

**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 April 2, 2007 at 8:30 a.m. at St. John’s University, 101 Murray Street, New York, New York 10007. The following members of the Board were present:

James T.B. Tripp, Chair,

Donald Capoccia;

Dawn S. Davis;

Amaziah Howell; 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 meeting held on February 26, 2007. There being no discussion, upon motion duly made and seconded, the Minutes of the Board’s meeting held on February 26, 2007 were unanimously adopted.

Approval of Consultant to Provide Technical Support to the Bureau of Wastewater Treatment Division of Laboratory Services

The next item on the agenda concerned approval of a consultant to perform an audit of the Bureau of Wastewater Treatment’s Division of Laboratory Services. DEP General Counsel Mark Hoffer explained that the Bureau of Wastewater Treatment’s laboratories analyze effluent samples from the Wastewater Treatment System and report the results to State and Federal regulators. The proposed consultant, Analytical Excellence, Inc. (“AEX”), would

recommend changes in current practices and would write new operating procedures. Mr. Hoffer explained AEX had been selected pursuant to a competitive request for proposals process.

When asked by Mr. Tripp, why an outside audit rather than an internal investigation is being proposed to evaluate the laboratories' performance, Mr. Hoffer explained that the Federal monitor overseeing DEP compliance with its plea agreement with the U.S. attorney had raised questions concerning the laboratories' operating procedures and that an audit is now being proposed to address those concerns.

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 Water Supply System and Wastewater System (the "Systems") have been leased by the City to the Board, pursuant to an Agreement of Lease, dated as of July 1, 1985, as amended, between the City and the Board; and

WHEREAS, the New York City Department of Environmental Protection ("DEP") operates and maintains the Systems; and

WHEREAS, in order to ensure that the Systems are operated and maintained in a manner that complies with all applicable laws, rules and regulations, the Board and DEP have identified a need for the engagement of a consultant to assist DEP in conducting a full assessment for National Environmental Laboratory Accreditation Program (NELAP) compliance of all operations and activities conducted by DEP Bureau of Wastewater Treatment ("BWT") laboratories; and

WHEREAS, a Request for Proposals ("RFP") was issued on December 26, 2006 to a total of sixteen potential

consulting firms to conduct the NELAP compliance assessment of BWT laboratories; and

WHEREAS, following a proposer's conference held on January 11, 2007, two proposals were received which were subsequently reviewed and rated by an evaluation committee consisting of representatives from BWT and DEP's Bureau of Legal Affairs; and,

WHEREAS, the Board has reviewed a memorandum¹ from Mark Hoffer, DEP General Counsel, dated March 21, 2007, which sets forth a recommendation that the Board authorize a contract with Analytical Excellence, Inc. ("AEX"), for a term not to exceed three years, to provide technical assistance to DEP in assessing its BWT laboratories; 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 AEX appropriate; be it, therefore,

RESOLVED, that the Executive Director is hereby authorized and directed to execute a three-year agreement with AEX to provide technical assistance to DEP in assessing its BWT laboratories upon such terms and conditions as the Executive Director may deem reasonable and appropriate, provided however that the total compensation for services performed shall not exceed \$300,000; and be it further

RESOLVED, that the Executive Director, the Treasurer and the Secretary of the Board be, and they each hereby are, authorized and empowered, in the name and on behalf of the Board, to execute such other agreements and instruments, and to take such other and further actions, as they or any of them deem necessary or appropriate in order to effectuate the foregoing resolution.

Presentation: FY2008 Water and Sewer Rates

- **Key Assumptions and Financial Projections**

¹ Filed with Minutes of the Meeting.

The next item on the agenda was a presentation by Executive Director Steven Lawitts of the staff's Fiscal Year 2008 Water and Sewer Rate Proposal.

Mr. Lawitts first explained that rates must be sufficient to pay for the cost of service. The cost of service is comprised of debt service costs to fund the capital program, operating and maintenance expenses needed to run the System, and the Board's rental payment to the City pursuant to the System Lease. Historically, the Board's policy has been to "smooth" projected annual changes to prevent sharp increases from year to year. Mr. Lawitts noted that capital spending and operating and maintenance expenditures are increasing but that New York City's water and sewer rates remain comparable to those of other large U.S. cities.

