

**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 December 19, 2008 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:

Alan M. Moss;

Marcia Bystryn;

Dawn Davis;

Amaziah Howell;

Mehul Patel; and

Benjamin Tisdell,

constituting a quorum. Mr. Moss chaired the meeting, and Albert F. Moncure, Jr., served as Secretary of the Meeting.

Introductory Remarks

Mr. Moss began the meeting with the introduction of new Board members, Maria Bystryn and Benjamin Tisdell. He then addressed the Board’s need to reduce expenses because of the financial crisis. To this end, he said, the Board will try to hold future meetings in City-owned premises such as the Arsenal, the Parks Department’s headquarters in Central Park.

Adoption of Minutes

The next item on the agenda was approval of the minutes of the Board’s previous meeting held on November 20, 2008. There being no discussion, upon motion duly made and seconded, the minutes of the Board’s meeting held November 20, 2008 were unanimously adopted.

Approval of Additional Consulting Funds for Neil Cartusciello, Environmental Health & Safety Investigator

The next item on the agenda was the approval of a payment to an EH&S investigator of \$22,440 in excess of the cap under his contract with the Water Board. The requested payment was based on services provided under the contract by the investigator at the hourly rate specified in the contract. DEP General Counsel Robin Levine explained that the investigator had been retained to investigate complaints by DEP employees related to Environmental Health and Safety concerns, as mandated by DEP's plea agreement with the U.S. Attorney. Responding to Mr. Moss's question as to whether the investigator was at fault for going over budget, Ms. Levine explained that the proposed payment represents compensation for services requested by DEP. She said the Department felt it would be disruptive to reassign the work to another investigator after the maximum dollar amount payable under the contract had been reached. She said the compensation was an equitable payment for services undertaken in good faith at DEP's request, adding that the investigator was not seeking reimbursement for his travel time.

Ms. Levine explained that future EH&S investigations would be performed under DEP-funded contracts.

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

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 and delivery of a contract between the Board and Neil Cartusciello (the “Consultant”) to provide assistance to DEP in conducting investigations of employees’ claims of: alleged directions or orders given by supervisors, which if followed, would constitute a violation of Environmental Health and Safety (“EHS”) law or the terms of DEP’s probation, and claims of alleged retaliation against employees for reporting EHS concerns; and

WHEREAS, on November 9, 2005, the Board entered into a Consulting Agreement (the “Agreement”) with the Consultant to provide such assistance and investigations and subsequently extended the Agreement until November 6, 2008; and

WHEREAS, due to an underestimation of the level of effort that would be required to fulfill the mandate of the DEP Employee Concerns and Compliance Program, services in the amount of twenty two thousand four hundred forty dollars (\$22,440) in excess of the allocation under the Agreement have been rendered through November 6, 2008 and has now been invoiced by the Consultant; and

WHEREAS, the Board has reviewed a memorandum dated December 5, 2008 from Robin Levine, General Counsel of DEP, which requests Board approval for payment of \$22,440 in excess of the allocation under the Agreement with the Consultant; and,

WHEREAS, the Board has determined that such action is necessary and appropriate and 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); it is therefore,

RESOLVED, that the Executive Director is hereby authorized to permit payment of an additional \$22,440 in excess of

\$300,000, the amount allocated under the Agreement with the Consultant that expired on November 6, 2008.

Financial Report

- **Budget Review**
- **Year-to-Date Collections**

The next item on the agenda was a Financial Report from Executive Director Steven Lawitts, who discussed revenues and expenses which, he said, are the factors affecting Fiscal Year 2010 Water and Sewer rates.

He said that year-to-date collections are 2.6 % below plan target amounts compared to a 5% shortfall last year at this time. He attributed the improvement to increased collection and enforcement initiatives.

He said that expenses consist of debt service on Water Authority bonds and operating and maintenance expenses.

Water Authority interest rates in November of this year were 5.9% compared to 4.7% in October 2007. Fiscal Year 2009 – 2010 interest rates are assumed to be 6.2% - 6.8% but bonds are actually being sold now with lower rates. Responding to a question from Ms. Davis as to what would happen if the Water Authority were unable to sell its bonds in the principal amounts required to finance System capital improvements, Water Authority Executive Director Thomas Paolicelli explained that the Authority would have to come to market more often with smaller transactions. He added that this is in fact what it has been happening in recent weeks. Responding to a question from Mr. Moss, Mr. Paolicelli, said there is a strong retail market for the Authority's bonds but that institutional demand is weak.

With respect to operating and maintenance expenses, Mr. Lawitts said that DEP is implementing a \$30 million cost reduction program. This represents a 3% reduction in operating expenses and exceeds the 2 ½% reduction being implemented by other City agencies. He said

that fuel costs are expected to be lower but the cost of chemicals to treat drinking water could increase and pension costs could grow because of the decline in the market value of pension investments.

Responding to Mr. Moss, Mr. Lawitts said that Fiscal Year 2010 Water and Sewer rates will likely not be lower than the projected 14% increase. Responding to a question from Mr. Tisdell about the effect of past recessions on revenues, Treasurer William Kusterbeck, said that revenues tend to be elastic relative to changes in real estate values but are generally inelastic relative to the overall economy.

Log of Currently Active Contracts

The next item on the agenda was the presentation of a log of currently active Water Board consulting contracts previously requested by the Board.

Responding to Mr. Moss, Mr. Lawitts said the reason for awarding contracts pursuant to the Water Board's procurement policy rather than the City's Procurement Policy Board ("PPB") Rules is to take advantage of the time difference. Water Board contracts, he said, can be let within two months while City PPB procurements can take up to a year. He added that DEP has used the Water Board procurement policy sparingly where there is a need to hire a consultant expeditiously.

At Ms. Bystryn's request, Mr. Lawitts described the Hazan/Leggette contract to provide consulting services related to natural gas drilling in the Upstate Watershed, which was approved prior to Ms. Bystryn's appointment to the Board. Responding to another question from Ms. Bystryn, Mr. Lawitts described the status of the AKRF Food Waste Disposal contract, noting that the study required to be delivered pursuant to the contract is expected to be submitted on time later this month. Responding to a question from Mr. Patel, Mr. Lawitts described the

services to be provided under the Jody Gray consulting contract to write the text of certain documents for public dissemination.

Credit Card Acceptance on DEP and Water Board Websites

The next item on the agenda was a presentation by Mr. Kusterbeck relating to credit card payments. Mr. Kusterbeck explained that DEP is currently accepting credit cards for payment of Water and Sewer bills by accessing DEP and Water Board Websites. He said a 2 ¼% convenience fee is charged for this service. Responding to a question from Ms. Davis as to the utilization rate for this feature, Mr. Kusterbeck said that so far there have been 100 hits on the DEP website.

Adjournment

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

SECRETARY