

**MINUTES OF A SPECIAL MEETING OF THE
DuPAGE WATER COMMISSION
HELD ON MONDAY NOVEMBER 23, 2009
600 E. BUTTERFIELD ROAD
ELMHURST, ILLINOIS**

The meeting was called to order by Vice Chairman W. Mueller at 7:02 P.M.

Commissioners in attendance: T. Bennington, E. Chaplin, T. Elliott, W. Maio, G. Mathews, W. Mueller, F. Saverino, J. Zay (arrived at 7:11 P.M.), and D. Zeilenga

Commissioners Absent: L. Hartwig, W. Murphy, A. Poole, and L. Rathje

Also in attendance: Treasurer R. Thorn, R. Martin, R. Skiba, J. Nesbitt, M. Weed, F. Frelka, and B. Adams (Holland & Knight)

Vice Chairman Mueller asked Commissioner Elliott to begin with the first item listed on the agenda.

Commissioner Elliott moved to retain the services of Jenner & Block LLP at a blended rate of \$500.00 per hour for all hours worked, including authority for Jenner & Block to retain accounting and financial consultants to assist with various financial and accounting matters, as requested by, and reporting directly to, the Board of Commissioners and to authorize the General Manager to enter into any required retention agreements. Seconded by Commissioner Bennington.

Before the vote was called, Commissioner Saverino inquired as to whether a not-to-exceed dollar amount was included in the written proposal from Jenner & Block LLP. Commissioner Elliott noted that a not-to-exceed dollar amount was not established. After Commissioner Maio confirmed with Commissioner Elliott that the services of Jenner & Block LLP would include a regular accounting/financial report to the Board for review, the motion failed by a Roll Call Vote for lack of an approving special majority:

Ayes: T. Bennington, E. Chaplin, T. Elliott, W. Maio, G. Mathews, W. Mueller, and D. Zeilenga

Nays: F. Saverino

Absent: L. Hartwig, W. Murphy, A. Poole, J. Zay, and L. Rathje

After the motion failed, Commissioner Saverino explained his reasoning for voting against the motion, stating that he did not have an issue with retaining the services of Jenner & Block LLP at a rate of \$500/per hour, but was concerned that the Commission could spend \$50,000 to \$60,000 and find out nothing new because former Financial Administrator Richter was only doing what the Board had directed him to do.

Commissioner Chaplin agreed with Commissioner Saverino's concerns relating to the lack of a not-to-exceed dollar amount in the proposal submitted by Jenner & Block LLP, and suggested establishing a not-to-exceed limit of \$20,000.00. With respect to

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Commissioner Saverino's other comments, Commissioner Chaplin stated that back in June of 2009, former Financial Administrator Richter was questioned regarding various fund balances and told the Board that the Commission's funds would be fine until 2019 or 2020.

Commissioner Zay arrived at 7:11 P.M.

Commissioner Maio explained that he is willing to go along with a tentative cap and let the Board's liaison work with Jenner & Block LLP on the appropriate amount, noting his concern that a \$20,000.00 cap might only be a week's worth of work. Commissioner Maio then agreed with Commissioner Saverino's statement that former Financial Administrator Richter was only doing what the Board directed him to do but stressed that the Board's decisions were based on the inaccurate financial reports presented.

Commissioner Elliott understood Commissioner Saverino's concerns regarding establishing a not-to-exceed limit, but assured the Board that weekly progress meetings will be scheduled with the team from Jenner & Block LLP and suggested the Board table further discussion until after Executive Session.

Commissioner Maio asked Commissioner Saverino if he would reconsider his vote so the Board could move forward. Commissioner Saverino responded that if he thought there was any chance that funds were missing, he would have no issue with the forensic audit but that did not appear to be the case.

At this point Commissioner Zeilenga recommended that the Board go into Executive Session to discuss the matter in more detail.

Commissioner Zay cautioned the Board against placing blame before all of the facts were known, acknowledging his understanding of Commissioner Saverino's concerns but stating that the Board needs to find out what happened and what needs to be done to change and correct the situation.

Commissioner Bennington moved to go into Executive Session to discuss matters related to discuss matters related to personnel pursuant to 5 ILCS 120/2(c)(1) and (2) and to discuss pending, probable, or imminent litigation pursuant to 5 ILCS 120/2(c)(11). Seconded by Commissioner Zay and unanimously approved by a Roll Call Vote:

Ayes: T. Bennington, E. Chaplin, T. Elliott, W. Maio, G. Mathews, W. Mueller, F. Saverino, J. Zay, and D. Zeilenga

Nays: None

Absent: L. Hartwig, W. Murphy, A. Poole, and L. Rathje

The Board went into Executive Session at 7:18 P.M.

