

**MINUTES OF A MEETING OF THE  
DuPAGE WATER COMMISSION  
HELD ON THURSDAY, SEPTEMBER 14, 2006  
600 E. BUTTERFIELD ROAD  
ELMHURST, ILLINOIS**

The meeting was called to order by Chairman Rathje at 7:30 P.M.

Commissioners in attendance: E. Chaplin, R. Ferraro, W. Maio, G. Mathews, W. Mueller, W. Murphy, A. Poole, J. Vrdolyak, G. Wilcox, and L. Rathje

Commissioners Absent: T. Feltes, L. Hartwig, and D. Zeilenga

Also in attendance: Treasurer R. Thorn, R. Martin, R. M. Richter, M. Crowley, C. Johnson, E. Kazmierczak, R. C. Bostick, F. Frelka, J. Schori, T. McGhee

Chairman Rathje acknowledged the passing of former DuPage County Board Chairman, Jack Knuepfer, and asked for a moment of silence in remembrance of all of his accomplishments for DuPage County, including the Lake Michigan water supply provided by the Commission.

**PUBLIC COMMENTS**

Chairman Rathje asked the Board if anyone objected to limiting public comments to five minutes per person. After no objection was made, Mary Dickson, Attorney for the Bensenville Park District, introduced herself and various other Bensenville Park District representatives. Ms. Dickson stated that her purpose was to address Item Number X on the Agenda: "Authorize Virchow Krause & Company, LLP to Estimate the Capital Cost Recovery Charge for Bensenville Park District."

Ms. Dickson gave a brief description of the water service disputes between the Village of Bensenville and the Bensenville Park District. Ms. Dickson stated that back in August 2004, the Village of Bensenville declared its intent to terminate water service to the Park District, which in turn forced the Park District to seek a court-ordered injunction against the Village to secure continued water service until the Park District could find an alternative source of water. Because a legislative resolution to the dispute was recently overturned by an Illinois court, Ms. Dickson explained that the Park District was seeking to obtain water from the Commission under a traditional Subsequent Customer arrangement. Ms. Dickson concluded her opening remarks by summarizing the Park District's response to the legal concerns raised by the Village of Bensenville as to the Park District's eligibility to receive water from the Commission (all as more specifically detailed in a packet of materials that Ms. Dickson distributed to each Commissioner).

In response to Commissioner Maio's inquiry, Ms. Dickson advised that the options the Bensenville Park District had looked into regarding water service were the following:

- Annexing back into the Village of Bensenville, which by law the Village would then have to provide water services to the Park District; or
- Deep wells; or

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- Becoming a Subsequent Customer of the Commission.

Michael Benard, Executive Director for the Bensenville Park District, confirmed for Chairman Rathje that the average daily water allocation for the Park District is approximately 4,000 – 4,500 gallons, but that actual use is probably more during the warmer months of March – September.

In response to Commissioner Poole's inquiry, Ms. Dickson confirmed that water for fire protection is currently provided by the Village of Bensenville and cannot be disconnected until the appellate court rules on the pending dispute between the two entities. In the meantime, Ms. Dickson advised that the Park District is proceeding with a project to dig a shallow well for a short-term supply of potable water, which project is in the permitting stage with the DuPage County Department of Health.

Ms. Dickson further advised Commissioner Maio that the White Pines Golf Course, which consists of approximately 260 acres, currently has contracts in place for their banquet facilities which hold various functions all year round. In closing, Ms. Dickson advised Commissioner Ferraro that she wasn't sure if the Village of Bensenville would allow the Park District to annex back into the Village and, therefore, the Park District is asking the Commission to consider the Bensenville Park District becoming a Subsequent Customer of the Commission.

### **APPROVAL OF MINUTES**

Commissioner Chaplin moved to approve the Minutes of the August 10, 2006 Regular Meeting of the DuPage Water Commission. Seconded by Commissioner Ferraro and unanimously approved by a Voice Vote.

All voted aye. Motion carried.

Commissioner Chaplin moved to approve the Minutes of the August 10, 2006 Executive Session of the DuPage Water Commission. Seconded by Commissioner Ferraro and unanimously approved by a Voice Vote.

