

**MINUTES OF A MEETING OF THE
DuPAGE WATER COMMISSION
HELD ON THURSDAY, MARCH 11, 2010
600 E. BUTTERFIELD ROAD
ELMHURST, ILLINOIS**

The meeting was called to order by Chairman S. Louis Rathje at 8:00 P.M.

Commissioners in attendance: T. Bennington, E. Chaplin, T. Elliott, W. Maio, G. Mathews, W. Mueller, W. Murphy, A. Poole, F. Saverino, J. Zay, D. Zeilenga, and L. Rathje

Commissioners Absent: L. Hartwig

Also in attendance: Treasurer R. Thorn, R. Martin, R. Skiba, M. Crowley, C. Johnson, T. McGhee, J. Nesbitt, R. C. Bostick, J. Schori, M. Weed, E. Kazmierczak, F. Frelka, and C. Gair of Jenner & Block

PUBLIC COMMENTS

Debra Fulks, Glen Ellyn, Illinois, read a prepared statement by DuPage United expressing concern that the Board should be held accountable for the Commission's financial condition and that DuPage United is in full support of the County of DuPage taking full control of the Commission.

Chairman Rathje changed the order of business at the meeting to hold an Executive Session before the approval of minutes in order to have Attorney Chris Gair of Jenner & Block report on the status of the forensic audit investigation.

EXECUTIVE SESSION

Commissioner Elliott moved to go into Executive Session to discuss personnel pursuant to 5 ILCS 120/2(c)(1) and (2) and to discuss pending, probable, or imminent litigation pursuant to 5 ILCS 120/2(c)(11). Seconded by Commissioner Murphy.

After Commissioners Mueller and Zeilenga recommended against changing the order of business because it was not fair to the public to have them wait around, the motion was approved by a Roll Call Vote:

Ayes: T. Bennington, E. Chaplin, T. Elliott, W. Maio, G. Mathews, W. Murphy, A. Poole, F. Saverino, J. Zay, and L. Rathje

Nays: W. Mueller and D. Zeilenga

Absent: L. Hartwig

The Board went into Executive Session at 8:05 P.M.

Commissioner Maio moved to come out of Executive Session at 9:07 P.M. Seconded by Commissioner Zay and unanimously approved by a Voice Vote.

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All voted aye. Motion carried.

The Board took a 10 minutes recess and reconvened at 9:14 P.M

APPROVAL OF MINUTES

Commissioner Bennington moved to approve the Minutes of the February 11, 2010 Regular Meeting of the DuPage Water Commission. Seconded by Commissioner Zay and unanimously approved by a Voice Vote.

All voted aye. Motion carried.

Commissioner Murphy moved to approve the Minutes of the Executive Session of the February 11, 2010 Regular Meeting of the DuPage Water Commission. Seconded by Commissioner Bennington 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 February 2010 which showed receipts of \$6,301,649.56, disbursements of \$11,366,048.22, and a cash and investment balance of \$63,782,459.73.

Commissioner Zay noted that the Commission's Cash Reserve Policy calls for a \$20 million (three months reserve) balance. Commissioner Zeilenga recommended that the balance be changed to \$13 million (two months reserve). Until this policy is officially changed by Resolution, Commissioner Zeilenga stated the amount would be shown as \$20 million in the cash operating report.

Commissioner Zeilenga moved to include with the monthly Treasurer's Report a Monthly Cash/Operating Report. Seconded by Commissioner Bennington and unanimously approved by a Voice Vote.

All voted aye. Motion carried.

Commissioner Bennington moved to accept the February 2010 Treasurer's Report. Seconded by Commissioner Saverino 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

Although there was no committee meeting, Former Financial Administrator Skiba explained two reports pertaining to Finance: (1) Sales Tax Collection Graphs for February and (2) the February Investment Detail List which were distributed, serve as additional information, and does not change any dollar amounts in the financial reports.

With regard to the auditor, Former Financial Administrator Skiba stated that if McGladrey and Pullen will not be the firm completing the audit for FY 2009, then he would suggest perhaps having the audit firm retained by Jenner & Block complete the work due to their familiarity with the Commission's finances.

Commissioner Zeilenga asked if it would be helpful to involve two groups comprised of municipal and county representatives to assist in auditing the accounts. Former Financial Administrator Skiba disagreed, noting that it would be best to use an auditing firm that was under contract with the Commission. Commissioner Zay then directed Former Financial Administrator Skiba to contact McGladrey and Pullen to finish the FY 2009 audit. Commissioner Bennington noted his concerns that the Treasurer's, Manager's, and Commissioner's Surety Bonds might be terminated by mid April 2010 unless the FY 2009 audit and management letter had been delivered to the Surety Company.

CHAIRMAN'S REPORT

Chairman Rathje read a letter dated March 1, 2010 from Commissioner Poole announcing his retirement of 38 years with the City of Naperville as well as 23 years served as a Commissioner. Chairman Rathje thanked Commission Poole for his many years of dedication and wished him well in his retirement.

