

**MINUTES OF A MEETING OF THE
DuPAGE WATER COMMISSION
HELD ON THURSDAY, FEBRUARY 8, 2007
600 E. BUTTERFIELD ROAD
ELMHURST, ILLINOIS**

The meeting was called to order by Chairman Rathje at 10:02 A.M.

Commissioners in attendance: E. Chaplin, L. Hartwig, W. Maio, G. Mathews, W. Mueller, A. Poole, G. Wilcox, D. Zeilenga, and L. Rathje

Commissioners Absent: T. Feltjes, R. Ferraro, W. Murphy, and J. Vrdolyak

Also in attendance: Treasurer R. Thorn, R. Martin, R. M. Richter, M. Crowley, C. Johnson, R. C. Bostick, J. Schori, F. Frelka, T. McGhee, and E. Kazmierczak

PUBLIC COMMENTS

Richard Furstenau, Naperville City Councilman, advised the Board that the City of Naperville adopted and forwarded to the Commission a resolution recommending the Commission reduce the water rate to a stable \$1.25 in combination with a \$40 million dollar customer rebate. Mr. Furstenau, again, expressed his concern with the Commission having such a large amount of money in reserves and suggested a customer rebate as the quickest way to decrease the reserve balance. Mr. Furstenau further expressed that once the rebate is issued, the Board can then review the balance in the reserve and decide the best way to further decrease the reserve funds.

John Perry, Village Manager for the Village of Woodridge, stated that, some time ago, the Commission asked for customer feedback regarding the water rate issue and it was the consensus of the customers that a reduction in water rates was the preferred method for reducing Commission reserves. Mr. Perry suggested that the Board should follow through with that recommendation.

APPROVAL OF MINUTES

Commissioner Mueller moved to approve the Minutes of the January 11, 2007 Regular Meeting of the DuPage Water Commission. Seconded by Commissioner Chaplin and unanimously approved by a Voice Vote.

All voted aye. Motion carried.

Commissioner Mathews moved to approve the Minutes of the January 11, 2007 Executive Session of the DuPage Water Commission. Seconded by Commissioner Wilcox and unanimously approved by a Voice Vote.

All voted aye. Motion carried.

TREASURER'S REPORT

Treasurer Thorn presented the Treasurer's Report for the month of January 2007 which showed receipts of \$6,217,771.00, disbursements of \$5,940,069.00, and a cash and investment balance of \$146,581,634.00.

Commissioner Mueller moved to accept the January 2007 Treasurer's Report.
Seconded by Commissioner Chaplin and unanimously approved by a Voice Vote.

All voted aye. Motion carried.

COMMITTEE REPORTS

Administration Committee – Reported by Commissioner Hartwig

Commissioner Hartwig reported that the Administration Committee reviewed the Military Leave Policy adopted by the County of DuPage and it was the consensus of the Committee that the Commission should adopt a policy similar to the DuPage County Policy with a few changes. Commissioner Hartwig also reported that the Administration Committee had directed the Staff Attorney to review and develop a Military Leave Policy in accordance with the Committee's discussions for further review by the Administration Committee, noting that the changes made to the County's policy would be highlighted.

Commissioner Hartwig next reported that the Administration Committee discussed the compensation of General Manager Robert L. Martin, noting the Board should go into Executive Session to discuss the matter further.

Commissioner Hartwig lastly reported that the Administration Committee recommended that the Commission use it's existing Human Resources Consultant to develop job descriptions for every position at the Commission, after which time a different consultant could be considered to perform a compensation study for the Commission.

Engineering & Construction Committee – Reported by Commissioner Wilcox

Commissioner Wilcox reported that the Engineering & Construction Committee reviewed and recommended for approval all items listed on the Engineering & Construction Committee agenda and noted that operations are running smooth despite the current cold weather.

Finance Committee

Though noting the Finance Committee did not meet due to lack of a quorum, Commissioner Mathews asked when the Commission levied the property taxes that were being abated by Ordinance No. O-1-07. The Staff Attorney responded that the property taxes were levied at the time the Bond Ordinance providing for the issuance of the Commission's General Obligation Refunding Bonds, Series 2001, was adopted.

