



District of Columbia Water and Sewer Authority

MINUTES

**127th Meeting of the Board of Directors
Thursday, December 6, 2007**

Present Directors

Chairman Robin B. Martin, District of Columbia
Anthony Griffin, Vice Chairman, Fairfax County
Dr. Jacqueline Brown, Prince George's County
David J. Bardin, District of Columbia
Keith Stone, District of Columbia
Dan Tangherlini, District of Columbia
Alan Roth, District of Columbia
Timothy Firestine, Montgomery County
David Lake, Alternate for Montgomery County
David Byrd, Prince George's County
F. Alexis Roberson, District of Columbia

Present Alternate Directors

Brenda Richardson, District of Columbia
Joseph Cotruvo, District of Columbia
Kenneth Davis, District of Columbia
Paivi Spoon, Prince George's County
Howard Gibbs, District of Columbia

WASA Staff

Jerry N. Johnson, General Manager
Avis M. Russell, General Counsel
Linda R. Manley, Secretary to the Board of Directors

Chairman Martin called the 127th meeting of the District of Columbia Water and Sewer Authority's Board of Directors to order at 9:30 a.m.

Ms. Manley called the roll to establish a quorum.

Chairman Martin asked for a motion to approve the November 1, 2007 minutes. The minutes were Moved and Seconded with unanimous approval.

Chairman's Remarks

Chairman Martin noted that there will be an executive session to discuss a couple of legal issues.

Chairman Martin informed the Board that he received a letter from Robert Stalzer, alternate member representing Fairfax County announcing his resignation and a copy of a letter to Mayor Fenty from Chairman Gerald Connelly, Chairman, Fairfax County Board of Supervisors, nominating Jimmy Jenkins, Director of Public Works Environmental Services as alternate representative for Fairfax County. In addition, on December 4th he received copies of letters from County Executive Ike Leggett, Montgomery County, to Robert Hoyt, Director of the Department of Environmental Protection, and Kathleen Boucher, Assistant Chief Administrator Officer informing them of his recommendation to the Montgomery County Council that they serve on the WASA Board as principal and alternate members respectively.

Chairman Martin informed the Board that he attended a Water Sector Summit in Paris on behalf of Mayor Fenty. He noted that the attendees consisted of Mayors from mid-size cities, Deputy Mayors, and other officials from larger cities. The attendees met with a number of counterpart Mayors, and toured the Valenton Waste Water Treatment Plant, which is just upstream of Paris.

Joint Meeting of the Finance and Budget and Environmental Quality and Operations Committees

Reported by: Chairman Martin

The Committee met on November 15th with the primary goal to hear management's budget proposal for the revised FY 2008 and the proposed FY 2009 budgets. Board members are invited to submit questions through Linda Manley. The Committee did not make a decision at the end of the meeting on whether to hold additional budget review sessions. The decision was to hear from the General Manager on the volume and type of questions that staff received.

The General Manager stated that questions have not been raised that would create major modifications in the budget. He stated that there is no need for additional sessions, unless there is an interest from the Board for clarity or further discussion on specific issues. Mr. Lake indicated some issues regarding the Nitrogen Removal Program that was raised at the Blue Plains Regional Committee. The discussions on the Nitrogen Removal Program will occur on January 4th. Therefore, Mr. Lake noted that if an additional session is needed, the session should occur after January 4th.

Chairman Martin proposed deferring the question of another budget session until the January Board meeting.

Chairman Martin reported that the Committees reviewed the October financials and the financials are on budget.

Chairman Martin noted that the General Manager discussed the Internal Controls Review with the Committee and will provide a more detail progress report today. The Committee then reviewed the revised 2008 and the proposed 2009 budgets and questions from Board members regarding those budgets.

The Committee reviewed the Fourth Quarter Capital Report, and staff reported that spending through the end of the fiscal year for the fourth quarter was budgeted at \$177.3 million, with actual spending of \$161.8 million for a 91 percent achievement rate. This report raised the question by some Board members about whether the projected capital spending for FY 2008 was achievable. The General Manager assured the members that the projections are achievable. Chairman Martin stated that it is important that the Board continue to monitor capital spending and to understand how it will be accomplished.

Chairman Martin reported that the independent budget review is on track. The contract has been let. A draft report is due on March 5th and the final report due on March 20th.

Environmental Quality and Operations Committee

Reported by: David Lake, Chairperson

The Environmental Quality and Operations Committee met on Thursday, November 15th.

Mr. Lake reported that Blue Plains is continuing to do an excellent job treating its wastewater and meeting all permit requirements.