All voted aye. Motion carried.

### **TREASURER'S REPORT**

Treasurer Thorn presented the Treasurer's Report for the month of August 2006 which showed receipts of \$8,570,636.00, disbursements of \$5,561,839.00, and a cash and investment balance of \$133,497,660.00.

Commissioner Ferraro moved to accept the August 2006 Treasurer's Report. Seconded by Commissioner Wilcox and unanimously approved by a Voice Vote.

All voted aye. Motion carried.

## **COMMITTEE REPORTS**

Administration Committee – No meeting

Engineering & Construction Committee – No meeting

Finance Committee – No meeting

## **CHAIRMAN'S REPORT**

Chairman Rathje reported that General Manager Martin, Staff Attorney Crowley, and he attended a very informative seminar on Clean Water in the Midwest. Chairman Rathje further reported that one of the speakers noted that water will be a major driving force in the 21<sup>st</sup> century, the same as oil was in the 20<sup>th</sup> century. Chairman Rathje suggested that the Board consider, as good stewards for a small portion of this valuable resource, measures to encourage water conservation such as the rate increases implemented in Marco Island, Florida.

## **MAJORITY OMNIBUS VOTE AGENDA**

After Commissioner Chaplin confirmed with the General Manager that Board approval would be obtained before the consulting and training costs of C. Semrad & Associates exceed \$20,000.00, Commissioner Ferraro moved to adopt the items listed on the Majority Omnibus Vote Agenda in a single group pursuant to the Omnibus Vote Procedures. Seconded by Commissioner Chaplin and unanimously approved by a Roll Call Vote:

### **Majority Omnibus Vote**

Ayes: E. Chaplin, R. Ferraro, W. Maio, G. Mathews, W. Mueller, W. Murphy, A. Poole, J. Vrdolyak, G. Wilcox and L. Rathje

Nays: None

Absent: T. Feltes, L. Hartwig, and D. Zeilenga

Item 1: Resolution No. R-27-06: A Resolution Retaining C. Semrad & Associates for Human Resources Training and Consulting Services—"Majority Omnibus Vote"

Item 2: Resolution No. R-31-06: A Resolution Authorizing the Execution of an Intergovernmental Agreement Concerning the Implementation of Water Service to Judith Lane and Riviera Court in Unincorporated DuPage County—"Majority Omnibus Vote"

**SUPER/SPECIAL MAJORITY OMNIBUS VOTE AGENDA**

Commissioner Murphy requested that Resolution No. R-30-06 A Resolution Approving and Ratifying Certain Task Orders under a Master Contract with Consoer Townsend Envirodyne Engineers, Inc. at the September 14, 2006, DuPage Water Commission Meeting be removed from the Super/Special Majority Omnibus Vote Agenda for separate consideration of each Task Order listed in Resolution No. R-30-06.

General Manager Martin explained that Task Order No. 12 listed in Resolution No. R-30-06 is for a hydraulic analysis to be performed by CTE for a future DuPage County service area, and that Task Order No. 13 listed in Resolution No. R-30-06 is for CTE to work with the Commission and the Bensenville Park District in providing preliminary cost estimates for four possible scenarios to deliver an average daily flow of 6,000 gallons per day and a minimum flow of 1,500 gpm.

Commissioner Mathews moved to approve Task Order No. 12 from Resolution No. R-30-06, subject to receipt of a deposit of \$10,000.00 to cover the costs involved. Seconded by Commissioner Chaplin and unanimously approved by a Roll Call Vote:

Ayes: E. Chaplin, R. Ferraro, W. Maio, G. Mathews, W. Mueller, W. Murphy, A. Poole, J. Vrdolyak, G. Wilcox and L. Rathje

Nays: None

Absent: T. Feltes, L. Hartwig, and D. Zeilenga

Commissioner Wilcox moved to approve Task Order No. 13 from Resolution No. R-30-06, subject to receipt of the sum of \$15,000 to cover the costs to be incurred by the Commission preliminary to the consideration of a Water Purchase and Sale Contract between the Commission and the Bensenville Park District. Seconded by Commissioner Chaplin.

