

**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 June 25, 2010, at 8:30 a.m. at the New York City Department of City Planning, 22 Reade Street, Spector Hall, New York, New York 10007. The following members of the Board were present:

Alan M. Moss  
Marcia Bystryn,  
Donald Capoccia,  
Mehul Patel, and  
Benjamin Tisdell

constituting a quorum of the Board. 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 21, 2010. There being no discussion, upon motion duly made and seconded, the minutes of the meeting held on May 21, 2010, were unanimously adopted.

**Appointment of Treasurer**

The next item on the agenda was the appointment of Mathilde O. McLean to fill the vacant position of Treasurer. Executive Director Steven Lawitts described Ms. McLean’s background and experience. 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 appoint such officers and employees as it may require for the performance of its duties; and

**WHEREAS**, the office of Treasurer of the Board is currently vacant; and

**WHEREAS**, the Board has reviewed the background and experience of Mathilde O. McLean, CFA, and believes that she is qualified to serve as Treasurer of the Board; it is therefore,

**RESOLVED**, that effective immediately, Ms. McLean is hereby appointed Treasurer of the Board with such duties and responsibilities as are set forth in the By-Laws of the Board, until such time as the Board shall by resolution otherwise provide; and it is further

**RESOLVED**, that the JPMorgan Chase Bank (hereinafter called the Bank) as a designated depository of the Board is hereby requested, authorized and directed to honor all checks less than \$2,500, drafts or other orders for the payment of money drawn in the Board's name on its accounts when bearing or purporting to bear the facsimile signatures of both of the following:

Mathilde O. McLean, Treasurer

Carmelo Emilio, Deputy Treasurer

And the Bank shall be entitled to honor and to charge the Board for all such checks, drafts or other orders for the payment of money, regardless of by whom or by what means the actual or purported facsimile signature or signatures thereon may have been affixed thereto, if such facsimile signature or signatures resemble the facsimile specimens from time to time filed with the Bank by the Secretary or other officer of the Board.

### **Adoption of Fiscal Year 2010 Water Rates for Communities Outside of the City of New York**

The next item considered by the Board was the adoption of water rates for communities outside of the City. Mr. Lawitts observed that he provided the Board with a preliminary estimate of proposed upstate rates at last month's meeting ahead of the public hearing. He said that the staff now proposes an entitlement rate of \$1,149.72 per million gallons and an excess consumption rate equal to the in-City metered rate of \$3,943.85 per million gallons. Responding to a question from Mr. Capoccia, Mr. Lawitts said that in-City and upstate

retail water rates are comparable. There being no further discussion, upon motion duly made and seconded, the following resolution was unanimously adopted;

**WHEREAS**, 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 2010 from the Amawalk Consulting Group LLC, Rate Advisor to the Board, on the cost of supplying water to upstate customers for the 2011 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 2011 will be \$1,149.72 per million gallons; and

**WHEREAS**, upon appropriate notice, a public hearing was held on June 16, 2010 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;

**RESOLVED**, that effective July 1, 2010, 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 \$1,149.72 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 of New York which as of July 1, 2010 shall be equal to \$3,943.85 per million gallons.

### **Exercise Option to Renew Rate Advisor Contract**

The next item considered by the Board was the exercise of a 1-year renewal option with the Board’s Rate Consultant, Amawalk Consulting Group LLC (“Amawalk”). Mr.

Lawitts described the services to be provided by Amawalk during the renewal period. These include a determination of the effect on the Board's rate structure of DEP's new labor agreements and DEP operating budget reductions. A discussion of the proposed compensation under the contract ensued between Mr. Moss and Mr. Capoccia. Responding to Mr. Moss's question as to the availability of a lower-cost contractor, Mr. Lawitts noted that Amawalk was selected pursuant to a competitive request for proposals ("RFP") process and that the Board intends to issue another RFP in Fiscal Year 2011. Mr. Capoccia asked whether the contract could be renewed at last year's rates rather than at a 3% increase. Amawalk's principal, Edward Markus, who was in attendance at the meeting, indicated that the rates were negotiable. There being no further discussion, upon motion duly made and seconded, the following resolution was unanimously adopted subject to Board staff's best efforts to negotiate actual compensation below the not to exceed amount stated in the resolution in an amount which is less than 3% in excess of the previous year's compensation:

**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**, following a competitive solicitation process, the Board entered into an agreement effective January 1, 2007 with Amawalk Consulting Group LLC ("Amawalk") in the amount of \$821,355, whereby Amawalk is serving as Rate Advisor to the Board for a term which will expire on June 30, 2010 (the "Agreement"), and

**WHEREAS**, Amawalk has provided highly satisfactory services to date as indicated by Board staff; and

**WHEREAS**, the Agreement provided for two one-year extensions at the Board's discretion; and

**WHEREAS**, the Board has reviewed a June 18, 2010 memorandum from Steven W. Lawitts, Executive Director of the Board, which describes the continuing services to be provided by Amawalk and sets forth a recommendation that the Board exercise its first option to renew the Agreement for a one-year term by authorizing an amendment to the Agreement with Amawalk 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 in the name of and on behalf of the Board to execute an amendment to the Agreement with Amawalk to continue serving as Rate Advisor to the Board for an additional term of one year, upon such terms and conditions as the Executive Director may deem reasonable and appropriate, for an additional amount not to exceed \$266,500. Total compensation for services performed under the Agreement and amendment to the Agreement shall not exceed \$1,087,855.

