

## **MINUTES OF A MEETING OF THE NEW YORK CITY WATER BOARD**

A meeting of the New York City Water Board (the “Board”) was held on January 15, 2010, at 8:30 a.m. at the New York City Department of City Planning, 22 Reade Street, Spector Hall, New York, New York. The following members of the Board were present:

Alan M. Moss;

Marcia Bystryn;

Dawn Davis;

Mehul Patel; and

Benjamin Tisdell,

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

### **Introduction: Commissioner Cas Holloway**

Mr. Moss began the meeting by introducing new DEP Commissioner Caswell F. Holloway IV. Commissioner Holloway then addressed the meeting. He described his first day at DEP on January 1, 2010. On that day he took a wide-ranging 8-hour five borough tour of DEP facilities including the Jamaica Wastewater Treatment Plant and Newtown Creek Plant. He said that Steve Lawitts would remain at DEP as Chief Financial Officer and would continue to serve as the Board’s Executive Director. He has appointed Carter Strickland to the newly created position of Deputy Commissioner for Sustainability and Kathryn Garcia will become Deputy Commissioner of Operations. Commissioner Holloway described several initiatives he is implementing such as the publication of a weekly DEP newsletter. He then described his plans for the agency and what he believes are DEP’s four core functions, namely: (i) a water utility; (ii)

a customer service facility; (iii) a capital projects agency; (iv) and an environmental regulation agency.

### **Adoption of Minutes**

The next item on the agenda was approval of the minutes of the Board's previous meeting held on December 18, 2009. There being no discussion, upon motion duly made and seconded, the minutes of the meeting held on December 18, 2009, were unanimously adopted.

### **Approval of an Amendment to the Agreement with Safety Management Systems, LLC for Environmental Health & Safety ("EH&S") Programs and Compliance Tasks for the Marine Section of the Bureau of Wastewater Treatment**

The next item on the agenda was the approval of \$270,000 change order to the Board's contract with Safety Management Systems, LLC for EH&S programs and compliance tasks for the Marine Section of the Bureau of Wastewater Treatment. DEP General Counsel Robin Levine previously briefed the Board at its last meeting on the proposed amendment which would require the contractor to perform certain additional EH&S tasks. Ms. Levine summarized the additional work and thanked the Board for its past financial assistance to DEP for EH&S programs. She noted that most of DEP's funding for this purpose has been and will continue to be provided through DEP Expense Budget procurements. There being no 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 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**, in April 2006, the Board entered into a Consulting Agreement ("Agreement") in the amount of \$140,000 with Safety Management Systems, LLC ("SMSLLC") to provide assistance to the New York City Department of Environmental Protection ("DEP"), in conducting a comprehensive safety

assessment (“the Assessment”) of all operations and activities conducted by DEP’s Bureau of Wastewater Treatment (“BWT”) Marine Section personnel and the vessels and facilities in and upon which such activities are performed; and

**WHEREAS**, on September 15, 2006, the Board authorized an amendment to the Agreement in the amount of \$200,000 for SMSLLC to perform additional vessel and shore-based facility assessments, to conduct a benchmarking comparison of the BWT Marine Section to other organizations that perform similar tasks in the New York Harbor and to develop a Compliance Action Plan (CAP) for the Marine Section; and

**WHEREAS**, on September 28, 2007, the Board authorized a second amendment to the Agreement in the amount of \$900,000 for SMSLLC to provide additional services to assist DEP in implementing the recommendations and corrective actions identified in the Assessment of the BWT Marine Section, in drafting Standard Operating Procedures, providing training and assisting the BWT Marine Section in completing implementation tasks required by its CAP, and in assessing Bureau of Water Supply small vessel activities; and

**WHEREAS**, the Board has received a presentation and has reviewed a memorandum dated December 11, 2009<sup>1</sup> from Robin Levine, DEP General Counsel, describing DEP’s need for a consultant to provide additional marine-related Environmental Health and Safety services with respect to implementing corrective actions, performance of compliance audits, review of contractors’ Health and Safety Plans, development of training packages and delivery of training, and preparation and modification of policies and procedures; and

**WHEREAS**, Ms. Levine’s memorandum reports that SMSLLC’s performance to date on prior tasks has been satisfactory and recommends that SMSLLC be allowed to continue to perform the additional tasks identified for a budget not to exceed \$270,000; and

**WHEREAS**, the Board concurs with the recommendation; 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

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

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 to forego a new competitive solicitation; it is therefore,

**RESOLVED**, that the Executive Director is hereby authorized and directed to execute a third amendment to the Agreement, upon such terms and conditions as he may deem reasonable and appropriate, so as to increase the maximum compensation payable to SMSLLC by \$270,000 to an amended amount for the Agreement not to exceed \$1,510,000.

### **Financial Update**

Executive Director Steven Lawitts next presented a financial update. Collections are \$100 million or 6% below plan target amounts. The revenue shortfall corresponds to the percentage decline in consumption. There has been a 1% decrease in the percentage of seriously delinquent accounts which are more than 365 days old but a 5% increase in short-term delinquencies. Responding to Mr. Tisdell, Mr. Lawitts attributed the differing default rates to the availability of enforcement tools such as the lien sale to long-term delinquent accounts but not to accounts which are in arrears for less than 1 year.

Mr. Lawitts next described DEP's denial of access Pilot Program pursuant to which 129 accounts either provided access or committed to an inspection appointment. Starting this month, DEP will expand the applicability of the denial of access enforcement program to 11,000 accounts which are chronically subject to estimated billing. The penalty for denial of access includes a \$250 Account Administration Fee and or Denial of Access Rate equal to a charge based on estimated consumption at the 95<sup>th</sup> percentile of city consumption.

Mr. Lawitts then described progress in the Automated Meter Reading program. Approximately 176,706 transmitters have been installed. This is 22% of the total number to be

installed by the January 2012 scheduled completion date. Responding to Ms. Davis, Mr. Lawitts described the anticipated cost savings associated with AMR meter replacement. He explained that quarterly estimated bills will be replaced with monthly bills reflecting actual consumption. This will accelerate payment and will reduce the opportunity for customers to dispute charges.

### **Closing Remarks**

Mr. Moss urged Board members to visit DEP facilities.

Ms. Bystryn asked that the schedule for the Board's stakeholder meetings be made publicly available and that the new weekly DEP newsletter be sent to Board members.

### **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