

**MINUTES OF A MEETING OF THE  
DuPAGE WATER COMMISSION  
HELD ON THURSDAY, MARCH 15, 2012  
600 E. BUTTERFIELD ROAD  
ELMHURST, ILLINOIS**

The meeting was called to order by Chairman Zay at 7:31 P.M.

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

Commissioners Absent: D. Loftus and J. Pruyn

Also in attendance: N. Narducci, J. Spatz, M. Crowley, C. Johnson, T. McGhee, J. Nesbitt, M. Weed, E. Kazmierczak, and S. Lux of Baker Tilly

**PUBLIC COMMENT**

None

**APPROVAL OF MINUTES**

Commissioner Russo moved to approve the Minutes of the February 16, 2012 Special Committee of the Whole Meeting, the Minutes of the February 16, 2012 Regular Meeting and the Executive Session Minutes of the February 16, 2012 Regular Meeting of the DuPage Water Commission. Seconded by Commissioner Furstenau and unanimously approved by a Voice Vote.

All voted aye. Motion carried.

**TREASURER REPORT**

Treasurer Narducci presented the February 2012 Treasurer's Report, consisting of five pages.

Treasurer Narducci highlighted the \$72MM of cash and investments reflected on page 1. Treasurer Narducci also pointed out the schedule of investments on pages 2 and 3, noting that most of the investments were in Illinois Funds; the \$3MM in net cash from operating activities reflected in the summary statement of cash flows on page 4; and the \$15MM of unrestricted cash on hand as well as the full funding of the Operations and Maintenance, Operations and Maintenance Reserve, and Depreciation Accounts with a total cash balance of \$72MM shown on page 5.

Commissioner Murphy moved to accept the February 2012 Treasurer's Report. Seconded by Commissioner Janc and unanimously approved by a Voice Vote.

All voted aye. Motion carried.

## **COMMITTEE REPORTS**

### **Finance Committee – Reported by Commissioner Suess**

Commissioner Suess reported that the Finance Committee reviewed the items listed on the Finance Committee Agenda.

With respect to Resolution No. R-11-12, Commissioner Suess noted that the Finance Committee recommended approval of the Investment policy with the following modifications:

- Section 7.0, Item D – Maximum Position with Single Issuer would be changed from 5% to 3%.
- Section 7.0, Item H – Maximum Aggregate Position would be changed from 25% to 20% and a “Maximum Position with Single Issuer” would be added with a 3% limit.
- Section 15.0 – the Treasurer would be added as a report recipient.

With respect to Resolution No. R-12-12, Commissioner Suess noted that most members of the Finance Committee recommended approval but deferred to General Manager Spatz to provide an explanation.

General Manager Spatz explained that a new version of Resolution No. R-12-12 had been distributed which, if adopted, would conditionally settle a dispute between the County of DuPage and the Commission concerning the County’s Payment of its Capital Cost Recovery Charge under the DuPage County Subsequent Customer Contract. General Manager Spatz noted that under the proposed settlement (i) the Commission would continue to defer collecting on a disputed underpayment of \$489,782.36 subject to third-party enforcement rights and the County otherwise being in full compliance with its contractual obligations to the Commission and (ii) the County would pay, without further dispute, the sum of \$2,561,898.00, the deemed unpaid principal amount of its Capital Cost Recovery Charge outstanding as of the April 30th prepayment date (assuming full payment of the County’s monthly Capital Cost Recovery Charge payments billed through the February 29, 2012, bill for the February 2012 water supply due on April 10, 2012), plus accrued interest. General Manager Spatz added that under the new version of Resolution No. R-12-12, the matter would be conditionally settled based upon the modified version of the County’s proposed settlement agreement but with revisions to the third-party enforcement text in the version of Resolution No. R-12-12 distributed on March 13, 2012, and with the Resolution changed back into one that conditionally settles the dispute without requiring the execution of a settlement agreement to be effective (as was the case with the version of Resolution No. R-12-12 distributed on March 8, 2012).

With respect to the Interest Period under the Northern Trust Certificate of Debt, Commissioner Suess stated that the Finance Committee recommended electing

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another one month interest period as the interest rate had decreased by about 1 basis point.

Commissioner Suess also reported that the search for a Financial Administrator continues, noting that the Finance Committee would like to hold a special meeting on a separate date prior to the regular April meeting and invited all Commissioners to participate in the interview process of those candidates that staff would be recommending.

