

**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 September 28, 2007 at 8:30 a.m. at 74 Trinity Place, New York, New York 10007. The following members of the Board were present:

James T.B. Tripp, Chair,

Dawn S. Davis;

Marilyn Gelber;

Amaziah Howell;

Alan Moss; 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 previous meeting held on June 19, 2007. Mr. Moss said that the draft minutes should reflect a request by Board members for certain information in connection with the Board’s approval of the Booz Allen Hamilton consulting contract. Thereafter upon motion duly made and seconded, the minutes of the Boards’ meeting held on June 19, 2007, as revised in accordance with Mr. Moss’s comments, were unanimously adopted.

Approval of Amendment to Regulation No. 1 – Reimbursable Metering Program Regulation

The next item on the agenda was an amendment to the Water Board’s Reimbursable Metering Program Regulation which provides that the Board reimburse customers

for the private installation of meters at the lesser of their actual cost or a scheduled amount. William Kusterbeck, Treasurer explained that the amended rule would increase the scheduled amount and effect several other changes which he described. Discussion ensued.

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

WHEREAS, the Board has previously adopted, and subsequently extended, its Regulation No. 1 relating to reimbursement for meters installed by property owners under the private installation program (the "Reimbursable Metering Program"), whereby owners of unmetered properties and owners with outdated or malfunctioning water meters are allowed the opportunity to have their meters installed/replaced by licensed plumbers of their own choosing, and to receive reimbursement from the Board for the costs incurred; and

WHEREAS, it has been proposed that Regulation No. 1 be revised to reflect the following notable changes to the Reimbursable Metering Program, effective as of July 1, 2007: 1) increase the scheduled reimbursement amounts for several of the meter sizes and types; 2) include scheduled reimbursement amounts for several new categories and/or sizes of meter repairs, replacements and installations; 3) require submission of applications within 30 calendar days of the meter work completion; 4) require submission of owner's certification and reimbursement application form with meter permit applications; and 5) include minor updates and editorial changes to the Reimbursable Metering Program information booklet, as further described in Appendix A¹, attached hereto and incorporated and made a part hereof; and

WHEREAS, public notice of such revisions was published, on May 16, 2007 in the City Record and on the New York City Department of Environmental Protection website in order to allow the public an opportunity to comment on the proposed revisions; and

WHEREAS, no unfavorable public comment has been received; and the Board believes the proposed revisions to Regulation No. 1 are reasonable and appropriate; it is therefore

¹ Filed with Minutes of the Meeting.

RESOLVED, that the proposed revisions to Regulation No. 1, as described above and in the notice attached hereto², are hereby approved.

Rate Advisory Services

- **Approval of Amendment to Amawalk Consulting Group Contract to Provide Services in Connection With Unbilled Accounts Research and the Development of An Account Monitoring Program**
- **Discussion of Evaluations Being Considered in Connection With Various Alternative Rate Structure Strategies**

The next item on the agenda was an amendment to the Board's contract with Amawalk Consulting Group LLC ("Amawalk") for the provision of rate advisory services. Steven Lawitts, Executive Director, explained that the amendment would specify additional services to be provided by Amawalk. Amawalk would select a representative set of accounts for observation to monitor trends and help the Board project consumption patterns. Amawalk would also research whether certain customers that are identified on the Department of Finance as developed parcels but for which no Water Board water accounts exist are in fact receiving water and sewer services. Discussion ensued. 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 December 15, 2006, the Board authorized the execution of a contract between the Board and the Amawalk Consulting Group LLC ("Amawalk") for Amawalk to serve as Rate Advisor to the Board; and

² Filed with Minutes of the Meeting.

WHEREAS, on March 1, 2007, the Board entered into a Consulting Agreement with Amawalk (the “Agreement”) to provide such assistance; and

WHEREAS, Board Staff has recommended that two additional tasks be performed; and

WHEREAS, one additional task will enhance system revenues by reconciling NYC Department of Finance Real Property Assessment Data against DEP billing records to locate accounts not being billed for services received, while the second additional task will provide important and useful information relative to the characteristics and behavioral trends of customer accounts over time through the development, maintenance and monitoring of a tracking sample of representative water/sewer accounts, as described in Appendix A³, attached hereto and incorporated and made a part hereof; and

WHEREAS, Board staff have reviewed a proposal submitted by Amawalk to provide the additional services described in Appendix A for an amount not to exceed \$130,000 and has requested that the Board approve an amendment to the Agreement in such amount for such services; and

WHEREAS, the Board has reviewed this proposal and concurs with the recommendation of staff; 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 Agreement, upon such terms and conditions as he may deem reasonable and appropriate, so as to increase the maximum compensation payable to Amawalk by \$130,000 to an amended amount not to exceed \$821,355 over the three year term of the Agreement.

³ Filed with Minutes of the Meeting.