Mr. Lawitts provided a brief re-capitulation of the 5-year capital commitment plan and the 10-year capital plan which he described in greater detail at the Board's last meeting. He noted that the 5-year plan requires a large capital investment associated with expenditures required by the State and Federal governments, over which DEP has no control. State and Federal mandates, for example, account for 47% of projected capital spending during this period, which in turn result in higher debt service costs which must be paid from water and sewer rates.

He next described operating and maintenance expense spending assumptions. These costs are projected to increase by \$105 million for next fiscal year. This amount includes collective bargaining and the fringe benefit rate increases, Environmental Health and Safety costs, expenses related to the Filtration Avoidance Determination, and Wastewater Treatment expenditures. Sixty-eight percent or \$72 million of this amount is non-discretionary. Ms. Santos asked for an explanation of the forecast increase in fringe benefit expenses. Mr. Lawitts explained that DEP fringe benefit allocations are paid from water and sewer rates and not from the City's general fund. However these costs are determined pursuant to Citywide collective

bargaining negotiations over which DEP has no control, hence Mr. Lawitts characterization of such costs as non-discretionary.

Mr. Lawitts said the projected rental payment to the City was \$160 million.

Mr. Lawitts next discussed year-to-year date collections and revenue forecast assumptions. He said that actual collections through March 2007 are 1.9% below plan target amounts. Revenue assumptions are that metered consumption will decline 2.3% in Fiscal Year 2007 and 1% thereafter between Fiscal Years 2008-2011. This year's lien sale has been deferred but it is assumed that routine lien sales will resume during Fiscal Years 2007-2008. It is also assumed that metered collection efficiency will improve by 1% per year over the next two years.

Mr. Lawitts next discussed two rate increase scenarios for Fiscal Year 2008 with the associated rate impact during the following four years. The staff recommends the first alternative which is an 11.5% increase in water charges next year. Sewer charges would remain at 159% of water charges. This increase will smoothe rates over the next five years and will result in a 6.1% increase in Fiscal Year 2012. The second option is to adopt a lower 9.9% increase (last year's projection) which would cause a sharp rate increase of 14.3% in Fiscal Year 2009.

Mr. Lawitts said that the staff's billing policy proposals include a reduction in the down payment required on payment agreements from 25% to 10% and lengthening the repayment term from three to five years.

Mr. Lawitts next discussed the impact the new rates would have on residential customers. The average single family household's annual charges would increase \$72 while the typical multi-family unit's cost would rise by \$61. The average annual residential New York City charge of \$699 is below the 24-City U.S. average of \$748.

Discussion of the rate proposals ensued.

Responding to Ms. Davis, Deputy Commissioner Joseph Singleton said additional billing policy proposals include phased implementation of the Multi-Family Conservation Program (“MCP”) upon expiration of frontage billing.

Mr. Tripp, while stressing the importance of providing customers with adequate advance notice of future billing increases, questioned the accuracy of the 10-year capital spending projections in light of the dramatic reduction forecast for capital spending in 5 years. Mr. Lawitts responded that the projections are subject to revision depending on future State and Federal environmental mandates.

Responding to Mr. Tripp’s question about whether a low flow toilet rebate program is being proposed, Commissioner Singleton said such a program would be implemented over the next 2 years with availability initially being made to MCP participants.

Ms. Santos asked whether this year’s increase in labor costs, specifically the fringe benefit increases, had been anticipated. Mr. Lawitts responded that budgeted amounts typically do not reflect specific wage and benefit increase projections so as not to influence the outcome of collective bargaining negotiations. Personal service costs, however, are assumed to increase 3% per year.

The presentation concluded with a discussion of the public hearing schedule after which the Board will meet to adopt new rates.

Public Comment

Herschel Weiss, a member of the public, addressed the Board during the public comment period to ask whether combined sewer overflow costs are reflected in the capital budget, to which Mr. Lawitts responded yes.

Adjournment

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

SECRETARY