



*District of Columbia Water and Sewer Authority*

*Board of Directors*

*MEETING MINUTES*

*Thursday, May 5, 2011*

***Present Directors***

Chairman William Walker, District of Columbia  
Timothy Firestine, Interim Vice Chairman, Montgomery County  
David J. Bardin, District of Columbia  
Robert Hoyt, Montgomery County  
Alethia Nancoo, District of Columbia  
Anthony Griffin, Fairfax County  
Alan Roth, District of Columbia  
F. Alexis Roberson, District of Columbia  
Bradford Seamon, Prince George's County  
Carla Reid, Prince George's County

***Present Alternate Directors***

Joseph Cotruvo, District of Columbia  
James Patteson, Fairfax County  
Howard Croft, District of Columbia  
David Lake, Montgomery County  
Howard Gibbs, District of Columbia  
Kathleen Boucher, Montgomery County  
Samuel Wynkoop, Prince George's County  
Dawn Hawkins-Nixon, Prince George's County

***DC Water Staff***

George S. Hawkins, General Manager  
Randy Hayman, General Counsel  
Linda R. Manley, Secretary to the Board of Directors

Chairman Walker called the 165th Meeting of the District of Columbia Water and Sewer Authority's Board of Directors to order at 9:33 a.m.

Chairman Walker asked Linda Manley, Board Secretary to confirm a quorum. Ms. Manley confirmed a quorum.

### **Approval of the April 7, 2011 Meeting Minutes**

Chairman Walker asked for a motion to approve the April 7, 2011 minutes with a revision to replace the correct version of the paragraph on Page 7. The minutes with the revision was moved and seconded with approval by the Board of Directors.

Chairman Walker noted that at the beginning of each meeting, he will appoint two members from the Board to review the minutes and send them to Ms. Manley to finalize. This process will not place the responsibility on the Board Secretary's office or the General Manager's office to interpret what the Board would like to see in the minutes. Chairman Walker appointed Ms. Nancoo and Mr. Lake to review the May 5<sup>th</sup> draft minutes.

### **Chairman Remark's**

Chairman Walker welcomed Carla Reid from Prince George's County to the DC Water Board.

Chairman Walker noted that there is a scheduling conflict for him for the May 11<sup>th</sup> Retail Rates public hearing and he has asked Ms. Nancoo to chair the hearing. He also reminded the Board of the groundbreaking ceremony for the digester and the Total Nitrogen (TN) projects on May 17<sup>th</sup>. It was requested that an email be sent to Board members as a reminder of the groundbreaking ceremony.

Chairman Walker thanked Mr. Roth and Mr. Bardin for their attention and focus on the Blue Plains Regional Committee (BPRC) issues. There is a discussion underway as it relates to documents that are reviewed at the BPRC, that those documents be circulated to the Board once they are finalized.

Mr. Bardin noted that he will share with Board members a 1999 analysis on the legal issues of concern on the updating of the Blue Plains Intermunicipal Agreement.

Mr. Roth expressed his personal thanks to Mr. Firestine, Mr. Griffin and other CAO's who were involved in moving COG along with improving the BPRC website. Mr. Roth hopes that the BPRC meeting schedule and agendas will be posted to the website.

Chairman Walker met with Alan Lew, City Administrator, to discuss the importance of the District of Columbia's participation on the Blue Plains Regional Committee and the District's need to have representation. It was reported that the City Administrator has appointed his Chief of Staff, Warren Graves, to the BPRC.

Chairman Walker stated that he spoke with the City Administrator regarding fire hydrants and the cost associated with hydrants. The General Manager is in discussions with Fire and Emergency Management Services (FEMS) on who is responsible for the

cost of the hydrant inspections. The Chief of FEMS expressed interest in regaining control of the inspection services.

Chairman Walker informed the Board that he and Mr. Hawkins accepted an invitation from Mr. Griffin and Mr. Patteson to visit the Cole Wastewater Treatment Plant in Virginia. The Cole Plant is located in a residential area, and has been on the forefront as it relates to odor abatement and putting in advanced technologies to diminish the odor. He stated that the measures taken at the Cole Plant to handle odor abatement are great.

