



District of Columbia Water and Sewer Authority

Board of Directors

MEETING MINUTES

Thursday, November 3, 2011

Present Directors

Chairman William Walker, District of Columbia
Timothy Firestine, Montgomery County
Adam Clampitt, 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

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

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 170th Meeting of the District of Columbia Water and Sewer Authority's Board of Directors to order at 9:04 a.m.

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

Intermunicipal Agreement (IMA) Briefing

Chairman Walker noted that the purpose of the briefing this was to go through the components of the IMA. This is an information session and asked the board members to whole all questions until after the presentation.

George Hawkins, General Manager, introduced Stuart Freudberg, Director of Environmental Programs, Washington Metropolitan Council of Governments (COG).

Mr. Freudberg noted that he will cover three things: (1) History of the IMA; (2) Accomplishments of the IMA; and (3) Developments Leading to a New IMA. He began with the history of the IMA and noted that the population in the Blue Plains Service Area was forecast to continue to grow fairly rapidly between 1985 and 2010, requiring another 61 million gallons per day. The region's continued economic prosperity depended on this happening. The Potomac continued to experience water quality problems in the late 1970s and a major algal bloom took place in 1983.

The IMA represented a commitment to restore the Potomac, and to monitor and evaluate the effectiveness of the huge investments in wastewater treatment to further protect the environment. While there were previous agreements regarding cost allocation, the IMA provided regional clarity, and also called for compensating the District and the Washington Suburban Sanitary Commission for prior capital investments.

The IMA recognized the unique characteristics of the District of Columbia in terms of its overriding priority for treatment capacity, commitment to make sure sludge or biosolids could be disposed of outside of the District of Columbia's borders, and the fact that the District of Columbia hosts this facility.

The IMA is both a contract and a regional agreement among five parties: the District of Columbia, Fairfax County, Montgomery County, Prince George's County, and the Washington Suburban Sanitary Commission to share the plant and its costs, to protect the environment, and to work together. It recognizes the District's role as owner, operator and host of the plant and the rights, responsibilities and benefits to all users of the facility. The agreement was signed on September 5, 1985 after more than 18 months of negotiation.

Mr. Freudberg noted the following primary factors that led to the negotiation of an Intermunicipal Agreement: (1) Sewer moratoria in the 1970s and cap on Blue Plains capacity of 309 mgd – regional growth threat; (2) District of Columbia "sludge independence" and wastewater capacity needs; (3) Need equitable prior capital investments; and (4) Local leadership – "the time was right,"

The regional water quality planning process which took place at COG in the 1970s and into the early 1980s, under Section 208 of the Federal Clean Water Act attempted to resolve this capacity shortfall, but was unable to do so which left the region without a solution to accommodate growth. EPA jumped into the picture and stated that it would only support expansion of Blue Plains if a feasibility study of expanding the plant was done not only from a hydraulic and capacity standpoint, but to meet the water quality standards to protect the Potomac. EPA also demanded that there be a formal agreement among the parties to memorialize the outcome.

The District did not have the ability to handle large quantities of sludge as it was known at that time, now called biosolids, inside the city borders and needed a commitment from its suburban partners to ensure that sludge could be disposed of somewhere else. In addition, certain capital investments made before the IMA by the District of Columbia and WSSC in various facilities needed to be repaid to equalize the capital investment going forward.

Mr. Freudberg noted that because of the IMA, the plant was expanded, the moratoria ended, a biosolids disposal solution has been implemented, equity payments were made to reconcile the prior capital investments, EPA grant support was ensured for a wide range of projects, and the Potomac Estuary water quality has improved dramatically. In addition, the D.C. Water and Sewer Authority was created and processes were established for cooperative problem solving that have avoided lawsuits.

