

**MINUTES OF A MEETING OF THE  
DuPAGE WATER COMMISSION  
HELD ON THURSDAY, APRIL 14, 2005  
600 E. BUTTERFIELD ROAD  
ELMHURST, ILLINOIS**

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

Commissioners in attendance: R. Benson, E. Chaplin, T. Feltes, R. Ferraro, L. Hartwig, G. Mathews, W. Mueller, W. Murphy, A. Poole, J. Vrdolyak, G. Wilcox, D. Zeilenga, and M. Vondra

Also in attendance: Treasurer R. Thorn, R. Martin, M. Crowley, C. Johnson, R. C. Bostick, E. Kazmierczak, T. McGhee, F. Frelka, J. Schori, W. Green (Alvord Burdick & Howson), and K. Godden

Commissioner Ferraro took his Oath of Office.

Commissioner Ferraro moved to open the Hearing Regarding the Management Budget Ordinance for the Fiscal Year Commencing May 1, 2005 and Ending April 30, 2006.  
Seconded by Commissioner Chaplin and unanimously approved by a Voice Vote.

All voted aye. Motion carried.

General Manager Martin reported that the draft Budget had been distributed to all customers of the Commission and that no comments had been received to date.

Mayor Thomas Mazaika, City of Oakbrook Terrace read the following prepared statement.

“Good evening, my name is Thomas Mazaika and I am the Mayor of the City of Oakbrook Terrace, a subsequent customer of the DuPage Water Commission.

On behalf of the City Council and the residents of my community, I would like to read a statement into the record of this public hearing regarding the adoption of the Management Budget Ordinance.

As you know, the proposed budget as presented in Ordinances O-5-05 and O-6-05, contains provisions for a \$.20 per 1,000 gallons rate reduction from the current water rate charged by the Commission to its customers. We applaud the Commission in its efforts to reduce our water supply costs and we would urge all Commissioners, but especially, the Commissioners from District 2: Commissioners Mueller and Chaplin, to vote for the two ordinances concerning the budget and the rate reduction as proposed.

As you may not be aware, Oakbrook Terrace residents and businesses pay the highest municipal water rates in the County. Since our municipal system is very new and very small, our rate structure must be significantly higher due to large debt service costs, the type of debt service costs that other municipalities have incurred and paid off decades ago. Having said that, the Commission should not be surprised to hear that the reduction in our water supply costs will assist us in paying down our long-term debt or to expand the system to serve more customers.

## Minutes of the 4/14/05 Meeting

While the City Council has not formally decided against passing on the rate reductions to current users, even if that would be the case, the City has justifiable reasons for not doing so, and we do not appreciate some of the commentary concerning that decision that have been coming from this Commission and the County of DuPage. The commentary has strongly implied that if a municipality does not reduce their water rates as result of the Commission's reduction, then their governing bodies should be viewed as less than exemplary stewards of their utility systems or that they are somehow acting irresponsibly with the money provided to them by their residents and businesses.

We strongly reject this characterization.

We believe that the management of local water systems should be left to the local officials who directly answer to those customers and tax payers, and that those officials should not be deliberately embarrassed by comments made by members of the Water Commission. I would remind you that the members of this Commission are not elected to their posts, many have never been responsible for a municipal water system, and they serve an entity that was created to serve its municipal customers, not to go out of its way to create conflicts between the municipalities and their customers.

Thank you for your time, and I would once again urge you to adopt the two ordinances concerning the Budget and the rate reduction as proposed."

There being no other comments, Commissioner Mathews moved to close the Hearing Regarding the Management Budget Ordinance for the Fiscal Year Commencing May 1, 2005 and Ending April 30, 2006. Seconded by Commissioner Hartwig and unanimously approved by a Voice Vote.

All voted aye. Motion carried.

### **PUBLIC COMMENTS**

None

### **APPROVAL OF MINUTES**

Commissioner Mueller moved to approve the Minutes of the March 10, 2005 Regular Meeting of the DuPage Water Commission. Seconded by Commissioner Wilcox and unanimously approved by a Voice Vote.

All voted aye. Motion carried.

### **TREASURER'S REPORT**

Treasurer Thorn presented the Treasurer's Report. The Treasurer's Report for the month of March 2005 showed receipts of \$8,424,307.30, disbursements of \$17,032,026.41, and a cash and investment balance of \$165,276,339.61.

