

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

A Special Meeting of the New York City Water Board (the “Board”) was held on November 20, 2008 at 8:30 a.m. at 75 Park Place (8th Floor), New York, New York 10007. The following members of the Board were present:

Alan M. Moss;

Donald A. Capoccia;

Amaziah Howell; and

Mehul Patel

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

Introduction of Mehul Patel

Mr. Moss introduced Mehul Patel, who was appointed to the Board on November 18, 2008.

Adoption of Minutes

The next item on the agenda was approval of the minutes of the Board’s previous meeting held on October 10, 2008. There being no discussion, upon motion duly made and seconded, the minutes of the Board’s meeting held October 10, 2008 were unanimously adopted.

Approval of a Consultant to Evaluate Implications of Drilling for Natural Gas in the Watershed

The next item on the agenda was the approval of a geology, hydrology, and petroleum consultant to evaluate the implications for the Water System of natural gas drilling in the upstate Watershed.

DEP Assistant Commissioner David Warne explained that the consultant would provide both a rapid and comprehensive assessment to DEP with respect to the impact of natural gas drilling in the watershed as well as provide technical assistance with respect to implementation of any recommended course of action.

He explained that the State is currently supplementing its existing Generic Environmental Impact Statement with the preparation of a Supplemental Environmental Impact Statement ("SEIS"). Responding to a question from Mr. Capoccia as to whether there should be a moratorium on drilling pending completion of the State SEIS, Commissioner Warne explained that this is unnecessary inasmuch as there are currently no applications pending for drilling permits.

Commissioner Warne described the competitive request for proposals process used to select the recommended consultant, including the scope of work, the rating criteria and membership of the evaluation committee. He said that the committee had recommended selection of the "Hazen/Leggette" joint venture as the highest rated proposal. He agreed to provide the Board with a mid-term progress report on the consultant's work.

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, increased interest in natural gas drilling in the watershed region of the New York City water supply system has produced a need for an assessment of the potential impacts of natural gas drilling on water quality and quantity, as

well as on water supply infrastructure and the environment and the New York City Department of Environmental Protection (“DEP”) has identified to the Board a need for the services of a technical consultant to develop an assessment of the impact of natural gas drilling for DEP’s Bureau of Water Supply (“BWS”); and

WHEREAS, Requests for Proposals (“RFP”) in connection with said assessment of natural gas drilling issues in the watershed were issued on October 20, 2008 to a total of eight potential consulting firms which had responded affirmatively to a previously issued Request for Expressions of Interest; and

WHEREAS, three firms submitted technical and cost proposals for consideration and review by BWS staff; and

WHEREAS, the Board has reviewed a memorandum from BWS Deputy Commissioner, Paul V. Rush, P.E., dated November 14, 2008, which sets forth a recommendation for the designation of Hazen & Sawyer/Leggette Brashears and Graham, a joint venture (“Hazen/Leggette”) to perform the necessary assessments on behalf of BWS; and,

WHEREAS, in accordance with the Water Board’s Policy on the Procurement of Goods and Services, in particular, Section 4 (selection based on the best combination of technical merit and price) and Section 5.i. (prior approval of contracts where the cumulative value exceeds \$100,000), the Board finds the selection of Hazen/Leggette appropriate; be it, therefore,

RESOLVED, that the Executive Director is hereby authorized and directed to execute an agreement with Hazen/Leggette to provide technical assistance to BWS on natural gas drilling issues in the watershed upon such terms and conditions as the Executive Director may deem reasonable and appropriate, provided however that the total compensation for services performed shall not exceed \$500,000.

Approval of a Consultant to Assist in the Development of a Contamination Warning System Pilot Project

The next item on the agenda was the approval of a consultant to assist in the development of a Contamination Warning System PILOT Project to be funded with a \$12 million EPA grant. Mr. Lawitts explained that although the proposed study would be a Water

Board procurement, it would be fully funded through monthly reimbursements from the Federal government with no net cost for consulting services to the Water and Sewer System. Commissioner Warne described the competitive request for proposals process used to identify the recommended consultant, including the scope of work, the rating criteria and membership of the evaluation committee. The proposer recommended by the Evaluation Committee is a joint venture comprised of two proposers to whom the RFP was sent. Responding to concerns expressed by Mr. Capoccia and Mr. Moss as to whether the consultant's recommendation resulting from the study would take into account System financial constraints and be compatible with existing System security elements such as the DEP police force, Commissioner Warne explained the scope of work requires that the course of action recommended by the consultants be both practical and sustainable.