Commissioner Murphy urged the Board to vote nay on the approval of Task Order No. 13 because, aside from the legal concerns raised by the Village of Bensenville as to the Park District's eligibility to receive water from the Commission, it would not be good policy for the Commission to involve itself in the disputes between the Village of Bensenville and the Bensenville Park District. Commissioner Wilcox countered by noting the Commission's policy has always been to provide water to those that request it so long as they pay the full cost of providing that service.

After the Board directed the Staff Attorney to prepare a written opinion as to the Park District's eligibility to receive water from the Commission, Commissioner Wilcox moved to table the motion to approve Task Order No. 13 from Resolution No. R-30-06 to the October 2006 Board meeting. Seconded by Commissioner Maio and approved by a Voice Vote.

Majority voted aye, with Commissioner Murphy voting nay. Motion carried.

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Chairman Rathje advised the Board to keep in mind the separate legal and policy issues raised by Commissioner Murphy and reminded the Board that even if the legal opinion of the Staff Attorney supported the eligibility of the Park District to receive water from the Commission, the Board would still need to address the policy aspects of providing such service.

In response to Commissioner Maio's question, the Staff Attorney explained that the Commission's By-Laws and the Charter Customer Contract require a special majority vote consisting of at least one-third of the Commissioners appointed by the DuPage County Board Chairman and 40 percent of the Commissioners appointed by the mayors as provided in the Water Commission Act of 1985 in order to approve contracts related to the acquisition, construction, extension, repair or replacement of the Waterworks System in excess of \$100,000; set rates for the sale of Lake Michigan water to Charter Customers; borrow funds; exercise eminent domain powers; employ managerial and professional personnel either as employees or as consultants; amend the Chicago Water Supply Contract; or amend the Commission's By-Laws.

### **OLD BUSINESS**

None

### **NEW BUSINESS**

Commissioner Maio moved to table to the October 2006 Board meeting the authorization for Virchow Krause & Company, LLP to estimate the Capital Cost Recovery Charge for the Bensenville Park District per the methodology approved in Resolution No. R-79-04, subject to receipt of the sum of \$15,000 to cover the costs to be incurred by the Commission preliminary to the consideration of a Water Purchase and Sale Contract between the Commission and the Bensenville Park District. Seconded by Commissioner Vrdolyak and approved by a Voice Vote.

Majority voted aye, with Commissioner Murphy voting nay. Motion carried.

General Manager Martin informed the Board of a potential dispute with the City of Elmhurst related to the cost of special restoration performed at the City's request on the Contract TIB Inner Belt Transmission Main project. The General Manager reported that the City was requesting a fifty-fifty split on the \$80,353.10 cost of P.C.C. Drives in "Special Restoration Area B" even though the intergovernmental agreement approved by the Board and signed by the City did not provide for such cost sharing in this special restoration area. The General Manager suggested that, to settle the issue, the Commission invoice the City for only one-half of the cost of the P.C.C. Drives in Special Restoration Area B as requested by the City. It was the consensus of the Commissioners to proceed as suggested by the General Manager. In response to Commissioner Wilcox's inquiry, General Manager advised that he would discuss with the consulting engineers a financial contribution to the settlement as the engineers did not factor in the costs of the P.C.C. Drives when originally estimating the costs involved in the special pavement restoration for the City.

**ACCOUNTS PAYABLE**

Commissioner Mathews moved to approve the Accounts Payable in the amount of \$6,286.81 subject to submission of all contractually required documentation. Seconded by Commissioner Wilcox and unanimously approved by a Roll Call Vote:

Ayes: E. Chaplin, R. Ferraro, W. Maio, G. Mathews, W. Mueller, W. Murphy, A. Poole, J. Vrdolyak, G. Wilcox and L. Rathje

Nays: None

Absent: T. Feltes, L. Hartwig, and D. Zeilenga

**PUBLIC COMMENTS**

None

**EXECUTIVE SESSION**

None

Commissioner Ferraro moved to adjourn the meeting at 8:15 P.M. Seconded by Commissioner Wilcox and unanimously approved by a Voice Vote.

All voted aye. Motion carried.