

**MINUTES OF A MEETING OF THE
DuPAGE WATER COMMISSION
HELD ON THURSDAY FEBRUARY 10, 2011
600 E. BUTTERFIELD ROAD
ELMHURST, ILLINOIS**

The meeting was called to order by Chairman Zay at 7:55 P.M.

Commissioners in attendance: L. Crawford, T. Cullerton, R. Furstenau, C. Janc, D. Loftus, W. Murphy, J. Pruyn, D. Russo, M. Scheck, P. Suess, J. B. Webb, and J. Zay

Commissioners Absent: F. Saverino

Also in attendance: T. McGhee, R. Skiba, M. Crowley, C. Johnson, J. Nesbitt, R. C. Bostick, J. Schori, M. Weed, E. Kazmierczak, and F. Frelka

PUBLIC COMMENT

Doug Krieger, City Manager, City of Naperville, Illinois, and Bill Novack, City Engineer, City of Naperville, Illinois, spoke on behalf of the City of Naperville in support of the City's request that the Commission pay for the cost of relocating the Commission's 30" watermain in the vicinity of 75th and Washington Streets in the City of Naperville.

APPROVAL OF MINUTES

Commissioner Furstenau moved to approve the Minutes of the January 13, 2011 Regular Meeting of the DuPage Water Commission. Seconded by Commissioner Janc and unanimously approved by a Voice Vote.

All voted aye. Motion carried.

TREASURER'S REPORT

Chairman Zay announced the resignation of newly appointed Treasurer James Rasins, stating that Mr. Rasins was very apologetic but felt he would not be able to fulfill the responsibilities of the office due to unexpected personal commitments that recently developed.

Former Financial Administrator Skiba presented the January 2011 Treasurer's Report, noting that the report had been reformatted for legibility purposes and now consists of five pages designated Reports A (2 pages), B (3 pages), and C (1 page).

With respect to Report A, Former Financial Administrator Skiba noted the January 2011 negative cash flow, explaining that water sales cash collections for January were less than average because over 75% of billings due in January 2011 were paid by customers in December 2010.

With respect to Report B, Former Financial Administrator Skiba explained that Report B showed that the Operations and Maintenance Account was fully funded and that the Operations and Maintenance Reserve Account and the Depreciation Account were

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overfunded, suggesting that the Board consider transferring the excess funds accordingly.

In response to Chairman Zay's question, Former Financial Administrator Skiba advised there was no need to abate property taxes in 2011 because the final G.O. Bond tax levy had been abated last year.

With respect to Report C, Former Financial Administrator Skiba explained that Report C reflected \$76.9MM of cash and investments and noted that Reports A and C reconciled with each other.

With respect to the Actuarial Valuation Report of the Commission's Health Insurance Plan for Retired Employees, Commissioner Furstenau asked whether the Commission subsidizes healthcare costs for retired employees. Former Financial Administrator Skiba advised that retiree coverage is offered to former employees as required by state statute but that it was 100% at their own cost. Former Financial Administrator Skiba also noted that he was the only retired employee that was currently taking advantage of the coverage, and that the "actuarial" benefit reflected in the report was an "imputed" benefit to current employees.

Commissioner Suess questioned whether retiree coverage terminated once the former employee became eligible for Medicare. Former Financial Administrator Skiba responded that, in accordance with state statute, the coverage could be continued for life.

Commissioner Furstenau moved to accept the January 2011 Treasurer's Report.
Seconded by Commissioner Janc and unanimously approved by a Voice Vote.

All voted aye. Motion carried.

COMMITTEE REPORTS

Administration Committee – Reported by Commissioner Crawford

Commissioner Crawford reported that the Administration Committee discussed conducting a comprehensive review of the Commission's By-Laws for recommendation of needed changes. In addition to soliciting comments/suggestions from the Board, Commissioner Crawford noted that the Administration Committee would also like to offer staff an opportunity to submit recommendations. Commissioner Crawford concluded her report by noting that all comments/suggestions/recommendations should be filtered through her as the Chair of the Administration Committee.

Engineering & Construction Committee – Reported by Commissioner Loftus

Commissioner Loftus reported that with regard to the request by the City of Naperville to supplement the cost of relocation of the Commission's transmission main at 75th Street and Washington Street, the Engineering & Construction Committee felt that sufficient

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new information had been provided to justify reopening discussions by the full Board at the appropriate time.