Mr. Freudberg then discussed the following principles overriding upon which the IMA rest: (1) the direct connection between capacity and capital investment; (2) the right of the District of Columbia to sufficient wastewater treatment capacity to always meet its needs and its ability to require offloading under certain conditions, if necessary, to meet those needs; (3) equitable allocation of capital and operating costs; (4) interim sludge management; (5) the District of Columbia's rights and obligations as permittee and title holder to Blue Plains; (6) WSSC's rights and obligations as permittee and title holder to the Montgomery County Composting facility; (7) the District has no obligation to expand Blue Plains beyond 370 mgd; and (8) planning must begin to address capacity needs beyond 370 mgd.

Mr. Freudberg stated that there was an interim set of allocations while the plant was being expanded from 1985 into the early 1990's. Expanding Blue Plains to 370 made it possible for the region to continue to grow in an orderly manner. In addition, the CSO Long-Term Control Plan was adopted requiring capture of most of the sewage and stormwater that was overflowing into the Potomac, Rock Creek, and the Anacostia. The year when the plant would reach capacity has been extended until 2040 which is a long time to have the life expectancy expanded to slower growth and wastewater flows, and the construction of two

new wastewater plants which moved 22 million gallons a day out of Blue Plains' service area.

Mr. Freudberg noted that Section 4 focuses on flow management which is the way the parties agree to measure, report and enforce use of plant capacity. It also addresses how the District of Columbia wastewater flow would be handled until December 31, 1995.

Section 5 covers biosolids management formerly known as sludge. The purpose was to properly manage disposable biosolids to make sure that it would not pile up in the District of Columbia. The major investment has been on land application and the fact that biosolids is a beneficial product now being used as fertilizer in some cases on farms inside and outside of the region. Biosolids volume has been reduced dramatically since 1985. The new digesters will reduce biosolids which makes land application more viable. Finally, EPA has set new biosolids regulatory requirements a lot different than were in the 1985 IMA.

Section 6 addresses the reimbursements to the District and WSSC for prior capital investments that were not covered by grants. This was done through an equity study completed in 1987. In addition, a user fee of \$1.5 million paid by the suburban users to the District of Columbia is included in this section which has escalated 1.5 percent per year starting in 1986. The rationale for the fee is not explained in the IMA.

Allocating costs in a fair and equitable manner has become much more complex since 1985. It has several categories of projects not defined in the 1985 IMA and not included in the legislation that created DC WASA that has shared use or joint use.

In addition, the 1985 IMA does not account for the lower costs associated with treating the captured stormwater flows in the District of Columbia, and outgrowth of the CSO Long-Term Control Plan.

Section 7 is devoted to the District of Columbia capacity requirements after 2010, recognizing the District really had no other options for handling its wastewater treatment needs.

Mr. Freudberg noted that the plant is good through 2040, partly because of the 13 million per gallon per day reduction in wasted water and the construction of some additional capacity in the suburbs. The plant is now limited by the Chesapeake Bay TMDL by the loading limits for nitrogen and phosphorus. The CSO Long-Term Control Plan has a number of very complicated impacts on the plant and its hydraulic treatment capacity and what it can do in 4 hours and 24 hours, etc. It affects its permit, the cost of treatment and the cost-sharing formulas for many pieces of the system. None of these realities are really covered in the 1985 IMA.

Section A of the agreement created the Blue Plains Regional Committee which is the mechanism the parties established to be sure the IMA is being followed. The Blue Plains Regional Committee, appointed by the Chief Administrative Officers' and the General Manager was identified as the sole coordinating body for Blue Plains IMA issues.

The major change since 1985 is DC Water's creation in 1996 which took on the operations and permit responsibilities from the District Government. The legislation that created DC Water was negotiated through the Blue Plains Regional Committee and CAOs in 1995 and 1996. It was agreed to create a Board of Directors that included suburban participation, another very significant step that was taken at that time. The law that created the District of Columbia Water and Sewer Authority specifically states that it does not modify the IMA.

Mr. Freudberg highlighted additional benefits to the parties that have resulted from the creation of this IMA forum. Early delays in expanding the plant, according to the schedule were dealt with and accommodated without lawsuits and early 1990s proposal for Payment in Lieu of Taxes (PILOT).

