

**MINUTES OF A MEETING OF THE
DuPAGE WATER COMMISSION
HELD ON THURSDAY, JANUARY 12, 2006
600 E. BUTTERFIELD ROAD
ELMHURST, ILLINOIS**

The meeting was called to order by Chairman Vondra at 7:40 P.M.

Commissioners in attendance: R. Benson (by Teleconference), E. Chaplin, T. Feltes, G. Mathews, W. Mueller, W. Murphy, A. Poole, J. Vrdolyak, G. Wilcox, D. Zeilenga, and M. Vondra

Commissioners Absent: R. Ferraro and L. Hartwig

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

After the Staff Attorney read Resolution No. R-1-06 aloud, Commission Wilcox moved to adopt Resolution No. R-1-06: A Resolution in Memoriam to James J. Holzwart. Seconded by Commissioner Vrdolyak.

Commission Wilcox moved to amend Resolution No. R-1-06 to add a provision naming the DuPage Pumping Station after James J. Holzwart. Seconded by Commissioner Zeilenga.

After noting the significant contributions that Robert T. Palmer also made to the success of the Commission, Commissioner Murphy moved to table the motion to amend Resolution No. R-1-06. Seconded by Commissioner Mueller and approved by a Roll Call Vote:

Ayes: R. Benson, E. Chaplin, T. Feltes, G. Mathews, W. Mueller, W. Murphy, A. Poole, and J. Vrdolyak

Nays: G. Wilcox and D. Zeilenga

Abstain: M. Vondra

Absent: R. Ferraro and L. Hartwig

The main motion to adopt Resolution No. R-1-06: A Resolution in Memoriam to James J. Holzwart was unanimously approved by a Roll Call Vote:

Ayes: R. Benson, E. Chaplin, T. Feltes, G. Mathews, W. Mueller, W. Murphy, A. Poole, J. Vrdolyak, G. Wilcox, D. Zeilenga, and M. Vondra

Nays: None

Absent: R. Ferraro and L. Hartwig

Commissioner Poole moved to consider naming the DuPage Pumping Station after James J. Holzwart and Robert T. Palmer. Seconded by Commissioner Wilcox.

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Commissioner Murphy moved to table the motion to consider naming the DuPage Pumping Station after both James J. Holzwart and Robert T. Palmer. Seconded by Commissioner Mueller and failed by a Roll Call Vote:

Ayes: R. Benson, G. Mathews, W. Mueller, and W. Murphy

Nays: E. Chaplin, T. Feltes, A. Poole, J. Vrdolyak, G. Wilcox, D. Zeilenga, and M. Vondra

Absent: R. Ferraro and L. Hartwig

Commissioner Murphy moved to go into Executive Session to discuss matters related to personnel pursuant to 5 ILCS 120/2(c)(1). Seconded by Chairman Vondra and unanimously approved by a Roll Call Vote:

Ayes: R. Benson, E. Chaplin, T. Feltes, G. Mathews, W. Mueller, W. Murphy, A. Poole, J. Vrdolyak, G. Wilcox, D. Zeilenga, and M. Vondra

Nays: None

Absent: R. Ferraro and L. Hartwig

The Board went into Executive Session at 7:55 P.M.

Commissioner Mathews moved to come out of Executive Session at 8:10 P.M. Seconded by Commissioner Wilcox and unanimously approved by a Voice Vote.

All voted aye. Motion carried.

With the agreement of the seconder, Commissioner Wilcox, Commissioner Poole withdrew his motion to consider naming the DuPage Pumping Station after James J. Holzwart and Robert T. Palmer, for consideration at a later date.

PUBLIC COMMENTS

None

APPROVAL OF MINUTES

Commissioner Mueller moved to approve the Minutes of the November 29, 2005 Regular Meeting of the DuPage Water Commission. Seconded by Commissioner Mathews and unanimously approved by a Voice Vote.

All voted aye. Motion carried.

Commissioner Feltes moved to approve the Minutes of the November 29, 2005 Executive Session of the DuPage Water Commission. Seconded by Commissioner Wilcox and unanimously approved by a Voice Vote.

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All voted aye. Motion carried.

TREASURER'S REPORT

In Treasurer R. Thorn's absence, Financial Administrator Richter presented the Treasurer's Reports for the months of November 2005 and December 2005. The Treasurer's Report for the month of November 2005 showed receipts of \$6,844,462.00, disbursements of \$8,342,101.00, and a cash and investment balance of \$148,121,484.00. The Treasurer's Report for the month of December 2005 showed receipts of \$7,168,660.00, disbursements of \$3,599,702.00, and a cash and investment balance of \$151,442,974.00.

Commissioner Chaplin moved to accept the November and December 2005 Treasurer's Reports. Seconded by Commissioner Wilcox and unanimously approved by a Voice Vote.

