



**DISTRICT OF COLUMBIA
WATER AND SEWER Authority**

BOARD OF DIRECTORS

*Governance Committee
September 11, 2013
9:00 a.m.*

MEETING MINUTES

Committee Members

Alan Roth, Vice Chairperson
Kathleen Boucher
Edward Long
Carla Reid

DC Water Staff

Randy Hayman, General Counsel
George Hawkins, General Manager
Linda Manley, Board Secretary
William Pickering, Government
Relations Manager
Katrina Wiggins, Chief of Staff

Vice Chairperson Alan Roth called the meeting to order at 9:05 a.m. The Vice Chairperson requested that Agenda Item # 6 – Enhancements to the Debarment /Suspension Provisions of the Procurement Manual – be moved to the top of the agenda. The General Counsel, Randy Hayman, briefed the Committee on the proposed amendments to the Procurement Manual. Specifically, the General Counsel noted that an additional cause for both debarment and suspension is recommended that disallows intimidation and retaliation against any employee who expresses or shows an interest in asserting any right or entitlement. Additionally, contractors can be debarred or suspended based upon administrative findings. The General Counsel continued that the amendments enhance the notice and opportunity to be heard provisions and include an administrative hearing process. The Committee suggested that, for cost control purposes, the hearing examiner should be an internal DC Water staff person rather than a third party, but not a staff person who might have an appearance of a conflict due to involvement in the procurement or performance of the contract. Other simplification ideas were discussed so as to ensure that while a contractor would be afforded appropriate notice and an opportunity to be heard, the process would not become so burdensome and complicated that the Authority would never opt to use it. The Vice Chairperson also indicated he had some technical drafting suggestions he would share with the General Counsel. The Committee agreed that the General Counsel should follow-up with both a redline and final version of the amendments at the next Committee meeting, together with a draft resolution providing for the Board's approval. The Vice Chairperson further recommended that after these recommendations have been

completed, the Committee may wish to take up the definition for “lowest responsive responsible bidder”.

With Ms. Manley’s agreement, because the representative of Diligent Board Books was delayed in traffic, the Vice Chairperson deferred Agenda Item #2 and turned the Committee’s attention to Item # 3 – Government

Affairs: Update. William Pickering, Government Relations Manager External Affairs, briefed the Committee on the DC Water Community Benefits Act of 2013. The purpose

of the legislation is to increase hiring and on-the-job opportunities for District of Columbia residents on DC Water capital projects. Mr. Pickering noted that the legislation was drafted with significant input from the community organizations that participated in DC Water’s town hall meetings and rate hearing. While the legislation references hiring goals and requirements consistent with the District’s new First Source legislation, it recognizes that the Council can only encourage, not mandate, hiring goals. Mr. Pickering stated that a hearing date has not, as yet, been scheduled. Mr. Pickering further informed the Committee that DC Water was in preliminary discussions with the DC Council to amend the DC Code to allow DC Water to charge for post-construction groundwater discharges to our system. This would reverse the restriction placed on DC Water by the DC Council in 2002. The current law only allows DC Water to meter groundwater discharges to our system during active construction. Mr. Pickering informed the Committee that in the early 2000s approximately 1,600 properties were discharging groundwater free of charge. Allowing DC Water to charge for this flow would make rates more equitable and assist in accounting for all the sources of flow to Blue Plains. While representatives from Councilmember Mary Cheh’s office have expressed interest in moving forward with a legislative fix, a bill has not, as yet, been drafted or introduced. Mr. Pickering concluded that DC Water had hosted a tour for five staff members from the U.S. Senate Committee on Energy and Natural Resources, pointing out the innovative technologies being utilized at the Blue Plains plant. The Committee inquired as to the DC Council’s rationale for disallowing the metering of groundwater except during construction. DC Water staff suggested the motivation may have been to lower the cost for development projects.

