

**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 June 26, 2009 at 8:30 a.m. at the New York City Department of City Planning, 22 Reade Street, Spector Hall, New York, N.Y. The following members of the Board were present:

Alan M. Moss;

Marcia Bystryn;

Donald A. Capoccia;

Dawn S. 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.

**Adoption of Minutes**

The first item on the agenda was approval of the minutes of the Board’s previous meeting held on May 15, 2009. Mr. Capoccia asked for a revision of remarks attributed to him purporting to be critical of reduced consumption. He said that he did not mean to be critical of water conservation, but to indicate that it is unfortunate that conservation, which is a good thing, decreases revenue. There being no further discussion, upon motion duly made and seconded, the minutes of the Board’s meeting held on May 15 2009, revised to reflect Mr. Capoccia’s comments, were unanimously adopted.

## **Adoption of FY 2010 Water Rates for Communities Outside of the City**

The next item on the agenda was the adoption of Fiscal Year 2010 water rates for communities outside of the City. William Kusterbeck, Treasurer, described the method for calculation of the regulated rate for allowance quantities of water pursuant to the Water Supply Act of 1905 as approved by the New York State Department of Environmental Conservation. First the total cost of water supply for the entire system is determined. That amount is projected to be \$386 million for Fiscal Year 2010. The unit cost of water supply is then computed by dividing the projected total costs by projected system water consumption of 418,400 million gallons. This results in a regulated rate of \$922.23 per million gallons for quantities of water not in excess of daily per capita consumption within the City. The allocated cost of water supply to be borne by communities outside of the City will be determined by multiplying the unit rate for water by the actual consumption of the communities outside of the City. This amount in recent years has averaged 9% - 10% annually.

Mr. Kusterbeck next summarized the testimony and written statements presented at the public hearing in Valhalla. A discussion ensued between Mr. Kusterbeck and Mr. Moss, who also attended the hearing along with Mr. Kusterbeck, with regard to concerns expressed by the attorney representing petitioners challenging Fiscal Year 2005 water rates. Mr. Kusterbeck thought the attorney contended erroneously that the Board was mandated by the Water Supply Act of 1905 to attempt to negotiate a rate with upstate customers while Mr. Moss thought the attorney suggested only that it was permissible for the Board to negotiate a rate with upstate customers. Mr. Kusterbeck commented that, in any event, it would be impractical for the Board to negotiate rates with 65 different upstate customers. Mr. Moss urged that next year's public hearing be held at a location which is accessible by public transportation. Mr. Tisdell added that

the hearing should be held during the evening so that people could attend after the workday. Executive Director, Steven Lawitts, said the staff would accommodate both requests next year. There being no further discussion, upon motion duly made and seconded, the following resolution was unanimously adopted:

**WHEREAS**, the New York City Water Board (the “Board”) is authorized pursuant to Section 1045-j of the New York City Municipal Water Finance Authority Act to establish rates and charges for services furnished by the Water System of the City of New York (the “City”); and

**WHEREAS**, the Board has received a report dated May 2009 from the Amawalk Consulting Group LLC, Rate Advisor to the Board, on the cost of supplying water to upstate customers for the 2010 rate year and such report indicates that the anticipated unit cost of water supply service for municipalities and water districts north of the City in Fiscal Year 2010 will be \$922.23 per million gallons; and

**WHEREAS**, upon appropriate notice, a public hearing was held on June 16, 2009 in Valhalla, New York, concerning a proposed increase in the rates for water supply from the City system sold to users outside of the City pursuant to the Water Supply Act of 1905; and

**WHEREAS**, the Board has received a copy of the transcript with respect to such hearing, and has received a report and recommendations from staff regarding the proposed increase; it is therefore,

**RESOLVED**, that effective July 1, 2009, the regulated rate for water sold to users outside of the City from either the Croton or Catskill/ Delaware Systems that is within the allowance quantities of water set forth in Section 24-360 of the Administrative Code of the City of New York shall be increased to \$922.23 per million gallons; and the rate and charge for water provided to users outside the City which exceeds the allowance quantities of water set forth in Section 24-360 of the Administrative Code of the City of New York shall be continued at a level equal to the retail metered rate effective within the City which as of July 1, 2009 shall be equal to \$3,489.30 per million gallons.