The IMA provided a framework for resolving billing disputes, and studies on dealing with the Potomac Interceptor were handled through the coordinated process, odor issues, and capacity issues.

The summary of the key factors that are leading to the new IMA are: (1) establishment of DC WASA; (2) 40 percent of the 1985 IMA is out of date; and (3) effort to streamline IMA infeasible.

The negotiating team led by Dave Lake has completed its work and hopes that with one final review and a few polishing edits, the new IMA should be ready for governing body consideration very soon.

The guiding philosophy for the new IMA is to reflect all that has changed since the 1985 IMA was signed, create a living document with a Core IMA and Supporting Derivative agreements and formalize a system for resolving IMA "contract" disputes. The leadership committee will meet on November 8th for a final review of the new IMA.

Chairman Walker asked how the DC Water Board would be represented in the new IMA, since it did not exist in 1985. The General Manager responded that the new IMA will have the Chairman of the Board as a signatory to the new agreement.

Mr. Roth asked if there were provisions in the IMA for participation, notice and attendance to be informed of when the BPRC or any successor committees or work groups are expected to meet. Mr. Freudberg stated that the provision in the

document is that the committees will create their own bylaws and rules of procedure and he is very confident that it will accommodate Mr. Roth's concerns. Mr. Roth recommended that the negotiators seriously contemplate before bringing the agreement to the Board that an explicit provision be included in the document that confers the rights of notice, attendance, and information about what DC Water staff are doing, and give those rights to the DC Water Board members.

Mr. Roth proposed that the draft new IMA be reviewed by the Governance Committee prior to the Board's approval for the Board Chairman to sign the agreement. Ms. Nancoo agreed to change the November Governance Committee meeting to December. Chairman Walker agreed.

Approval of the October 6, 2011 Meeting Minutes

Chairman Walker asked for a motion to approve the October 6, 2011 minutes. The minutes were moved and seconded with approval by the Board of Directors.

Chairman's Remarks

Chairman Walker welcomed everyone and noted that DC Water had an active month which is reflected in the General Manager's report.

Environmental Quality and Sewerage Services Committee

Reported by: Robert Hoyt, Chairperson

The Committee met on October 20, 2011.

Aklile Tesfaye, Director of Wastewater Treatment, reported that despite the wet weather due to Hurricane Lee, the BNR process performed very well, with an average effluent total Nitrogen concentration of 3.1 mg/l. This was the best monthly performance achieved since the start of the full-scale BNR in 2000. Mr. Tesfaye attributed that to a number of things, noting one as the new aerator system that is on line.

Mr. Hoyt noted that on the long-term control plan easements, DC Water continues to monitor the status of the permits and the easements. DC Water received permits from the National Park Service and Army Corps of Engineers. The permits are from DDOT.

The easements continue to be the subject of fairly complex negotiations, and it does appear as DC Water move on them that the hybrid approach DC Water would like to have with permits on the surface, easements in the tunnels, the subterranean tunnels is receiving more traction.

Staff continues to monitor the Potomac Pump Station to achieve the consent order capacity requirements. Negotiations continue between staff, DOJ, EPA and Earth justice to amend the consent order rather than spending additional money in trying to achieve the capacity.

Staff is pushing forward on the latest approach to achieving capacity which costs about \$300,000. If that does not work, the next step could be in the \$30 million range which there is no reason to pursue. Staff is stepping up its negotiations and will know within the next two weeks.

The Committee was provided an update on the Odor Abatement Project. Leonard Benson, Chief Engineer, reported that the construction for the DC and MD sites continues on schedule. However, permanent power to these sites is required from PEPCO, and PEPCO is currently behind schedule on providing power to a number of sites requiring three-phase power.

Elaine Wilson, Pretreatment Supervisor, updated the Committee on the status of the proposed rulemaking on Wastewater Discharge Regulations. Since publication in May and Committee review at its last meeting, the regulations have been updated to reflect clarifications on the handling of pharmacological and biological products by healthcare facilities, specifically located within DC. In addition, Ms. Wilson provided the Committee the proposed changes to the regulations.