## Minutes of the 4/14/05 Meeting

Commissioner Ferraro moved to accept the March 2005 Treasurer's Report. Seconded by Commissioner Wilcox and unanimously approved by a Voice Vote.

All voted aye. Motion carried.

### **COMMITTEE REPORTS**

#### **Administration Committee**

Commissioner Hartwig reported that the Administration Committee discussed the request by West Chicago to be reimbursed for past and future Commission sales tax collections. He noted that the Committee could support legislation changing West Chicago's status from an included to an excluded unit if initiated by West Chicago. Commissioner Hartwig also noted that a majority of the Committee could support somehow rebating sales taxes collected after the March or April 2005 Board meetings because of the timetable associated with obtaining a legislative change.

Chairman Vondra noted that several Commissioners reported divergent positions being taken by West Chicago representatives with respect to whether West Chicago wanted to be reimbursed for past and/or future sales tax collections. Because of this, Chairman Vondra suggested that Commissioners Zeilenga and Mathews meet with representatives of West Chicago to discuss the matter further. In response to questions from other Commissioners, Chairman Vondra advised that he removed from the agenda the Staff Attorney's version of a resolution showing the Commission's support for legislation prospectively treating West Chicago as an excluded unit because the topic was already included as an agenda item. Chairman Vondra concluded his remarks by noting the Staff Attorney's position that the Commission did not currently have the authority to rebate sales taxes to West Chicago and inquired whether a second legal opinion should be obtained if the March or April 2005 Board meeting dates would be the "going forward" date for sales tax rebates until corrective legislation was adopted.

With respect to using the March or April 2005 Board meeting dates as the "going forward" date for sales tax rebates until corrective legislation could be adopted, Commissioner Murphy indicated his opposition to using any date other than the date the corrective legislation was adopted, even if that legislation allowed retroactive rebates. Commissioner Benson agreed, noting that he would not support retroactive rebates because then all taxpayers were not being treated equally (e.g. Cook County and out of state residents also come to DuPage County and contribute to the Commission's tax collections). Commissioner Benson also noted that he would oppose legislation directing the Commission to rebate taxes to West Chicago because the residents of West Chicago should vote on whether such taxes should be collected from them (as they did when the Commission's tax was proposed).

Commissioner Murphy moved to direct Commissioners Mathews and Zeilenga to meet with representatives of West Chicago to discuss supporting legislation that West Chicago be treated as an excluded unit. Seconded by Commissioner Ferraro.

## Minutes of the 4/14/05 Meeting

Commissioner Wilcox moved to amend Commissioner Murphy's motion to add "going forward as of March 10, 2005" to the end of the original motion. Seconded by Commissioner Chaplin.

Commissioner Hartwig indicated he could support the amended motion if further amended to require that the legislation be initiated by West Chicago. Commissioner Mathews indicated he would oppose the amendment because before any action by the Commission was taken, he wanted West Chicago to acknowledge the benefits West Chicago has received from its status as an included unit to date, the benefits West Chicago will lose as a result of its change in status, West Chicago's forbearance in making any claim for a refund, additional consideration, or additional compensation as a result thereof, and the benefits West Chicago will continue to obtain from the construction and operation of the Commission's Lake Michigan water supply. Commissioner Mueller questioned why the Board was negotiating through the press.

The motion to amend Commissioner Murphy's motion failed by a Roll Call Vote:

Ayes: E. Chaplin, L. Hartwig, A. Poole, G. Wilcox, and D. Zeilenga

Nays: R. Benson, T. Feltes, R. Ferraro, G. Mathews, W. Mueller, W. Murphy, and J. Vrdolyak

Abstain: M. Vondra

Commissioner Murphy as the movant, and Commissioner Ferraro as the seconder, on the main motion accepted Commissioner Hartwig's requested clarification to require that the legislation be initiated by West Chicago. The motion to direct Commissioners Mathews and Zeilenga to meet with representatives of West Chicago to discuss supporting legislation initiated by West Chicago that West Chicago be treated as an excluded unit was unanimously approved by a Voice Vote.

All voted aye. Motion carried.

### **Engineering Committee**

Commissioner Wilcox reported that the Engineering Committee reviewed and recommended for approval all items on the Committee's agenda with the exception of the 75<sup>th</sup> Street pipe storage facility. With respect to that item, the Engineering Committee directed staff to look at alternatives and report back to the Committee. Commissioner Wilcox concluded his report by noting the Committee recommended additional limitations on the General Manager's authority to modify the Contract TIB-1/03 pavement restoration requirements.

