

**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 October 18, 2007 at 8:30 a.m. at 1 Centre Street (Room 1019), 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 Board. Mr. Tripp chaired the meeting, and Albert F. Moncure, Jr., served as Secretary of the Meeting.

Adoption of Minutes

The first of item on the agenda was approval of minutes of the Board’s previous meeting held on September 28, 2007. Mr. Tripp said the summary of his reservations about the proposed 18% mid-year rate increase should describe two additional alternatives to the rate hike which he suggested. Ms. Gelber said that as a general matter, the minutes should describe the actual substance of discussions referred to in the Minutes. Thereafter upon motion duly made and seconded, the minutes of the Board’s meeting held on September 28, 2007, as revised in accordance with Mr. Tripp’s comments, were unanimously adopted.

Discussion of Proposed Changes to the Board's Regulation No. 2: The Discontinuance of Water Supply and/or Sewer Service Because of Nonpayment.

Mr. Tripp said the purpose of the Meeting is to discuss proposed amendments to the Board's service termination rule ahead of the adoption of a revised regulation at the Board's next meeting scheduled for November 9, 2007.

Steven Lawitts, Executive Director, gave a brief update of revenue collections, observing that an anticipated revenue shortfall is one of the reasons for amending the shut-off rule. Mr. Lawitts said that although collections this October are \$9 million or 12% ahead of plan projections for the month, revenues for the year to date are \$61 million or 6% behind plan projections. Mr. Lawitts said Board staff has discussed the proposed shortfall with the City's Office of Management and Budget, and the Water Authority, and the Authority's most recent bond Official Statement disclosed the shortfall and possibility of a mid-year rate increase. Later in the discussion, Mr. Capoccia asked whether such disclosure affected the marketability of the Authority's bonds. Mr. Lawitts said discussions had been held with the bond Rating Agencies in connection with the bond sale and that each affirmed the Authority's bond rating. This was due, in part, because of the rate covenant in the Financing Agreement among the City, the Authority, and the Board pursuant to which the Board is required to set rates sufficient to pay debt service on Authority bonds and System operating expenses. Mr. Lawitts expressed the conclusion that collections are volatile and that Board staff will continue to monitor the situation closely.

Ms. Gelber asked Mr. Lawitts to analyze the revenue shortfall data. In response Mr. Lawitts said that the percentage of customers who pay charges owed within two billing cycles has decreased, class 1 accounts which are delinquent for 6 months have grown by 15%, multi-family accounts past due for 6 months have increased by 5%, and charges for class 1 and 2 accounts in arrears for 6 months amount to \$100 million. Responding to a follow-up question

from Ms. Gelber, Mr. Lawitts said there has been a \$2 million increase in delinquencies on commercial accounts. Responding to a question from Mr. Capoccia, Mr. Lawitts said there is a correlation between residential properties which are subject to mortgage foreclosure proceedings, and those with delinquent water and sewer accounts.

Mr. Tripp said the Board should amend the shut-off rule regardless of any short term increase or decrease in collections so as to improve service termination as a collection enforcement tool.

In response to a question from Ms. Santos regarding the status of City Council action on reauthorization of lien sale legislation and Water Board lobbying efforts for stand alone lien sale authority, Mr. Lawitts said a City Council committee would hold hearings on this issue on October 22, 2007. DEP Commissioner Lloyd is scheduled to testify at the hearing. Ms. Santos and Ms. Gelber both said it was important that there be Water Board participation at the committee hearing to articulate the Board's view on lien sales and restructuring the System Lease rental payment. Mr. Tripp said he would testify at the hearing. He then solicited and received consensus from the other Board members about his proposal to testify in support of expanded lien sale authority and that the rental payment should be applied to pay debt service on City general obligation bonds issued for water and sewer system purposes and that any amount in excess of such debt service be used for rate relief and pay-as-you-go capital.

Mr. Lawitts next described Board staff's proposed amendments to the shut-off rule. The notice period would be reduced from 45 to 15 days and the monetary threshold and delinquency period for past due charges triggering shut-off eligibility would be decreased. The "cold weather" shut-off restriction would be changed from a November 1 to April 15 prohibition

to a restriction on service termination on days when the Health Department has issued a cold weather alert.