The Committee is recommending Board approval for the proposed regulations to be published for public comment.

The Committee is recommending approval of three joint use contracts and two non-joint use contracts for Board approval.

The Committee received an update on WSSC's feasibility study on handling their biosolids through digesters

Water Quality and Water Services Committee

Reported by: Brenda Richardson, Vice Chairperson

Ms. Richardson reported that DC Water is in compliance in relation to Water Quality monitoring.

The Committee received a status report on the SPLASH program.

The Committee received a summary of the findings of the recently released EPA Science Advisory Board (SAB) Report on partial lead service line replacements. The report characterized the science that it had to review as inconclusive, but generally discouraged partial replacements.

Joint Meeting of the Finance and Budget, Environmental Quality and Sewerage Services, DC Retail Water and Sewer Rates and Water Services Committees

Reported by: David Lake

The first part of the meeting was focused on the overall finances of the Authority. It was reported that at the end of FY 2011, revenues totaled 101.2 percent of the budget, expenditures were 92 percent of the budget and capital disbursements were 91 percent of the capital disbursements budget.

The retail revenues variance was primarily the result of higher than anticipated consumption due to an unusually hot summer. The variances in operating expenditures were primarily due to water and electricity purchases.

Robert Hunt, Treasury Manager, provided a report of DC Water's overall portfolio performance. The total investment portfolio continues to perform well and is in compliance with the Authority's Investment Policy.

The second part of the meeting focused on the revised FY 2012 and proposed FY 2013 budgets. The General Manager did a great job in providing the Committee highlights of the revised FY 2012 and proposed FY 2013 budgets noting that the FY 2013 proposed operating budget totals \$456.8 million which is a \$41.4 million increase over the FY 2012. The capital budget request is \$8 billion, a slight increase over last year's request. The 10-year disbursement budget is at \$3.8 billion resulting in a capital request of 606.1 million.

Olu Adebo, Chief Financial Officer, indicated that the drivers for the requests are both debt service costs and personnel costs. The personnel costs are the request for 41 new positions in FY 2013, which is primarily to in-source more Capital Improvement Program (CIP) work in the Engineering Department.

Len Benson, Chief Engineer, highlighted the CIP by service area and the major changes and drivers in the program and explained that spending prioritization is primarily driven by mandates. In addition, due to the ongoing asset management work associated with capital improvements there will continue to be some increase in expenses in the CIP, because at this time staff estimated that there is about a billion dollars worth of additional work that is not in the budget that will be seen as those plans are developed.

Mr. Adebo noted that \$6.5 million will be drawn from the Rate Stabilization Fund for FY 2012.

There was one action item that was deferred to the Chairman of the Finance and Budget Committee. Mr. Firestine noted that he has not had an opportunity to discuss this with the Committee. The Board deferred the action item to go before the Finance and Budget Committee at its next meeting.

The General Manager noted that if there are any questions regarding the proposed budget, please submit them to Linda Manley.

General Manager's Report

Reported by: George Hawkins, General Manager

The General Manager noted that Gus Bass received a 50 year service award for extraordinary service by the Associated General Contractors of Metropolitan Washington.

The General Manager stated that he attended the Water Environment Federations Conference in Los Angeles, California, and DC Water was one of two inaugural winners of the WERF Innovation Award for the entire industry. Walter Bailey was made one of the first inaugural class of fellows for the program.

The General Manager reported that he testified before Senator Cardin's Committee on Wildlife. The big issue highlighted was DC Water's first reduction of nutrient loadings from the plant between 1985 and 2000. About \$16 million on improvements were essentially needed for the plant. However, by taking those steps, DC Water reduced 5.6 million pounds of nutrients per year. In addition, from 2000 and 2010 the reductions in nutrient cost \$100 million. This has been the investment over the last ten years. Senator Cardin has been very interested in a nutrient treatment program.

The General Manager noted that there was a kickoff for the Clean Rivers Project held in October.

