

**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 December 3, 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 meetings held on September 24, 2010, and September 28, 2010. Mr. Moss asked Steven Lawitts, the Board’s Executive Director, to review the status of one of the resolutions adopted at the September 24, 2010 meeting and follow-up with the Board. There being no further discussion, upon motion duly made and seconded, the minutes of the meetings held on September 24, 2010 and September 28, 2010 were unanimously adopted subject to Mr. Lawitts’s response to Mr. Moss’s question.

Remarks of Mr. Moss

Mr. Moss asked the staff to report to the Board as to the effect of the Capital Program on future Water and Sewer rates. Mr. Lawitts said he would provide this information in January following DEP's submission of updates to the City's 10-year Capital Strategy.

Motion to Proceed to Executive Session: Discussion of Pending Settlement with Town of New Windsor

Upon motion duly made and seconded, the Board resolved to convene in Executive Session to discuss a litigation settlement with the Town of New Windsor, after which the Board reconvened in Open Session without having taken any action in Executive Session.

Approval of Settlement with Town of New Windsor

The next item on the agenda was the approval of a litigation settlement with the Town of New Windsor. Upon motion duly made and seconded, the following resolution was unanimously adopted:

WHEREAS, the New York City Water Board (the "Board") has been advised by staff and counsel that they have negotiated an agreement with the Town of New Windsor and the New Windsor Consolidated Water District (collectively, "New Windsor") with respect to various charges for excess water consumption from September 2007 through April 2009 and which have been the subject of dispute and litigation in the matter of The New York City Water Board v. Town of New Windsor and New Windsor Consolidated Water District, Index No. 2009-14152 (Supreme Court, Orange County); and

WHEREAS, the Board has been advised by staff and counsel that they have also negotiated an agreement with New Windsor with respect to various charges for excess water consumption from May 2009 through July 2010, which have been partially paid by New Windsor and are contested by New Windsor as to calculation of consumption; and

WHEREAS, staff has recommended a settlement in the sum of One Hundred Five Thousand Dollars (\$105,000.00) in full satisfaction of any and all charges for excess consumption by

New Windsor from September 2007 through April 2009 and a settlement in the sum of Thirty Five Thousand dollars (\$35,000.00) in full satisfaction of any and all charges for excess consumption by New Windsor from May 2009 through July 2010, for a total settlement amount of One Hundred Forty Thousand dollars (\$140,000.00); and

WHEREAS, interest on the amounts owed through April 2009 will be charged at the annual rate of 3.25% calculated from May 1, 2008 to the date of payment and compounded monthly, and interest on the amounts owed from May 2009 through July 2010 will be charged at an annual rate of 3.25%, calculated from December 1, 2009 to the date of payment and compounded monthly; and

WHEREAS, terms of the settlement are conditioned upon the execution and delivery by New Windsor of a Stipulation of Settlement and other related instruments, including an updated Water Supply Agreement, satisfactory in form and substance to staff and counsel for the Board, and which Stipulation of Settlement shall, among other matters, include a covenant by New Windsor to pay in a timely manner any and all future bills for water taken from the New York City water supply system, whether entitlement or excess, that are rendered by the Board to New Windsor, and conditioned upon prompt payment of the settlement amount; and

WHEREAS, in accordance with its powers under the New York City Municipal Water Finance Authority Act, the Board has determined the terms of such settlement to be reasonable and appropriate; it is therefore

RESOLVED, that the Board hereby approves the settlement in the sum of One Hundred Forty Thousand dollars (\$140,000.00) plus interest calculated at the annual rate of 3.25% as set forth herein, in full satisfaction of any and all excess consumption by New Windsor through July 2010, subject to the execution and delivery by New Windsor of a Stipulation of Settlement and other related instruments including an updated Water Supply Agreement satisfactory in form and substance to Water Board staff and counsel and subject to prompt payment of the settlement amount. The Executive Director is hereby authorized and directed to take such steps as may be required to effectuate the settlement described above.