Report on Customer Services/Collection Enforcement Initiatives and Booz Allen Hamilton Consulting Work

- **Class 1 Shut-Off Initiative**
- **Approval of Proposed Payment Incentive Program (PIP)**
- **Lien Sale Program**

The next item on the agenda was a report on Collection Enforcement Initiatives and approval of the Payment Incentive Program. Mr. Lawitts presented the Booz Allen Hamilton report on collection enforcement Best Practices to the Board. Mr. Tripp said there should be a full discussion of the Report at the next meeting.

Mr. Lawitts next explained that in connection with the proposed reauthorization of the Local Law authorizing lien sales, the City Council will hold hearings in October and consider the Board's request for stand alone lien sale authority with respect to residential accounts. Previous legislation provided that water liens on residential accounts could be sold only if there was also a related real property tax delinquency.

Mr. Lawitts next described a service termination Pilot Program. Twenty-one single family accounts, which were delinquent on payment agreements pursuant to which the customers had acknowledged the validity of their unpaid charges, were given 30-day shut off notices and the sidewalks and streets in front of their houses painted to indicate the location of shut off valves. Twenty of the accounts paid within the 30 days and the City's Human Resources Administration paid the delinquent charges on behalf of the remaining account which was eligible for public assistance. Mr. Lawitts said the Pilot Program demonstrated that service termination is appropriate for single family accounts but not necessarily multi-family residential accounts. Mr. Tripp expressed skepticism about Mr. Lawitts' conclusion with respect to the infeasibility of service termination for multi-family residential accounts, since no multi-family residential accounts were included in the Pilot Program.

Mr. Lawitts next discussed current collections noting that although revenues are 10% higher than collections were at this time last year, revenues are still 5% less than plan projections. At the current collection rate, there could be a \$200 million or 9% shortfall in projected revenues. Since such projections were used to establish Fiscal Year 2008 water and sewer rates, such a shortfall may require an 18% mid-year increase in water and sewer rates to achieve balanced operating results for this Fiscal Year.

Discussion of the revenue shortfall ensued. In response to questions from Mr. Tripp, Mr. Lawitts said that consumption has not declined, but accounts which were 30 days past due as of this August were 1% higher than such delinquencies were in August 2006. He noted that plan projections also assumed there would be a lien sale this year which did not occur because the authorizing legislation expired without being renewed and that this is also a factor contributing to the revenue shortfall.

Mr. Lawitts next discussed the proposed Payment Incentive Program ("PIP"). He said that 8,500 single family accounts meeting the criteria for service termination would be afforded the opportunity to participate in the plan pursuant to which all late charges would be waived and delinquent utility charges would be capped at current charges for 150% of average daily flow. Mr. Lawitts estimated that approximately \$29 million of the \$37 million in delinquent charges owed by these customers could be collected through implementation of the program. He said that accounts which do not agree to participate in plan will have their service terminated. The Board will also pursue eligible delinquent commercial accounts which have not entered into payment agreements. Mr. Lawitts said that Board staff proposes to reduce the monetary threshold for service termination and increase the penalties for theft of water.

Discussion of the foregoing presentation ensued. In response to a question from Ms. Davis, Mr. Lawitts said the offer to participate in the PIP plan would be extended in writing to eligible customers. In response to comments from Ms. Gelber, Mr. Lawitts said he would provide the Board with an estimate of revenues expected from the lien sale, geographical data on the location of PIP eligible delinquent accounts and that the Board would provide information on PIP program details to Affordable Housing advocates.

Ms. Santos asked whether it would be preferable to establish a Pilot program with PIP eligible accounts prior to full implementation of the plan. In rejecting that suggestion, Mr. Lawitts said that one of the objectives of the PIP plan is to eliminate the inefficiencies inherent in large scale enforcement efforts with respect to disputed accounts. Mr. Moss asked for a timeline as to when proceeds from a lien sale would be realized, to which Mr. Kusterbeck responded that lien sale proceeds would be received by the Board at closing of the lien sale transaction approximately 3 months after first publication of the statutory notice of sale.

In response to a question from Ms. Davis, Mr. Lawitts said that Amawalk Consulting Group would determine the economic significance of theft of water pursuant to its amended consultant contract approved by the Board today.

Ms. Santos asked whether it is possible to quantify the impact on rates which would result if the Board is not given additional enforcement powers. Mr. Kusterbeck said the non-receipt of the expected \$30 million from a lien sale this year would result in a 1 ½% increase in water and sewer rates.

Responding to a suggestion from Mr. Moss, Mr. Kusterbeck said that Board staff would consider implementation of a prompt payment discount.

Mr. Tripp expressed strong reservations about the desirability of an 18% mid-year increase in water and sewer rates. He said the Board should instead consider other cost saving and revenue enhancement measures including aggressive service termination of delinquent multi-family residential accounts and deferring discretionary contract expenditures. He said the amount of delinquent charges needed to trigger service termination should be reduced from \$1000 owed for 1 year to \$500 owed for 6 months. He said the Board should accelerate the schedule for service termination, shorten the “cold weather” period when service termination is prohibited and prepare for immediate shut-off of all PIP eligible delinquent accounts which do not opt to participate in the PIP plan.