CHAIRMAN'S REPORT

Chairman Rathje reported that he has learned, from attending the first Regional Water Supply Planning Group meeting on January 23, 2007, it has been estimated that by year 2020 an additional 2 million people will be living in the area. Chairman Rathje stated that water will soon be the driving force just like oil used to be and cautioned the Board to be careful in making decisions that will affect the future of the Commission's water system.

MAJORITY OMNIBUS VOTE AGENDA

Commissioner Chaplin moved to adopt the items listed on the Majority Omnibus Vote Agenda in a single group pursuant to the Omnibus Vote Procedures. Seconded by Commissioner Maio.

General Manager Martin clarified the reason for disposal of the Commission's Mack Dump Truck was due to requirements of a CDL License as well as employee drug testing and therefore staff is suggesting auctioning the truck and replacing it with a smaller, more practical one when the need arises. After Commissioner Maio suggested staff look into selling the truck on EBAY as another option, the motion was unanimously approved by a Roll Call Vote:

Majority Omnibus Vote

- Ayes: E. Chaplin, L. Hartwig, W. Maio, G. Mathews, W. Mueller, A. Poole, G. Wilcox, D. Zeilenga, and L. Rathje
- Nays: None
- Absent: T. Feltes, R. Ferraro, W. Murphy, and J. Vrdolyak
- Item 1: Ordinance No. O-1-07: An Ordinance of the DuPage Water Commission, Counties of DuPage, Cook and Will, Illinois, Abating the 2006 Tax Levy for the \$93,970,000 General Obligation Water Refunding Bonds, Series 2001, of the Commission—"Majority Omnibus Vote"
- Item 2: Ordinance No. O-2-07: An Ordinance Transferring Appropriations Within Certain Funds for the Fiscal Year Commencing May 1, 2006 and Ending April 30, 2007—"Majority Omnibus Vote"
- Item 3: Resolution No. R-13-07: A Resolution Directing the Transfer of Certain Excess Account Balances to the General Account of the Water Fund—"Majority Omnibus Vote"
- Item 4: Resolution No. R-14-07: A Resolution Authorizing the Disposal of Certain Personal Property Owned by the DuPage Water Commission—"Majority Omnibus Vote"

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- Item 5: Resolution No. R-15-07: A Resolution Awarding a Contract for Janitorial Services—"Majority Omnibus Vote"

SUPER/SPECIAL MAJORITY OMNIBUS VOTE AGENDA

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

Super/Special Majority Omnibus Vote

- Ayes: E. Chaplin, L. Hartwig, W. Maio, G. Mathews, W. Mueller, A. Poole, G. Wilcox, D. Zeilenga, and L. Rathje
- Nays: None
- Absent: T. Feltes, R. Ferraro, W. Murphy, and J. Vrdolyak
- Item 1: Resolution No. R-10-07: A Resolution Approving a First Amendment to Task Order No. 7 under the Master Contract with Consoer Townsend Envirodyne Engineers, Inc.—"Super/Special Majority Omnibus Vote"
- Item 2: Resolution No. R-11-07: A Resolution Approving a Second Amendment to Task Order No. 2 Under a Master Contract with Cathodic Protection Management, Inc.—"Super/Special Majority Omnibus Vote"
- Item 3: Resolution No. R-12-07: A Resolution Awarding Quick Response Electrical Contract (QRE-3/07)—"Super/Special Majority Omnibus Vote"
- Item 4: Resolution No. R-16-07: A Resolution Approving and Ratifying Certain Task Orders under a Master Contract with Westin Engineering, Inc. at the February 8, 2007, DuPage Water Commission Meeting—"Super/Special Majority Omnibus Vote"

OLD BUSINESS

None

NEW BUSINESS

At the request of Chairman Rathje, General Manager Martin and Staff Attorney Crowley gave a brief explanation of the West Chicago Legislative Amendment Request. Staff Attorney Crowley explained that the proposed change to the definition of an "Excluded Unit" (1) is not limited to the City of West Chicago; (2) mandates a change in status rather than making such change in status optional with the affected municipality; (3) could have unlimited retroactive effect; and (4) does not preclude reversions in status if circumstances change. The Staff Attorney also reminded the Board that it could not be

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involved in any such legislative change save for "passive support" for legislation drafted by the City of West Chicago because both Bond Counsel and the Staff Attorney have significant concerns whether anything more than passive Commission support of legislative changes to its tax authority would breach covenants in the Charter Customer Contract and/or bond ordinances such as the covenant in Section 7(c) of the Charter Customer Contract to annually appropriate and impose sales taxes to the maximum extent allowed by law.