Approval of an Amendment to the Agreement with Bruce M. Goodman, LLC, for Analytical Services with Respect to DEP's Fixed Assets Policies and Procedures

The next item on the agenda was the proposed approval of an extension of the Board's contract with Bruce Goodman to provide analytical services related to DEP's Fixed Assets Policies and Procedures. Mr. Lawitts described the services proposed to be provided by Mr. Goodman, adding that Mr. Goodman would also transition responsibility for these services to the new DEP Director of Accounting when that person is hired and brought on board. The proposed contract extension would be for 2 years with an 8% increase in compensation. Discussion ensued among Mr. Moss, Ms. Bystryn, and Mr. Capoccia, who each expressed reservations about the duration of the contract and the amount of compensation proposed to be paid. A consensus was reached that the extension be limited to one year with no increase in compensation. 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 December 1, 2006 with Bruce M. Goodman, now known as Bruce M. Goodman, LLC ("Goodman"), in the amount of \$50,000 whereby Goodman reviewed and assessed the fixed assets policies and procedures of the New York City Department of Environmental Protection ("DEP") and made recommendations for revisions, the implementation of which would improve DEP's fixed assets reporting; and

WHEREAS, on January 2, 2008, the Board executed an amendment to the Agreement in the amount of \$37,500 for the provision of additional analytical services with respect to DEP's fixed assets policies and procedures; and

WHEREAS, on June 26, 2008, the Board adopted a resolution authorizing an amendment to the Agreement for an additional \$150,000 for further assistance from Goodman in reconciling the Board's fixed assets inventory, DEP's year-end closing of financial transactions for financial reporting purposes and the preparation of the System's annual financial statements; and

WHEREAS, DEP staff have identified a need for additional services from Goodman with respect to a recently implemented FMS accounting system for capital assets, new and increasingly complicated financial reporting requirements, Governmental Accounting Standard Board (GASB) regulations and the year-end close financial statements for the New York City Water Finance Authority and the City of New York; and

WHEREAS, the Board has reviewed a September 17, 2010 memorandum from Joseph Murin, Assistant Commissioner, DEP Budget Office, which details the additional requested services and sets forth a recommendation that the Board authorize an amendment to the Agreement for two additional years of service with an 8% hourly rate increase; and

WHEREAS, the Board has considered the fact that DEP intends to transfer the contract responsibilities to a DEP employee over the next year and determined that the contract should be for one year rather than the two years requested in the memorandum, and the Board has also determined that the hourly rate shall remain the same as in the original contract with no increase; 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 a third amendment to the Agreement with Goodman 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 \$62,500, with no hourly rate

increase and for an additional term not to exceed one year. Total compensation for services performed under the Agreement and its three subsequent amendments shall not exceed \$300,000.

Authorization to Exercise the Fiscal Year 2011 Contract Extension Option and Engagement Letter with Deloitte & Touche LLP as the System's Independent Auditors

The next item on the agenda was the authorization for management of the Board to exercise a 1-year extension option with Deloitte & Touche, LLP as the independent auditors of the Water and Sewer System's Financial Statements and to execute an Engagement Letter with Deloitte & Touche to conduct the Fiscal Year 2011 audit of such Financial Statements. Mr. Lawitts said the extension and Engagement Letter had been approved by the Joint Audit Committee of the Board and the Water Authority and recommended by such Committee to the Board and the Authority for approval. He added that the Water Authority, acting on such recommendation, had approved the extension and Engagement Letter.

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

WHEREAS, the New York City Water Board (the "Board") and the New York City Municipal Water Finance Authority (the "Authority") previously retained the firm of Deloitte & Touche LLP for such firm to serve as independent auditors for the financial statements of the water and sewer system of the City of New York (the "System") for the fiscal years ending on June 30, 2008, 2009 and 2010; and

WHEREAS, the agreement with Deloitte & Touche LLP provides for an optional one-year extension covering the audit of the financial statements for the fiscal year ending June 30, 2011 for a fee of \$260,000; and

WHEREAS, pursuant to the Audit Committee Charter, the Joint Audit Committee has evaluated the independent auditors, found their performance to be satisfactory, and recommended that the Board and the Authority authorize the officers of the Board and the Authority to extend the contract and sign an engagement letter with

Deloitte & Touche LLP as the independent auditors for the System's financial statements for the fiscal year ending June 30, 2011; and

WHEREAS, on December 1, 2010, the directors of the Authority authorized the officers of the Authority to extend the contract and sign an engagement letter for the fiscal year ending June 30, 2011, pending the approval of the Board; it is therefore,

RESOLVED, that the Board authorizes the officers of the Board and the Authority to exercise the optional contract extension and sign an engagement letter with Deloitte & Touche LLP as the independent auditors for the System's financial statements for the fiscal year ending June 30, 2011, as well as any other documents necessary to effectuate the continued retention of the independent auditors.

