

**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 12, 2008 at 8:30 a.m. at Pace University – Downtown Conference Center, 157 William Street, New York, N.Y. The following members of the Board were present:

James T.B. Tripp;

Alan M. Moss;

Donald A. Capoccia;

Amaziah Howell;

Marilyn Gelber; 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 26, 2008. There being no discussion, upon motion duly made and seconded, the minutes of the Board’s meeting held June 26, 2008 were unanimously adopted.

Approval of Amendment to Consulting Agreement with Contract Trainers Inc. to Provide Additional Employee Training Related to Anti-Retaliation/Rights and Responsibilities

The next item on the agenda was the approval of an amendment to the consulting contract with Contract Trainers Inc. to provide additional DEP employee training relating to anti-retaliation rights and responsibility. Executive Director Steven Lawitts explained that the training is required pursuant to DEP’s Plea Agreement with the U.S. Attorney and that an extension of the contract is needed to train an additional 1,000 DEP employees. Responding to

concerns expressed by Mr. Capoccia as to whether the Federal monitor has exceeded his jurisdiction by requiring a proliferation of consulting contracts, Mr. Lawitts said he did not expect additional contract amendments or extensions. Responding to Ms. Gelber, Mr. Lawitts said he expected that DEP would be able to provide in-house anti-retaliation training at the expiration of the extended consulting contract but that initially it was more efficient to out-source this function. 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 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 New York City Department of Environmental Protection ("DEP") operates and maintains the Water and Wastewater Systems of the City of New York; and

WHEREAS, DEP entered into a Plea Agreement with the US Attorney's Office in which DEP admitted to certain violations of law and accepted probation under the supervision of a court-appointed Monitor during which DEP agreed to develop comprehensive Environmental, Health and Safety ("EHS") Compliance Programs; 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 objective, the Board, acting by and through its Executive Director, executed an agreement and first amendment to agreement on June 29, 2006 with Contract Trainers, Inc., to provide training in EHS procedures and anti-retaliation policies to all DEP managers and supervisory personnel, for a total amount not to exceed \$93,800 ("the Agreement"); and

WHEREAS, on December 15, 2006 upon the recommendation of DEP, the Board authorized a second amendment to the Agreement for an additional amount not to

exceed \$250,000 to provide comprehensive anti-retaliation training to all DEP employees; and

WHEREAS, DEP has identified a need for assistance in completing the training of all non-supervisory DEP employees in anti-retaliation/employee rights and responsibilities; and

WHEREAS, the Board has reviewed a September 4, 2008 memorandum from ZoeAnn Campbell, Deputy Commissioner of DEP Human Resources and Administration, which details the additional necessary services and sets forth a recommendation that the Board authorize a third amendment to the Agreement with Contract Trainers to provide such services to DEP; 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 a third amendment to the Agreement with Contract Trainers, Inc., upon such terms and conditions as he may deem reasonable and appropriate, to complete training for all DEP employees in EHS procedures and anti-retaliation policies, for an additional amount not to exceed \$125,000. Total compensation for services performed under the Agreement and its three subsequent amendments shall not exceed \$468,800.

Discussion of Frontage Transition/Multiple Family Conservation Program Proposal

Next, Mr. Lawitts discussed DEP's decision to recommend an extension of frontage billing to July 1, 2010 from the currently scheduled expiration on July 1, 2009, and to implement the Multi-Family Conservation Program ("MCP") system-wide on July 1, 2010. Mr. Lawitts explained that a major rate design study is underway and implementing some or all of the recommendations of that study and also performing the transition away from frontage billing

on July 1, 2009 would be confusing and complicated for customers and DEP. He added that some buildings need replacement toilets to fulfill MCP qualifications and DEP made a commitment to provide another limited toilet rebate program to help fund that effort. The toilet rebate program will not be ready until June 2009 when funding for the program will be available.

Although MCP may result in a 15% increase in water bills for certain customers, it is still less expensive than metered billing. Herschel Weiss, a representative of the Ashokan Water organization attending the meeting, expressed opposition to the delayed phase-out of frontage billing saying that metered billing promotes conservation.

Responding to comments made by Alan Rothschild, the representative of a water conservation consulting company attending the meeting, that the extension of frontage billing is unfair to his clients who have invested in technologies to support metered billing in anticipation of the scheduled expiration of frontage billing, DEP Deputy Commissioner Joseph Singleton said that such investment was not wasted because eventually there will be system-wide metered billing. Mark Schwartz a representative of New York Water Management attending the meeting, said the Affordable Housing Community supports the extension of frontage billing.

