

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 September 24, 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,

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 June 25, 2010. There being no discussion, upon motion duly made and seconded, the minutes of the meeting held on June 25, 2010, were unanimously adopted.

Wireless Meter Reading Online Demonstration

Next DEP Deputy Commissioner Joseph Singleton presented a live internet demonstration of DEP’s new wireless online meter reading system. He said the system allows on-line access by customers to real time water consumption information and water and sewer charges. Information is available on a daily and aggregate basis. Billing and payment history are also available. The system is currently available to 465,000 customers who are connected to the Automated Meter Reading system.

Adoption of Amendment to Regulation No. 1 – Reimbursable Metering Program

The next item on the agenda was the adoption of an amendment to the Board's Regulation No. 1 relating to the Reimbursable Metering Program. Executive Director Steven Lawitts said the program provides reimbursement pursuant to a schedule of costs to customers who have had meters installed or repaired by private plumbers. Mr. Lawitts explained that the proposed amendment would, among other things, update the reimbursement schedule to reflect increases in plumbing charges over the past three years. Discussion ensued among Mr. Lawitts, Mr. Moss, and Warren Liebold from DEP about current plumbing price trends. Mr. Moss said he expects plumbing charges to decline reflecting the current downturn in the economy. However, Mr. Lawitts and Mr. Liebold explained that plumbing prices charged by DEP's general contractors and construction managers are actually increasing. This is due in part to increases in prevailing wages which DEP is obligated by state law to pay. Mr. Lawitts added that if the homeowner is able to have the work performed for less than the maximum scheduled amount, then the customer would be reimbursed at the actual lower rate. There being no further discussion, upon motion duly made and seconded, the following resolution was unanimously adopted:

WHEREAS, the Board has previously adopted, and subsequently extended, its Regulation No. 1 relating to reimbursement for meters installed by property owners under a private installation program (the "Reimbursable Metering Program"), whereby owners of unmetered properties and owners with outdated or malfunctioning water meters are allowed the opportunity to have their meters installed/replaced by licensed plumbers of their own choosing and to receive reimbursement from the Board for the costs incurred; and

WHEREAS, reimbursement to owners is in accordance with the lesser of actual costs incurred or a scheduled amount, and owners are obligated to adhere to the procedures set forth in an information and application booklet prepared by the New York

City Department of Environmental Protection (“DEP”) known as the Reimbursable Metering Program Information Booklet; and

WHEREAS, the Board has reviewed a September 1, 2010 memorandum from Joseph F. Singleton, Jr., Deputy Commissioner of the DEP Bureau of Customer Service, which sets forth a proposal that Regulation No. 1 be revised to reflect the following changes to the Reimbursable Metering Program: 1) Extending the time period for licensed plumbers to return original completed meter permits to a DEP Bureau of Customer Services Borough Office from 72 hours to ten (10) business days; 2) Adjustments to the scheduled reimbursement amounts for various meter sizes and types; 3) Addition of “Enhanced Meter Reimbursement Amounts” (effective for two years only) for meters 3” and larger that were installed before 1995; 4) Merging of reimbursements for replacement of compound, single-jet or electromagnetic meters with single-jet or electromagnetic meters; 5) Requirement that requests for extensions of meter installation or replacement permits, which are valid for 30 days, must be received prior to the expiration of the 30-day period; 6) Elimination of reimbursement for telephone-based AMR equipment installations; 7) Elimination of reimbursement for installing or replacing detector check valve assemblies; and 8) Minor updates and editorial changes to the Reimbursable Metering Program Information Booklet, as further described in Attachment A, attached hereto¹ and incorporated and made a part hereof; and

WHEREAS, public notice of such revisions was published on September 3, 2010 in the City Record and on the Board’s and DEP’s websites in order to allow the public an opportunity to comment on the proposed revisions; and

WHEREAS, no unfavorable public comment has been received, and the Board believes the proposed revisions to Regulation No. 1 are reasonable and appropriate; it is therefore

RESOLVED, that the proposed revisions to Regulation No. 1, as described above and in Attachment A - Reimbursable Metering Program Information Booklet, are hereby approved.