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 New York City Department of Environmental Protection ("DEP") was awarded a grant from the United States Environmental Protection Agency ("EPA") to develop a Contamination Warning System Demonstration Pilot Project ("CWSDP") for DEP's Bureau of Water Supply ("BWS") pursuant to an EPA initiative to address the risk of intentional contamination of drinking water distribution systems; and

WHEREAS, DEP has identified to the Board a need for the services of a technical consultant to assist with the development of a CWSDP; and

WHEREAS, all monies expended by the Board for such services will be fully reimbursed to the Board by DEP through EPA grant funds; and

WHEREAS, Requests for Proposals (“RFP”) in connection with developing the CWSDP were issued on October 28, 2008 to a total of seven potential consulting firms, two of which jointly submitted a technical and cost proposal for consideration and review by BWS staff; and

WHEREAS, the Board has reviewed a memorandum from BWS Deputy Commissioner, Paul V. Rush, P.E., dated November 14, 2008, which sets forth a recommendation for the designation of Malcolm Pirnie/CH2MHill, a joint venture (“Malcolm/CH2MHill”) to perform the necessary services for BWS; and,

WHEREAS, in accordance with the Water Board’s Policy on the Procurement of Goods and Services, in particular, Section 5.i. (prior approval of contracts where the cumulative value exceeds \$100,000), the Board finds the selection of Malcolm/CH2MHill appropriate; be it, therefore,

RESOLVED, that the Executive Director is hereby authorized and directed to execute an agreement with Malcolm/CH2MHill to provide technical assistance to BWS on developing the CWSDP in accordance with the EPA work plan upon such terms and conditions as the Executive Director may deem reasonable and appropriate, provided however that the total compensation for services performed shall not exceed \$9,869,251.

Re-Authorize DEP to Grant Conservation Easements to DEC for Properties Acquired Pursuant to the Land Acquisition Program

The next item on the agenda was the reauthorization for DEP to grant conservation easements to the New York State Department of Environmental Conservation (“DEC”) with respect to certain lands acquired by the City in the upstate watershed. DEP attorney May Chin explained that the land acquisition program established by the Memorandum of Agreement (“MOA”) with respect to the Upstate Watershed pursuant to which EPA issued its Filtration Avoidance Determination requires that the City grant conservation easements to DEC

with respect to all lands acquired in fee pursuant to the MOA. The Conservation Easements provide for the restriction of development and use of property in order to permanently conserve and protect natural resources and open space. Ms. Chin then explained that pursuant to the System Lease, the Board is required to consent to the grant of such easements to DEC. Ms. Chin briefly described the history of the land acquisition program.

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

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 a land acquisition program in the New York City Watershed; and

WHEREAS, pursuant to such program, the City is seeking to acquire fee title to, or conservation easements on, sensitive watershed lands to better protect the quality of the City's drinking water; and

WHEREAS, pursuant to the MOA, the City agreed to grant conservation easements to the New York State Department of Environmental Conservation ("NYSDEC") on lands acquired in fee under such program, all as more fully described in and subject to the terms of Paragraph 82 of the MOA; and

WHEREAS, the granting of such conservation easements constitutes the granting of an interest in real property subject to the Agreement of Lease, dated as of July 1, 1985, as amended (as so amended, the "Lease"), between the City and the New York City Water Board (the "Board"); 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 the Leased property which, in the reasonable judgment of the Board, do not interfere with the operation and maintenance of the System and the collection of revenues from the System; and

WHEREAS, by resolution adopted on June 19, 2003, the Board consented to give standing authorization to DEP for the granting of such conservation easements by the City to NYSDEC, in substantially the form of Attachment 1 annexed to such resolution, for a period of one year, and on the condition that a report on the land acquisition program be submitted to the Board together with any request to extend such consent; and