Discussion of Natural Gas Drilling in Watershed

Next David Warne, DEP Assistant Commissioner in the Bureau of Water Supply, delivered a presentation on natural gas drilling in the Catskill/Delaware Watershed. Commissioner Warne explained that such drilling is cost effective given current high natural gas prices, the proximity of the drilling area to the Millennium Pipeline and the high quality of natural gas in this location. He then described the drilling process and the process of hydro-fracking shale formations by using water, sand and chemicals to fracture shale formations to release natural gas. The chemicals can migrate to underground aquifers. Since DEP does not

know what chemicals are used in the process, it cannot quantify possible adverse impacts on water quality and surface water contamination. The drilling process does use substantial amounts of water so there is an adverse impact on conservation. Drilling also has an adverse impact on DEP's land acquisition program, since high prices paid for natural gas leases in the Watershed necessarily inflate property values thereby driving up the price of land sought to be acquired by DEP.

Commissioner Warne noted that there are no applications for well construction in the Watershed at this time but that there is an increase in permit applications throughout other parts of the State. DEP Commissioner Lloyd has written to New York State Department of Environmental Conservation Commissioner Alexander B. Grannis requesting joint DEP/DEC review of drilling applications in the Watershed and the prohibition on drilling within 1-mile of City-owned reservoirs in the Watershed.

Discussion next ensued among Ms. Gelber, Ms. Santos and Mr. Tripp.

Ms. Santos asked about the effects on water quality of natural gas drilling in other areas of the State. Mr. Warne said there have been no reports of problems with respect to 13,000 active wells in other parts of the State. Ms. Lloyd said that DEP is seeking a balance between protecting the environment and promoting economic development in a financially distressed region of the State. For these reasons DEP will submit a formal request to the Board next month to fund a consultant to study this matter.

Ms. Gelber said DEP should not even consider drilling in the Watershed and that it should adopt regulations to prohibit drilling.

Mr. Tripp agreed with Ms. Gelber saying DEP should prohibit drilling immediately to eliminate any level of "investment-backed expectation" on the part of natural gas

companies. He added that if drilling is permitted, drilling companies should post bonds as security for possible clean up costs and that natural gas drilling may violate the Filtration Avoidance Determination.

Discussion of Water Security Pilot Project

Mr. Lawitts described a proposed Water Security Pilot Project consisting of improved on-line monitoring and analysis of water quality and integration with the City Department of Health and 311 telephone information system.

The Project would be undertaken pursuant to a Water Board contract which would be funded by a \$12 million EPA grant. Responding to a request from Ms. Gelber, Mr. Lawitts agreed the Project will also monitor the effects of chemicals used in the hydrofracking process described by Commissioner Warne.

Reports:

- **Rate Structure Study Progress**

Mr. Lawitts discussed that status of the Rate Structure Study which is on schedule to be completed by March 31, 2009. Responding to concerns expressed by Ms. Santos about whether other cities would voluntarily share rate information with DEP, Mr. Lawitts said he expected other cities to be cooperative.

- **Preliminary FY2008 Year End Results**

Mr. Lawitts next described Preliminary Fiscal Year 2008 year end financial results. \$2.2 billion in revenue was received which was \$51 million short of the plan projection but 13% ahead of Fiscal Year 2007 actual results.

- **FY2009 Year-to-Date Collection Results**

Mr. Lawitts next discussed Fiscal Year 2009 Year-to-Date Collection results. He said collections for July and August were 1.7% or \$13 million below plan target amounts. He attributed the short fall to our collection plan targets failing to account for the transition of 3,000 accounts from flat rate to metered billing. There is a built in lag in the receipt of metered collections, and had these accounts not converted and had they remained on frontage their associated revenues would otherwise have been received in July/August as part of the annual frontage collections.

- **Update on Termination of Contract with Huron Consulting Group**

Mr. Lawitts next provided an update on termination of the contract with Huron Consulting Group and award of the contract to the next highest rated proposer, Booz Allen. The Huron Consulting Group contract is being terminated because of disagreement relative to the consultant's performance.

- **Opportunity for Public Comment**

Next there was an opportunity for public comment. Mr. Tripp noted that several members of the public had previously addressed the Board in connection with the discussion of the Frontage Transition/MCP Proposal. He then asked if anyone else would like to speak.

Jim Buckley, from University Neighborhood Housing said his organization would like to assist DEP in its Rate Restructuring Study. Mr. Lawitts replied that DEP would solicit input from Mr. Buckley's organization and other members of the Affordable Housing Community.

James T.B. Tripp Retirement Announcement

Mr. Tripp next announced that he is retiring from the Board after 16 years and that Mr. Moss would succeed him as chair. Mr. Capoccia, Ms. Gelber, Mr. Moss and Commissioner Lloyd strongly commended and praised Mr. Tripp for his service to the Board.

Adjournment

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

SECRETARY