¹ Filed with the Minutes of the meeting.

Consent to Release Leasehold Interest in Mount Hayden Property

The next item on the agenda was DEP's request for the Board's consent to a proposed land transfer of the 814 acre Mount Hayden Property in the upstate watershed from DEP to New York State. DEP attorney Edrea Ringel described the transaction. DEP would give the property to the state acting through its Department of Environmental Conservation ("DEC") for use as a mountain bike path and for reforestation and watershed protection purposes. The land transfer would relieve the City of a \$34,000 annual real property tax obligation. Discussion ensued among Mr. Moss, Mr. Lawitts and DEP general counsel Robin Levine about the economic benefit to the Water Board from the proposed transaction. Mr. Moss asked that the property be appraised and questioned whether the \$34,000 in annual property tax relief was adequate compensation for the potential lost profits from sales of timber on the property. Ms. Levine said that although the land has not been appraised, the fair market value of the property today is likely less than DEP's original acquisition price. Mr. Lawitts added that the City gets less than \$5 million annually from timber sales in the entire watershed and those monies are credited to the City's general fund, not the Board's local water fund. He said the lost revenue potential from the proposed transfer is small, and there is a greater net benefit to the Water System from not incurring property taxes and conservation stewardship costs.

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 and as amended by Amendment No. 1 dated as of November 1, 1985, between the City and the Board (the "Lease"); and

WHEREAS, the City, through the New York City Department of Environmental Protection (“DEP”) operates and maintains the Systems; and

WHEREAS, pursuant to Section 11.1(d)(i) of the Lease, the City may, with the prior written consent of the Board, transfer property covered by the Lease which does not materially adversely affect the revenues of the Systems or impair the ability of the Board to make any payments required under the Lease; and

WHEREAS, the New York State Department of Environmental Conservation (“NYSDEC”) is an agency of the State of New York (the “State”); and

WHEREAS, the DEP and NYSDEC have been engaged in discussions regarding the possibility of joint efforts to manage and steward State and City lands for recreational use; and

WHEREAS, the DEP, through its Land Acquisition Program created under the 1997 New York City Watershed Memorandum of Agreement, acquired two (2) parcels of property, Parcel “A” (Property Identification Number 552) and Parcel “B” (Property Identification Number 2663), (herein collectively referred to as the “Mt. Hayden Property”) within the Town of Windham, County of Greene, in 2002 and 2005 respectively; and

WHEREAS, the NYSDEC has requested that the Mt. Hayden Property be transferred to the State to allow NYSDEC to construct and maintain multi-use trails, parking areas, and informational kiosks and to provide and manage non-motorized public access and recreational activities on the Mt. Hayden Property; and

WHEREAS, the State has expressed its desire to acquire the Mt. Hayden Property pursuant to Section 9-0501 of the Environmental Conservation Law which enables the NYSDEC to acquire lands to be forever devoted to reforestation for purposes of watershed protection, among other things; and

WHEREAS, the transfer of the Mt. Hayden Property will relieve the City of property tax liabilities as well as stewardship and maintenance responsibilities associated with the Mt. Hayden Property; and

WHEREAS, the transfer, which is being undertaken in cooperation with NYSDEC for the purpose of supplying

recreational opportunities desired by local partners in the watershed communities, is consistent with the City's goal to expand recreational opportunities for watershed residents and visitors that promote environmentally sound economic development; and

WHEREAS, based on the recommendation by staff and for such consideration as herein described, the Board has determined that transferring the Mt. Hayden Property to the State is reasonable and appropriate; and

WHEREAS, by letter dated September 21, 2010, the Board has also received certification from William Pfrang, P.E., Vice President of AECOM USA, Inc., Consulting Engineer, that it has evaluated the above property disposition and has confirmed that such transfer does not materially adversely affect the revenues of the Systems or impair the ability of the Board to make any payments required under the Lease; it is therefore,

RESOLVED, that, pursuant to Section 11.1(d) (i) of the Lease, the Board hereby consents to release its leasehold interest in the Mt. Hayden Property in order for the City to transfer said property to the State as described herein.