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Commissioner Zeilenga moved to come out of Executive Session at 7:42 P.M. Seconded by Commissioner Maio and unanimously approved by a Voice Vote.

All voted aye. Motion carried.

Commissioner Saverino moved to reconsider the motion to retain the services of Jenner & Block LLP at a blended rate of \$500.00 per hour for all hours worked, including authority for Jenner & Block to retain accounting and financial consultants to assist with various financial and accounting matters, as requested by, and reporting directly to, the Board of Commissioners and to authorize the General Manager to enter into any required retention agreements. Seconded by Commissioner Bennington and unanimously approved by a Roll Call Vote:

Ayes: T. Bennington, E. Chaplin, T. Elliott, W. Maio, G. Mathews, W. Mueller, F. Saverino, J. Zay, and D. Zeilenga

Nays: None

Absent: L. Hartwig, W. Murphy, A. Poole, and L. Rathje

Commissioner Maio moved to retain the services of Jenner & Block LLP at a blended rate of \$500.00 per hour for all hours worked, including authority for Jenner & Block to retain accounting and financial consultants to assist with various financial and accounting matters, as requested by, and reporting directly to, the Board of Commissioners and to authorize the General Manager to enter into any required retention agreements. Seconded by Commissioner Saverino and unanimously approved by a Roll Call Vote:

Ayes: T. Bennington, E. Chaplin, T. Elliott, W. Maio, G. Mathews, W. Mueller, F. Saverino, J. Zay, and D. Zeilenga

Nays: None

Absent: L. Hartwig, W. Murphy, A. Poole, J. Zay, and L. Rathje

Before the meeting was adjourned, Commissioner Zeilenga asked counsel whether it was permissible to discuss other financial matters at the meeting. General Counsel Adams stated that even though not an agenda item, the Board could proceed with the discussion because no final action would be taken.

Commissioner Zeilenga distributed a worksheet he had prepared with the help of General Manager Martin, former Financial Administrator Skiba, and hired financial advisor Philip Adams covering a 15 year period ending April 30, 2025 and reviewed the mechanisms of the worksheet and how, with the proper level of borrowing, the Commission could resolve the situation rather quickly. Commissioner Zeilenga added that he will be working with General Manager Martin and the financial advisor(s) to prepare for the December Board meeting.

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After Commissioner Zeilenga concluded his explanation, Commissioner Chaplin voiced her concerns with General Manager Martin working on the budget projection, stating that she would feel more confident if former Financial Administrator Skiba took the lead. Commissioner Zeilenga assured the Board that General Manager Martin was very cooperative and professional during the process of creating the budget projection model. Commissioner Zay shared Commissioner Chaplin's concerns and confirmed with Commissioner Zeilenga that no action on the financing could take place without Board approval, and that the Board will be updated on a weekly basis.

Commissioner Elliott noted the following concerns to be discussed at the December Commission meeting:

- 1) Former Financial Administrator Skiba's restrictions and limitations relating to his IMRF pension; and
- 2) Establishing, at a minimum, a short-term borrowing plan for Board approval next month; and
- 3) Funding of the 2011 General Obligation Bond payment.

After much discussion regarding the 2011 General Obligation Bond payment, former Financial Administrator Skiba explained that the financing is needed in order to pay contractors and abate property taxes for the 2011 bond payment.

Commissioner Bennington commended Commissioner Zeilenga for preparing, in three days, the Sample 2011-2025 Budget Projection Model that was distributed. Commissioner Bennington suggested looking at the Commission's current construction projects to decide if some projects could be delayed; the penalties involved in delaying projects, if any; and the existing bond coverage which Commissioner Zeilenga offered to look at.

Commissioner Zeilenga stated that he was hopeful that Jenner & Block LLP will be identifying how the financial situation occurred and what is needed to move forward. Commissioner Zeilenga further stated that General Manager Martin will be hiring a temporary accountant to help with the day-to-day accounting duties and former Financial Administrator Skiba will be contacting the Illinois Municipal Retirement Fund to find out what options, if any, are available to allow former Financial Administrator Skiba to continue to assist the Commission without jeopardizing his pension.

Commissioner Chaplin strongly urged that for the next couple of weeks, Jenner & Block LLP should focus on determining that no funds are missing before moving forward with other projects.

After the Board confirmed that a special meeting would not be held during the same week as the regularly scheduled Board meeting, it was confirmed that the next special meeting of the Board will be held on Wednesday, December 2nd at 7:00 P.M.

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Commissioner Maio moved to adjourn the meeting at 8:10 P.M. Seconded by
Commissioner Chaplin and unanimously approved by a Voice Vote.

All voted aye. Motion carried.

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