During the visit at the Cole Plant, staff provided a graph reflecting the water rates and water treatment rates of all the Virginia plants. The question to staff was what is driving the rate increase. Staff responded that regulatory requirements are driving the increase. A discussion then ensued on total nitrogen and Chairman Walker noted to the Board that in the General Manager's report, DC Water has spent \$100 million to take 10 million pounds a year of nitrogen out of its effluent into the Potomac River to go from 15 parts per million to 5 parts per million. DC Water will now spend around \$1 billion to go from 5 to 4 parts per million.

Chairman Walker stated that this is a national political issue and utilities such as DC Water and its ratepayers are bearing the additional cost for nitrogen removal when there are many other contributors of nitrogen to the watershed that do not bear this cost. Chairman Walker has held several conversations with staff on Capitol Hill including Senator Warner's office who have expressed interest in the nitrogen issue. Mr. Hawkins noted that the reduction from 5 milligrams per liter to 4 at the cost of around \$1 billion is a joint use cost which is also borne by the suburban jurisdictions.

Mr. Hawkins stated that as Chair of the Money Matters Task Force under the National Association of Clean Water Agencies, the Money Matters Task Force was established to raise the question "Is this the best use of our money?" for urban and urban-like areas that are being saddled with heavy costs associated with nitrogen removal, and whether there is an ability to pay these costs in these jurisdictions. He also stated that the Task Force is looking at the issues related to a risk-based approach of allocating money to the best environmental payoff; questioning if these projects would rise anywhere near the level of how these jurisdictions would invest public funds. He stated the Task Force's position is that this would not be how these jurisdictions would choose to invest their limited funds. The General Manager went on to say that this issue unites the entire region, and the cost being imposed on treatment facilities to remove nutrients is totally out of sync with what would actually clean up the Chesapeake or the rivers themselves.

Chairman Walker then congratulated Alan Heymann for his efforts in putting DC Water into the Washington Post in such a prominent way. He noted that this is the first article on DC Water in years that has highlighted DC Water's operations in a positive way. He also indicated that the article is a fantastic tribute to the organization and to the General Manager's leadership.

Chairman Walker's final point was on the General Manager's update. He stated that the update talks about the calculation of average daily or monthly water usage per DC Water customer. He suggested that DC Water is taking the total gallons distributed and dividing it by the city's resident population. He stated that the calculation is not taking into account the transient population entering and exiting the city on a daily basis and the transient population from tourism. He recommended the Board should receive data showing "apples to apples" comparisons with other organizations to promote a valid understanding of the usage, volumes and rates.

Chairman Walker asked the General Manager to update the Board where DC Water stands on the permit/easement issue for the Clean Rivers Project during his overview and then the Chairman would entertain a motion to approve the contract resolution for the construction of the Blue Plains Tunnel. The Chairman stated that the Board will not convene into an executive session to receive the General Manager's update on this item.

### **Environmental Quality and Sewerage Services Committee**

*Reported by: Robert Hoyt, Chairperson*

The Committee met on April 21<sup>st</sup> and convened into open session. The Committee then convened into Executive Session. The open committee meeting reconvened at 10:10 a.m.

The Committee received a report on plant performance and was informed that all permit parameters were met. Due to the plant's operation for six years without a permit excursion, DC Water has earned the National Association Clean Water Agencies platinum award.

It was stated that Mr. Lake will work with staff to design a dashboard type indicator of excess flow and CSO discharges.

The Committee received a summary of the Low Impact Development (LID) Summit. The strategy is to seek a modification of the DC Water Consent Decree consistent with LID provisions incorporated into the consent decrees of other cities. The advantage of this approach is that it allows the evaluation of alternatives to implementation of the presently approved tunnel capture systems. DC Water would like to have the same option of evaluating the potential results of LID, through modeling and large scale pilot projects, to determine if LID is a viable alternative to full implementation of DC Water's proposed Potomac and Rock Creek tunnels.

The Committee received an update on the Potomac Pump Station. The testing of the inlet reconfiguration on one pump was not successful in establishing the required firm pumping capacity. Staff will proceed to the next potential modification in the series of increasingly expensive and complicated corrective measures, a pump impeller change.

The Committee received an in-depth discussion on the Biosolids Management Plan Main Process Train design-build (DB) contract and is comfortable with staff's approach and recommendation.