Commissioner Loftus also reported that the Engineering & Construction Committee reviewed and recommended for approval all Resolutions listed on its agenda with the exception of Resolution Nos. R-9-11 and R-10-11. Commissioner Loftus noted that the contracts were not attached to Resolution Nos. R-9-11 and R-10-11 due to ongoing negotiations and that, as such, the Engineering & Construction Committee was not comfortable recommending them for approval. Commissioner Loftus suggested that both items be removed until the contracts could be reviewed in final form.

Acting General Manager McGhee suggested that an alternative version of Resolution No. R-9-10 could be adopted which would delegate to the Acting General Manager discretionary authority to sign the contract so long as the energy price component of the total electric cost did not exceed 5.70 cents per kWh and the length of service did not exceed 12 months. Acting General Manager McGhee added that the Commission was currently paying 6.7 cents per kWh, and that the most recent quote from the most favorably ranked supplier was 5.30 cents per kWh.

Commissioner Loftus responded that he would prefer to wait until the March meeting, and Commissioner Furstenau agreed, requesting to see the rates quoted by the other two most favorably-ranked suppliers. Acting General Manager McGhee responded that the other two most favorably ranked suppliers had recently quoted in the 5.60 to 5.80 cents per kWh range. Chairman Zay agreed with Commissioner Loftus' comments, suggesting that a special meeting could be called if the contracts were ready and needed to be approved before the March meeting.

It was the consensus of the Commissioners to remove these two items from the Omnibus Vote Agendas.

Finance Committee – Reported by Commissioner Suess

Commissioner Suess reported that a Special Meeting of the Finance Committee was held on January 31st to discuss items relating to the Commission's financial organization and to discuss the qualifications of Crowe Horwath and Baker Tilly for potential outsourcing of the Commission's financial needs.

Commissioner Suess noted that interviews with the two accounting firms had been conducted earlier in the evening, but due to time constraints, the Finance Committee was unable to finish its discussions and therefore will be scheduling another special meeting to complete its evaluation, with a recommendation to be made at the regular March Board meeting. Commissioner Suess additionally noted that the Finance Committee will be reviewing the tentative draft budget for Fiscal Year 2011-2012 and also various refinancing options related to the Certificates of Debt.

At which point, Staff Attorney Crowley noted that a draft letter commenting on certain rules proposed by the Securities and Exchange Commission (SEC) was included in the Board packet. Staff Attorney Crowley explained that the proposed rules would exclude

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only elected but not appointed governing board members and no other persons holding public office from regulation as municipal advisors under the Dodd-Frank Wall Street Reform and Consumer Protection Act. After Staff Attorney Crowley agreed with Commissioner Sues that the SEC seemed to be suggesting that these officials—the very intended beneficiaries of the municipal advisor regulation—somehow were “municipal advisors” themselves, it was the consensus of the Commissioners to send the letter as presented.

CHAIRMAN'S REPORT

None

MAJORITY OMNIBUS VOTE AGENDA

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

Majority Omnibus Vote

Ayes: L. Crawford, T. Cullerton, R. Furstenau, C. Janc, D. Loftus, W. Murphy, J. Pruyn, D. Russo, M. Scheck, P. Sues, J. B. Webb, and J. Zay

Nays: None

Absent: F. Saverino

Item 1: Ordinance No. O-2-11: An Ordinance Transferring Appropriations Within Certain Funds for the Fiscal Year Commencing May 1, 2010 and Ending April 30, 2011—“Majority Omnibus Vote”

Item 2: Resolution No. R-7-11: A Resolution Approving and Ratifying Certain Change Orders to the Contract for Supply of Engine Generator Units at the February 10, 2011, DuPage Water Commission Meeting—“Majority Omnibus Vote”

SUPER/SPECIAL MAJORITY OMNIBUS VOTE AGENDA

Commissioner Murphy moved to adopt the items listed on the revised Super/Special Majority Omnibus Vote Agenda in a single group pursuant to the Omnibus Vote Procedures. Seconded by Commissioner Furstenau and unanimously approved by a Roll Call Vote:

Super/Special Majority Omnibus Vote

Ayes: L. Crawford, T. Cullerton, R. Furstenau, C. Janc, D. Loftus, W. Murphy, J. Pruyn, D. Russo, M. Scheck, P. Sues, J. B. Webb, and J. Zay