Consent to Grant of Easement by City to Town of Bedford

The next item on the agenda was a request for the Board's consent to the City's grant of an easement to the Town of Bedford. The easement would allow Bedford to establish a connection between the Delaware Aqueduct Shaft 13 in the Croton Watershed to a filtration plant being constructed by Bedford. DEP Assistant Counsel Robert Craig said that Bedford will filter water from the Aqueduct so as to provide a cleaner source of potable water than the Katonah Municipal Well System which currently supplies the town's drinking water. Mr. Craig explained that Bedford will pay the City the fair market value of the land on which the easement will be located based on an appraisal to be performed after construction of the connection and the filtration plant. The value is estimated to be \$300,000 and the consideration could be paid in cash or through an exchange of easements. Responding to Mr. Tisdell, Mr. Craig said that there

is no way to remediate the nitrate and septic runoff in the Katonah wells and that such contamination, although not currently dangerous, poses a potential health risk in the future. Responding to Mr. Moss, Mr. Craig said he would endeavor to negotiate a reverter clause in the easement documents providing for reversion of the easement to the City if it ceases to be used for a public purpose. Responding to Mr. Patel, Robin Levine said DEP would report back to the Board on the final terms of the transaction upon completion of construction of the filtration plant and connection in about 18 months.

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, the New York City Department of Environmental Protection (“DEP”) operates and maintains the Systems; and

WHEREAS, pursuant to Section 11.1(d)(ii) of the Lease, the City may, with the prior written consent of the Board, grant interests in 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 Town of Bedford (“Bedford”), a municipal corporation organized pursuant to the laws of the State of New York, currently receives a supply of groundwater via the Katonah Municipal Well system located on City property; and

WHEREAS, due to contamination of the Katonah Municipal Well system, Bedford has applied to DEP to receive, pursuant to Section 24-360 of the Administrative Code of the City of New York (the “Code”), a supply of City water from a new connection to the Delaware Aqueduct (the “New Connection”) to meet the demands of Bedford’s Consolidated Water District No. 1 (the “District”); and

WHEREAS, in order for Bedford to deliver this supply of water to the District via the New Connection, Bedford will need to construct the following connection facilities: 1) a 16-inch water main from Delaware Aqueduct Shaft 13, Cross River Pump Station to a metering vault; 2) the metering vault; 3) a 16-inch water main from the metering vault to a water filtration plant; 4) the water filtration plant; and 5) a 12-inch transmission main from the water filtration plant to the distribution system of the District; and

WHEREAS, as of August 9, 2010, DEP has issued, pursuant to Title 15 Section 22-01 of the Rules of the City of New York, the approval letter for construction of the connection facilities as described herein; and

WHEREAS, the connection facilities for the New Connection described herein will be located on City property within the Croton Reservoir watershed; and

WHEREAS, in order to obtain financing for construction of the connection facilities, Bedford has requested that an easement on the City property be granted to Bedford, such easement to correspond to the parcel of City property where the connection facilities are to be sited and equaling approximately two (2) acres in area; and

WHEREAS, upon submission to DEP of the required as-built drawings for the connection facilities and a determination of the boundaries of the City property to be encumbered by the easement, DEP will cause the property to be surveyed and determine the fair market value of the property to be encumbered; and

WHEREAS, in consideration for the grant of easement and pursuant to the terms of the easement agreement, Bedford agrees to compensate the City for the fair market value of the property to be encumbered by the easement and to assume responsibility for the property taxes of the encumbered land; and

WHEREAS, the granting of such an easement constitutes the granting of an interest in real property subject to the Lease; and