The Committee discussed and is recommending approval of the proposed revisions to the Pretreatment Regulations necessary to meet EPA requirements. A revised resolution has been given to the Board today for approval.

The Committee is recommending six joint use contracts and the approval of revisions to the Pretreatment Regulations. The Committee is also recommending one non-joint use contract.

Mr. Roth questioned the General Manager about the subcontractors on the biosolids and tunnel contracts which are on the agenda. He noted that there are no local subcontractors listed on the digester contract to provide a multiplier effect to the local economy. Also, Mr. Roth noted that several board members received materials from a local group of organized labor representatives stating allegations regarding Skanska's hiring practices on the 11<sup>th</sup> Street Bridge Project.

Mr. Roth asked the General Counsel or the General Manager to provide the board feedback on the allegations and to discuss the staff's plan to reassure board members that the contract which is being recommended for Board approval prohibits the kind of practices that Skanska is alleged to have engaged in on the 11<sup>th</sup> Street Bridge Project.

Mr. Lake stated that the Environmental Quality and Sewerage Services Committee have had discussions over the past six months regarding the procurement practices at DC Water to address questions about contract awards. He stated the EQ&SS position was that if committee members or in this case, the Board, feels that there is a need to review the procurement practices and standards, then that should happen. It was his position that Board members should not raise questions about contracts that are compliant with Board adopted procurement practices and standards and that are endorsed by the appropriate Board staff for approval.

Ms. Roberson stated that she is not comfortable voting on this contract until the Board receives more information regarding Skanska. However, she will yield to Ms. Richardson because she is intimately involved with this particular contractor.

Ms. Richardson stated that she had a very unpalatable experience with Skanska. She noted that there was a group who had a peaceful protest against Skanska at the 11<sup>th</sup> Street Bridge because of the concern of Skanska's hiring practices. The next day, there were signs posted with racial slurs. Ms. Richardson stated that the people in the District of Columbia should have the opportunity for some of the jobs with this large contract.

The General Manager stated that staff is prepared to discuss the issue that is being raised about the efforts by DC Water regarding minority and women-owned businesses and First Source now. He noted that the Authority, in responding to the Board's

direction, is very proud of its program for minority and women businesses and the work of First Source and has a vigorous program to satisfy those goals.

The General Manager continued, stating DC Water has established a strong program for this contract. Ms. Loretta Caldwell was hired with the responsibility to ensure that these obligations are implemented properly as the contract unfolds. In addition, the general contractor who is managing the project will also hire a compliance officer. Therefore, there are two levels of compliance connected to DC Water's program overseen by Mr. Benson and Mr. Bass.

Mr. Benson noted that the programs in question have federal money involved and staff is working in accordance with DC Water's adopted business development program and EPA's Fair Share Objectives which is a gender/race-based preference program and prohibits geographic preference.

Mr. Benson stated that staff is in compliance with both the spirit and the letter of what the Board has directed in its policies and is in compliance with the letter and the spirit of the law.

Chairman Walker asked that the Environmental Quality and Sewerage Services Committee review the procurement practices and the Governance Committee to follow up as it relates to compliance on these issues from a governance standpoint.

Mr. Roth asked Mr. Benson if there is a law that prohibits DC Water from specifying the way in which employment applications will be handled and how hiring decisions are made and Skanska's role in the hiring process.

Mr. Benson responded that there are no DC Water contractual requirements or procurement regulations that he is aware of that specifically address Mr. Roth's employment practices concerns. However, under the EPA's Fair Share Objectives Program, there is a requirement for good faith effort to attain the goals of the program and he noted that federal requirements do not allow the use of geographic preferences. He stated that DC Water would be monitoring both employment and contracting practices for good faith effort, and the Authority would work with the contractor to correct the situation if indications were to the contrary. Mr. Benson also noted that Skanska is a 25 percent joint venture partner and the managing partner is Traylor Brothers. Staff has had discussions with Traylor Brothers on the proposal submitted concerning MWBE program compliance. Traylor Brothers has committed to meet the Fair Share Objective and the DOES First Source Hiring Program goals. In fact they are currently working on identifying local subs and contracting with these subs. The contract requires compliance work and self reporting to be done by Traylor Brothers. In addition, DC Water will monitor and enforce program requirements as appropriate.