All voted aye. Motion carried.

COMMITTEE REPORTS

Administration Committee

No Administration Committee Meeting

Engineering Committee

No Engineering Committee Meeting

Finance Committee – Report by Commissioner Poole

Commissioner Poole reported that the Finance Committee favorably reviewed both the November and December 2005 financial statements and reviewed and recommended for approval the Accounts Payable. Commissioner Poole also reported the Committee had a good discussion on whether to defease the Commission's outstanding General Obligation Bonds and whether to retain professional investment managers.

CHAIRMAN'S REPORT

For the February board meeting, Chairman Vondra suggested that the Finance Committee meet first to discuss the Capital Improvement Plan followed by a Special Meeting with all Commissioners to review the discussion from the Finance Meeting. Commissioner Mathews suggested it would save time if the full Board or a Committee of the Whole met instead of duplicating discussions by the Finance Committee.

Commissioner Mueller moved to schedule a special meeting of the Board or Committee of the Whole to be held at 4:30 P.M. on the same day as the regular February

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Commission meeting to discuss the Capital Improvement Plan. Seconded by Commissioner Wilcox and approved by a Voice Vote.

Commissioner Benson abstained and all others voted aye. Motion carried.

MAJORITY OMNIBUS VOTE AGENDA

Commissioner Mathews 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 Wilcox and unanimously approved by a Roll Call Vote:

Majority Omnibus Vote

Ayes: R. Benson, E. Chaplin, T. Feltes, G. Mathews, W. Mueller, W. Murphy, A. Poole, J. Vrdolyak, G. Wilcox, D. Zeilenga, and M. Vondra

Nays: None

Absent: R. Ferraro and L. Hartwig

Item 1: Resolution No. R-4-06: A Resolution Awarding a Contract for Designing, Furnishing, and Installing a New Back-Up Telemetry System—"Majority Omnibus Vote"

SUPER/SPECIAL MAJORITY OMNIBUS VOTE AGENDA

Commissioner Mathews moved to adopt the items listed on the Super/Special Majority Omnibus Vote Agenda in a single group pursuant to the Omnibus Vote Procedures. Seconded by Commissioner Wilcox and approved by a Roll Call Vote:

Super/Special Majority Omnibus Vote

Ayes: R. Benson, E. Chaplin, T. Feltes, G. Mathews, W. Mueller, W. Murphy, A. Poole, J. Vrdolyak, G. Wilcox and D. Zeilenga

Nays: None

Abstain: M. Vondra

Absent: R. Ferraro and L. Hartwig

Item 1: Resolution No. R-2-06: A Resolution Awarding a Contract for the Construction of Blow-Off Valve Improvements – 90" Transmission Main (Contract BOV-2/05)—"Super/Special Majority Omnibus Vote"

Item 2: Resolution No. R-3-06: A Resolution Approving and Ratifying Certain Work Authorization Orders under Quick Response Contract QR-7/05 at

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the January 12, 2006, DuPage Water Commission Meeting—
“Super/Special Majority Omnibus Vote”

Item 3: Resolution No. R-5-06: A Resolution Approving and Accepting the Proposal of Virchow, Krause & Company, LLP for Audit Services—
“Super/Special Majority Omnibus Vote”

OLD BUSINESS

General Manager Martin reported that Commission staff presented the Proposed DuPage County Subsequent Customer Agreement to the Mayors and Managers of the Commission's Charter Customers on December 20, 2005, and had made a similar presentation to the Public Works Committee of the DuPage County Board on January 10, 2006, with approval by the Commission tentatively scheduled for the February meeting. Commissioner Wilcox complimented General Manager Martin and Staff Attorney Crowley on their excellent presentation to the County's Public Works Committee.

NEW BUSINESS

Mary Dickson, Attorney for the City of West Chicago, and Michael Guttman, City Administrator for the City of West Chicago, noted they were attending the Commission's meeting to seek support for a legislative proposal whereby sales tax revenues derived by the Commission from residents and businesses located in West Chicago would be diverted back to the City in order to support the City's waterworks facilities. Ms. Dickson also acknowledged that the City was responsible for the introduction of Senate Bill 2338, a bill that was introduced today and that, at least in its introduced form, would make a technical amendment to the Commission's enabling legislation.

