



District of Columbia Water and Sewer Authority

MINUTES

**86th Meeting of the Board of Directors
Thursday, March 4, 2004**

Present Directors

Bruce Romer, Vice Chairman
David J. Bardin
James Caldwell
Fariba Kassiri
Anthony Griffin
F. Alexis H. Roberson
Alfonso N. Cornish
Lucy Murray
Michael Hodge

Present Alternate Directors

Paul Folkers
Stephanie Nash
Larry Coffman
David Lake
Brenda Richardson
Michael Dutton
Donna Wilson

WASA Staff

Jerry N. Johnson, General Manager
Wendy Hartmann-Moore, Interim General Counsel
Linda R. Manley, Secretary to the Board of Directors

Vice Chairman Romer called the March 4, 2004 meeting to order at 9:10 a.m.

Ms. Manley, Board Secretary, called the roll to establish a quorum.

Vice Chairman Romer stated that he would chair the first part of the meeting and Chairman Gerstell is expected to arrive shortly.

Vice Chairman Romer asked the Board if there are any comments and/or changes to the minutes that were previously distributed to the Board. Ms. Murray asked that page 12 of the minutes be amended to reflect the following: "Ms. Murray stated that in reviewing the materials that was handed out in today's meeting, that the Authority was sending out mixed messages and she would provide staff with additional comments.

The Motion to adopt the Minutes of the January 6, 2004 Board Meeting was Moved and Seconded with unanimous approval.

Committee Reports

Finance and Budget Committee

Reported by: Anthony Griffin

Mr. Griffin reported that the Finance and Budget Committee met on Thursday, February 26, 2004. The financial overview is fairly consistent in terms of operating expenditures, capital expenditures and receipt of revenues. Michael Marcotte provided the Committee a briefing on the changes proposed in the digesters, with a recommendation that the Authority pursue Class A digestion.

The Committee concurs with the recommendation of the Environmental Quality and Operations Committee for Class A digestion. The Committee discussed the communications process in informing the stakeholders and surrounding neighbors of the digester project, due to its size and impact, as well as its positive environmental impact.

Staff reported to the Committee that the cash reserve and investments in the capital financing is moving forward. The Committee was provided with a preliminary review of the schedule for a proposed long-term financing that the Authority will pursue in August.

The Committee reviewed the management letter from the external auditors and made no significant comments.

The Committee was provided an overview on where the Authority stands with some of its insurance policies. The Authority is looking at a fairly competitive market and anticipates that the premiums will increase anywhere from 5 to 25 percent, depending on the category.

Human Resources/Labor Relations Committee

Reported by: Bruce Romer, Chairperson

Mr. Romer reported that the Committee met twice since its last report. He stated that the first meeting was held on February 3rd. The main purpose of this meeting was to monitor the course of labor relation's activities, particularly those matters pertaining to collective bargaining.

If needed, the Committee convenes into closed session to discuss strategy with respect to the collective bargaining, which is allowable under the open meetings law. The Committee is satisfied in the direction in which the Authority is moving.

The next meeting was held on February 10, 2004, which was a special meeting of the Human Resources/Labor Relations Committee. This meeting was called at the request of the Board Chair to deal with one item. The Committee reviewed the handling of a personnel matter in connection with a former employee Seema Bhat. The Chair asked the Committee to review the conduct of all the personnel matters with respect to this former employee.

The Committee spent a couple of hours in a closed session talking with not only the General Manager and members of his staff, but also with legal counsel, both in house as well as the outside counsel that the Authority retained to handle this matter.

The discussion was extensive and probing. All members of the Committee were engaged on the issue, determined to get all questions answered, and reviewed the conduct of the matter.

At the conclusion of the meeting, the Committee reconvened into open session and after a thorough review concluded that WASA management acted properly in the handling of the personnel matter and in the decision making that was undertaken.

Mr. Romer stated that the matter is being heard before a Department of Labor Administrative Law Judge. The proceedings are public in every way, as are all of the filings, both by the former employee and by the Authority.

