reducing greenhouse gas emissions is key to long-term sustainability. Accordingly, DEP will reduce its use of electricity and gas-fueled generators.

### **Land Acquisition Program Presentation**

The next item on the agenda was a presentation on the DEP Land Acquisition Program by the Program's director, David Tobias. The City is required pursuant to the Watershed Memorandum of Agreement to solicit acquisition of vacant land or conservation easements in the upstate watershed to prevent development which could harm the water supply.

Mr. Tobias described, with the aid of a map, priority areas for solicitation which are based on proximity to water supplies. Land closer to distribution reservoirs are in a higher priority for acquisition than more distant properties.

Responding to a question from Mr. Tripp, DEP General Counsel, Mark Hoffer, said the program's goals include protection of land adjacent to streams and establishment of buffer zones between water sources and septic systems and permitted impervious surfaces.

Mr. Tobias next described the solicitation percentage targets for different priority areas as well as actual land acquisitions. He said that 76,000 acres or 32% of land in the Catskill/Delaware watershed has been acquired or protected by the City or the State.

Mr. Tripp observed that one of the remaining challenges for the Land Acquisition Program is to determine how to encourage the State to acquire land notwithstanding the City's successful efforts which may actually serve as a disincentive to the State's acquisition of land on its own.

### **Adjournment**

There being no further business to come before the Board, upon motion duly made and seconded, the Meeting was duly adjourned.

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SECRETARY