Ms. Davis and Mr. Capoccia expressed doubts about the feasibility of the cold weather alert restriction noting that it would require DEP to remobilize its service termination crews in response to daily weather conditions thereby creating logistical problems. Ms. Gelber and Mr. Moss said the staff's cold weather proposal creates health and safety issues and they would retain a fixed time period cold weather prohibition.

Mr. Tripp expressed concern for elderly tenants in multi-family residential buildings. In response Mr. Lawitts said DEP would obligated to notify the offices of certain elected officials as well as certain City health and social service agencies prior to service termination.

Ms. Gelber asked what other large cities do about service termination during cold weather periods. Edward Markus, the Board's rate advisor responded that Boston and Chicago shut off water for non-payment at any time of the year.

Mr. Lawitts next described proposed changes in the shut-off rule to the termination complaint process. The complaint filing period following a shut-off notice would be reduced from 15 to 5 days and require the customer to pay up to 50% of delinquent charges. The rules on payment agreements would also be changed to require up to a 50% down payment. Responding to a question from Ms. Gelber, Mr. Lawitts said that termination proceedings are tolled during review of a complaint by DEP, but that if it takes longer than 90 days to resolve the complaint, the termination notice expires.

Mr. Tripp next invited members of the public to comment on the proposed rule.

Scott Goldberg, a complaint expeditor, said the existing regulation should be retained without change citing the proposed rule's lack of due process, its short delinquency period trigger for service termination and the abbreviated 5-day termination complaint period. Mr. Tripp and Mr. Lawitts said the proposed 6 month delinquency period amounts to 2 billing cycles and is longer than the comparable period in other large cities.

Mark Schwartz from New York Water Management said that shut-offs are impractical in New York because of the need to dig up the street to obtain access to shut-off valves.

Herschel Weiss from the American Society of Plumbing Engineers also cited the difficulty of shutting off water mains located beneath the street.

In response to a comment from Ms. Davis, Mr. Lawitts said DEP would propose changes to the City's Building Code to relocate shut-off valves inside the premises served by the water system.

Jim Buckley from University Neighborhood Housing expressed concern for tenants in multi-family residential buildings and suggested that non payment of water bills by landlords of such buildings be disclosed to tenants prior to service termination.

Jack Freund from the Rent Stabilization Association expressed opposition to new service termination rules and to lien sale authorization until resolution of what he characterized as DEP's billing irregularities and suggested instead that charges be enforced by in rem foreclosure and that a Payment Incentive Program ("PIP") be offered to multi-family residential accounts.

There being no further discussion, upon motion duly made and seconded, the Board unanimously resolved to authorize Board staff to publicly notice the changes to the shut-

off regulation for adoption at the November 9, 2007 Board meeting, substantially in the form proposed by Board staff at the meeting with the exception that service termination would be prohibited from December 21 to March 1 and would otherwise be permitted at the discretion of the DEP Commissioner considering weather conditions during the remainder of the calendar year. Revisions would also be made to payment agreement rules to require a 50% down payment. Mr. Tripp said the next Board meeting would also be a public hearing on the proposed revisions.

Mr. Lawitts said the proposed shut-off regulation would be available on the DEP Website.

Deputy Commissioner Singleton next displayed a map of the City showing the location of PIP eligible accounts. Half of all such accounts are located in Queens with the remainder being concentrated in the Bronx and Brooklyn. Ms. Gelber asked how DEP would interface with the Affordable Housing Community on implementation of the PIP plan. Mr. Lawitts described non profit agencies which could provide counseling to PIP eligible customers. Ms. Gelber said it was important that DEP coordinate implementation of the plan with such agencies.

Ms. Santos asked about a conceptual agenda for the Board's Governance Committee whose members include herself and the Chair and whether anything could be shared with the Committee at this time. Mr. Kusterbeck responded that a meeting of the Water Finance Authority Governance Committee was scheduled to be held prior to the next meeting of the Authority Board and he would report their activity and the Board, after which a plan for the Board's Governance Committee could be developed.

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

SECRETARY