There were no positive samples for Coliform in the water supply system. There were four positive results from the Lead and Copper Rule compliance testing out of 93 samples taken. The importance of that, of course, is that it is not close to the 10 percent that is required for action to be taken.

The Committee received an update from Tom Jacobus, General Manager, Washington Aqueduct, on the activities, the production of water supply and the governance of the Washington Aqueduct. The Committee requested that Mr. Jacobus provide the Committee an update on a quarterly basis. Mr. Jacobus agreed to send the Committee minutes from the Washington Aqueduct's Technical Committee meetings.

Mr. Jacobus provided an update on the Residual Management Facility which is budgeted at \$105.5 million, causing a significantly increase in the normal annual budget of previous years, which have been approximately \$10 million. He informed the Committee that the Aqueduct is in the process of bidding the Residual Management Facility project and would keep the Committee informed of the technical process and the award of the project with the understanding that the award of the contract is the responsibility of the Corps of Engineers.

The Committee discussed the Memorandum of Understanding among the major customers of the Washington Aqueduct, the District of Columbia, Falls Church, and Arlington. The Committee agreed to take a look at the MOU and begin to address some of the issues and how the MOU could or should be modified to make sure that the MOU is, in fact, meeting the Board's expectations.

The Committee is recommending five joint-use items and two non-joint use items for Board approval.

Johnnie Hemphill presented the Committee a schedule of proposed meetings with the community regarding the Lead Service Replacement Program. The Committee expressed an interest in reviewing the materials prior to distribution to the community. Chairman Martin stated that his understanding and the Board 's position is that WASA will present the public an educational element of the program followed by a series of possible changes to the program and then request feedback from the constituents. The General Manager confirmed that he will provide the Board the materials for their review prior to the December 20th Environmental Quality and Operations Committee meeting.

The General Manager confirmed that the entire process, to include public input for the Lead Service Replacement Program, will be complete prior to the Board making its retail rate decisions.

Customer and Community Services Committee

Reported by: Alan Roth, Chairperson

The Committee met on November 20th.

The Committee reviewed staff's proposed timetable for its outreach plan for the Lead Service Line Replacement Program and the general conclusion was that the outreach plan was a good plan and made sense. The Committee raised questions on the sequence of two particular aspects of the outreach plan. One option is to invite the Council to hold hearings on the issue first and the second option is was for WASA to hold a series of sponsored public meetings and then to request a public hearing by the Council. The uncertainty on the part of the Committee was what staff or the Board plan to provide to the public for comment. The Committee requested

that the General Manager consult with Chairman Martin and Mr. Lake on how to handle the public output.

The Committee reviewed the draft implementation plan for the Public Information Policy and will monitor the plan and set a mid-year timeframe to assess progress with the plan.

The Committee discussed the Authority's website and the General Manager agreed to have a discussion with the Chief Information Officer to determine the status of staff's review of the website. The Committee will receive a report on the website at its next meeting. Mr. Bardin suggested that the General Manager look at Mayor Fenty's website for the District.

The Committee reviewed the Alliance Data Systems contract extension. The contract was originally a seven-year contract with a seven-year extension. Staff concluded that in light of the fact that the Authority is about to embark upon an impervious rate structure, that it did not make sense to move forward with a full seven-year extension. Therefore, the Committee agreed to staff's recommendation of a two-year extension.

The Committee received a report from the Government Relations Department, which at the time indicated that there were no major bills or initiatives pending on the Hill or in the D.C. Council affecting WASA. Since that report the Board was informed that there was a personnel bill that dealt with D.C. residency issues.

The Committee discussed the outreach plan for the impervious rate structure. The Committee is in consensus that the outreach plan is good and anticipates that after the Board takes some policy action on key questions, staff will be ready to roll out the outreach plan toward the beginning of 2008.

Retail Rates Committee (District Members)

Reported by: Robin Martin, Chairman

The Retail Rates Committee met on November 28th.

The Committee received a report from the impervious rates consultants concerning the development of the database, which allows WASA to use GIS and other data. The Committee was informed that 85 percent of the data has been collected, and the other 15 percent falls primarily under federal auspices. Staff, in conjunction with the consultants, plans to meet with the city and federal officials to discuss how WASA can utilize their data.