In response to Mr. Roth's question regarding federal money not reflected on the Biosolids Management Plan Main Process Train design build contract fact sheet,

Mr. Benson stated that the money is not reflected because at the present there is no grant for the project. However, if it becomes available, DC Water would receive a pick-up grant, where DC Water would be able to apply the money to the grant going forward, provided that all of the EPA requirements for contracting are in place.

### **Water Quality and Water Services Committee**

*Reported by: Joseph Cotruvo, Vice Chairperson*

The Committee was informed that the Washington Aqueduct will resume chloramination as the residual disinfection process on May 2.

As of April 1 there were 21 Out of Service (OOS) hydrants that were mechanically defective. This amounts to only 0.23 percent of total hydrants, compared with the target of 1 percent.

The Committee discussed the issue of the appropriate level of hydrant inspection by the Department of Fire and Emergency Medical Services (FEMS) going forward, in light of the significantly improved inspection system and current continuing low OOS numbers.

Dr. Cotruvo stated that Lauren Preston, Director of Customer Services, provided the Committee an update on customer services activities. She noted that there has been an 8 percent reduction in accounts receivables.

The Committee expressed its interest in the consequences of water service cutoffs that occur due to non-payment, wanting to ensure that they are not too egregious and are handled in a sensitive manner.

The Committee received a presentation on the process that DC Water uses for investigation of water quality complaints received from customers. It was reiterated by the Committee that water quality complaints are a high priority matter warranting an aggressive remediation program.

The Committee is recommending two contracts for Board approval...

### **DC Retail Water and Sewer Rates Committee**

*Reported by: David J. Bardin*

The Committee met on April 26, 2011.

The Committee reviewed miscellaneous fees and charges that were discussed in the last Cost of Service Study but have not been updated by the Board since 2003. The Committee is moving to the Board proposed Resolution #11-62 by which the Board will be proposing amendments to the existing regulations after public notice in the D.C. Register and an opportunity for public comments. The plan is to bring the final regulations to the July Board meeting for approval with the new fees and charges

becoming effective October 1, 2011. The impact would be \$1.5 million more revenue in Fiscal Year 2012.

### **Finance and Budget Committee**

*Reported by: Timothy Firestine, Chairperson*

Mr. Firestine reported that with 50 percent of the fiscal year completed, revenues and expenditures were on track with expectations. Revenues were at 47.6 percent, operating expenditures at 44.6 percent, and capital disbursements at 41.1 percent of the budget. The average daily cash balance exceeded the operating reserve target by \$12.9 million.

The Committee received a presentation on the Authority's investment portfolio. The Authority's investment staff in conjunction with the financial advisor's prepared a new format for an investment report that provides more information on what is occurring with the economy and where the Authority's rates are relative to market rates.

The Authority's investment performance does exceed the benchmark rates for the different aspects of the portfolio.

### **General Manager's Report**

*Reported by: George Hawkins, General Manager*

The General Manager reported that May 17<sup>th</sup> is the kickoff of both the enhanced nitrogen removal and the initiation of the digester project, which will yield substantial savings to the enterprise, as well as tremendous improvements to the environment.

The General Manager noted that the Authority is seeking to green its fleet by purchasing alternative fuel vehicles and the purchase of the first hybrid bus of its kind in the region.

The Authority received a Computer World Finalist award for best practices in emerging and innovative technologies.

Olu Adebo, Chief Financial Officer, made a presentation to the Society of Municipal Analysts. The General Manager read a phrase from a participant at the conference. "This conference has raised my confidence in the credit of DC, primarily as a result of seeing and hearing from an extraordinary group of talented and tenured CFOs".

The General Manager introduced new management personnel to the Board.

At the request of Chairman Walker, the General Manager discussed the issue of permits and easements for the Clean Rivers Project. The General Manager noted that the issues have been discussed in committee meetings and at a prior Board meeting in executive session. However, Chairman Walker is requesting that the discussion is done

in open session so that management's recommendation is on the record. The issue is the tunnel that will be bored along the Anacostia River where a portion runs through Poplar Point, and crosses the river to the Main and O Pump Station. This is the first segment of a much larger tunnel system that will continue to the north to RFK and have feeder tunnels out into Northeast Washington.