Commissioner Wilcox moved (1) to authorize the General Manager to enter into an agreement with the City of Elmhurst modifying certain pavement restoration requirements under Contract TIB-1/03 at a cost to the Commission not to exceed \$100,000.00 with the Commission's share of the total additional costs not to exceed

## Minutes of the 4/14/05 Meeting

50% and (2) to direct staff to approach the contractor in regards to whether there should be any contractor responsibility for the additional cost the Commission would incur.

Seconded by Commissioner Ferraro and unanimously approved by a Roll Call Vote:

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

Nays: None

### **Finance Committee**

Commissioner Poole reported that the Finance Committee recommended Ordinance Nos. O-4-05, O-5-05, O-6-05, and O-7-05 and Resolution No. R-21-05 for approval. Commissioner Poole also reported that the Finance Committee verified with Richard Skiba, the former Financial Administrator, via teleconference, that the \$15,000,000.00 payment to DuPage County could not be included in the Budget as an operational expense but that the payment could be added to the existing list of items not included in the accounting budget at the bottom of page 2 of Exhibit 1 to Ordinance No. O-5-05. Commissioner Poole concluded his report by noting the Committee also recommended approval of the Accounts Payable and by requesting that the A/P History Check Report include a statement indicating previous Board authorization.

### **CHAIRMAN'S REPORT**

None

### **MAJORITY OMNIBUS VOTE AGENDA**

Chairman Vondra requested that Ordinance No. O-5-05 be removed from the Majority Vote Omnibus Vote Agenda for separate consideration with the other related New Business Ordinances.

Commissioner Wilcox moved to adopt the items listed on the revised Majority Omnibus Vote Agenda in a single group pursuant to the Omnibus Vote Procedures. Seconded by Commissioner Feltes and unanimously approved by a Roll Call Vote:

### **Majority Omnibus Vote**

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

Nays: None

## Minutes of the 4/14/05 Meeting

- Item 1: Ordinance No. O-4-05: Second Transfer of Appropriations Ordinance for the Fiscal Year Commencing May 1, 2004 and Ending April 30, 2005—“Majority Omnibus Vote”
- Item 2: Resolution No. R-21-05: A Resolution Directing the Transfer of Certain Excess Account Balances to the General Account of the Water Fund—“Majority Omnibus Vote”
- Item 3: Resolution No. R-23-05: A Resolution Reviewing Certain Executive Session Meeting Minutes at the April 14, 2005, DuPage Water Commission Meeting—“Majority Omnibus Vote”
- Item 4: Resolution No. R-24-05: A Resolution Approving and Authorizing the Execution of an Agreement Between the DuPage Water Commission and the State of Illinois Department of Transportation Regarding US Route 20 (Lake Street) Improvement Project No. C-91-381-01—“Majority Omnibus Vote”

### **SUPER/SPECIAL MAJORITY OMNIBUS VOTE AGENDA**

Commissioner Feltes moved to adopt the items listed on the revised Super/Special 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:

#### **Super/Special Majority Omnibus Vote**

- Ayes: R. Benson, E. Chaplin, T. Feltes, R. Ferraro, L. Hartwig, G. Mathews, W. Mueller, W. Murphy, A. Poole, J. Vrdolyak, G. Wilcox, D. Zeilenga, and M. Vondra
- Nays: None
- Item 1: Resolution No. R-19-05: A Resolution Approving and Ratifying Certain Task Orders Under a Master Contract with Cathodic Protection Management, Inc. at the April 14, 2005, DuPage Water Commission Meeting—“Super/Special Majority Omnibus Vote”
- Item 2: Resolution No. R-20-05: A Resolution Approving and Ratifying Certain Work Authorization Orders Under Quick Response Contract QR-6/02 at the April 14, 2005, DuPage Water Commission Meeting—“Super/Special Majority Omnibus Vote”
- Item 3: Resolution No. R-22-05: A Resolution Approving and Ratifying Certain Contract Change Orders at the April 14, 2005, DuPage Water Commission Meeting—“Super/Special Majority Omnibus Vote”

## Minutes of the 4/14/05 Meeting

- Item 4: Resolution No. R-25-05: A Resolution Approving and Ratifying Certain Task Orders Under a Master Contract with Patrick Engineering, Inc. at the April 14, 2005, DuPage Water Commission Meeting—"Super/Special Majority Omnibus Vote"

### **OLD BUSINESS**

Commissioner Chaplin verified with staff that the Village of Winfield had been advised that its request regarding a rate reduction and refund had been delayed due to the resignation of the Financial Administrator and would be evaluated as soon as was reasonably practicable under the circumstances.