Commissioner Furstenau referred back to Resolution No. R-12-12 and asked if the unpaid interest of \$489,782.36 was the accumulation of interest from day one. General Manager Spatz replied that both principal and interest had been incorrectly calculated but that the settlement amount had been calculated as if the \$489,782.36 had only been unpaid interest.

Commissioner Suess moved to adopt item numbers 2 through 3 under the Finance Report section of the Agenda in a single group pursuant to the Omnibus Vote Procedures. Seconded by Commissioner Janc and unanimously approved by a Roll Call Vote.

### **Finance Omnibus Vote**

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

Nays: None

Absent: D. Loftus and J. Pruyn

Item 2: Resolution No. R-11-12: A Resolution Amending and Restating the Investment Policy of the DuPage Water Commission—"Finance Omnibus Vote"

Item 3: Resolution No. R-12-12: A Resolution Conditionally Settling Disputes Concerning Capital Cost Recovery Charge Payments Under the DuPage County Subsequent Customer Contract—"Finance Omnibus Vote"

Commissioner Suess concluded his report by noting that General Manager Spatz had prepared a draft Capital Asset Policy that would be on the April Agenda for approval.

### **Administration Committee – Reported by Commissioner Crawford**

Commissioner Crawford reported that the Administration Committee reviewed the items listed on the Administration Committee Agenda.

With respect to the Commission's By-Laws, Commissioner Crawford noted that the Administration Committee reviewed a preliminary draft of staff's recommended

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changes. As for the ethics and procurement policy revisions recommended by Crowe Horwath in the report commissioned by DuPage County, Commissioner Crawford advised that the recommended changes would impact the Commission By-Laws and that the Administration Committee concurred with the General Manager's suggestion to use an outside consultant to help with tailoring to the Commission's organizational structure the recommended DuPage County policies. At which point, General Manager Spatz asked if any of the Commissioners had a recommendation for an outside consultant and Commissioner Cullerton recommended Village of Lombard Trustee Peter Breen, noting that Mr. Breen was a lawyer who had recently developed similar policies for the Village and might be able to provide his assistance at a reasonable cost.

After Chairman Zay confirmed that it was the consensus of the Board to direct General Manager Spatz to proceed with seeking the services of an outside consultant for the development of various policies recommended in the Crowe Horwath report and to keep the Board informed of the costs involved, Commissioner Crawford concluded her report by noting the Administration Committee planned to proceed with its review of the preliminary draft of staff's recommended changes at the April 2012 meeting and then review the consultant recommended changes at the May or June 2012 meeting.

### **Engineering & Construction Committee – Reported by Commissioner Scheck**

Commissioner Scheck reported that the Engineering & Construction Committee reviewed and recommended for approval the action items listed on the Engineering & Construction Committee Agenda and offered to answer any questions regarding the Status of Operations Report.

With regard to Ordinance No. O-3-12, Commissioner Scheck asked Manager of Water Operations McGhee to explain the special requirements related to the construction and operation of the joint facility and other connection facilities for the York Township Water Facility Service Area. Manager of Water Operations McGhee explained that under normal circumstances the Commission would take the lead in designing and constructing the Commission's connection facilities but, because of because of the unique requirements attributable to the County's grant funding for the project, in addition to a variety of limitations associated with the site selected by the County for the location of the joint facility, Commission staff would rather the County design and construct the joint facility and other Commission connection facilities.

There being no questions, Commissioner Scheck moved to adopt item numbers 2 through 7 under the Engineering & Construction Report section of the Agenda in a single group pursuant to the Omnibus Vote Procedures. Seconded by Commissioner Suess and unanimously approved by a Roll Call Vote.

