

**MINUTES OF A MEETING OF THE
DU PAGE WATER COMMISSION
HELD ON THURSDAY, SEPTEMBER 11, 2003
600 E. BUTTERFIELD ROAD
ELMHURST, ILLINOIS**

The meeting was called to order by Chairman Vondra at 7:34 P.M.

Commissioners in attendance: R. Benson, E. Chaplin, J. Janicik, B. Krajewski, A. Poole, R. Thorn, R. Tolentino, G. Wilcox, D. Zeilenga and M. Vondra

Also in attendance: J. Holzwart, R. Martin, E. Nawrocki, R. Skiba, D. Eckmann, (AB&H), W. Green (AB&H) and M. Crowley (H&K).

PUBLIC COMMENTS - No comments

Commissioner Thorn moved to approve the Minutes of the August 14, 2003 meeting of the DuPage Water Commission as revised to reflect that Commissioner Wilcox (not Commissioner Hartwig) moved to approve the pick-up of the employee share of the cost of converting into IMRF creditable service up to two years of prior service in the armed forces of the United States. Seconded by Commissioner Benson and unanimously approved by a Voice Vote.

All voted aye. Motion carried.

Commissioner Thorn moved to approve the Minutes of the First and Second August 14, 2003 Executive Session meetings of the DuPage Water Commission. Seconded by Commissioner Wilcox and unanimously approved by a Voice Vote.

All voted aye. Motion carried.

The Treasurer's Report for the month of August 2003 showed receipts of \$9,077,519.01, disbursements of \$20,004,925.44 and a cash and investment balance of \$187,095,680.70.

Commissioner Wilcox moved to accept the August 2003 Treasurer's Report. Seconded by Commissioner Tolentino and unanimously approved by a Voice Vote.

All voted aye. Motion carried.

COMMITTEE REPORTS

Administration Committee – Report by Commissioner Thorn

Commissioner Thorn reported the Administration Committee discussed personnel matters, which will be discussed further in Executive Session.

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Commissioner Wilcox moved to go into Executive Session to discuss matters related to personnel pursuant to 5 ILCS 120/2(c)(1) and (2). Seconded by Commissioner Chaplin and unanimously approved by a Roll Call Vote:

Ayes: R. Benson, E. Chaplin, J. Janicik, B. Krajewski, A. Poole, R. Thorn, R. Tolentino, G. Wilcox, D. Zeilenga and M. Vondra

Nays: None

The Commission went into Executive Session at 7:39 P.M.

Commissioner Wilcox moved to come out of Executive Session at 8:35 P.M. Seconded by Commissioner Benson and unanimously approved by a Voice Vote.

All voted aye. Motion carried.

Commissioner Wilcox moved to hire Attorney Michael Roth to research and draft appropriate documentation as discussed in Executive Session. Seconded by Commissioner Benson and unanimously approved by a Roll Call Vote:

Ayes: R. Benson, E. Chaplin, J. Janicik, B. Krajewski, A. Poole, R. Thorn, R. Tolentino, G. Wilcox, D. Zeilenga and M. Vondra

Nays: None

Engineering Committee – Report by Commissioner Wilcox

The Engineering Committee reviewed the change order in the amount of \$4,387.50 and recommended approval of Resolution R-38-03 during the Omnibus Vote Agenda.

The Engineering Committee reviewed progress payments in the amount of \$256,595.87 and recommended approval as part of the Accounts Payable, subject to submission of all contractually required documentation.

The Engineering Committee reviewed the final payment for Maxcor Inc. in the amount of \$50,682.10 and recommended approval as part of the Accounts Payable, subject to submission of all contractually required documentation.

The Engineering Committee recommended approval during the Omnibus Vote Agenda of Resolution R-33-03, being A Resolution Awarding Contract TIB-1, subject to review of the financial impact the escalated cost of the project will have on the Five Year Capital Improvement Plan and fund balances. The Commissioners reviewed the data prepared by the Financial Administrator regarding such impact and concluded the impact was within acceptable levels.

The Engineering Committee recommended approval during the Omnibus Vote Agenda of Resolution R-36-03, being A Resolution Authorizing the Execution of a Contract

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Between the DuPage Water Commission and Consoer Townsend Envirodyne Engineers, Inc. for the Evaluation and Design of Additional Reservoir Storage.

The Engineering Committee recommended approval during the Omnibus Vote Agenda of Resolution R-37-03, being A Resolution Authorizing the Execution of a Contract Between the DuPage Water Commission and Camp Dresser & McKee Inc. for the Evaluation of Electrical Generation Supply Alternatives.

Finance Committee – Report by Commissioner Poole

The Finance Committee reviewed the Treasurer's Report, the August financial statements and the Accounts Payable. It was noted the audit report should be submitted to the Commission at the next meeting.