Mr. Bardin concurred completely with the Committee report and stated that because the complainant (the former employee) chose to file a motion or a summary disposition, WASA's attorneys had to file a response which is attached many of the documents that were viewed in closed session. He supposed they have also since been introduced in evidence or are in the process of being introduced in evidence. Mr. Romer thanked Mr. Bardin for the clarification.

Environmental Quality and Operations Committee

Reported by: James Caldwell, Chairperson

Mr. Caldwell reported that the Environmental Quality and Operation Committee met on February 19th. He reported that the flow to Blue Plains in January averaged 340 MGD.

During the first week of February due to snow melt, flows increased to 500 MGD and at that time there was an excursion in the permit limitations for total suspended solids and phosphorus. EPA was notified of the excursion. While considered a minor exceedance from a permit perspective, it should be noted that it was the first exceedance in three years – despite all the plant construction and periodic tank outages going on during that period. Mr. Caldwell asked that in the future the Committee Chairman be notified of permit violations at the time they occur.

Mr. Caldwell stated that as he reported last month, the Blue Plains permit has been reissued in draft form. Staff reviewed the permit and found it unacceptable primarily because if the current language stands, then WASA could be declared in non-compliance with water quality standards and combined sewer overflow program requirements. Staff will continue to negotiate the issues with EPA.

The Committee spent considerable time discussing the status and direction of the lead issue. Mr. Caldwell stated that the Committee will continue to stay abreast of the operational aspects of the issue and work through policy concerns as needed, bringing pertinent discussions and recommendations to the Board at future meetings.

Mr. Caldwell stated that the IMA Blue Plains Regional Committee was asked by the CAO's of the Blue Plains users, with the concurrence of the Board Chairman, to develop a strategy to closely coordinate the Regional Committee with the Board's Environmental Quality and Operations Committee.

The goal is to increase communication and cooperation on planning and technical issues shared between those two bodies. The Environmental Quality and Operations Committee agreed that the committees should meet three times a year. In addition, the Regional Committee is to meet with the full Board.

Mr. Marcotte provided the Committee a second and more detailed review of the recommendation by staff to modify the design of the biosolids digesters to create a Class A product, rather than the Class B product originally considered. This would further reduce biosolids volume, increase the methane gas, which has market value and result in a more marketable product. It may also reduce final disposal costs as more options for end use would be possible and the haul distance to those locations would be considerably less.

The Committee unanimously agreed to recommend an increase of \$53.32 million to the lifetime budget for the digester project. This includes \$35.04 million to modify the digesters for the Class A Project and \$18.29 million to cover the increase in the overall base project.

This recommendation is the subject of Resolution #04-23 on the Consent Calendar. The Committee also discussed the potential architectural or cosmetic treatments proposed for the digesters.

The Committee concluded that the cost for the proposed cladding was not justified and requested that staff re-evaluate the alternatives that are available.

The Committee also reviewed and recommended the items on the Consent Calendar for today's meeting. Lastly, concerning the Long Term Control Plan, Ms. Hartmann-Moore reported that the Authority reported to the Judge that no settlement could be reached between the Authority and the Department of Justice.

The three parties must submit by March 15th either an agreed upon case management plan, or an alternative, three separate plans, and the Judge will issue his procedure on April 1st.

Mr. Romer wanted to underscore for the Board the regime of keeping the WASA Board and the Blue Plains Regional Committee connected and to increase the level of interaction. He stated that this goes back to the Board's strategic plan, where the Board agreed to better educate itself about the IMA and all the issues relating to it. Also, this is a joint commitment to raise the level of knowledge of both groups about each other. Ms. Murray stated that she is looking forward to the Board having in the near future a meeting with the Blue Plains Regional Committee.

Community and Customer Service Report

Reported by: Michael Dutton

Mr. Dutton stated that most of the Committee's discussion revolved around the lead service issue. The General Manager informed the Committee that the City Council and the Mayor established a task force to review the lead issue.