Commissioner Murphy noted several concerns with the City's sales tax diversion proposal: The potential violation of Bond and Charter Customer Contract covenants; the inconsistency with the purpose for which the Commission's sales tax was approved by referendum; the lack of acknowledgement by the City of the benefits the City has received by virtue of its status as an Included Unit; the diversion of Commission sales taxes without elimination of the benefits; the requirement for the Commission to aggressively pursue the requested legislative change; the applicability of the proposed legislation to other Included Units, including those with overlapping territory; the vote required to approve the proposal; and the negative precedent that would be established for others to ask the Commission to divert revenues back to their communities. Commissioner Murphy also noted that when the Commission first considered the City's request in March of 2005, the only consensus reached among the Commissioners was passive support for a legislative proposal whereby the City of West Chicago would become an Excluded Unit under the Commission's enabling legislation, thereby removing West Chicago from the Commission's tax base. Commissioner Murphy suggested that if the City needed sales taxes to support the City's waterworks facilities, the City of West Chicago should go to its residents with a referendum.

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Chairman Vondra reiterated the Commission's prior position on the City's request, noting the Commissioners seemed fairly firm that Excluded Unit status was the only avenue that would receive sufficient Commissioner support and that no sales tax funds have been set aside by the Commission for the City and there was no consensus among the Commissioners to do so in the future. Chairman Vondra added that the concerns raised by Commissioner Murphy would need to be addressed, and formal legal opinions obtained, before the Commission could ever be in a position to support any option other than passive support of Excluded Unit legislation. Chairman Vondra concluded his remarks by noting there was nothing the Commission could do in response to the City's request for diversion of sales taxes at this meeting.

Commissioner Mathews commented that he did not favor the City's proposal to divert sales taxes, nor did he want to encourage the City to expend a lot of effort trying to convince him otherwise. Commissioner Mathews also noted that the Commission's job is to bring Lake Michigan water to its customers and not to act as a tax collector for other units of government.

Mary Dickson responded that the Excluded Unit "opt out" option was considered by the City but was not acceptable without a return of all or a portion of Commission sales taxes previously collected from residents and business in West Chicago. Ms. Dickson further stated that the Commission has generated a significant amount of tax money from the City of West Chicago and the community wants the money back. Chairman Vondra stated that the Commission's waterworks system was designed to supply water to West Chicago and it's the City's decision whether they choose to use it or not.

Commissioner Murphy asked whether the City's attorney had ever contacted the Commission's Staff Attorney concerning the City's position that, under the Excluded Unit "opt out" option, the Commission could legally rebate sales taxes to the City, as Commissioners Mathews and Zeilenga had requested in their March/April meeting with the City. The Staff Attorney responded in the negative, noting that her March 25, 2005, communication to the City was the last contact she had. Commissioner Feltes commented that either the City of West Chicago didn't hear what had been said in the Commission's directions to the City or the City was just choosing to go in a different direction.

Commissioner Zeilenga stated his agreement with the positions taken by the other Commissioners "up to today," but that going forward he felt it was unfair for the Commission to continue to collect the sales tax since the town is self-sufficient and doesn't have a need to use the Commission's waterworks system. Commissioner Chaplin concurred and suggested the monies collected should be returned in whatever legal manner available but without setting up unreasonable obstacles.

Commissioner Wilcox and the representatives of West Chicago left the meeting at 9:02 P.M.

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After General Manager Martin confirmed proposals were not solicited for Purchase Order No. 9332 because the maintenance management software package being purchased is an upgrade to the Commission's existing the MP2 system, Commissioner Mathews moved to suspend the purchasing procedures of the Commission's By-Laws and approve Purchase Order No. 9332 in the amount of \$40,594.00 to Datastream. Seconded by Commissioner Feltes and unanimously approved by a Roll Call Vote:

Ayes: R. Benson, E. Chaplin, T. Feltes, G. Mathews, W. Mueller, W. Murphy, A. Poole, J. Vrdolyak, D. Zeilenga, and M. Vondra

Nays: None

Absent: R. Ferraro, L. Hartwig, and G. Wilcox

Commissioner Wilcox returned to the meeting at 9:03 P.M.

ACCOUNTS PAYABLE

Commissioner Poole moved to approve the Accounts Payable in the amount of \$590.00 subject to submission of all contractually required documentation. Seconded by Commissioner Feltes and unanimously approved by a Roll Call Vote:

Ayes: R. Benson, E. Chaplin, T. Feltes, G. Mathews, W. Mueller, W. Murphy, A. Poole, J. Vrdolyak, G. Wilcox, D. Zeilenga, and M. Vondra

Nays: None

Absent: R. Ferraro and L. Hartwig

PUBLIC COMMENTS

None

EXECUTIVE SESSION

After confirming there was no need for the Board to go into Executive Session for a second time, Chairman Vondra stated that due to the lack of a quorum the special subcommittee of Committee chairs and Chairman Vondra would need to meet prior to the February Capital Improvement Plan meeting to continue the discussion on the performance of the General Manager, including goals and objectives.

Commissioner Wilcox moved to adjourn the meeting at 9:05 P.M. Seconded by Commissioner Chaplin and unanimously approved by a Voice Vote.

All voted aye. Motion carried.