It was also reported that the Series 2003 Revenue Refunding Bond issue resulted in a net present value savings of \$6,897,770. Commissioner Janicik moved to exercise the Commission's option with Ambac Assurance Corporation to replace cash in the Debt Service Reserve for the Series 2003 Revenue Refunding Bonds with a financial guaranty insurance policy. Seconded by Commissioner Wilcox and unanimously approved by a Roll Call Vote:

Ayes: R. Benson, E. Chaplin, J. Janicik, B. Krajewski, A. Poole, R. Thorn, R. Tolentino, G. Wilcox, D. Zeilenga and M. Vondra

Nays: None

Commissioner Mueller arrived at 8:49 P.M.

Commissioner Janicik moved to accept the \$15 million umbrella coverage from Lexington Insurance (A.M. Best rating A++ XV) for \$106,300. Seconded by Commissioner Wilcox and unanimously approved by a Roll Call Vote:

Ayes: R. Benson, E. Chaplin, J. Janicik, B. Krajewski, W. Mueller, A. Poole, R. Thorn, R. Tolentino, G. Wilcox, D. Zeilenga and M. Vondra

Nays: None

Special Task Force on TCE – Report by Chairman Vondra

The Special Task Force reviewed the letter received from the Village of Woodridge requesting the Commission finalize its loan commitment to Woodridge in connection with the delivery of water to the residents of Suburban Estates. Chairman Vondra summarized the two options available for finalizing the Commission's loan commitment to Woodridge: Eliminating the requirement for the consent of DuPage County, resulting in a ten year annexation prohibition, or the County designating the well water supply in the area as tainted or contaminated under the recent amendments to the Water Commission Act of 1985, resulting in an annexation prohibition until a change in

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ownership occurs. Chairman Vondra concluded his report by noting he had written a letter to the County requesting the County's position on this matter.

Teresa Lohse, 6312 Walnut Avenue, Downers Grove, IL, stated that the highest level of TCE contamination in Suburban Estates is 1.5 ppb, and her concerns with the two options for finalizing the Commission's were that the loan commitment is not good for the residents and the new law is unclear regarding the definition of a change in ownership. Chairman Vondra offered Ms. Lohse the opportunity for the attorney representing Suburban Estates to submit their proposed motion regarding this matter for consideration at the October Commission meeting.

Commissioner Mueller moved to direct staff to prepare two resolutions for the October Commission meeting: One resolution finalizing the Commission's loan commitment to Woodridge based on the County designating the well water supply in the area as tainted or contaminated under the recent amendments to the Water Commission Act of 1985, and the second resolution finalizing the Commission's loan commitment to Woodridge without the consent of the County of DuPage. Seconded by Commissioner Wilcox and unanimously approved by a Voice Vote.

All voted aye. Motion carried.

OMNIBUS VOTE AGENDA

Commissioner Poole requested that Resolutions R-33-03, R-36-03 and R-37-03 be removed from the Omnibus Vote Agenda for separate consideration.

Commissioner Mueller requested that Resolution R-35-03 be removed from the Omnibus Vote Agenda for separate consideration.

Commissioner Wilcox moved to adopt the items listed on the revised Omnibus Vote Agenda in a single group pursuant to the Omnibus Vote Procedures. Seconded by Commissioner Tolentino and unanimously approved by a Roll Call Vote:

Omnibus Vote

Ayes: R. Benson, E. Chaplin, J. Janicik, B. Krajewski, W. Mueller, A. Poole, R. Thorn, R. Tolentino, G. Wilcox, D. Zeilenga and M. Vondra

Nays: None

Item 1. Resolution R-34-03: A Resolution Approving, Ratifying, and Accepting the Pick-up of Employee Contributions to the Illinois Municipal Retirement Fund for Prior Military Service Credit – "Omnibus Vote"

Item 2. Resolution R-38-03: A Resolution Approving Certain Contract Change Orders at the September 11, 2003 DuPage Water Commission Meeting – "Omnibus Vote"

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Commissioner Wilcox moved to approve Resolution R-33-03: A Resolution Awarding Contract TIB-1. Seconded by Commissioner Chaplin and approved by a Roll Call Vote:

Ayes: R. Benson, E. Chaplin, J. Janicik, B. Krajewski, W. Mueller, A. Poole, R. Thorn, R. Tolentino, G. Wilcox and D. Zeilenga

Nays: None

Abstain: M. Vondra

Commissioner Wilcox moved to approve Resolution R-35-03: A Resolution Approving and Authorizing the Execution of a Retirement and Consulting Agreement with the General Manager. Seconded by Commissioner Thorn and approved by a Roll Call Vote:

Ayes: R. Benson, E. Chaplin, J. Janicik, B. Krajewski, A. Poole, R. Thorn, R. Tolentino, G. Wilcox, D. Zeilenga and M. Vondra

