

**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 June 19, 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;

Marilyn Gelber;

Amaziah Howell;

Alan Moss; and

Maria Santos Valentin,

constituting the entire membership of the Board. 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 previous meeting held on May 14, 2007. Ms. Santos said that the draft minutes should reflect concerns she expressed about the adequacy of funding for the Board’s website expenses in the Board’s proposed Expense Fund Budget. Thereafter upon motion duly made and seconded, the minutes of the Board’s meeting held on May 14, 2007, as revised in accordance with Ms. Santos’ comments, were unanimously adopted.

**Presentation by Comptroller William C. Thompson, Jr.**

The next item on the agenda was a presentation by City Comptroller William C. Thompson, Jr. on restructuring the Water Board's rental payment to the City. Comptroller Thompson explained that the rental payment is the greater of debt service on City general obligation bonds issued for water and sewer system purposes or 15% of debt service on Water Authority bonds and that the "crossover" to a payment based on 15% of Water Authority debt service occurred in 2005. He characterized as "Excess Rent" the amount of the rental payment in excess of debt service on City general obligation bonds issued for water and sewer system purposes. He said the excess would amount to \$8.9 billion over 30 years.

He then presented two scenarios for use of this amount as an alternative to the current practice of paying the money into the City's general fund. In the first scenario, 50% of "Excess Rent" would be used as pay as you go capital for water and sewer system capital improvements and 50% would be used to reduce water and sewer rates. The second alternative would allocate 100% of the "Excess Rent" to water and sewer system rate relief.

Discussion ensued. Responding to Mr. Tripp, the Comptroller indicated his preference for the former scenario citing the importance of minimizing short and long term capital costs. In response to questions from Ms. Gelber and Mr. Capoccia as to the potential adverse impact of the Comptroller's plan on the Water Authority's bond ratings or its debt service coverage ratios, Comptroller Thompson said that there would be no reduction in the Authority's debt service coverage because "Excess Rent" is now paid to the City's General Fund and is consequently not available for Authority debt payments and he had been assured by rating agencies that the Authority's debt would not be downgraded if his proposal were implemented.

Mr. Capoccia suggested that “Excess Rent” be used to benefit affordable housing. In rejecting that proposal, the Comptroller cited the difficulty of implementing such a plan in light of the different types of housing stock present in the City.

Mr. Tripp expressed his support for the use of the excess for pay as you go capital. Ms. Santos asked whether other municipal water utilities had grappled with similar problems. Carol Kostick, the Deputy Comptroller for Public Finance, said that New York is unique in that it is the only place in the country where the utility’s cost for water is based on debt service coverage rather than a user fee or payment in lieu of taxes.

In response to a question, Mr. Moncure said the comptroller's proposal could be implemented without amending the System Lease or new legislation.

There was a consensus among Board members to consider the Comptroller’s plan.

#### **Adoption of Fiscal Year 2008 Upstate Water Rates**

The next item on the agenda was the adoption of upstate water rates. William Kusterbeck, Treasurer, explained that pursuant to the Water Supply Act of 1905, certain upstate counties are entitled to receive “allowance” quantities of water from the City’s water system in an amount equal to their population multiplied by daily per capita consumption in the City. “Allowance” quantities of water are provided at the System’s cost of service. Amounts in excess of “allowance” quantities are provided at the higher in-city metered rate.

Mr. Kusterbeck reviewed the history of upstate rates and Board staff’s current rate proposals. Mr. Tripp suggested there should be a study to determine whether peak usage upstate can be reduced. Ms. Gelber asked whether there have been any requests by upstate users for new connections to the water system. Mark Hoffer, general counsel, replied that there have been only a handful of new requests. He also noted that Orange County, which is entitled to service under

the Water Supply Act of 1905 and in which only a small number Villages and municipalities are now drawing water, recently contemplated a large expansion of its takings. While that plan did not develop, Orange County is experiencing rapid population growth and may request a connection to the system in the future.

Mr. Tripp asked why upstate water supply costs are increasing faster than in-City costs. Edward Markus, the Board's rate advisor, said this is attributable to upstate property tax increases and water filtration costs allocated to upstate users. Responding to Ms. Gelber, Mr. Markus explained that pre-construction costs for the Croton Filtration Plan being built in Van Cortland Park were allocated among all users of the System rather than to the City alone, because prior to site selection, the Plant could have been built in the City or upstate. However, after site selection, actual construction costs are allocated only to the City, where the Plant is actually being built.

