

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

February 7, 2024

A meeting of the New York City Water Board (the “Board”) was held on Wednesday February 7, 2024 at 255 Greenwich Street, Manhattan, New York in the 8th floor conference room, beginning at approximately 9:15 a.m. The following members of the Board attended the meeting:

Alfonso Carney,

Evelyn Fernandez-Ketcham,

Adam Freed,

Jonathan Goldin,

Arlene Shaw, and

Daniel Zarrilli

constituting a quorum. Alfonso Carney chaired the meeting, Albert Rodriguez served as Secretary of the meeting, joined by Board officers Executive Director Joseph Murin and Treasurer Omar Nazem.

Approval of the Minutes

The first item on the agenda was approval of the minutes of the Board’s previous meeting held on December 8, 2023. Upon motion duly made and seconded, the minutes of the meeting held on December 8, 2023 were put to the members for a vote. The members in attendance unanimously approved the minutes by a voice vote.

Proposed Real Property Transaction Involving Land in Kent, New York and the Seven Hills Lake Dam

Chairman Carney introduced the Board’s agenda item, involving a City landholding in Kent, New York. P.J. Sagar from the Bureau of Legal Affairs at the City’s Department of Environmental Protection (DEP), and Thomas Boland from DEP’s Bureau of Water Supply led DEP’s presentation. Mr. Sagar described DEP’s proposed transaction, involving 1.24 acres of land in Kent, New York. A section of an existing dam, known as the Seven Hills Lake Dam, is located on part of the landholding. The transaction involves conveying the

land along with \$1.284 million of cash to a local homeowners association that would take full ownership and full responsibility for the dam after the closing of the transaction, with DEP's fractional interest in the dam transferred along with the landholding. The proposed transaction involves land that is adjacent to other DEP landholdings which would remain accessible to DEP after conveying the 1.24 acres to the homeowners group and, since the Seven Hills Lake is not part of the City's water supply, transferring the land to the homeowners would not affect the City's water supply and the parcel would be subject to New York State Departmental of Conservation easement restrictions preventing the construction of improvements on the landholding after the transaction closes.

Member Freed asked if any DEP water supply assets are located downstream from Seven Hills Lake. Mr. Sagar and Mr. Boland jointly explained that the Boyds Corner Reservoir is located downstream from Seven Hills Lake, and that Boyds Corner Reservoir in turn flows into the West Branch Reservoir. Upon further inquiry by Mr. Freed, Mr. Boland explained that a failure of the Seven Hills Lake Dam would not have a material impact on the City's water supply, apart from a temporary increase in water turbidity, and that Boyds Corner Reservoir does not provide a large part of the City's water supply.

In response to a question by Chairman Carney, Mr. Sagar explained that the dam requires improvements in order to weather a one-hundred year storm, with the improvements including expansion of the dam's spillway capacity and elevating the dam's height by approximately two feet. Mr. Sagar further noted that by transferring the landholding, the City would also transfer full ownership of the dam to the homeowners, along with responsibility for maintaining and upgrading the dam, while relieving the City of its financial liabilities for the Seven Hills Dam after providing the homeowners group with the \$1.284 million cash payment at closing toward improvement of the dam. In response to a request from Mr. Carney for further explanation of the rationale for providing a cash payment, in addition to the transfer to the homeowners of the 1.24 acre landholding, Mr. Boland explained that providing a cash payment would cap the City's financial liability for the dam, while providing the homeowners with the financial means to independently arrange for the dam improvements. Mr. Carney inquired about the scope of the City's future liability that might arise from its status as a former dam owner. Mr. Sagar answered that the City's Law Department had analyzed the question, and

determined that the City as a former dam owner would not be liable for the dam after transferring ownership to the homeowners while the City currently, as a fractional dam owner, is jointly liable for the cost of maintaining and improving the dam. After providing an explanation of the different cost estimates for performing the work, Mr. Sagar responding to a question from Member Zarrilli, explaining that the various cost estimates were based on the assumption that the cost structure assumed the homeowners would contract for the repairs, and that the City's own cost structure would likely be higher than the homeowners, were the City to perform the repairs.

Mr. Sagar proceeded to provide the Board with an overview of the requirements of dam owners under the New York State Environmental Conservation Law that would be applicable to the City were it to retain its fractional ownership interest in the dam. The Environmental Conservation Law's requirements are extensive, and would require the City to incur significant costs.

Mr. Goldin asked if DEP had an estimate of the appraised value of the 1.24 acre landholding. Mr. Sagar explained that since the landholding is subject to conservation easements that restrict future development on the land, the marketability of the property would be limited since improving the land would be difficult due to the conservation easement and a prospective buyer would be financially liable for ongoing maintenance of the dam. Mr. Sagar proceeded to further describe the conservation easement restriction that would remain with the landholding, noting that in addition to restricting development on the landholding the easement also included a general prohibition against using the land in a way that would diminish the quality of or would otherwise interfere with the City's water supply protection, and that the easement also includes a list of construction activities and types of land use that are expressly prohibited on the land, in addition to a restrictive covenant included in the deed of transfer that would further preclude use of the land in a manner that could harm the City's water supply assets.