Mr. Johnson introduced Pat Wheeler as the Interim Public Relations Director, to assist in the increase or surge in media inquiries caused by the lead service issue. He also provided the Committee an update on the status of the Command Center that is handling inquiries and calls from customers, stating that the backlog of calls has been addressed.

Staff has developed standard operating procedures, and developed scripts to eliminate those backlogs.

Mr. Johnson discussed the engagement of an engineering firm that will handle the calls, send out test kits, and send the results back to the customers. Mr. McPhail raised the issue of his concerns for homes where there were children under the age of six and pregnant women.

There was also a question raised about the testing protocol, whether or not that should be reduced to one sample or expanded to three. The Committee discussed expediting the exchange or the removal of lead pipes throughout the city.

In addition, the Committee discussed freezing temperatures and the impact that it had on the Customer Call Center. It was revealed that typically, when there are several days of freezing temperatures, then there is a spike in the number of calls that come into the center, and that is being addressed.

Mr. McPhail requested that the General Manager move quickly with the low-income home renters plan and come up with rate measures.

Mr. Bardin requested that the Committee minutes be revised on page 4 the fourth paragraph to read, "Mr. Bardin pointed out that the Council has heard from three different medical professionals..." In addition, Mr. Bardin requested that the fourth line on page 4 be struck from the minutes.

Mr. Romer asked Mr. Dutton if he has any objection to the changes requested by Mr. Bardin. Mr. Dutton replied that he had no objection.

Audit Committee

Reported by: Michael Hodge

Mr. Hodge reported that the Audit Committee met on February 26, 2004. The Committee discussed the one position that is vacant in the Internal Auditor's office. Mr. Hunter advised the Committee that he is in the process of filling that position.

The subject prompted a discussion of whether or not the current staffing was adequate, and it was noted that only a year ago the Board was presented a comparative analysis of the staffing and the study revealed that the staffing appeared adequate for an organization of this size.

The Committee discussed the relevance of the Sarbanes-Oxley Act to WASA's current procedures. The Act requires Audit Committees and public companies to publish procedures related to the receipt of complaints by employees and other confidential submissions.

The General Manager noted that the Authority has in place a process for receiving such information, and in fact is currently operating an internal hotline that has been reported in the press. It was also noted that in the past year only eight to ten calls were received on that line. The General Manager stated that there are other avenues for the receipt of internal and external complaints. One was the Fraud and Abuse Hotline that is operated by the Office of the Corporation Counsel and recently, Councilmember Schwartz introduced sponsored legislation that was enacted. In addition, the D.C. Whistle Blowers Act and information from the Office of the Inspector General, are posted on its website.

Mr. Bardin requested that the General Manager provide the Committee with a written description on an ongoing basis of the current policies and procedures involving the Hot Line.

The Committee reviewed the Management Letter and there were no material issues.

General Manager's Report

Reported by: Jerry Johnson

Mr. Johnson reported that cash is at 32.8 percent of projected revenue, with about 33 percent of the year complete. Expenditures are on target with projects. The Authority spent \$19 million in capital during the month of January. Year-to-date the Authority is at \$99.2 million and has a much more rapid rate of spending at the Bryant Street Project and on a number of projects at Blue Plains. This is an indicator that the projects are within budget and ahead of schedule.

Cash reserves, including operating revenue, operating receipts, the Rate Stabilization Fund and the CSO Capitalization Fund, are at \$165.6 million. Mr. Johnson reported that the Authority has just worked through the first major phase of its Customer Billing and Information System Upgrade. He expects to have some enhanced services for the

customers, and will move into bill design in the summer. In addition, the Authority conducted focus groups and several other sessions with customers.

The Call Center's performance continues to improve on a weekly basis. The statistics can be found on page 8 of the General Manager's Report.

During the month eight goods and services contracts were signed totaling \$2.7 million and eight A&E contracts were signed totaling \$16.4 million

Lead Update

Mr. Johnson stated that activities associated with the lead service line replacement through last week are found on pages 10, 11 and 12 of the General Manager's Report.