Mr. Kusterbeck described the rate hearing and the public comments. One comment was that there should be an external audit of DEP. Ms. Santos asked whether this recommendation would be implemented. Executive Director, Steven Lawitts, stated that an audit would be redundant with the Booz Allen Hamilton study which is now under way to assist DEP to design and implement a "Best Practices Model" for the Bureau of Customer Services. He also indicated that the City and State Comptrollers perform periodic audits of the System's operations. Mr. Kusterbeck added that the system's financial statements are audited annually by Grant Thornton, independent certified public accountants. Finally Mr. Markus responded that typically only investor owned utilities are subject to external audit.

Discussion of the rate proposal ensued.

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

**WHEREAS**, the Board is authorized pursuant to Section 1045-j of the New York City Municipal Water Finance Authority Act to establish rates and charges for services furnished by the Water System of the City of New York; and

**WHEREAS**, the Board has received a report dated May 2007 from the Amawalk Consulting Group LLC, Rate Advisor to the Board, on the cost of supplying water to upstate customers for the 2008 rate year and such report indicates that the anticipated unit cost of water supply service for municipalities and water districts north of the City in Fiscal Year 2008 will be \$798.62 per million gallons; and

**WHEREAS**, upon appropriate notice, a public hearing was held on June 8, 2007 in Valhalla, New York, concerning a proposed increase in the rates for water supply from the City system sold to users outside of the City pursuant to the Water Supply Act of 1905; and

**WHEREAS**, the Board has received a copy of the transcript with respect to such hearing, and has received a report and recommendations from staff regarding the proposed increase;

**RESOLVED**, that effective July 1, 2007, the regulated rate for water sold to users outside of the City from either the Croton or Catskill/ Delaware Systems that is within the allowance quantities of water set forth in Section 24-360 of the Administrative Code of the City of New York shall be increased to \$798.62 per million gallons; and the rate and charge for water provided to users outside the City which exceeds the allowance quantities of water set forth in Section 24-360 of the Administrative Code of the City of New York shall be continued at a level equal to the retail metered rate effective within the City of New York which as of July 1, 2007 shall be equal to \$2,700.53 per million gallons.

### **Authorization of Renewal Agreements for Environmental Health and Safety Advisory Panel Members**

The next item on the agenda was the renewal of consultant contracts with three advisors on Environmental Health and Safety matters. At the request of Ms. Gelber, Mr. Hoffer described the services provided by the consultants. He said they have provided excellent advice

on dealing with the federal monitor and with the U.S. Attorney's Office with respect to compliance with DEP's plea agreement.

There being no further discussion, upon motion duly made and seconded, the following resolution was unanimously adopted with the abstention of Mr. Moss who recused himself because of his acquaintance with one of the three consultants:

**WHEREAS**, the water and wastewater systems (the "Systems") of the City of New York (the "City") have been leased by the City to the New York City Water Board (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**, the Board and DEP both wish to ensure that the Systems are operated and maintained in a manner that complies with all applicable laws, rules and regulations; and

**WHEREAS**, in furtherance of this important objective the Board previously authorized the execution of consulting agreements between the Board and Professor Ross Sandler, Deidre Daly, Esq., and James Krantz to allow the aforesaid individuals (the "Consultants") to serve as advisors to DEP in the development and implementation of its Environmental Health and Safety ("EH&S") Compliance Program; and

**WHEREAS**, the current agreements with each of the Consultants expires on June 30, 2007; and

**WHEREAS**, DEP has determined that it is necessary and desirable to continue to retain the services of the Consultants as DEP moves forward with its EH&S Compliance Program; and

**WHEREAS**, the Board concurs in such determination; 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 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 Agreements with each of the Consultants to provide for continued expert EH&S advisor services for a term of one (1) year and with an option to renew for a second year, and upon such other terms and conditions as the Executive Director considers reasonable and appropriate, provided that the maximum compensation payable to Ross Sandler shall not exceed \$50,000 and the maximum compensation payable to Deidre Daly and James Krantz shall not exceed \$150,000 each.