Commissioner Maio confirmed that the definition of "sufficient and economic source of supply of water" refers to the supply of water, which could include backup wells.

Commissioner Hartwig noted that he would only support legislation that was limited to the City of West Chicago to ensure that the Board could consider, on a case by case basis, the merits of any other municipality requesting to be excluded from the territory of the Commission.

In response to Commissioner Chaplin's question, the Staff Attorney explained that West Chicago was different from Burr Ridge in that, unlike Burr Ridge, West Chicago has had the opportunity to participate in the Commission and the Commission sized its system to serve West Chicago.

Commissioner Wilcox stated that if the legislation mandates the City of West Chicago becoming an excluded unit, and if the study on population doubling in this area holds true, which was discussed earlier in the meeting, then West Chicago could be facing a water shortage. Thus, Commissioner Wilcox noted that he would support legislation that made such change in status optional with the affected municipality to give the City one more chance to change their minds in light of these potential long term adverse effects. General Manager Martin stated that he didn't think the City of West Chicago would change their minds due to the bonds they would have to pay for.

Commissioner Maio moved to not support the proposed legislation in its current form. Seconded by Commissioner Chaplin.

Commissioner Mathews stated that the City of West Chicago needs to know the Board's position, which is not to support legislation, and the reasons for it.

Commissioner Maio then amended his initial motion, with the consent of the seconder, to add a direction to staff to notify the appropriate legislators and the City of West Chicago of the Commission's opposition and rationale for its opposition. Whereupon, the amended motion to not support the proposed legislation in its current form and to direct staff to notify the appropriate legislators and the City of West Chicago of the Commission's opposition and rationale for its opposition was unanimously approved by a Voice Vote.

All voted aye. Motion carried.

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After the Staff Attorney confirmed that the concerns to be identified in the letter to the appropriate legislators and the City of West Chicago were that the proposed change to the definition of an "Excluded Unit" (1) is not limited to the City of West Chicago; (2) mandates a change in status rather than making such change in status optional with the affected municipality; (3) could have unlimited retroactive effect; and (4) does not preclude reversions in status if circumstances change, the Staff Attorney requested further guidance on the acceptability of any retroactive effect, noting that the Commission does not have the authority to refund taxes in the absence of a legislative mandate to do so and that the proposed legislation would have to address how to deal with Commission taxes paid and/or collected within a municipal Included Unit that newly qualifies for Excluded Unit status and within any overlapping territory of other Included Units during any retroactive period.

Commissioner Mathews expressed his preference for a prospective effect when legislation is passed but acknowledged that he could support a January 1, 2006, or later retroactive effect, provided the legislation becomes law by the end of the 2007. Commissioner Maio commented that a prospective effect would be the cleanest, but not the only, way to address the City's removal from the Commission's tax base.

Commissioner Wilcox moved to abide by a January 1, 2006, or later retroactive effect, provided the legislation becomes law by the end of the 2007. Seconded by Commissioner Maio and unanimously approved by a Voice Vote.

All voted aye. Motion carried.

The next order of business was the discussion of the Tentative Draft Management Budget for the Fiscal Year 2007-2008. Commissioner Poole started the discussion by providing a historical perspective.

Commissioner Wilcox noted that he was torn between an unstable water rate of \$1.15, which benefits DuPage County's service to the unincorporated areas, and a stable \$1.25 water rate, coupled with a \$40 million dollar (instead of a \$15 million dollar) rebate. Commissioner Wilcox concluded his opening remarks by noting he could support a \$1.15 water rate with a \$15 million dollar rebate if that is what the other Commissioners desired.