He stated that since the first of February the Authority received 30,690 contacts, with 26,200 of those being telephone, and 4,400 of them e-mails. The Authority received 10,958 requests for test kits and only 5,120 requests for pick-ups on those test kits. The Authority continues to urge the persons who have test kits to return them as soon as possible.

The Authority established six additional pick up and drop off sites. The addresses are listed on the Authority's website and information was sent out including press releases notifying the public of the additional sites.

Mr. Johnson reported that the Authority should receive the first shipment of filters on today. The first 200 of those filters are designed to go to home-based daycare facilities because they are the ones that are believed to have lead service lines. The Authority identified 85 of those with lead service lines, and about 90 of them are uncertain whether they have lead service lines, and will be treated as if they do.

The Authority provided brochures and other information on lead water levels, including location maps and other information to the city libraries and community centers throughout the city. To date, the Authority hosted and/or made presentations at 12 community meetings throughout the city.

Mr. Johnson stated that a second mailing to residents with lead service lines would be sent out by the end of the week. Because of the large number of people that is expected to respond to those letters, a contract was signed a couple of days ago for a new company to take that over, so that there is a movement for delivery as well as pick up from the customer. The Authority is out of the loop with the exception of the receipt of data at the end. A March issue of What's on Tap, which was distributed to residents, contains a section that focuses on lead service lines.

The Authority tripled the number of persons on the hotline in the Command Center.

Mr. Johnson commended those employees working on the hotline. Employees have been working seven days a week, 12 hours a day. The hotline is open from 7:00 a.m. until 7:00 p.m.

In addition, extensive modification has been done on the web site to track the lead issue. It is monitored and updated on a daily basis, to provide information as various situations change or as the Authority receives new information through EPA or through the Health Department.

The Authority conducted numerous media interviews to attempt to communicate the facts on a continuing basis. In addition, the Authority participated in a regional conference call with other water utilities in the region, to discuss new findings in Arlington and Fairfax County and to get a common message to the public. There is a great deal of concern among the residents in terms of what their water source is, and that is one of the issues that is on the top of the agenda for this regional effort to ensure that the information can be disseminated as quickly as possible to others in the region regarding their water source.

The Authority has begun digging a number of test pits around the city in preparation for the first phase of the service line replacement. A Notice to Proceed Letter is expected to be signed this week with the contractor to begin the first of those service lead line replacements. The second phase is out for bid on the lead service line replacement and is expected to be back on next week. A report will be provided to the Board.

The Authority is working closely with the D.C. Public School System to look at retesting the facilities that were replaced in those schools where fixtures had to be redone or had to have some maintenance work done on them. This is expected to occur sometime this week. In addition, the Authority expects to begin testing some of the charter schools next weekend, and staff is working with EPA and the Health Department to review the protocol associated with those.

Legal

The Authority concluded the American Canoe and Associates lawsuit regarding the Potomac Interceptor. The suit was filed a couple of years ago and staff has gone through a great deal of work and other efforts associated with that. Judge Kennedy granted judgement in favor of the Authority in that case.

Plant Performance

Plant performance during the month was excellent, with the exception of the point that Mr. Caldwell made regarding the one excursion that the Authority experienced.

The Authority had flows for several days in excess of 500 million gallons a day. The average flow for the month was 341 million gallons.

The Biosolids production during the month averaged 1,235 tons per day. There are three major research projects that can be found on page 22 of the General Manager's Report. The research projects have resulted in a number of national industry publications.

Mr. Johnson reported that the Operator Certification Program is going through its first renewal process, and several operators are looking for upgrades rather than the standard renewal of their operating certificates.

The Authority will hold its Fifth Annual Length of Service Awards Program on April 15 and 16, 2004 and all members of the Board are invited.

Vice Chairman Romer stated that the Operator Certification Program was one of Mr. Johnson's earliest initiatives to ensure that all operators were properly certified and he is pleased to see that it is now in full circle and the Authority is going for upgrades on the part of the operators.