WHEREAS, pursuant to Section 4-106(9) of the Code, an easement on City land may be granted without public letting in perpetuity or for shorter periods where the purpose of the easement

would be for transporting water for municipal water supply or for any other public purpose; and

WHEREAS, DEP and Board staff have determined that the grant of easement to Bedford as described herein would be in accordance with both the Lease and the Code, in the best interests of the City and would contribute to Bedford's ability to receive a clean supply of drinking water and enable the City to adhere to the statutory requirements for supplying Bedford with its entitled share of City water; and

WHEREAS, based on the recommendation by staff and for such consideration as herein described, the Board has determined that the grant of an easement to Bedford as set forth in this Resolution is reasonable and appropriate; and

WHEREAS, by letter dated September 21, 2010, the Board has also received certification from William Pfrang, P.E., Vice President of AECOM USA, Inc., Consulting Engineer, that it has evaluated the above grant of easement and has confirmed that such grant does not materially adversely affect the revenues of the Systems or impair the ability of the Board to make any payments required under the Lease; it is therefore,

RESOLVED, that, pursuant to Section 11.1(d) (ii) of the Lease, the Board hereby consents to the grant of easement by the City to Bedford as described here.

Potential RFP to Solicit Energy Consultant for Study to Mitigate Future Energy Costs of System Operations

The next item on the agenda was a presentation by Sergej Mahnovski, DEP's Director of Strategic Planning, regarding a potential Request for Proposals ("RFP") to select an energy consultant. Mr. Mahnovski explained that DEP is the second largest consumer of electricity among City agencies. DEP is also potentially a significant producer of energy including bio-gas, solar, hydropower, and wind. The consultant would assist DEP to develop a comprehensive energy evaluation strategy to: (i) ensure a reliable source of energy for water supply and wastewater treatment; (ii) mitigate the impact of rising energy costs on water and sewer rates; and (iii) reduce Greenhouse Gas emissions. Mr. Mahnovski explained that DEP

energy costs are projected to increase by 89% by 2015 necessitating a 2.2% increase in water and sewer charges. Mr. Lawitts said DEP is currently discussing these issues with OMB and is in the process of finalizing a scope of work which will be submitted to the Board for release as part of the RFP.

Financial Update

Next Mathilde McLean, the Board's Treasurer, presented a Financial Update. She said that actual revenue collection for Fiscal Year 2010 was lower than the plan target amount by \$128 million or 5%. Current year to date monthly revenue collection is 2% above the plan target amount. She discussed year over year percentage increases in billed consumption, concluding that metered consumption is rising. In addition she discussed year over year percentage increases in total billed dollar amount, concluding that the total amount billed to "same customer sale" metered accounts is increasing. With respect to the lien sale, she said the Board received \$11 million in direct sale proceeds and indirectly another \$67 million resulting from the so-called "halo" effect whereby customers, incentivized by notice of the sale of their liens, pay delinquent charges prior to the lien sale deadline. Finally, she described a 22% year over year decrease in estimated bills City-wide and a dramatic 49% decrease in the Bronx. The reduction in the Bronx is attributable to the completion of 82% of wireless meter reading installations in that borough. Responding to Mr. Tisdell's question as to why a decrease in estimated bills is important, Mr. Lawitts explained that customer complaints with respect to charges based on estimated bills is one of the most common reasons for non-payment of water and sewer charges.

Proposal for an Amendment to the Consultant Agreement with Bruce M. Goodman, LLC, for Analytical Services Regarding DEP's Fixed Assets Policies and Procedures

The last item for the meeting was a presentation by Mr. Lawitts, for the Board's information, of a proposed two-year extension of a consultant agreement with a consultant to

assist the Board and DEP with the implementation of the new FMS accounting system for fixed assets and new Governmental Accounting Standards Board regulations. Additional compensation not to exceed \$135,000 would be paid during the term of the extended contract, which will be formally presented to the Board for approval at a future meeting.

Adjournment

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

SECRETARY