### **Booz Allen Hamilton Consulting Work**

- **Report of Key Findings and Recommendations**
- **Approval of Additional Services in Support of Phase III Bureau of Customer Program Initiatives in FY2008**

The next item on the agenda was approval of an amendment to the Booz Allen Hamilton (“BAH”) consulting contract to provide a “Best Practices” model for the Bureau of Customer Services. The amendment would add 12 new tasks to be performed by BAH at an additional cost of \$1.8 million.

Deputy Commissioner Singleton described the new tasks. He said the overall objective is to better manage DEP’s accounts receivable balance.

He said that the likelihood of collection decreases dramatically as accounts receivable age.

Mr. Capoccia initiated a discussion of DEP’s policy against service termination of multi-family residential accounts. Commissioner Singleton said the cost of service termination is prohibitive and that even brief 2-3 hour shutoffs require DEP to ensure there will be no adverse public health impacts on tenants. In the few instances where DEP has attempted service

shut-off of multi-family residential buildings, Courts have issued Temporary Restraining Orders enjoining termination of service. In response to Ms. Gelber, Mr. Singleton said there is a correlation between financially distressed housing developments and payment delinquency.

Commissioner Singleton attributed the current decline in revenue to the sunset of lien sale legislation and the lack of stand alone lien sale authority with respect to residential accounts. The legislation which has now expired permitted the sale of water liens on residential properties only if there was also a real property tax delinquency. According to BAH, stand alone lien sale authority to sell water liens on residential properties even where there is not a real property tax delinquency would result in a \$100 - 133 million increase in revenue.

In response to a question from Mr. Moss regarding the timeframe for BAH's completion of the new tasks, Commissioner Singleton said all of the work should be finished within 4 months. However, implementation of BAH's recommendations will likely take more time.

There being no further discussion, upon motion duly made and seconded, the following resolution was unanimously adopted:<sup>1</sup>

**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") in an amount not to exceed \$496,711 to provide assistance in designing and implementing a "Best Practices Model" for the New York City Department of Environmental Protection ("DEP"), Bureau of Customer Services ("BCS") in the interest of providing superior services to customers and efficient revenue collection; and

---

<sup>1</sup> Mr. Capoccia and Ms. Santos did not participate in this vote, both having previously left the meeting.



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

**WHEREAS**, on February 26, 2007 upon the recommendation of DEP, the Board authorized an amendment to the Consulting Agreement in an amount not to exceed \$286,875.84 to provide for two additional tasks that were determined to be required in order to address improvements in both collections and customer service delivery; and

**WHEREAS**, on May 14, 2007 upon the recommendation of DEP, the Board authorized an amendment to the Consulting Agreement in an amount not to exceed \$173,279 to provide for additional necessary services with respect to collections strategy development; and

**WHEREAS**, DEP has identified the need for additional services involving transformation initiatives that constitute Phase III in the implementation of enhanced customer service and revenue collection programs, as described in Appendix A, attached hereto and incorporated and made a part hereof<sup>2</sup>; and

**WHEREAS**, DEP has reviewed a proposal submitted by BAH to provide the additional services described in Appendix A for an amount not to exceed \$1,850,461 and has requested the Board to approve an amendment to the Consulting Agreement in such amount for such services; 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 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 \$1,850,461 to an amended amount not to exceed \$2,807,327; and be it further

---

<sup>2</sup> Filed with Minutes of the Meeting.

**RESOLVED**, that the Board's Fiscal Year 2008 Budget is hereby amended to provide for an additional \$850,000 in accordance with the foregoing expenditures.

### **Update on Rental Payment Discussion**

Discussion next ensued on the subject of the Board's rental payment to the City pursuant to the System Lease. Mr. Tripp said the Board should make a specific proposal to the Office of Management and Budget to redirect the rental from the City's general fund to be used for bond defeasance or rate relief. Mr. Moss said he was reluctant to renegotiate terms and conditions of agreements established during the fiscal crisis and that Mayor Bloomberg's administration should have discretion to use the rental payment as it deems appropriate. Ms. Davis, while acknowledging the difficulty of renegotiating the rental, agreed with Mr. Tripp that the rental payment should be re-directed back to the System. Mr. Tripp suggested establishment of a subcommittee to consider the rental issue. His suggestion was met with general approval by the Board members.

### **Adjournment**

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

---

SECRETARY