Mr. Lake asked the General Manager if the judge's opinion was given yesterday regarding the Potomac Interceptor lawsuit. Ms. Wendy Hartmann-Moore, Interim General Counsel responded that the actual date that the Judge issued the order was March 2, 2004.

Mr. Bardin stated that the General Manager's Report on page 6 shows that the 125 million gallons a day of water that WASA purchases for District Customers from the Aqueduct and on page 16 the graph showing the water entering into Blue Plains from District Customers in that same 12 month period averages about 182 million gallons a day. He is asking the General Manager to provide an explanation of those two pages at the next meeting of the Environmental Quality and Operations Committee.

Mr. Bardin asked that at the next meeting of the Environmental Quality and Operations Committee that staff provide an explanation of page 6 and page 16 of the General Manager's Report. The report shows on page 6 that 125 million gallons a day was purchased by WASA for District customers from the Aqueduct and on page 16 of the report the graph shows the water that goes into Blue Plains 12 months, the average amount that went to Blue Plains from the District customers was 182 million.

Mr. Bardin stated that although the General Manager reported to the Board that a contract was signed for Rapid Response Testing on Lead, he is requesting that if the demand for lead testing continues, that a competitive bid effort be proposed.

Mr. Johnson stated that staff would bring back to the Environmental Quality and Operations Committee an expansion of that contract. He further stated that while the contract was not competitively bid, it was shopped through a number of sources; the capacity of the laboratory was considered and their ability to handle the testing in addition to the pricing that was associated with it.

Mr. Bardin expressed his concern regarding the service line replacements reconciling any possible difference of opinion between the Authority and the D.C. Department of Health on where the replacement should be done. He understands that the EPA Regulations literally read, you replace it at the property line. He asked the general manager for his assurance to the Board that the issue would be resolved prior to issuance of the notice to proceed to the Contractor. Mr. Johnson stated that he would ensure that that happens.

Mr. Bardin requested that the general manager present to the Corps of Engineers, the Northern Virginia customers, and the Mayor's task force the possibility of the Corps of Engineers raising the pH of the water that is sold to the Authority from warm weather, in summer as well as cold weather and determine if it is the judgement of the engineers and EPA's consultants that there would be a significant reduction in the corrosion and the leaching of lead both from service lines and from the plumbing and fixtures that people own in their own houses. And whether the Department of Health feels it might be any countervailing health reason not to do that. Also, what it would do to the appearance of the water, and how long it would take to make the change in pH as compared to the length of time it takes to do all the other things that they are considering and have that information to the Operations Committee and the Board.

Vice Chairman Romer stated that this is a highly technical issue that has to balance against the policy-making role of the Board. He stated to the General Manager that there is a sense of urgency being attached to Mr. Bardin's request and he knows that the General Manager will move it along as rapidly as possible.

Mr. Coffman asked if the Authority has a method for tracking or auditing the amount of lost water, and if they do, how much do the service leaks add to that and if those leaks are significant at all in the CSO discharge. Mr. Johnson stated that the Authority monitors on a monthly basis the sole pump ration between what the Authority buy and what the Authority sells and the Authority looked at a number of cause and effect kind of relationships for that differential.

Consent Items – Joint Use

Mr. Coffman noted that Resolution #04-22, Contract No. WAS-2014-AA-AB, Lawson Software, Inc., states that it is a non-joint use contract and the resolution is listed under the joint use contracts. Mr. Johnson affirmed that the contract is joint-use and the resolution would be revised to reflect that change.

1. Approval of Contract No. 000140, Danis Environmental Industries, Inc. – Resolution #04-21
2. Approval of Contract No. WAS-2014-AA-AB, Lawson Software, Inc. – Resolution #04-22
3. Approval of Fiscal Year 2003 – 2012 Capital Improvement Program and Revised Lifetime Budget – Resolution #04-23

The Motion to Adopt the Consent Items (Joint Use) was Moved and Seconded with unanimous approval.