The Vice Chairperson then turned the Committee’s attention to Agenda Item # 4 – Update on the Workforce Development Plan. Ms. Katrina Wiggins, Chief of Staff, reported that DC Water sponsored a workforce development forum on August 13, 2013 with approximately 42 training providers in attendance. DC Water provide the group with lists of current and future skills requirements DC Water will need. Ms. Wiggins stated that Board member Brenda Richardson was also in attendance and presented an overview of the Board’s perspective. The National Utility Contractors Association’s (NUCA) immediate past president was also in attendance and presented the profile of a successful construction worker trainee. Ms. Wiggins then briefed the Committee on DC Water’s new satellite job centers at the following locations: (i) the Anacostia Economic Development Corporation site; (ii) the Greater Washington Urban League site; and (iii) the DC Water Business Office @ Union Center Plaza site. These are in addition to the original Blue Plains site. Ms. Wiggins also briefed the Committee on two pilot incentive programs that should commence on October 1, 2013. The pilots will be based on

change orders in existing non-joint use contracts with Fort Myers Construction and Capital Paving. The incentive program's target is 30-35% participation, with trainees and applicants from Wards 7 and 8 especially encouraged. However, an "all or nothing" approach may not work, and a partial payment approach is also under review. All trainees will complete a life skills course. The training organizations who will be supplying candidates know about the satellite centers. The importance of managing expectations was recognized. The Vice Chairperson requested a list of the training organizations that Ms. Wiggins and her team kept on their roster as appropriate to DC Water's needs following the August 13 forum after culling out those that were not suitable (e.g., hospitality providers).

The Vice Chairperson then turned the Committee's attention to Agenda Item # 5 – Update on the Compliance Monitoring Program. Ms. Loretta Caldwell of L.S. Caldwell & Associates, Inc. reminded the Committee of the contracting and employment compliance officer's roles and responsibilities regarding both contracting and employment. These responsibilities include: (i) ensuring contractors meet and/or exceed their fair share objectives;(ii) conducting onsite employee interviews on all construction projects, reviewing certified payrolls; and (iii) when applicable, enforce the District of Columbia First Source Employment Agreements. Ms. Caldwell also noted that, regarding employment, DC Water had implemented an interim employment program, is continuing to collect resident hiring data for all major project contracts, other construction projects and service contracts, and expand job center sites. Ms. Caldwell then summarized the DC Water Major Projects subject to the fair share objectives. Ms. Caldwell specifically compared the data for the months of June and August. This data indicates that DC Water is currently exceeding its Fair Share Objectives (28% MBE/4% WBE) in design work with 33% and 5%, respectively, awarded to date. In construction work, where the FSOs are 32% MBE/6% WBE, DC Water's awards have slipped slightly since June to 26% and 4% to date, respectively, but this dip is largely the result of a 23% increase (\$200 million) in total costs subject to the FSOs just between June and August. Although the awards have not kept pace, the MBE and WBE construction contracts planned will meet or exceed the FSOs according to Ms. Caldwell. Ms. Caldwell then briefed the Committee on employment statistics. The data showed the cumulative total contractor employees on Major Projects with a breakdown by employee place of residence and ward, as well as apprenticeship statistics, for the months of June and August. As of August, 1,677 employees were working for DC Water contractors and subs on our major projects, approximately half from within and half from outside our user jurisdictions, as compared to 1,496 employees in June with a similar home residence breakdown. Employment from each user jurisdiction was up in August from June, and employment from each DC ward was either up or steady. The General Manager noted that in some cases where a large number of workers were shown in a single state far from the DC area, they often represented employment at a specific specialized contractor's location. Ms. Caldwell also supplied information on the number of applicants per job center as well as new hire statistics and a list of current employment opportunities. Ms. Caldwell concluded her briefing. The Vice Chairperson asked her to collaborate with Ms. Wiggins and provide the Committee with a combined list of the training organizations that are maintained at the Blue Plains trailer as well as

those referred to earlier by Ms. Wiggins.

The Vice Chairperson then returned to Item # 2 on the agenda – the Efficacy and Cost Savings Associated with the use of “Board Books”. Ms. Linda Manley, Board Secretary, briefed the Committee on the assessment survey results sent to all Board members. Ms. Manley also submitted a cost analysis for the use of Board Books, which showed an annual cost savings of \$ 40,165. Ms. Manley then introduced a representative from Diligent Board Books who briefed the Committee on certain Board Book features and responded to specific questions. The staff stated that a request would be sent out to the various Committees for those documents the Committees would like to have accessible on their Committee Board Book resource pages.

The Vice Chairperson then turned the Committee’s attention to Agenda Item # 7 – Emerging Issues. With no emerging issues being raised, the Vice Chairperson then turned to Agenda Item # 8 - Agenda for Upcoming Meeting. A future update on the groundwater issue, the final draft for the debarment and suspension provisions of the Procurement Manual and accompanying approval resolution, and an update on DC Water Works were requested.

An Executive Session was not necessary and the Vice Chairman adjourned the Committee at 10:58 a.m.