DC Water, on last Friday, had its first water drop education program for youth in the city.

The General Manager reported that next week DC Water will open negotiations with EPA Region 3 on the potential of modifying the consent decree for the long-term control plan to adopt an adaptive management strategy for low impact and green development. The General Manager sent a letter to the Administrator of EPA and they have followed up quickly.

The General Manager also reported that DC Water is challenging aspects of the MS4 permit that has been issued to the District. There is a 30 day window when it was issued, and staff did not come to the conclusion that it needed to challenge

the permit until after the Environmental Quality and Sewerage Services Committee met. The deadline is next week and DC Water has to be prepared to file by Friday. There are aspects that need clarity, one of which is, what is DC Water's obligations and who is responsible for the different aspects of the permit. DC Water's major concern is there are 16 constituents in the waterways that have a TMDL and that each one of those constituents can be established for a team to offer a water quality limited segment. The Anacostia River can have more than one TMDL for one criteria based on different segments, and DC Water has counted over 200 relevant TMDLs to the District. DC Water would like clarity that for each one of them there is a strategy needed, modeling needed, measurable milestones needed and implementation plans that could be different from the operational requirements that are already listed in the permit and whose responsibility is it for the additional work and the cost.

DC Water has been drafting the appeal and will submit it in the next days. The General Manager concluded his report.

Mr. Wynkoop stated that normally this kind of issue would be discussed with the Board usually in an Executive Session and asked how did the General Manager arrive at going forward with the appeal. The General Manager responded that it was decided this week by staff that this step needed to be taken. Therefore, it was a matter of timing.

Chairman Walker asked Mr. Wynkoop if he had concerns in the permit. Mr. Wynkoop stated that he has complete confidence in the General Manager's conclusion of challenging the permit. His concern is that the Board handles those kinds of challenges consistently. The Board needs to have some prior discussion with the appropriate staff. Chairman Walker noted that the Board has significant resources as it relates to environmental stewardship and environmental regulatory affairs.

Ms. Richardson noted that in the General Manager's Report there are 59 open positions and only 3 were filled during the month of September. She asked what is DC Water doing to fill those vacant positions. The General Manager responded that he will provide a response to the Board.

Ms. Richardson also noted that there were eleven lost time accidents reported under the safety report and asked the General Manager what type of accidents those were eleven. The General Manager responded that he will provide a response to the Board.

Mr. Griffin asked why DC Water contractors' have a better safety record than D.C. Water has with its own employees.

Ms. Richardson also stated that she requested at the last Board meeting information on salaries and DC Water's promotion practices and had not received the information.

Linda Manley, Board Secretary responded that staff is working on a response to Ms. Richardson's request.

Ms. Reid noted that in the General Manager's Report the permit processing service level agreements hit a 12-month low at 60 percent and asked what caused the decrease. The General Manager responded that he will provide a response to the Board.

Mr. Roth noted that a response was sent to the Board regarding DC Water's I9 compliance issues and 1 item stated that 20 percent of DC Water's workforce has been here since 1968 and is that a right percentage. Mr. Hawkins responded that 1968 is a typographical error and it should read 1986.

Mr. Roth then requested a quick summary of the changes to the proposed pretreatment program regulations. Walter Bailey, Director of Plant Operations, provided the board a summary of changes to the regulations. It was requested that in the future the document be provided with redline changes.

Consent Items (Joint Use)

Mr. Griffin moved the approval of Resolutions No. 11-106 through 11-109 and Mr. Firestine seconded the motion. The motion to approve Resolutions No. 11-11-106 through 11-109 was unanimously approved by the Board.

Consent Item (Non-Joint Use)

Ms. Nancoo moved the approval of Resolution No. 11-110 through 11-113 and Mr. Roth seconded the motion. Resolution No. 115 was deferred back to the Finance and Budget Committee. The motion to approve Resolutions No. 11-110 through 11-113 was unanimously approved by the District members of the Board.

The 170th meeting of the DC Water Board adjourned at 10:54 a.m.


Secretary to the Board of Directors