

**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 November 21, 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, Chairman

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 item on the agenda was approval of minutes of the Board’s previous meeting held on November 9, 2007. There being no discussion, upon motion duly made and seconded, the minutes of the Board’s meeting held on November 9, 2007 were unanimously adopted.

**Financial Report**

- **Discussion of Need For Possible Mid-Year Rate Increase**
- **Public Notice and Schedule of Public Hearings**

The next item on the agenda was discussion of a possible mid-year rate increase. Mr. Tripp invited members of the public to address the Board about the proposed increase.

Jack Freund, Executive Vice President of the Rent Stabilization Association (the “RSA”), expressed opposition to the increase on behalf of the RSA’s members who are owners of rent stabilized apartment buildings. Mr. Freund said his members are currently limited to the 3% annual rent increase last approved by the Rent Guidelines Board and that the owners would not be able to recoup a mid-year increase in water and sewer rates from their tenants for at least 18 months. Mr. Freund said the System revenue shortfall should be made up from the Board’s rental payment to the City in excess of debt service on City general obligation bonds issued for water and sewer purposes. Responding to a question from Mr. Tripp, Mr. Freund said he had expressed his views on the rental restructuring to the City Comptroller and members of the City Council but had not communicated with the Mayor’s Office. Mr. Tripp suggested that he contact the Mayor’s office.

Jim Buckley from the University Neighborhood Housing Association reiterated comments he made at the Board’s last meeting about the potential adverse impact of a mid-year rate increase on low-income tenants and homeowners.

DEP Commissioner Emily Lloyd next addressed the Board. She began by discussing DEP’s proposed implementation of Booz Allen Hamilton’s recommendations to reduce the large accounts receivable balance. First DEP will improve the accuracy of its billing through establishment of an automated meter reading system which will eliminate the billing inaccuracies of the past. Second DEP will improve dispute resolution through establishment of a streamlined review procedure which will be in place by the end of the year. Billing complaints will be resolved pursuant to the new process within one year. In addition DEP will appoint an ombudsperson to help resolve billing complaints. Finally DEP will improve collection enforcement. DEP will pursue residential and commercial shut offs, which have been

demonstrated in pilot programs to be an effective enforcement tool. Also DEP will implement the Booz Allen Hamilton recommendation that DEP offer structured settlements to different account classes. The residential Payment Incentive Program (“PIP”) is a structured settlement program which will offer eligible customers the option to pay delinquent charges in installments and will waive late charges. Very large delinquent accounts will be resolved by DEP on a case by case basis.

Commissioner Lloyd said DEP will work with elderly delinquent customers to advise them of STAR real estate tax exemptions and heating oil assistance programs. DEP will work with the Department of Housing Preservation and Development (“HPD”) and non-profit housing organizations to mitigate the effects of the subprime mortgage crisis on low income homeowners. Advice will be provided on restructuring mortgage debts and paying delinquent real estate taxes so as to enable homeowners to have the financial resources to pay water and sewer bills.

Commissioner Lloyd said that while DEP will try to reduce the accounts receivable balance, a more important objective is to ensure that customers pay current charges timely within two billing cycles.

Finally Commissioner Lloyd noted that current revenue projections are at best estimates, but that DEP is requesting an 18% mid-year increase in rates because of the volatility of revenues and that future rate increases can be moderated if revenues improve.

Responding to a question from Ms. Gelber, Commissioner Lloyd said DEP will send a letter to PIP eligible accounts advising customers of “safety-net” programs. In addition DEP will encourage out reach to this population by HPD and other housing organizations.

Responding to a suggestion from Mr. Tripp that DEP consider a PIP program for multi-family residential buildings, Ms. Lloyd said such an initiative should be linked to better collection enforcement and that she would favor such a program if lien sale authority is reinstated. In response to a question from Mr. Tripp about the scope of planned expenditure reductions by DEP in response to the projected revenue shortfall, Commissioner Lloyd noted that DEP's ability to reduce costs is limited because of state and federally mandated expenditures but that DEP would nevertheless reduce operating expenses by \$26 million within the next 6 months. Responding to another question from Mr. Tripp about the type of water conservation counseling provided by DEP to its customers, Commissioner Lloyd described DEP's outreach efforts in this regard and said DEP would physically inspect houses for water leaks during the PIP enrollment process. In response to a further question from Mr. Tripp, Commissioner Lloyd said that Booz Allen Hamilton has estimated that water-only lien sale authority together with more aggressive collection enforcement could result in a revenue increase of \$200 million.

Responding to a question from Ms. Santos, Commissioner Lloyd said a restructuring of the system lease rental payment at this time would not impact revenues until the next Fiscal Year. And in response to a question from Ms. Gelber, Commissioner Lloyd said a mid-year rate increase could be avoided by City Council adoption of water-only lien sale legislation.