General Manager Martin confirmed that any monies rebated back to the communities will be accomplished through credits against their monthly water bills.

Commissioner Chaplin commented that she did not feel the rebate was being distributed fairly because it would not be going back to everyone that pays, and she raised concerns regarding the unincorporated areas not having enough fire hydrants and access to safe water. Commissioner Chaplin suggested that if the customers report, on a quarterly basis, how the rebated money is being spent, then she could support a rebate.

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Commissioner Hartwig stated that he thought it was the consensus of the Board not to collect any more money than what is needed, that he could see both sides of the philosophical rebate versus rate reduction coin, and that he favors a \$1.25 water rate and \$40 million dollar customer rebate combination.

Commissioner Mathews raised his opposition to fluctuating rates, and Commissioner Maio suggested discussion should take place only after a motion is on the floor.

Commissioner Maio moved to direct staff to distribute to the Commission's customer utilities the Tentative Draft Management Budget for Fiscal Year 2007–2008 as presented, which reflects a water rate of \$1.15 and a \$15 million dollar rebate. Seconded by Commissioner Zeilenga.

After Chairman Rathje opened the floor to discussion on the motion, Commissioner Maio expressed his long-standing belief that government should only charge taxpayers what it needs, and what it doesn't need, it should give back. Commissioner Maio also noted that the Commission's customers are sophisticated people that can handle rate fluctuations, and if the Commission is up front with the communities, then they will equally understand if the water rate needs to be increased in the future. Commissioner Maio concluded his remarks by agreeing with Commissioner Chaplin's comments, but noting they represent longer term issues that should not be mixed into the pending debate.

Commissioner Wilcox commented that lowering the rate benefits future customers, and noted his support for Commissioner Chaplin's request that the Commission should ask for quarterly reports from the customers with respect to the use of rebated funds.

Commissioner Chaplin moved to amend Commissioner Maio's motion to add a requirement for quarterly reports from the customers with respect to the use of the rebated funds. Seconded by Commissioner Wilcox.

After General Manager Martin reminded the Board that the vote at this meeting was only on the form of the Tentative Draft Management Budget for Fiscal Year 2007–2008 to be distributed to the Commissioner's customer utilities, and not to actually adopt a Management Budget for Fiscal Year 2007 – 2008 (which would occur at the April meeting), Commissioners Chaplin and Wilcox withdrew their motion and second, respectively.

Commissioner Mueller commented that he opposed requiring a quarterly report from the customers, noting the Board had no authority to impose such a condition on the rebate and quarterly reports would just create more wasted paper. Commissioner Mueller also commented there was a greater advantage to the \$1.15 water rate for the approximately 45,000 people residing in unincorporated areas that are not currently served with water from the Commission.

Commissioner Mathews agreed with Commissioner Mueller's comments, noting that the residents and businesses of the Commission's existing customers pay in excess of 97%

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of the Commission's sales taxes, and that a rebate is not giving money away but, rather, giving back money for which the Commission has no right to attach conditions. Commissioner Mathews concluded his remarks by commenting that he was in favor of a more stable water rate of \$1.25 with a \$15-\$20 million dollar operating reserve in order to keep things running more efficiently in the long run.

Commissioner Chaplin questioned why the proposed customer rebates must be accomplished through credits against water purchases rather than direct payments from the Commission. General Manager Martin responded that he thought the requirement stemmed from a legal concern, but the Staff Attorney was unaware of the stated concern. General Manager Martin advised that staff would investigate the issue further and report back to the Board.

Commissioner Poole moved to amend Commissioner Maio's motion to change the stated water rate to \$1.25 and the stated rebate amount to \$40 million dollars. After Commissioner Maio suggested that the amendment was not in order, and reiterated his earlier points, Commissioner Poole withdrew the motion.