WHEREAS, by resolution adopted on May 7, 2004 and on September 15, 2006, the Board consented to the granting of such conservation easements by the City to NYSDEC, in substantially the form as approved by the Board on June 19, 2003, for an additional period of two years, and on the condition that a report on the land acquisition program be submitted to the Board together with any request to extend such consent; and

WHEREAS, DEP has submitted a report on the progress of the land acquisition program together with a request to extend such consent for an additional period of two years; it is therefore

RESOLVED, that the Board hereby gives its consent, for an additional period of two years from the date hereof, to the granting of conservation easements by the City to NYSDEC, substantially in the form as approved by the Board on June 19, 2003, on lands acquired in fee under the City's watershed land acquisition program, as and when required pursuant to the terms of the MOA; and be it further

RESOLVED, that a report be submitted to the Board on the progress of the City's land acquisition program together with any request to extend such consent beyond such two year period; and be it 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 and further actions, as they or any of them deem necessary or appropriate to effectuate the foregoing resolutions.

Approval of Change to Frontage Transition/Multiple Family Conservation Program

The next item on the agenda was the rescission of the December 31, 2008 deadline by which flat rate multi-family accounts must transfer to the Multiple Family Conservation Program (“MCP”) or be converted to metered billing. The MCP provides a fixed charge per dwelling unit in return for the owner undertaking to fix leaks and install low water consuming fixtures. The MCP may require existing flat rate customers to make additional expenditures to qualify for the Program. However, the fixed MCP charges are less costly than those resulting from metered billing to which flat-rate customers would be transferred automatically in the absence of an election to transition to the MCP.

DEP Deputy Commissioner Joseph Singleton explained that DEP is requesting the rescission of the transition deadline to permit additional properties to upgrade their water consuming fixtures to qualify for the MCP. Responding to Mr. Moss, Mr. Lawitts explained that DEP is considering modification or elimination of the MCP Program in the context of overall rate restructuring.

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

WHEREAS, the Board has adopted administrative guidelines for the Conservation Program for Multiple Family Residential Buildings on May 3, 2001, as subsequently amended, “the Administrative Guidelines”; and

WHEREAS, the program’s objective is to promote the conservation of water and wastewater system resources by encouraging owners of multiple family residential buildings to replace existing plumbing fixtures with water conserving fixtures in exchange for a fixed charged per dwelling unit; and

WHEREAS, pursuant to these guidelines all applications for entry into this program must be received by the

Board by December 31, 2008 or the account will be converted from flat-rate billing to meter based consumption billing; and

WHEREAS, in order to realize the program goals and objectives, DEP and Board staff have recommended rescission of the application deadline with the goal of extending the program application period to permit additional properties the opportunity to upgrade their water consuming fixtures and qualify for the program; and

WHEREAS, the Board has received a copy of the public comments submitted in response to the notice, and has received a report and recommendation from staff regarding the rescission of the deadline; and

WHEREAS, the Board finds such recommendation to be reasonable and appropriate; it is therefore

RESOLVED, that the application deadline for the Conservation Program for Multiple Family Residential Buildings is hereby rescinded and Board staff is directed to effectuate this rescission by removing all references to this application deadline and related references to the expiration of flat-rate frontage billing programs in the Administrative Guidelines, the Board's Fiscal Year 2009 Rate Schedule and DEP's program application.

Approval of FY2009 Payment Incentive Program

The next item on the agenda was the approval of a new Payment Incentive Program ("PIP"). Deputy Commissioner Singleton described the prior PIP pursuant to which late fees were canceled for eligible residential customers and past due consumption charges capped at \$2 per day. The new PIP would apply to mixed use properties which have approximately \$70 million in delinquent charges and certain residential condominiums. Under the new program, late fees would be cancelled and customers would have to pay past due charges immediately or enter into payment agreements which would be offered to delinquent accounts owing more than \$2500.