Consent Items – Non-Joint Use

1. Approval of Contract No. 010050, Whiting-Turner Contracting Co. – Resolution #04-24
2. Approval of Contract No. DCFA #390-WSA, Whitman Requardt & Associates – Resolution #04-25

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

Administrative Item Non-Joint Use

1. Support for Lead Service Interim Point-of-Use Program – Resolution #04-20

Vice Chairman Romer asked the General Manager to provide the Board with background information on Resolution #04-20.

Mr. Johnson stated that this is a resolution in support of the use of Interim Point-of-Use Filter Devices, for distribution in the District of Columbia to those persons in targeted populations. These point-of-use devices would be distributed by the Emergency Management Office in conjunction with the Department of Health and would be distributed as follows.

- a. First group would go to daycare centers that have lead service lines
- b. Second group would be distributed to pregnant women and children under six who are permanent residents of a household and also nursing mothers which will also be identified by the Health Department

Mr. Johnson stated that the Authority has identified the filter devices to be used, and received concurrence from the Health Department. These devices will remove lead at 180 parts per billion, down to 2 parts per billion. The devices are structured in such a way, as indicated earlier so that there are no disconnections of plumbing or tie things into other fixtures of the home.

The Brita pitcher-type device is good for about 40 gallons of use. In the case of daycare centers, the distribution would be one per five children in those home-based daycare centers, because it is believed that this is where the lead lines are found.

Mr. Johnson confirmed that there would be a division of labor amongst the appropriate departments and agencies of the District Government in distributing the filters.

Mr. Johnson stated that the filters retail for about \$30.00 each.

Ms. Murray asked if the Department of Health had endorsed the filter devices.

Mr. Johnson replied that the Authority worked closely with the Department of Health in examining the various devices and looked at the ones that were most efficient and effective. In addition, Dr. Lucey, Interim Medical Director, signed off on the filter.

The Motion to Adopt the Administrative Item (Non-Joint Use) was Moved and Seconded with unanimous approval by District members only.

Administrative Item Joint Use

2. Authorization to Conduct a Lead Investigation – Resolution #04-26

Vice Chairman Romer amended the agenda to introduce Resolution #04-26, Authorization to Conduct a Lead Investigation and asked the General Manager to provide the Board with some background on the proposed resolution.

Mr. Johnson stated that the resolution would provide for the retention by the Board of Directors of an outside law firm to review the activities of the Authority as it relates to the Lead Service Line Program and to address any questions that have come up regarding the elevated lead in certain residences in the District. It would not be limited and would inquire into the actions of the Authority's Board, the management and the staff. The firm would have access to all records and have full cooperation of the staff and the firm might draw upon public health information, administrative bodies and consultants that they may bring on board to assist in that effort.

Mr. Bardin wanted to state on the record that he thinks that the Board Chairman has performed an extraordinary service to the Authority and to the people of the District of Columbia, by his leadership and thinking through and organizing what is reflected in very few words in the resolution. His commitment is to a thorough investigation of what happened. If the Authority did something wrong, than let's learn about it. If the Authority didn't do anything wrong, but could have done it better than let's learn about that for the future. It is an interesting, complicating and a very important issue and Mr. Bardin is looking forward to hearing the description that the Chairman will provide at the press conference.

Mr. Griffin stated that he certainly supports the effort that is proposed. He hopes that in terms of the review of the activities of WASA it accounts for the history that is associated with this issue. This is not something that just happened yesterday. In particular, he called to the Board's attention a headline that was in the Washington Post on Sunday, which stated to his surprise that WASA existed in 1994 when in fact it wasn't created until 1996.

Mr. Griffin stated that if there is some context provided also in this review, in terms of when the lines were installed and the history subsequent to that, he thinks it would be helpful to the public to understand, not only the role of this organization, but the role of any organization associated with this issue.

The Motion to Adopt the Administrative Item (Joint Use) was Moved and Seconded with unanimous approval.

The meeting was adjourned at 11:45 a.m.

Respectfully submitted,


Secretary to the Board of Directors