Approval of Investment Guidelines and Report

The next item on the agenda was the annual approval of the Board's Investment Guidelines required by the Public Authorities Law and the annual approval of the Investment Report required by the Investment Guidelines. Mr. Lawitts explained that the Investment Guidelines were unchanged, and he described the Investment Report. There being no discussion, upon motion duly made and seconded, the following resolution was unanimously adopted;

WHEREAS, the New York City Water Board (the "Board") adopted Investment Guidelines to establish policies for the investment of its funds on May 2, 1986 and subsequently amended the Investment Guidelines on October 24, 1990 and February 14, 1997; and

WHEREAS, pursuant to the Investment Guidelines, the Board is required annually to review and approve both the Investment Guidelines and an Investment Report; and

WHEREAS, the Board has reviewed the Investment Guidelines as contained in the Fiscal Year 2010 Investment Report and finds both the guidelines and report to be reasonable and appropriate; it is therefore,

RESOLVED, that the Investment Guidelines and the Fiscal Year 2010 Investment Report, copies of which will be filed with the minutes of this meeting, are hereby approved.

Financial Update

Next Mathilde O. McLean, the Board's Treasurer, presented a Financial Update. She said year-to-date collections are above the plan target amount by \$46 million or 3%. She attributed this result to the hot dry summer, the roll-out of the Automated Meter Reading ("AMR") system and improved community outreach. She said that for the first 5 months of FY 2011, DEP distributed 5% more water to customers than during the same period in the prior fiscal year. DEP has installed AMR devices for 66% of accounts City-wide. Installations for 86% of accounts in the Bronx have been completed, which has contributed to a 50% decline in estimated meter readings in that borough. Enrollment in the Direct Debit Discount program increased from 1,306 accounts at inception of the program last July to 7,328 by the end of November. The cumulative dollar amount of the discount provided has increased from \$756 to \$111,235. Responding to a question from Mr. Capoccia, Mr. Lawitts said that customers may pay their bills with credit cards subject to a 2.45% service charge which is a pass through of the amount the credit card companies charge the Board. Responding to a question from Mr. Patel as to whether there is an expense report comparable to the revenue analysis presented by Ms. McLean, Mr. Lawitts said the staff will present a mid-year report in January which will include an update on expenses and revenues, as well as the results of the bond financing program.

Status of Active Contracts

Next Mr. Lawitts gave a presentation with respect to the status of all active Water Board contracts. He said that since FY 2007, there has been a 69% reduction in outstanding contract values and an 86% decrease in the value of contracts awarded. There has been a 71%

decrease in contract expenditures between FY 2008 and FY 2010. Referring to the natural gas drilling assessment contract, Mr. Moss asked for an update on proposed hydro-fracturing in the Marcellus Shale rock formation in the upstate watershed. Mr. Lawitts agreed to provide this at a future meeting. Mr. Lawitts also agreed to provide the Board with a close-out report with respect to expiring contracts in response to a request from Mr. Capoccia. Mr. Capoccia also asked whether there will be any cost savings on the Lockbox contract attributable to the Direct Debit Discount program. Mr. Lawitts said he would report back to the Board about that. Mr. Patel asked whether any new consulting contracts are expected to be let. Mr. Lawitts responded that there may be a contract for a consultant to provide advice on structuring financial arrangements to achieve energy savings. Finally, Ms. Bystryn requested a briefing from the staff about the transition of the administration of energy contracts from the New York City Economic Development Corporation to DEP. Mr. Lawitts agreed to provide the requested information 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