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

WHEREAS, the Board recognizes that delinquent water/sewer charges in the residential class of accounts in New York City are higher than is normal or common in the utility industry and in the area of real property taxation; and

WHEREAS, the Board also recognizes that a high rate of continuing delinquencies is unfair to those property owners who are not delinquent because a high rate of delinquency can lead to higher rates on customers who pay their charges in a timely manner; and

WHEREAS, the Board believes it reasonable and in the interest of all users of the water and wastewater system to develop a program that has a reasonable prospect of inducing delinquent property owners to become current with their water bills; and

WHEREAS, in FY2008 the Board approved a Payment Incentive Program ("PIP") the objective of which was to enhance system revenues by encouraging a larger proportion of owners with delinquent water and sewer charges to accept a concession on the amount due in exchange for payment in full of their resulting liability so as to return their account to current status; and

WHEREAS, the PIP program was successful in that it resolved approximately 18,000 delinquent accounts and produced approximately \$63 million in additional revenues in FY2008; and

WHEREAS, the FY2008 PIP program was reserved exclusively for properties which were wholly residential in character; and

WHEREAS, DEP has proposed a new PIP program which would be open to mixed residential and commercial use properties and condominiums that would provide a waiver of open late payment charges in exchange for payment in full or the execution of a Payment Agreement, provided the account has at least one charge open and unpaid for at least one year and total delinquent charges of at least \$1,000; and

WHEREAS, the Board has reviewed a written description of the proposed FY2009 Payment Incentive Program which is attached as Exhibit 1¹ hereof; and

WHEREAS, the Board finds that such a program has practical utility and is reasonable and prudent to the extent it can reduce the System's accounts receivable and enhance System revenues; it is therefore

RESOLVED, that the Board hereby approves the Payment Incentive Program as described in Exhibit 1 and directs DEP to begin implementation of said Program; and it is

RESOLVED further, that the Executive Director may prescribe appropriate Payment Incentive Program implementation guidelines so as to ensure prudent Program administration consistent with the intent of the Board.

Progress Report – Booz Allen Rate Structure Study

The next item on the agenda was a progress report on the Booz Allen Rate Structure Study provided by a Booz Allen representative. The representative explained that the purpose of the study is to analyze the effects of different rate structures on various factors such as System financial stability and affordability to rate payers. The representative said that Booz Allen has collected data from 25 water utilities across the United States, has begun its initial benchmarking analysis and is engaged in follow-up discussions with DEP. The representative said the study would examine fixed and variable rates, conservation, separate charges for storm water and sanitary sewer service, and charges for new housing developments.

Responding to a question from Mr. Capoccia, Executive Director Steven Lawitts said that the study is expected to be completed by Fiscal 2010 rate adoption but that it may not be possible to put in place a new rate structure by that time.

Status of Financing Program – WFA Executive Director

¹ Filed with Minutes of the Meeting.

The next item on the agenda was a status report on the Water Authority's financing program from Water Authority Executive Director, Thomas Paolicelli. Mr. Paolicelli reviewed the details of the Authority's issuance last October of \$536 million First Resolution Bonds for capital financing purposes. He noted that the bond sale was oversubscribed by \$650 million in retail orders and that the true interest cost of the bonds at 5.9% was below projections for the first half of Fiscal 2009 although higher than historical levels. He said that the Authority's credit rating had improved because of the Board's rate setting process which keeps pace with increased costs. Responding to Mr. Moss, he said that because conservative assumptions are used for projecting new debt service costs, future rates should be within projected targets.

Year-to-Date Collections

The next item on the agenda was a report on Year-to-Date Collections provided by Mr. Lawitts. Mr. Lawitts said that collections are \$1.5 million or 1% below the plan target amount for the first quarter of Fiscal Year 2009. He said he was hopeful that collection efforts such as the lien sale, PIP, and service termination can reduce the shortfall by the end of the Fiscal Year. Responding to Mr. Patel, Treasurer William Kusterbeck explained that Plan target amounts are established by applying proportional historical monthly collection profiles to the projected total revenue requirements.

Contracts Awarded

The last item on the agenda was a discussion of Board contracts which have been awarded. Mr. Lawitts presented a chart listing awarded contracts which, he said, will be updated each month.

Adjournment

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

SECRETARY