The other part of the discussion concerned policy development. The Board will from time to time suggest to the consultants and management different policies in areas that it wants to consider. The consultants and management will propose to the Board and to the Committee different policy areas that need to be considered. The

Committee discussed three proposed policies: the definition of impervious surfaces, costs to be included in the impervious surface area rate, and exemptions to the impervious area billing rate. The Committee requested that the consultants benchmark other cities to understand if there are viable options to the "all or nothing approach" in which areas are classified either completely impervious or completely pervious. The Committee learned that WASA can recover all costs for the CSO program, including operations and maintenance, so there was no need for a policy. The Board agreed that the public rights of way owned by the District would not be included in the impervious surface area rate. The Committee is waiting for feedback from the consultants on whether sliver parcels should be included in the rate.

The Committee discussed management's FY 2009 rate and fee proposal. There were a variety of options put forward to the Committee in terms of having rates lowered earlier, and its impact on rates later. Chairman Martin noted that how the Board approves the final budgets will have an impact on the rates proposed to the Board for approval in September.

The Committee discussed the PILOT Fees and a point was raised about whether the PILOT is a tax on WASA's income, as opposed to a fee for services. The Committee requested that the General Counsel provide background information on any discussions pertaining to the PILOT Fee. The information was provided to the Board.

Human Resource/Labor Relations Committee

Reported by: Anthony Griffin, Chairperson

The General Manager presented the Committee a proposed calendar for meetings, both between himself and the unions, as well as Department Heads and the unions. The Committee requested that the calendar be shared with the unions understanding that the dates identified may be adjusted. The Committee is scheduled to meet with the Union Presidents on January 22, 2008.

The Committee made a commitment to create a monthly calendar with the intent that WASA will conform its work plan to the monthly calendar.

The Committee went into an executive session for a briefing on the General Manager's proposed organizational changes. The General Manager will provide the same briefing to the Board following the meeting today in an executive session

The Committee had a brief discussion at the conclusion of the closed session in which the Committee was advised of the legislation that is pending in Congress impacting potentially how WASA handles recruitment. The legislation requires that WASA conform to the District's residency preferences and that the General Manager of WASA be a resident of the District of Columbia.

Dr. Brown stated that the legislation has a tremendous regional ripple effect. There is a great deal of discomfort in Prince George's County regarding the citizens and their

employment possibilities and opportunities for the future with an agency such as WASA.

Mr. Tangherlini stated that because WASA can be directly impacted by acts of the Council, WASA should monitor those acts. He stated that the Board needs to mitigate the impact of the legislation and Mr. Tangherlini committed that the Administration will work with its partners to do that.

Mr. Roth stated that the Customer and Community Services Committee for the last several months focused on the public affairs area. However, he has committed that the Committee will focus on the Government Relations function.

Mr. Bardin asked about the history of the bill. Gordon Fry, Director of Governmental Affairs, stated that the bill was introduced on April 19, 2007 by Councilmembers Marion Barry, Harry Thomas, Jr., and Carol Schwartz and the co-sponsors were Councilmembers Cantania, Evans, and Graham and Council Chairman Gray. The bill was referred to the Work Force Development and Government Operations Committee chaired by Councilmember Schwartz. Mr. Fry noted that the hearing was scheduled for June 4, 2007 and one person, Brenda Gregory, DC Department of Human Resources, testified. Mr. Bardin requested that the Committee report and Ms. Gregory's statement be e-mailed to the Board. Mr. Fry agreed to e-mail the report to the Board.

The General Manager informed the Board that he has asked the General Counsel to take a thorough review of the legislation to determine its impact on the Authority and the obligations of the Board.

Dr. Brown made a motion that WASA oppose D.C. Act 17-172, cited as the "Jobs for D.C. Residents Amendment Act of 2007" on the basis of lack of notification to WASA's Board, a huge impact on the region, and no apparent improvement in terms of the Human Resources system of WASA. Mr. Byrd seconded the motion. Chairman Martin asked for discussion on the motion. Mr. Bardin asked Dr. Brown to consider taking out the notice provision in her motion because the lack of notice is a matter of comity. Mr. Firestine stated that the motion is appropriate. He stated that when the Authority was established, it was not just the fiscal independence that was the regional concern, it was also the personnel and hiring practices within the Agency and the cost that the Blue Plains Treatment Plant was saddled with in respect to personnel hiring issues.

Mr. Roth offered an amendment to Dr. Brown's motion. The amendment would read that "The General Manager and Board Chairman be directed to seek emergency legislation from the D.C. Council prior to the last legislative session of 2007 suspending these provisions for WASA pending the passage of permanent legislation repealing these provisions for the reasons stated in Dr. Brown's motion, with a formal request to Councilmember Chairman Gray for better notice to WASA of legislation

effecting WASA receiving active council consideration". Mr. Bardin seconded the amendment.

Dr. Brown noted that Mr. Roth's motion for amendment is completely separate. After further discussion, Mr. Roth withdrew his amendment.

