

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

The 2010 Annual Meeting of the New York City Water Board (the “Board”) was held on May 21, 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,

Amaziah Howell,

Mehul Patel, and

Benjamin Tisdell

constituting the entire 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 April 9, 2010. There being no discussion, upon motion duly made and seconded, the minutes of the meeting held on April 9, 2010, were unanimously adopted.

Adoption of Fiscal Year 2011 Annual Budget

The next item on the agenda was the adoption of the Board’s Annual Budget. Executive Director Steven Lawitts explained that the Board has received the certifications required by the System Financing Agreement from (i) the Water Authority with respect to Water Authority expenses and debt service; (ii) from the City with respect to prospective operating and maintenance costs and the rental payment pursuant to System Lease requested by the City; and (iii) from the System’s Consulting Engineer that amounts certified by the City are reasonable and

appropriate. The Board's staff has prepared the Water Board Annual Budget for Fiscal Year 2011 reflecting the certified expenses referred to above and the Board Expense Fund budget for Fiscal Year 2011. There being no discussion, upon motion duly made and seconded, the following resolution was unanimously adopted:

WHEREAS, the Board has received certification from the New York City Municipal Water Finance Authority (the "Authority") regarding the Authority's Budget for the fiscal year commencing July 1, 2010 ("Fiscal Year 2011") reflecting Authority Expenses and estimated Aggregate Debt Service (as such terms are defined in the Authority's General Revenue Bond Resolution); and

WHEREAS, the Board has received certification from the Director of Management and Budget of the City of New York (the "City") regarding: the amounts which the City reasonably anticipates it will have expended during Fiscal Year 2011 in connection with the operation and maintenance of the water and wastewater system as described in paragraphs (a) through (e) of Section 8.1 of the Agreement of Lease dated as of July 1, 1985, as amended, between the Board and the City (the "Lease"); and the rental payments requested by the City for Fiscal Year 2011 pursuant to Section 8.2 of the Lease; and

WHEREAS, the Board has received certification from AECOM USA, Inc., Consulting Engineer, pursuant to Section 8.3(a)(ii) of the Lease to the effect that amounts certified by the City for costs incurred or to be incurred in connection with paragraphs (a) and (b) of Section 8.1 of the Lease are reasonable and appropriate; and

WHEREAS, the Board has reviewed a proposed budget for the Board's own anticipated Expense Fund operating expenses for Fiscal Year 2011; and

WHEREAS, the Board has reviewed the proposed Annual Budget for the Board's expected expenditures for Fiscal Year 2011 (the "Annual Budget") based on the above-described certifications and Board Expense Fund budget, and has determined that such provision for anticipated expenditures is reasonable and appropriate to enable the Board to exercise its powers and carry out its purposes in accordance with the New York City Municipal Water Finance Authority Act; it is therefore

RESOLVED, that the Annual Budget of the Board for FY2011, a copy of which is attached hereto¹, is hereby adopted.

Adoption of Fiscal Year 2011 Rate Schedule

The next item on the agenda was the adoption of the Fiscal Year 2011 Rate Schedule. Mr. Lawitts described the staff's recommended 12.9% rate increase. He said that the current year-to-date revenue for Fiscal Year 2010 is \$118 million below the target amount projected at the beginning of this Fiscal Year. A shortfall of \$110 million below the original Fiscal Year 2010 estimate is now expected by June 30, 2010.

Mr. Moss addressed the Board. He described the public hearing process and thanked Board members for their attendance and Commissioner Holloway for his presentation at the hearings. Mr. Moss described the Board's statutory powers which, he noted, are limited. He described the role of DEP which manages the Water and Sewer System, the Authority which finances Water and Sewer System capital construction through the issuance of bonds and notes, and the Board which establishes rates which enable the System to be operated on a self-sustaining basis. Mr. Moss acknowledged the concerns of the public expressed at the hearings that Water and Sewer rates are too high especially during a recession. He observed that most speakers, despite dissatisfaction with the proposed rate increase, nevertheless expressed approval of DEP's operation of the System and the quality of New York City water in general.

Mr. Moss observed that the proposed 12.9% increase is below last year's projection and reflects an 8% reduction in DEP's expense budget. While the cost for water is only about a penny a gallon, there is still need to reform the process for establishing State and Federal mandates which are largely responsible for capital spending and increased debt service

¹ Filed with Minutes of the Meeting.

costs. Taking all factors into consideration, Mr. Moss said he has asked the Board's staff to propose a reduction in the proposed increase.

Mr. Lawitts said that in response to Mr. Moss's concerns and comments expressed at the public hearings, the staff is proposing to double the discount for electronic debit payment of metered consumption charges from 1% to 2%.

Discussion ensued.

Mr. Capoccia praised Commissioner Holloway's presentation at the public hearings. He also indicated that he was pleased that an EPA regional administrator attended at least one of the public hearings so as to hear firsthand about the costs to the System of unfunded Federal mandates.