Nays: None

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Absent: F. Saverino

- Item 1: Resolution No. R-2-11: A Resolution Approving and Ratifying Certain Work Authorization Orders Under Quick Response Contract QR-8/08 at the February 10, 2011, DuPage Water Commission Meeting—"Super/Special Majority Omnibus Vote"
- Item 2: Resolution No. R-3-11: A Resolution Directing Advertisement for Bids on a Contract for Quick Response Construction Work (Contract QR-9/11)—"Super/Special Majority Omnibus Vote"
- Item 3: Resolution No. R-4-11: A Resolution Directing Advertisement for Bids on a Contract for High Lift Pump Motor Re-Build—Phase II—"Super/Special Majority Omnibus Vote"
- Item 4: Resolution No. R-5-11: A Resolution Approving a First Amendment to Task Order No. 2a under the Master Contract with Stantec Consulting Services Inc.—"Super/Special Majority Omnibus Vote"
- Item 5: Resolution No. R-6-11: A Resolution Approving and Ratifying Certain Contract PSC-5/08 Change Orders at the February 10, 2011, DuPage Water Commission Meeting—"Super/Special Majority Omnibus Vote"
- Item 6: Resolution No. R-8-11: A Resolution Approving and Ratifying Certain Work Authorization Orders Under Quick Response Electrical Contract QRE-5/10 at the February 10, 2011, DuPage Water Commission Meeting—"Super/Special Majority Omnibus Vote"

OLD BUSINESS

Downers Grove Contaminated Well Loan

Chairman Zay asked Acting General Manager McGhee to report on the status of the Contaminated Well Water Loan to the Village of Downers Grove. Acting General Manager McGhee reminded the Commissioners that at the January 13, 2011 meeting, the Board requested that the Village advise the Commission, in writing, as to the status of its negotiations with the parties responsible or potentially responsible for the contamination in the affected area (PRPs) under the Contaminated Well Program. Acting General Manager McGhee advised that the requested letter had been received and, according to the letter, the Village confirmed that it was negotiating with the PRPs upon such terms as will enable the Village to pay to the Commission the sum of \$4.363 million (plus any accrued interest from August 15, 2010 through June 30, 2011 final payment).

Retain Financial Services Provider

Deferred to the regular March Board meeting.

Request by City of Naperville to Pay for the Cost of Relocation of Transmission Main at 75th Street and Washington Street

Commissioner Loftus stated that the Engineering & Construction Committee read the background materials submitted by staff and that, coupled with new information submitted by the City of Naperville, reconsideration of the former Board's decision not to share in the costs was warranted.

Commissioner Murphy questioned whether any funds to share in the cost of the relocation project had been budgeted and, if not, which account the funds would be pulled from. Former Financial Administrator Skiba responded that no funds had been budgeted to share in the cost of the project and that funds would need to be appropriated accordingly out of the contingency fund.

Commissioner Murphy moved to reimburse the City of Naperville a total of 25% of the total relocation costs, and Commissioner Furstenau moved to amend the motion to change the reimbursement amount to 50% of the total relocation costs, noting that the 50% was closer to the original request. There were no seconds to either motion.

Commissioner Furstenau then referred to Staff Attorney Crowley's opinion dated February 10, 2009, noting that the legal opinion states that the Commission should accept the City of Naperville's offer instead of paying litigation costs. Commissioner Murphy objected to Commissioner Furstenau's characterization of the legal opinion, taking isolated statements out of context, and stated that the Board needed to read the opinion in its entirety for a complete understanding.

Chairman Zay stated that it was highly unlikely that the Board could come to a compromise at the meeting and, as such, asked for a chance to meet with representatives from the City of Naperville and the County of DuPage to discuss an amicable resolution.

Commissioner Murphy moved to direct Chairman Zay to meet with representatives from the City of Naperville and the County of DuPage for consideration of each party picking up a one-third share of the total relocation costs. Seconded by Commissioner Loftus and unanimously approved by a Voice Vote.

All voted aye. Motion carried.

NEW BUSINESS

Extension/Refinancing of \$40MM Certificate of Debt issued to Northern Trust Bank

Acting General Manager McGhee informed the Board that the \$40MM Certificate of Debt is due May 1 and stated the Northern Trust Bank is interested, and can accommodate, refinancing the entire \$70MM in Certificates of Debt. Acting General Manager McGhee added that Harris Bank was also interested in refinancing all or a portion of the \$70MM in Certificates of Debt but that Wheaton Bank could not

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accommodate either the full \$70MM in Certificates of Debt or the \$40MM Northern Trust Certificate of Debt.