Executive Director, Steven Lawitts, next gave a presentation about collections and DEP steps to reduce Fiscal Year 2008 revenue requirements. He said that the cumulative change in cash receipts had historically been greater than the cumulative change in water and sewer rates until 2007 when this trend was reversed. He then compared the accounts receivable balance at this time with that for the comparable period last year and in response to a question from Ms.

Gelber said that accounts receivable for class 1 customers had increased by 14% while Class 2 accounts receivable had grown by 5-6%. Mr. Lawitts said current cash collections were \$53 million or 5% below the plan target amount.

Mr. Lawitts said DEP would reduce Fiscal Year 2008 revenue requirements by \$139 million through a \$58 million debt service savings carry forward from 2007; \$15.7 million in DEP under spending from 2007 as a credit towards 2008 expenses; \$39 million in debt service savings through refundings; and \$26 million in DEP operating expense reductions previously described by Commissioner Lloyd.

Next Ms. Gelber, Ms. Santos and Mr. Tripp engaged in a discussion with Water Authority Executive Director, Patrick McCoy and Water Board Rate Consultant Edward Markus about the Water Authority's bond financing program and the relationship between the Board's rate covenant and its System Lease rental payment. Mr. McCoy explained that the Water Authority issues bonds in approximately \$400 million tranches several times a year in order to satisfy \$2 billion in annual System capital needs. He said that debt service costs are determined by capital market conditions at the time of bond issuance and that the all-in true interest cost for the Authority's last bond sale was 4.7%. Mr. McCoy and Mr. Markus explained that the Board's rate covenant in the Financing Agreement among the Board, the Authority and the City is that rates must at least equal 115% of First Resolution bond debt service and that the rental payment to the City pursuant to the System Lease must equal 15% of Water Authority Debt Service. Since these are separate and distinct requirements, the cumulative effect is to provide 130% coverage on Authority debt service. Mr. Markus explained that revenues are applied pursuant to the Financing Agreement first to pay debt service on Authority Bonds, second to fund system operating expenses, third to pay cash-financed capital construction costs, fourth to

pay rent to the City, and any remaining funds as surplus to be carried forward to the next Fiscal Year.

Mr. Lawitts then concluded his presentation by saying that the revised revenue requirement for this year, after taking into account the \$139 million in reductions previously discussed, is \$2.09 billion and the potential revenue shortfall range is from a low of \$40 million if actual revenues are \$2.04 billion, to a high of \$125 million if actual revenues are \$1.96 billion. The required potential range of mid-year rate increases needed to offset such shortfalls is 12% to 28%, and Board staff proposes an 18% mid-year increase. Board members asked how a \$40 million or 2% revenue shortfall could require a 12% rate increase. William Kusterbeck, Treasurer, explained that 75% of the revenues from a rate increase would be from metered collections which are phased in over the year. Consequently only 25% of any additional revenues from a rate increase would be received as fourth quarter billings this year, thereby requiring a higher rate increase than the revenue shortfall percentage.

Ms. Santos asked what would happen if the City Council adopted water-only lien sale legislation in December after the Board has increased rates, and Mr. Moss asked about the likelihood of such action by the Council. Mr. Lawitts said that future rate increases could be moderated to take into account revenues from a lien sale, and Commissioner Lloyd said that the Speaker of the City Council has committed to the Mayor to pass new lien sale legislation by the end of this calendar year.

Mr. Tripp suggested publicly noticing the 12% to 28% range of rate increases associated with the projected revenue shortfall range. Ms. Gelber disagreed with this approach. Commissioner Lloyd stressed that the range of revenue projections are estimates based on

available information at this time and that an 18% mid-year rate increase is prudent in light of the volatility of revenues.

There being no further discussion, upon motion duly made and seconded, the Board unanimously resolved to publicly notice a rate increase not to exceed 18% to be effective January 1, 2008, and instructed Board staff to publish the notice and schedule the required statutory public hearings.

The Board next discussed a proposed letter to be signed by all members to be sent to the Speaker of the City Council urging the Council to adopt water only lien sale legislation. Upon motion duly made and seconded, the Board unanimously resolved to send the letter.<sup>1</sup>

The Board next discussed a second letter to be signed by all members to be sent to Deputy Mayor Daniel Doctoroff requesting that the Board's rental payment to the City pursuant to the System Lease be restructured. Upon motion duly made and seconded, the Board unanimously resolved to authorize Mr. Tripp, Ms. Gelber, and Ms. Santos to revise the letter for signature by all Board members and to send the letter<sup>2</sup> in final form to Deputy Mayor Doctoroff.

Mr. Capoccia, joined by Ms. Davis, next suggested that the Board schedule public hearings during non-business hours in addition to those require by statute because of the extraordinary nature of the proposed mid-year rate increase. Mr. Lawitts agreed to schedule such additional hearings.

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

<sup>2</sup> To be filed with Minutes of the Meeting.

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SECRETARY