Mr. Tisdell said he believed members of the public in attendance at the hearings also greatly appreciated Commissioner Holloway's presentation. Mr. Tisdell said that the cost of New York City water is low relative to that in other large U.S. cities and that the System Lease Rental payment is not unique to New York. He noted the rate study's findings that most large municipal water utilities make some form of inter-governmental transfer to the locality served by the utility.

Ms. Bystryn also praised Commissioner Holloway's presentation at the public hearings. She urged continued consideration of the alternative rate study recommendations and said she felt the rate increase was necessary.

Mr. Patel also praised Commissioner Holloway's presentation at the public hearings and urged Board staff to continue look for unique, creative, and innovative ways to restructure Water and Sewer rates.

Mr. Howell likewise applauded Commissioner Holloway's public hearing presentations and added his reluctant support for the rate increase, saying it is necessary to maintain the Water and Sewer System on a self-sustaining basis.

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-g(4) of the New York City Municipal Water Finance Authority Act (the "Act") to establish, in accordance with Section 1045-j of the Act, fees, rates, rents or other charges for the use of, or services furnished, rendered or made available by the water and wastewater system of the City of New York (the "City"); and

WHEREAS, in accordance with Section 1045-j(9-a) of the Act, public hearings concerning certain proposals regarding water and wastewater system rates and charges were held in each borough of the City on May 4, 6, 7, 11, 12 and 18, 2010, and transcripts of said hearings have been received and reviewed by the Board; and

WHEREAS, in accordance with certifications received from (i) the New York City Municipal Water Finance Authority (the "Authority") with respect to the Authority's annual budget for the fiscal year commencing July 1, 2010 ("FY 2011"), (ii) the City with respect to (a) the amounts which the City reasonably anticipates it will expend during FY 2011 in connection with the operation and maintenance of the water and sewer system and (b) rental payments requested from the Board, and (iii) AECOM USA, Inc., Consulting Engineer, with respect to the reasonableness of the City's certification of certain expenses, the Board has on this day adopted its annual budget for FY 2011; and

WHEREAS, based on the requirements set forth in the Board's annual budget for FY2011 and the testimony and reports submitted at the aforementioned public hearings, the Board has determined that, effective July 1, 2010, the water rate for all in-City customers, flat rate and metered, should increase by 12.9% over the rate in effect in Fiscal Year 2010 and the rate for wastewater services should remain at 159% of the applicable water charge; and

WHEREAS, the Board has further determined that the billing policy proposals of 1) the Board authorizing DEP to offer customers a 2% direct debit discount for one fiscal year, 2) a pilot

program to assess a sewer charge for stormwater for standalone parking lots that currently receive no water service, 3) the establishment of new miscellaneous fees for a backflow prevention plan review and backflow exemption approval and 4) increases to existing miscellaneous fees for service termination and hydrant flow tests, all as set forth and described in the Public Notice and Public Information Regarding Water and Wastewater Rates book dated April 2010 and the Board's Water and Wastewater Rate Schedule for FY2011 , should be approved as recommended by staff; it is therefore

RESOLVED, that the Water and Wastewater Rate Schedule for FY2011, a copy of which is attached hereto,² which reflects an increase of 12.9% for in-City water rates as well as the new and modified billing programs and fees described above is hereby approved.

Upstate Rate Report and Schedule

The next item on the agenda was a presentation relating to proposed upstate water rates.

Mr. Lawitts explained that the System provides water to 55 upstate water utilities on a wholesale basis. These utilities in turn distribute water to their retail customers. Upstate communities are entitled by law to quantities of water equal to in-City per capita consumption multiplied by their population. This so-called entitlement amount is billed at cost. Amounts in excess of this quantity are charged at the in-City metered rate.

Mr. Lawitts described the calculation of this year's entitlement rate. The capital and operating costs of supplying and treating water (excluding in-City costs) in the amount of \$467 million was divided by forecast consumption in City and upstate. This resulted in a rate of \$1,136 per million gallons. The proposed entitlement rate is 23% higher than last year's rate of \$922.

² Filed with Minutes of the Meeting.

Mr. Lawitts explained that the wholesale cost paid by the water utilities to the System is less than half the retail price which the utilities charge their customers. Responding to Mr. Tisdell, Mr. Lawitts said large utilities are able to supply water at lower cost than smaller wholesalers because of economies of scale which permit larger suppliers to distribute water more efficiently.

Mr. Lawitts said the public hearing on upstate rates would be held on June 16 during the day because most attendees are expected to be representatives of upstate water utilities and not members of the public.

Mr. Capoccia expressed concern about the impact of upstate real estate taxes on the cost of supplying water and urged greater transparency with respect to these assessments. Responding to Mr. Capoccia's request for a description of services provided by upstate communities in return for real estate taxes levied on System property, Mr. Lawitts said the communities provide police and fire services and construction of roads which are used by DEP.

Mr. Moss noted that today's meeting will be the last attended by Mr. Howell who is leaving the Board. Members of the Board thanked Mr. Howell for his many years of service.

Adjournment

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

SECRETARY