### **Consent to Land Swap – Trout Creek**

The next item considered by the Board was the approval of the exchange of two parcels of land between the City and a private landowner in the upstate Watershed. DEP attorney May Chin explained that a portion of the landowner's garage encroaches on City land which is part of the Leased Property leased from the City to the Board pursuant to the System Lease. To cure the encroachment, the landowner has proposed to exchange a larger parcel of land in return for the smaller parcel on which the garage encroaches. Board consent is required for the property exchange pursuant to the System Lease. Responding to Mr. Capoccia, Ms. Chin said DEP would endeavor to get an indemnity from the landowner as part of the transaction.

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 (the “Lease); and

**WHEREAS**, pursuant to the Water Supply Act of 1905 (Chapter 724, Laws of 1905), the City was authorized to acquire lands for the construction of necessary reservoirs, dams, aqueducts, filters and other appurtenances for the purpose of providing a clean and safe drinking water supply; and

**WHEREAS**, the City through condemnation proceedings in or about 1938 acquired certain lands, among them, Parcel 1310, identified as Section 66.004, Block 1, Lot 29, in the County of Ulster, Town of Wawarsing, a municipal corporation organized pursuant to the Laws of the State of New York; and

**WHEREAS**, the lands that were not subject to such condemnation proceedings are currently owned by a private individual (the “Property Owner”) and are identified as Section 66.001, Block 1, Lot 11 (the “Property”); and

**WHEREAS**, over the course of time, a dwelling was erected on the Property including a house, a deck, and a detached garage which was discovered to be slightly encroaching unto Parcel 1310 beyond the boundary line during an inspection; and

**WHEREAS**, the Property Owner wishes to cure and legalize the encroachments on Parcel 1310 to avoid any lien or encumbrance on the Property that could potentially render it unmarketable; and

**WHEREAS**, the City and the Property Owner agreed to a land exchange in which the City would convey to the Property Owner a portion of land that is a part of Parcel 1310 to cure and legalize the encroachments and in return would be granted from the Property Owner a significantly larger parcel and more sensitive land from part of the Property that would be advantageous to protecting the water supply; and

**WHEREAS**, Section 4-113 of the New York City Administrative Code authorizes an exchange of land no longer needed for public purposes in return for land that is needed for a public purpose, provided that the property to be acquired by the City is equal or greater in value to the property to be disposed of; and

**WHEREAS**, three independent appraisals were prepared valuing the parcels to be exchanged and all three appraisals valued the property being conveyed to the City at a greater value than the property being conveyed to the Property Owner; and

**WHEREAS**, the conveyance of the smaller parcel to the Property Owner constitutes a disposition of real property subject to the Lease; and

**WHEREAS**, pursuant to Section 11.1(d)(ii) of the Lease, the City may, with the prior written consent of the Board, dispose of certain portions of property covered by the Lease which, in the reasonable judgment of the Board, do not interfere with the operation, maintenance and the collection of revenues from the Systems; and

**WHEREAS**, the Board has also received certification from AECOM USA, Inc., Consulting Engineer, that it has evaluated the above property disposition, and has concluded that such transfer is reasonable and appropriate in that it provides benefits to the City and will have no adverse impact on the operation of the Systems serving the City; it is therefore,

**RESOLVED**, that the Board hereby gives its consent to the City to convey a portion of Parcel 1310 to cure and legalize the encroachment on City property; and it is further

**RESOLVED**, that the officers of the Board be, and each of them hereby is, authorized and empowered, in the name and on behalf of the Board to execute such agreements and other instruments, and to take such other actions, as they or any of them deem necessary or appropriate to effectuate the foregoing resolution.

## **Financial Update**

The final item was a Financial Update presented by Mr. Lawitts. He said that June collections, representing increased consumption, are 7% ahead of the plan target amount.

18,000 delinquent accounts were included in the 90-day lien sale notices. However, only 9% of such accounts were actually sold in the May lien sale because the remaining 91% of other lien-eligible delinquent accounts were paid prior to the sale deadline. This compares favorably with last year's results in which 88% of the accounts included in the 90-day notice were paid prior to the sale date. Mr. Lawitts said the Board expects to receive \$8 to \$9 million in lien sale proceeds.

Mr. Lawitts then discussed the service termination program, the Water Debt Assistance Program and the Automated Meter Reading Program.

## **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