The issue is whether or not easements for portions of the tunnel, that go under the land surface, are currently under the preview of the District's Department of Transportation, and are located in transportation corridors that are being modified because of new development. DC Water's preference is to obtain easements (as opposed to permits) which give more certainty as to the location of the tunnel. It is not feasible to move the location of a tunnel after it is built. However, moving the planned location of a tunnel before it is built is also an expensive operation, and DC Water would like to have protections above the tunnel to protect it from any future work by others. DC Water has been negotiating very intensively with the District's Department of Transportation and the U. S. Federal Highway Administration. The challenge is the complexity of issues to get the easements for the portion of the tunnel that has conflicts with DDOT and Federal Highway. The approval of easements needs to go through the Federal Highway Administration, because it is in a designated federal transportation corridor.

Despite best efforts, staff was not able to get the easements for the portion that is governed by the District's Department of Transportation. Staff is intensively working on getting the easements. However, the District's Department of Transportation has offered to issue permits for the tunnel development, the excavation and surface facilities that are needed for the tunnel, as an alternative to issuing easements.

After an extensive analysis by staff, it was determined that the risks associated with approving the contract with permits rather than easements is less risk to the Authority on a financial basis, as well as an operational basis, than the risks associated with not approving the contract due to possible conflicts with the consent order. Staff will work with DDOT to resolve the transportation corridor funding issues so that they can return to the easement question. There is a possible outcome that DC Water will not get an easement for that portion of the tunnel. The penalties and enforcement actions under the consent order and the requirement that the first portion of the tunnel is needed to satisfy both the NPDES permit and the consent decree. The potential for penalties under the NPDES permit if DC Water does not reach its design and performance goals, as well as the requirements of the consent decree, is a greater risk to DC Water, both financially and operationally.

Staff is recommending approval of the contract with permits.

Mr. Bardin requested that the General Manager send to the Board, prior to the next meeting of the Governance Committee, the text in the contract that references First Source. The General Manager agreed to provide that information.

Mr. Bardin also asked, whether the Authority received an easement or permit, would it be recorded? The General Counsel replied yes. In addition, Mr. Bardin request that before the notice to proceed on boring under the federal properties proceeds, that the General Manager would confirm with the Board that DC Water has the appropriate legal authority from the federal government to do what is necessary under the federal government's properties. The General Manager noted that he would provide the information to the Board once DC Water receives those approvals.

Ms. Nancoo stated that in anticipation of and the Board approving the contracts discussed earlier in the meeting that the Governance Committee is proposing to meet in June (changed from bi-monthly). During that meeting, the Committee will receive a full overview and briefing from staff on how these contracts comply with DC Water hiring and subcontracting policies, both locally and federally. Ms. Nancoo encouraged all Board members to attend the June meeting.

Chairman Walker stated that when Resolution No. 11-57 was moved for approval he wanted the vote to be a roll call vote to allow each Board member the ability to vote individually on the contract.

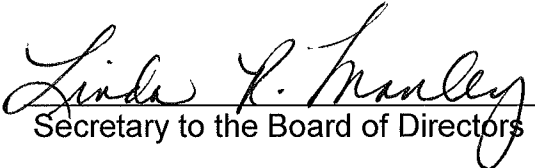
#### **Consent Items (Joint Use)**

Mr. Griffin moved the adoption of Resolutions No. 11-51 through 11-56, and Resolutions No. 11-58 and 11-59. Mr. Firestine seconded the motion. The motion to approve Resolutions No. 11-51 through 11-56 and Resolutions No. 11-58 and 11-59 was unanimously approved by the Board.

Mr. Griffin moved the adoption of Resolution No. 11-57. After the roll call vote on Resolution No. 11-57, there were nine yeses and one no. The resolution was approved by the members of the Board of Directors.

#### **Consent Items (Non-Joint Use)**

Mr. Bardin moved the adoption of Resolution Nos. 11-60 through 11-62. Ms. Nancoo seconded the motion. The motion to approve Resolution No 11-60 through 11-62 was unanimously approved by the District members of the Board of Directors.

  
Secretary to the Board of Directors