Member Shaw requested further information about the financial soundness of the homeowners association and its ability to maintain the dam in the future. Mr. Sagar and Mr. Boland described the homeowners association as including approximately one-hundred homes and that the homeowners had a history of securing the funding to make improvements and repairs to the lake when required.

Mr. Zarrilli then asked a two-part question, in the first part requesting information about the criteria

for when real property transactions are presented to the Water Board and, second, if there were other dams in the area of City landholdings that the Board might be asked to look at in the future. Mr. Sagar and Mr. Boland stated that DEP does own other dams, usually acquired through DEP's land acquisition program, that are not directly connected to the water supply system but that are in the watershed area, and that when these dams require improvements or structural changes, DEP is able to find an appropriate solution, a process that is simplified in most cases when DEP is the sole dam owner, and since there are not many similar City real property transactions involving dams that the Board may be asked to look at in the future. With respect to the Board's role in reviewing real property transactions, Mr. Rodriguez described real property transactions from the Board's perspective as principally governed by the Board's lease agreement with the City, that permits the City to transact water and sewer system property, provided that the Board's consent is obtained, and that the water system's consulting engineer issues a determination that the transfer of the property would not negatively impact the system's operation or finances. Executive Director Murin further explained that the City retains title to the water and sewer system assets, and that the Board is tasked with establishing the reasonableness of the City's proposed real property transactions.

Upon motion duly made and seconded, a resolution was put to the members for a vote. The members in attendance unanimously approved the resolution by a voice vote.

RESOLUTION

WHEREAS, pursuant to the New York City Watershed Memorandum of Agreement dated January 21, 1997 (the "MOA"), the City of New York (the "City"), acting by and through the New York City Department of Environmental Protection ("DEP"), is engaged in programs within the New York City Watershed communities to ensure an adequate supply of clean and healthful drinking water to millions of New York City residents, as well as to several other regions in New York State; and

WHEREAS, the City and 7 Hills Lake Property Owners, Inc. ("Seven Hills") have been engaged in discussions to reduce the burdens of shared ownership and shared maintenance responsibilities of the Seven Hills Lake Dam (the "Dam");

and

WHEREAS, significant repairs and improvements are currently necessary to maintain the Dam's safety, the total cost of which is expected to be in the range of \$1,063,000 to \$1,617,000; and

WHEREAS, the City desires to transfer potential liabilities related to owning the Dam, for reasons that include the Dam's role impounding a water body that is not part of the City's water supply system, as well as the presence of land conservation protections, as described below, that will remain with the land in the absence of City ownership; and

WHEREAS, Seven Hills understands that the proposed conveyance will be subject to all terms of the Conservation Easement NYC-MOA 141W002632 ("Conservation Easement"), which shall run with the land, to ensure that it is held in perpetuity in an undeveloped state to protect the New York City Watershed and the New York City drinking water supply; and

WHEREAS, the City has provided DEC with the requisite notice related to the Conservation Easement, and DEC has not exercised its option to purchase the landholding; and

WHEREAS, New York City Administrative Code §4-106(9) authorizes the conveyance of real property for a public purpose over water supply lands, and DEP certifies that the proposed conveyance will not endanger or injure the water supply structures or other property of the City, nor interfere with the use and operation of City assets for water supply or sanitary protection purposes; and

WHEREAS, by letter dated February 5, 2024, the Board has received certification from Eileen Proffitt, P.E. of AECOM USA, Inc., and William Pfrang, P.E., of Macan Deve Engineers, Co-Consulting Engineers to the Board, that it has evaluated the above dispositions and has confirmed that such transfers and grants would have no impact on the operation of the System, the collection of revenues of the System, or the ability of the Board to make any payments required under the Lease; it is therefore

RESOLVED, that, pursuant to Sections 11.1(d)(i) and 11.1(d)(ii) of the Lease, the Board hereby consents to the property dispositions by conveyance deed in the form approved by the New York City Law Department; and be it further

RESOLVED, that the officers of the Board are, and each of them hereby is authorized and empowered, in the name and on behalf of the Board, to grant such consent and to take such other and further actions as the officers or any officer deems necessary or appropriate to effectuate the foregoing resolution.

Member Freed requested that the members receive a briefing on the Board's authorities. Executive Murin agreed that Board staff would provide the members with a briefing on the Board's authorities, and would make sure that the Water Authority and Law Department provide feedback and comments on the briefing materials to ensure alignment on the presentation.

Adjournment

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

/S/
SECRETARY