Chairman Martin called for a vote on the main motion. Voting five in favor and five opposed, the motion failed for lack of a majority. Mr. Bardin abstained.

Mr. Bardin requested and the Board agreed that the General Counsel post the enabling legislation of WASA to the website and consolidate any amendments. The General Counsel agreed to post the enabling legislation with amendments to the website.

General Manager's Report

Reported by: Jerry Johnson

The General Manager noted that he charged the internal auditor to review immediately disbursements that have occurred over the past five years and to report back any problems or issues. In addition, he requested that the external auditor pay special attention to cash disbursements, to include any refunds that have been made as a part of their audit that they are undertaking.

The Authority's Acting Chief Financial Officer met to discuss financial controls within the organization. Special notices were sent to employees making them aware of the fraud hot line that exists here at WASA. Anti-fraud training has been conducted with staff.

Michael Hunter, Internal Auditor, provided the Board a report on the findings of his immediate short term review of disbursements. Chairman Martin stated that the Audit Committee should have a more in-depth review of internal audit activities concerning this issue as well as the procedures and the interaction between the internal auditor and the external auditor.

The General Manager reported that a response was received from Dr. Gandhi indicating that he is in the process of hiring an outside firm to do the certification related to the PILOT payment.

The General Manager informed the Board that a hearing is scheduled for Monday, December 10' before Councilmember Graham's Committee on Public Works and the Environment. This is a follow-up hearing to the emergency legislation that was passed in early November relating to the fire hydrants.

The General Manager expressed some concerns for clarity in the MOU between the Authority and the Fire and Emergency Services. After discussion, Chairman Martin suggested that the Board take a vote to direct the General Manager on the Board's

behalf to submit to the Council the MOU as the plan required to be submitted in the legislation. Mr. Bardin made a motion to table Chairman Martin's motion until the January Board meeting. The motion to table Chairman Martin's motion until the January Board meeting failed for lack of a second. Chairman Martin asked for further discussion on the motion directing the General Manager on behalf of the Board to submit to the Council the MOU as the plan. There was no further discussion on the motion. The motion passed with Mr. Bardin abstaining. Chairman Martin noted for the record that this was an action of only the District members of the DC WASA Board.

Leonard Benson, Director, Department of Engineering and Technical Services, provided the Board a summary of findings of the report on the review of areas of the city served by small diameter mains. Mr. Benson reported that the Fire and Emergency Services received a copy of the report and indicated that they will review and provide comments. Chairman Martin assigned the report to the Environmental Quality and Operations Committee for review and analysis.

The Board moved to the consent agenda.

Consent Items (Joint-Use)

1. Approval of Supplemental Agreement No. 7 of DCFA #239-WSU, EMA Services, P.C. – Resolution No. 07-88
2. Approval of Supplemental Agreement No. 3 of DCFA #376-WSA, Construction Dynamics Group, PC and Arcadis Company – Resolution No. 07-89
3. Approval of Contract No. 050260, Ulliman Schutte Construction – Resolution No. 07-90
4. Approval of Option Year Two of Contract No. WAS-06-005-AA-ND, Urban Service Systems Corporation – Resolution No. 07-91
5. Approval of Option Year Four of Contract No. WAS-03-029-AA-JS, Hardy and Son Trucking – Resolution No. 07-92

The motion to Adopt Consent Items (Joint Use) was Moved and Seconded with unanimous approval by the Board of Directors.

Consent Item (Non-Joint Use)

1. Approval of Contract No. DCFA #411-WSA, Whitman, Requardt & Associates – Resolution No. 07-93
2. Approval of Change Order No. 4, Fort Myer Construction Corp. – Resolution No. 07-94
3. Approval of Extension of Contract No. WAS-9087-AA-AB, Alliance Data Systems – Resolution No. 07-95

The Motion to Adopt Consent Items (Non-Joint Use) was Moved and Seconded with unanimous approval by the District members of the Board of Directors.

The Board moved into an executive session at 12:29 p.m., to discuss the General Manager's proposed reorganization and a legal matter.

The Board reconvened into the public meeting at 1:56 p.m.

Mr. Roth had a motion to offer. He moved that the General Manager be directed by the Board to investigate carefully the terms of the Authority's insurance policy with Aegis, with an eye toward determining whether Aegis handled this particular settlement that was discussed in Executive Session in an appropriate fashion; and that the Chairman write an appropriately critical letter to Aegis based upon the outcome of the research.

The Motion was seconded with unanimous approval by the Board.

The meeting adjourned at 1:57 p.m.


Secretary to the Board of Directors