Ms. Davis said hot water should not be shut off during “cold weather” periods and assistance should be provided to low income customers.

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

WHEREAS, the Board recognizes that delinquent water/sewer charges in the residential class of accounts in New York City are higher than is normal or common in the utility industry and in the area of real property taxation; and

WHEREAS, the Board also recognizes that a high rate of continuing delinquencies is unfair to those property owners who are not delinquent because a high rate of delinquency can lead to higher rates on customers who pay their charges in a timely manner; and

WHEREAS, the Board believes it reasonable and in the interest of all users of the water and wastewater system to develop a program that has a reasonable prospect of inducing delinquent property owners to become current with their water bills; and

WHEREAS, DEP has proposed a Payment Incentive Program the objective of which is to enhance system revenues by encouraging a larger proportion of owners with

delinquent water and sewer charges to accept a concession on the amount due in exchange for payment in full of their resulting liability so as to return their account to current status; and

WHEREAS, the Board has reviewed a written description of a proposed Payment Incentive Program which is attached as Exhibit 1 hereto⁴; and

WHEREAS, the Board finds that such a program has practical utility and is reasonable and prudent to the extent it can reduce the System's accounts receivable and enhance System revenues; it is therefore

RESOLVED, that the Board hereby approves the Payment Incentive Program as described in Exhibit 1 and directs DEP to begin implementation of said Program; and it is

RESOLVED further, that the Executive Director may prescribe appropriate Payment Incentive Program implementation guidelines so as to ensure prudent Program administration consistent with the intent of the Board.

Mr. Tripp, on behalf of the Board, formally asked Board staff to prepare to amend the Board's shut off regulation to reduce the eligibility threshold for service termination and effect other changes in accordance with his earlier remarks.

Approval of an Amendment to the Contract with Safety Management Systems for EH&S Programs and Compliance Tasks for the Marine Section of the Bureau of Wastewater Treatment.

The next item on the agenda was the approval of an amendment to the contract with Safety Management Systems for Environmental Health and Safety programs for the marine section of the Bureau of Wastewater Treatment. Ms. Robin Levine, Acting DEP General Counsel, said the amendments would require the contractor to provide certain additional services to enable the City to comply with its commitment to DEP's Marine compliance program. There being no discussion, upon motion duly made and seconded, the following resolution was unanimously adopted:

⁴ Filed with Minutes of the Meeting.

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, in April 2006, the Board entered into a Consulting Agreement ("Agreement") with Safety Management Systems ("SMSLLC") to provide assistance to DEP in conducting a comprehensive safety assessment ("the Assessment") of all operations and activities conducted by DEP Bureau of Wastewater Treatment (BWT) Marine Section personnel and the vessels and facilities in and upon which such activities are performed; and

WHEREAS, on September 15, 2006, the Board authorized an Amendment (dated October 6, 2006) to the Agreement for SMSLLC to perform additional vessel and shore-based facility assessments, to conduct a benchmarking comparison of the Marine Section to other organizations that perform similar tasks in the New York Harbor and to develop a Compliance Action Plan (CAP) for the Marine Section; and

WHEREAS, in a memorandum to the Board dated September 21, 2007 from Robin Levine, Acting DEP General Counsel, DEP has identified a need for a consultant to provide additional services to assist DEP in implementing the recommendations and corrective actions identified in the Assessment of the BWT Marine Section, in drafting Standard Operating Procedures, providing training and assisting the Marine Section in completing implementation tasks required by its CAP, and in assessing Bureau of Water Supply (BWS) small vessel activities; and

WHEREAS, Ms. Levine's memorandum reports that SMSLLC's performance to date on prior tasks has been satisfactory and recommends that SMSLLC be allowed to continue to perform the additional tasks identified for a budget not to exceed \$900,000; and

WHEREAS, the Board concurs with the recommendation; 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 to forego a new competitive solicitation; it is therefore,

RESOLVED, that the Executive Director is hereby authorized and directed to execute a new amendment to the Agreement, upon such terms and conditions as he may deem reasonable and appropriate, so as to increase the maximum compensation payable to SMSLLC by \$900,000 to an amended amount for the Agreement not to exceed \$1,240,000.

Reports:

- **FY2007 Year End: Revenue and Capital Commitment Plan Outcomes**
- **Water Board Website**

The next item on the agenda was a report on the Capital Commitment Plan from Mr. Lawitts. Mr. Lawitts said the current Capital Commitment Plan includes \$3.7 billion in capital commitments attributable largely to registration of the Croton Filtration Plant construction contract.

Responding to Mr. Moss, Mr. Lawitts said that capital commitments refer to contract registration by the City Comptroller and that he would provide the Board with further details on the status of the Capital Commitment Plan.

Mr. Kusterbeck next briefly described the status of changes to the Board's website. Ms. Santos said the website should explain the elements of the formula used by the Board to establish water and sewer rates.

Adjournment

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

SECRETARY