## **Approval of Amendment to Contract with Huntsville Executive Search, Inc.**

The next item on the agenda was the extension of a contract with an executive search firm to help fill 4 to 6 additional engineering vacancies in DEP's Bureau of Design and Construction. Mr. Lawitts briefly described the responsibilities of the Bureau's engineers. He said the search firm, which was selected through a competitive request for proposals process, had previously assisted in the recruitment of three qualified candidates for the Bureau. Responding to a question from Mr. Moss, Mr. Lawitts said the firm would be compensated on the basis of a success fee. Responding to a request from Mr. Moss, Mr. Lawitts agreed to provide the results of the firm's candidate search to the Board. 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**, the Board entered into a consulting agreement ("the Agreement") dated as of February 23, 2009 with Huntsville Executive Search, Inc. ("Huntsville"), in the amount of \$95,000 whereby Huntsville assisted in the recruitment of qualified candidates for three key Director positions within the New York City Department of Environmental Protection, Bureau of Engineering Design & Construction ("DEP-BEDC"); and

**WHEREAS**, DEP-BEDC staff have identified a need for further assistance from Huntsville in recruiting highly qualified candidates for executive-level and other critical positions within DEP-BEDC that remain vacant; and

**WHEREAS**, the Board has reviewed a June 19, 2009 memorandum from James G. Mueller, P.E., Deputy Commissioner of DEP-BEDC, which details the additional requested services and sets forth a recommendation that the Board authorize an amendment to the Agreement with Huntsville to provide such services; 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 with Huntsville to provide the additional services, upon such terms and conditions as the Executive Director may deem reasonable and appropriate, for an additional amount not to exceed \$100,000. Total compensation for services performed under the Agreement and its amendment shall not exceed \$195,000.

## **Financial Update**

Mr. Lawitts next presented a Financial Update for the end of the Fiscal Year.

He said that June collections were \$6 million or 3% below the plan target and that the shortfall for the entire year is \$121 million or 5% below target. This will result in a smaller surplus carryover than previously projected. He attributed the revenue shortfall primarily to decreased consumption. He showed a chart comparing the percentage change in billed consumption between Fiscal Years 2008 and 2009. He noted that billed charges increased only 10% during this period despite a 14% rate increase, the shortfall being caused by customers using less water.

He then discussed DEP's enforcement actions beginning with the lien sale which occurred in May. He said that 900 service termination notices had been issued to delinquent customers, 97% of whom responded by paying in full or entering into payment plans. Automated collection calls are now being made to customers who are delinquent for over one year in the amount of \$500 or more.

Responding to a question from Ms. Davis, Mr. Lawitts attributed a ½% to 2% annual revenue decrease to DEP conservation efforts. He said that most of the decline in consumption is due to the national recession which is a trend being experienced by most large cities in the U.S.

### **Presentation of Draft Rate Structure Study**

Next David Mader from the Booz Allen Hamilton consulting firm discussed the preliminary conclusions of the Rate Structure Study. He said his firm had benchmarked New York City's Water and Sewer System against 56 other U.S. water utilities in the country's largest cities. The study found a dramatic increase in rates nationally over the past decade, but the increase in New York City rates during this period has been 55% less than the national average. The study also found that 75% of New York City's Water and Sewer System capital program results from mandates. This is a higher percentage than the national average. The study also found that most utilities make some sort of an inter-governmental transfer payment comparable to the Board's rental payment to the City.

Mr. Mader then described four rate alternatives examined by the study.

The first alternative is a fixed charge which would be assessed regardless of usage. The rationale for such a charge is that certain utility costs, such as administration and meter reading, are fixed regardless of customer use. 75% of the utilities studied have such a charge. Responding to a question from Mr. Patel, Mr. Lawitts said that 80% of the New York City Water and Sewer System's costs do not vary with the amount of water consumed by customers.

The next alternative would be a separate storm water charge based on the impervious surface area owned or controlled by customers. This charge is designed to recover

storm water disposal costs. Responding to a question from Mr. Patel, Mr. Lawitts said such costs are based on the capital costs of storm water sewer construction and the costs of combined sewer overflows.

The third rate alternative would be a new development charge designed to recover the costs of new users “buying” into the System. Mr. Capoccia observed that cities which impose such a charge are those where there is additional cost to the system infrastructure associated with new connections to the system. He added that not all cities incur such costs such as New York City and Chicago.

The fourth alternative would be conservation pricing where rates are charged which incentivize conservation. The ability to implement this alternative in New York City would depend on the availability of certain infrastructure currently under development such as automated meter reading capability and improvements to DEP’s Customer Information System.

Discussion ensued between Ms. Bystryn and Mr. Capoccia about whether the study’s recommendations can be implemented prior to adoption of Fiscal Year 2011 rates in light of the January 2010 expected completion date of the study. Ms. Bystryn asked for additional information on intergovernmental transfers in other municipalities and how such transfers compare to the Board’s rental payment to the City pursuant to the System Lease. Mr. Capoccia said the rental payment should be linked to services provided to the Board by the City.

### **Miscellaneous**

Ms. Bystryn asked that the staff provide an update on natural gas drilling in the Marcellus Shale and Mr. Moss asked that the Board be provided with a correspondence log of letters addressed to the Board which are answered by DEP staff and a list of personnel on the Water Board payroll. Mr. Lawitts agreed to provide the requested information.

## **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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SECRETARY