Whereupon, Commissioner Maio's motion to direct staff to distribute to the Commission's customer utilities the Tentative Draft Management Budget for Fiscal Year 2007–2008 as presented, which reflects a water rate of \$1.15 and a \$15 million dollar rebate failed by a Roll Call Vote:

Ayes: W. Maio, W. Mueller, and D. Zeilenga

Nays: E. Chaplin, L. Hartwig, G. Mathews, A. Poole, G. Wilcox, and L. Rathje

Absent: T. Feltes, R. Ferraro, W. Murphy, and J. Vrdolyak

Commissioner Hartwig moved to direct staff to distribute to the Commission's customer utilities the Tentative Draft Management Budget for Fiscal Year 2007–2008 as revised to reflect a water rate of \$1.25 and a \$40 million dollar customer rebate. Seconded by Commissioner Poole.

Commissioner Mueller moved to recess for five minutes. Seconded by Commissioner Wilcox and unanimously approved by a Voice Vote:

All voted aye. Motion carried.

The Board took a five minute recess at 11:25 A.M.

The Board reconvened at 11:30A.M.

The General Manager read portions of the approved minutes from the December 14, 2006, Committee of the Whole meeting where the consensus of the Commissioners was to establish a full 3-month operating reserve, including water purchases—or, \$20 million dollars, after which the General Manager distributed a spreadsheet showing the

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effect of the proposed \$1.25 water rate and \$40 million dollar customer rebate, including a reduction in reserves to as low as \$14 million dollars.

At which point, Commissioner Wilcox requested staff's opinion on the rate. General Manager Martin explained, in his opinion, it would be best to keep a stable rate for a longer period of time and, therefore, is more in favor of the \$1.25 water rate.

After which, Commissioner Hartwig's motion to direct staff to distribute to the Commission's customer utilities the Tentative Draft Management Budget for Fiscal Year 2007–2008 as revised to reflect a water rate of \$1.25 and a \$40 million dollar customer rebate was unanimously approved by a Roll Call Vote:

Ayes: E. Chaplin, L. Hartwig, W. Maio, G. Mathews, W. Mueller, A. Poole, G. Wilcox, D. Zeilenga, and L. Rathje

Nays: None

Absent: T. Feltes, R. Ferraro, W. Murphy, and J. Vrdolyak

ACCOUNTS PAYABLE

Commissioner Hartwig moved to approve the Accounts Payable in the amount of \$44,882.29 subject to submission of all contractually required documentation. Seconded by Commissioner Mueller and unanimously approved by a Roll Call Vote:

Ayes: E. Chaplin, L. Hartwig, W. Maio, G. Mathews, W. Mueller, A. Poole, G. Wilcox, D. Zeilenga, and L. Rathje

Nays: None

Absent: T. Feltes, R. Ferraro, W. Murphy, and J. Vrdolyak

EXECUTIVE SESSION

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

Ayes: E. Chaplin, L. Hartwig, W. Maio, G. Mathews, W. Mueller, A. Poole, G. Wilcox, D. Zeilenga, and L. Rathje

Nays: None

Absent: T. Feltes, R. Ferraro, W. Murphy, and J. Vrdolyak

Board went into Executive Session at 11:40 A.M.

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Commissioner Mueller moved to come out of Executive Session at 11:49 A.M.
Seconded by Commissioner Wilcox and unanimously approved by a Voice Vote.

All voted aye. Motion carried.

Commissioner Hartwig moved to approve the salary increase for General Manager Martin, retroactive to May 1, 2006, in accordance with the discussion in Executive Session. Seconded by Commissioner Mueller and unanimously approved by a Roll Call Vote:

Ayes: E. Chaplin, L. Hartwig, W. Maio, G. Mathews, W. Mueller, A. Poole, G. Wilcox, D. Zeilenga, and L. Rathje

Nays: None

Absent: T. Feltis, R. Ferraro, W. Murphy, and J. Vrdolyak

Commissioner Hartwig moved to congratulate General Manager Martin on his 20 years of service with the DuPage Water Commission. Seconded by the entire Board and unanimously approved by a Voice Vote after a round of applause.

All voted aye. Motion carried.

Commissioner Zeilenga moved to adjourn the meeting at 11:50 A.M. Seconded by Commissioner Wilcox and unanimously approved by a Voice Vote.

All voted aye. Motion carried.