Nays: W. Mueller

Commissioner Wilcox moved to approve Resolution R-36-03: A Resolution Authorizing the Execution of a Contract Between the DuPage Water Commission and Consoer Townsend Envirodyne Engineers, Inc. for the Evaluation and Design of Additional Reservoir Storage. Seconded by Commissioner Chaplin and unanimously approved by a Roll Call Vote:

Ayes: R. Benson, E. Chaplin, J. Janicik, B. Krajewski, W. Mueller, A. Poole, R. Thorn, R. Tolentino, G. Wilcox, D. Zeilenga and M. Vondra

Nays: None

Commissioner Wilcox moved to approve Resolution R-37-03: A Resolution Authorizing the Execution of a Contract Between the DuPage Water Commission and Camp Dresser & McKee Inc. for the Evaluation of Electrical Generation Supply Alternatives. Seconded by Commissioner Chaplin and approved by a Roll Call Vote:

Ayes: E. Chaplin, J. Janicik, B. Krajewski, A. Poole, R. Thorn, G. Wilcox, D. Zeilenga and M. Vondra

Nays: R. Benson, W. Mueller and R. Tolentino

OLD BUSINESS

Commissioner Benson reiterated his concern that some Commissioners are compensated for their service as Commissioners while others are not, and requested that staff prepare an ordinance amending the Commission's By-Laws to prohibit

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Commissioners from receiving any compensation for serving as Commissioner other than reimbursement of expenses actually incurred in connection with Commission business. Without reaching unanimity on the desirability of such an amendment, the Commissioners concurred with Commissioner Benson's request that a draft ordinance be prepared for consideration at the October Commission meeting.

NEW BUSINESS

Commissioner Thorn moved to take a three minutes recess at 9:27 P.M. Seconded by Commissioner Benson and unanimously approved by a Voice Vote.

All voted aye. Motion carried.

The meeting reconvened at 9:30 P.M.

Commissioners discussed changing the October Commission meeting from Thursday October 9, 2003 to Wednesday October 8, 2003, in the morning.

The Commission discussed the memorandum dated September 8, 2003, and revised on September 10, 2003, regarding the request for service by Highland Hills Sanitary District.

William Lichter, Village Manager of Lombard, informed the Commission that the Highland Hills Sanitary District serves approximately 400 people and the Village of Lombard has been in discussion with representatives of the Sanitary District regarding the Village providing service to the District.

Phil Modaff, Director of Public Works of Woodridge, commented that even though any policy developed for pricing Commission service to the Highland Hills Sanitary District needs to fall within the legislative intent of the recent amendments to the Water Commission Act of 1985, such policy should benefit the Commission to the greatest extent possible within the confines of that legislative intent.

Commissioner Mueller moved to suspend the purchasing procedures of the Commission's By-Laws and approve Purchase Order No. 7682 in the amount of \$23,830.00 to Exelon Services, Inc. Integrated Technology Group. Seconded by Commissioner Wilcox and unanimously approved by a Roll Call Vote:

Ayes: R. Benson, E. Chaplin, J. Janicik, B. Krajewski, W. Mueller, A. Poole, R. Thorn, R. Tolentino, G. Wilcox, D. Zeilenga and M. Vondra

Nays: None

ACCOUNTS PAYABLE

Commissioner Mueller moved to approve the Accounts Payable in the amount of \$3,947,386.49 subject to submission of all contractually required documentation. Seconded by Commissioner Chaplin and unanimously approved by a Roll Call Vote:

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Ayes: R. Benson, E. Chaplin, J. Janicik, B. Krajewski, W. Mueller, A. Poole, R. Thorn, R. Tolentino, G. Wilcox and M. Vondra

Nays: None

Commissioner Krajewski moved to approve the legal invoices from Greenberg Traurig subject to review by the Commission's legal counsel. Seconded by Commissioner Mueller and unanimously approved by a Roll Call Vote:

Ayes: R. Benson, E. Chaplin, J. Janicik, B. Krajewski, W. Mueller, A. Poole, R. Thorn, R. Tolentino and M. Vondra

Nays: None

PUBLIC COMMENTS

Commissioner Janicik moved to go into Executive Session to discuss matters related to pending, probable or imminent litigation pursuant to 5 ILCS 120/2(c)(11). Seconded by Commissioner Mueller and unanimously approved by a Roll Call Vote:

Ayes: R. Benson, E. Chaplin, J. Janicik, B. Krajewski, W. Mueller, A. Poole, R. Thorn, R. Tolentino and M. Vondra

Nays: None

The Commission went into Executive Session at 10:50 P.M.

Commissioner Chaplin moved to come out of Executive Session at 11:00 P.M. Seconded by Commissioner Tolentino and unanimously approved by a Voice Vote.

All voted aye. Motion carried.

Commissioner Wilcox moved to adjourn the meeting at 11:00 P.M. Seconded by Commissioner Tolentino and unanimously approved by a Voice Vote.

All voted aye. Motion carried.