### **Engineering & Construction Omnibus Vote**

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

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Nays: None

Absent: D. Loftus and J. Pruyn

Item 2: Ordinance No. O-2-12: An Ordinance Requesting the Intergovernmental Transfer of Easement Rights for the DuPage County Steeple Run Metering Station MS-9C Site and Authorizing the Execution of the DuPage County Steeple Run Metering Station Easement Agreement—“Engineering & Construction Omnibus Vote”

Item 3: Ordinance No. O-3-12: An Ordinance Approving and Authorizing the Execution of an Intergovernmental Agreement between the DuPage Water Commission and the County of DuPage Concerning the Construction and Operation of a Joint Facility and Other Connection Facilities for the York Township Water Facility Service Area—“Engineering & Construction Omnibus Vote”

Item 4: Resolution No. R-7-12: A Resolution Approving and Authorizing the Execution of a Memorandum of Agreement for Geographic Information System Data Sharing with DuPage County, Illinois—“Engineering & Construction Omnibus Vote”

Item 5: Resolution No. R-8-12: A Resolution Directing Advertisement for Bids on a Contract for the Construction of DuPage County Steeple Run Meter/Pressure Adjusting Station 9C (Contract MS-19/12) —“Engineering & Construction Omnibus Vote”

Item 6: Resolution No. R-9-12: A Resolution Approving and Ratifying Certain Work Authorization Orders Under Quick Response Contract QR-9/11 at the March 15, 2012, DuPage Water Commission Meeting—“Engineering & Construction Omnibus Vote”

Item 7: Resolution No. R-10-12: A Resolution Awarding a Contract for Landscape Maintenance Services—“Engineering & Construction Omnibus Vote”

General Manager Spatz then referred to the pending dispute between the Commission, CDM, and Williams Brothers relating to the faulty design and/or construction of the DuPage Generator Facility, noting that he met with representatives from all parties in an effort to resolve the matter without the need for legal action. General Manager Spatz reported that the parties had verbally agreed to share in the approximately \$170,000 in costs required to correct the problems, with CDM paying \$110,000 of the total cost and with Williams Brothers and the Commission each paying \$30,000. General Manager Spatz added that if the actual cost of the repairs came to less than \$170,000, then CDM would still pay \$110,000 of the total cost with the balance being split equally between Williams Brothers and the Commission. General Manager Spatz concluded his summary of the settlement by noting that if the actual cost of the corrections was more

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than \$170,000, then CDM would pay 65% of the overage and Williams Brothers and the Commission would each pay 17-1/2%.

### **ACCOUNTS PAYABLE**

Commissioner Furstenau moved to approve the Accounts Payable in the combined amount of \$5,486,699.67, 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 Russo and unanimously approved by a Roll Call Vote:

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

Nays: None

Absent: D. Loftus and J. Pruyn

### **CHAIRMAN'S REPORT**

Chairman Zay reported that the March 14<sup>th</sup> Press Conference that was held at the Commission facility went very well and thanked both Commissioners and staff for their hard work and team effort.

### **OMNIBUS VOTE REQUIRING MAJORITY VOTE**

None

### **OMNIBUS VOTE REQUIRING SUPER-MAJORITY OR SPECIAL MAJORITY VOTE**

None

### **OLD BUSINESS**

General Manager Spatz reported that he met with the suburbs regarding the City of Chicago's accountability report, noting that the Commission would be taking the lead on the matter and that after the Commission had received the first report, which was expected sometime in July/August, a meeting would be held in September with all customers for full discussion and review.

General Manager Spatz lastly reported that Chairman Zay and staff had met with representatives from the bond rating agencies of Moody's Investor Services, Inc. and Standard and Poor's Financial Services LLC to discuss the possibility of upgrading the Commission's current bond rating and the Commission should be hearing back from them in the next week or two.

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**NEW BUSINESS**

In referring back to the faulty design and/or construction of the DuPage Generator Facility, Commissioner Furstenau thanked General Manager Spatz for his hard work in resolving the issue out of court and at little cost.

**EXECUTIVE SESSION**

Commissioner Murphy moved to go into Executive Session to discuss 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 Russo and unanimously approved by a Roll Call Vote:

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

Nays: None

Absent: D. Loftus and J. Pruyn

The Board went into Executive Session at 8:04 P.M.

Commissioner Murphy moved to come out of Executive Session at 9:07 P.M. Seconded by Commissioner Russo and unanimously approved by a Voice Vote.

All voted aye. Motion carried.

Commissioner Cullerton moved to suspend the verbatim records procedures of the Commission's By-Laws to allow the General Manager to have custody of the verbatim record of the March 15, 2012, closed meeting of the Board of Commissioners. Seconded by Commissioner Murphy and unanimously approved by a Voice Vote.

All voted aye. Motion carried.

Commissioner Suess moved to adjourn the meeting at 9:08 P.M. Seconded by Commissioner Scheck and unanimously approved by a Voice Vote.

All voted aye. Motion carried.