### **NEW BUSINESS**

Commissioner Mathews moved to approve Ordinance Nos. O-5-05, as revised to include the notation of the payment to the County of DuPage in the amount of \$15,000,000, O-6-05 and O-7-05 in a single group. Seconded by Commissioner Wilcox.

Commissioner Zeilenga verified with the Staff Attorney that if the rate ordinances for Operation and Maintenance Costs and Fixed Costs for FY 2006-2007 could not garner the required approving vote, then the rate for that fiscal year would automatically revert to an average "default" rate of \$1.65 per 1,000 gallons. Commissioner Chaplin stated for the record her objection to Ordinance Nos. O-5-05, O-6-05, and O-7-05 based upon her belief that the Commission needs to abate sales taxes.

The motion was approved by a Roll Call Vote:

#### **Omnibus Vote**

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

Nays: E. Chaplin

Item 1: Ordinance No. O-5-05: An Ordinance Approving and Adopting an Annual Management Budget for the Fiscal Year Commencing May 1, 2005 and Ending April 30, 2006 (Revised)—"Omnibus Vote"

Item 2: Ordinance No. O-6-05: An Ordinance Establishing a Rate for Operation and Maintenance Costs for the Fiscal Year Commencing May 1, 2005 and Ending April 30, 2006—"Omnibus Vote"

Items 3: Ordinance No. O-7-05: An Ordinance Establishing Fixed Costs to be Payable by Each Contract Customer for the Fiscal Year Commencing May 1, 2005 and Ending April 30, 2006—"Omnibus Vote"

## Minutes of the 4/14/05 Meeting

Commissioner Mueller moved to suspend the purchasing procedures of the Commission's By-Laws and approve Purchase Order No. 8792 in the amount of \$15,419.06 to Flowserve. Seconded by Commissioner Hartwig.

Commissioners Benson and Chaplin questioned why sealed proposals were not solicited for this purchase. General Manager Martin explained that only Flowserve mechanical seals were being recommended for purchase to assure commonality of seals and spare parts but that staff does compare other manufacturers' pricing to assess the reasonableness of Flowserve's pricing. General Manager Martin reassured the Board that in the future all such price comparison documentation would be provided to the Board.

The motion was approved by a Roll Call Vote:

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

Nays: G. Wilcox

Commissioner Mueller moved to approve Purchase Order No. 8826 in the amount of \$17,160.00 to IKON Office Solutions, Inc. Seconded by Commissioner Mathews and unanimously approved by a Roll Call Vote:

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

Nays: None

### **ACCOUNTS PAYABLE**

Commissioner Hartwig moved to approve the Accounts Payable in the amount of \$2,648.58 subject to submission of all contractually required documentation. Seconded by Commissioner Benson and unanimously approved by a Roll Call Vote:

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

Nays: None

### **PUBLIC COMMENTS**

None



**EXECUTIVE SESSION**

Commissioner Murphy moved to go into Executive Session immediately following a five minute recess to discuss pending, probable or imminent litigation pursuant to 5 ILCS 120/2 (c)(11) and to discuss matters related to personnel pursuant to 5 ILCS 120/2 (c)(1). Seconded by Commissioner Ferraro and unanimously approved by a Roll Call Vote:

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

Nays: None

The Commission went into Executive Session at 8:45 P.M.

Commissioner Mueller moved to come out of Executive Session at 11:20 P.M. Seconded by Commissioner Zeilenga and unanimously approved by a Voice Vote.

All voted aye. Motion carried.

Commissioner Mueller moved to extend the term of the appointment of the General Manager for, and to amend the employment agreement with the General Manager to provide for, an indefinite yet "terminable at will" term in accordance with the Commission's By-Laws. Seconded by Commissioner Zeilenga and unanimously approved by a Roll Call Vote:

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

Nays: None

Commissioner Hartwig moved to adjourn the meeting at 11:25 P.M. Seconded by Commissioner Wilcox and unanimously approved by a Voice Vote.

All voted aye. Motion carried.