Commissioner Pruyn moved to authorize Chairman Zay, Finance Committee Chairman Suess, Acting General Manager McGhee, Former Financial Administrator Skiba, and Staff Attorney Crowley to negotiate, for recommendation to the Board, an extension or refinancing of the \$40MM Certificate of Debt issued to Northern Trust Bank, as amended. Seconded by Commissioner Crawford and unanimously approved by a Voice Vote.

All voted aye. Motion carried.

ACCOUNTS PAYABLE

After Chairman Zay asked for more detailed descriptions of Business Card charges in future Accounts Payable, and Acting General Manager McGhee advised that the Business Card charges on the current Accounts Payable related to replenishing I-Pass accounts, Commissioner Furstenau moved to approve both Accounts Payable in the combined amount of \$5,214,206.77, subject to submission of all contractually required documentation, for invoices that have been received and for invoices that have not yet been received but have been estimated. Seconded by Commissioner Saverino and unanimously approved by a Roll Call Vote:

Ayes: L. Crawford, T. Cullerton, R. Furstenau, C. Janc, D. Loftus, W. Murphy, J. Pruyn, D. Russo, M. Scheck, P. Suess, J. B. Webb, and J. Zay

Nays: None

Absent: F. Saverino

EXECUTIVE SESSION

None

Commissioner Murphy moved to adjourn the meeting at 8:44 P.M. Seconded by Commissioner Scheck and unanimously approved by a Voice Vote.

All voted aye. Motion carried.

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Commissioners Absent: F. Saverino

Also in attendance: T. McGhee, R. Skiba, M. Crowley, C. Johnson, J. Nesbitt, R. C. Bostick, J. Schori, M. Weed, E. Kazmierczak, and F. Frelka

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APPROVAL OF MINUTES

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CHAIRMAN'S REPORT

None

MAJORITY OMNIBUS VOTE AGENDA

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

Majority Omnibus Vote

Ayes: L. Crawford, T. Cullerton, R. Furstenau, C. Janc, D. Loftus, W. Murphy, J. Pruyn, D. Russo, M. Scheck, P. Sues, J. B. Webb, and J. Zay

Nays: None

Absent: F. Saverino

Item 1: Ordinance No. O-2-11: An Ordinance Transferring Appropriations Within Certain Funds for the Fiscal Year Commencing May 1, 2010 and Ending April 30, 2011—“Majority Omnibus Vote”

Item 2: Resolution No. R-7-11: A Resolution Approving and Ratifying Certain Change Orders to the Contract for Supply of Engine Generator Units at the February 10, 2011, DuPage Water Commission Meeting—“Majority Omnibus Vote”

SUPER/SPECIAL MAJORITY OMNIBUS VOTE AGENDA

Commissioner Murphy moved to adopt the items listed on the revised Super/Special Majority Omnibus Vote Agenda in a single group pursuant to the Omnibus Vote Procedures. Seconded by Commissioner Furstenau and unanimously approved by a Roll Call Vote:

Super/Special Majority Omnibus Vote

Ayes: L. Crawford, T. Cullerton, R. Furstenau, C. Janc, D. Loftus, W. Murphy, J. Pruyn, D. Russo, M. Scheck, P. Sues, J. B. Webb, and J. Zay

Nays: None

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Absent: F. Saverino

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NEW BUSINESS

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accommodate either the full \$70MM in Certificates of Debt or the \$40MM Northern Trust Certificate of Debt.

Commissioner Pruyne moved to authorize Chairman Zay, Finance Committee Chairman Suess, Acting General Manager McGhee, Former Financial Administrator Skiba, and Staff Attorney Crowley to negotiate, for recommendation to the Board, an extension or refinancing of the \$40MM Certificate of Debt issued to Northern Trust Bank, as amended. Seconded by Commissioner Crawford and unanimously approved by a Voice Vote.

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ACCOUNTS PAYABLE

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Ayes: L. Crawford, T. Cullerton, R. Furstenau, C. Janc, D. Loftus, W. Murphy, J. Pruyne, D. Russo, M. Scheck, P. Suess, J. B. Webb, and J. Zay

Nays: None

Absent: F. Saverino

EXECUTIVE SESSION

None

Commissioner Murphy moved to adjourn the meeting at 8:44 P.M. Seconded by Commissioner Scheck and unanimously approved by a Voice Vote.

All voted aye. Motion carried.