MAJORITY OMNIBUS VOTE AGENDA

SUPER/SPECIAL MAJORITY OMNIBUS VOTE AGENDA

Commissioner Bennington 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 Elliott and unanimously approved by a Roll Call Vote:

Ayes: T. Bennington, E. Chaplin, T. Elliott, W. Maio, G. Mathews, W. Mueller, W. Murphy, A. Poole, F. Saverino, J. Zay, D. Zeilenga, and L. Rathje

Nays: None

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Absent: L. Hartwig

Item 1: Resolution No. R-11-10: A Resolution Approving and Ratifying Certain Task Orders Under a Master Contract with EN Engineering, LLC at the March 11, 2010, DuPage Water Commission Meeting—"Super/Special Majority Omnibus Vote"

Item 2: Resolution No. R-12-10: A Resolution Awarding a Contract for the Construction of Winfield Meter Station 27B (Contract MS-17/10) — "Super/Special Majority Omnibus Vote"

Item 3: Resolution No. R-13-10: A Resolution Approving and Ratifying Certain Contract Change Orders at the March 11, 2010, DuPage Water Commission Meeting—"Super/Special Majority Omnibus Vote"

OLD BUSINESS

Commissioner Bennington moved to direct Commission staff to fund construction payments that cannot be made from proceeds of a debt issue from Sales Tax revenues or Water Fund Depreciation Account balances. Seconded by Commissioner Mueller and unanimously approved by a Roll Call Vote:

Ayes: T. Bennington, E. Chaplin, T. Elliott, W. Maio, G. Mathews, W. Mueller, W. Murphy, A. Poole, F. Saverino, J. Zay, D. Zeilenga, and L. Rathje

Nays: None

Absent: L. Hartwig

NEW BUSINESS

Commissioner Bennington moved to ratify disbursements made on February 23, 2010, to Blue Cross/Blue Shield of Illinois in the amount of \$44,972.33 for the March 2010 Health Insurance premium payment and on February 26, 2010, to Illinois Public Risk Fund in the amount of \$19,192.00 for the January 2010 and February 2010 Workers Compensation Insurance premium payment. Seconded by Commissioner Zay and unanimously approved by a Roll Call Vote:

Ayes: T. Bennington, E. Chaplin, T. Elliott, W. Maio, G. Mathews, W. Mueller, W. Murphy, A. Poole, F. Saverino, J. Zay, D. Zeilenga, and L. Rathje

Nays: None

Absent: L. Hartwig

Commissioner Bennington noted that he would not be participating in the discussion regarding the selection of the lender in order to avoid a possible or perceived conflict of interest because his firm has Northern Trust as a client.

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Commissioner Bennington left the room at 9:32 P.M.

Commission Murphy moved to authorize the negotiations of a not-to-exceed \$40 million one year debt certificate with The Northern Trust Company for recommendation to the Board. Seconded by Commissioner Saverino.

Commissioner Zeilenga began by recommending the Board move forward with the negotiations of a second short term loan for a one year debt certificate in the amount of \$40 million reminding the Commissioners that the loan process takes several weeks to prepare and funds need to be in place by the end of April.

Commissioner Maio moved to table Commissioner Murphy's motion to the next Regular Meeting. Seconded by Commissioner Zay.

Former Financial Administrator Skiba reminded the Board that time is of the essence and further reminded the Commissioners that the approval to negotiate for a \$40 million short term loan was originally on the February agenda and each meeting that passes without adopting a Certificate of Debt Ordinance reduces water purchases that can be recaptured from prior months. Former Financial Administrator Skiba lastly noted that Chicago's water billing to the Commission is about \$4 million per month.

Commissioner Zeilenga stated that by approving a second short term loan it would allow the Commission to purchase water from Chicago without using water revenues, replenish its reserve funds, and begin rebuilding credit rating baseline.

In light of the information presented by Former Financial Administrator Skiba, Commissioner Maio as the maker, and Commissioner Zay as the second, agreed to withdraw the motion to table Commissioner Murphy's motion (and second). Commissioner Zay shared his concerns with borrowing additional funds noting that a long term financial plan should be in place before consideration of another loan. Commissioner Zeilenga noted that back in November of 2009, the Board discussed various loan options as it was unclear, at that time, what dollar amount was needed. Now, Commissioner Zeilenga noted, working with staff for the last six months, it is clear that an additional \$40 million is needed totaling \$70 million to finish plugging the holes, balance the budget and get back on track. Commissioner Zay argued that the financial issue is not just plugging holes – the boat has sunk and a long term financial plan is needed before making any further decisions regarding additional funding.

At which point, Commission Murphy's motion to authorize the negotiations of a not-to-exceed \$40 million one year debt certificate with The Northern Trust Company for recommendation to the Board was approved by a Roll Call Vote:

Ayes: T. Elliott, G. Mathews, W. Mueller, W. Murphy, A. Poole, F. Saverino, D. Zeilenga, and L. Rathje

Nays: E. Chaplin, W. Maio, and J. Zay

Absent: T. Bennington and L. Hartwig

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Commissioner Bennington returned to the meeting at 9:45 P.M.

Commissioner Murphy moved to retain the services of Chapman and Cutler LLP as Bond Counsel for the proposed short-term financing at a cost of \$19,500.00. Seconded by Commissioner Zeilenga and approved by a Roll Call Vote:

Ayes: T. Elliott, G. Mathews, W. Mueller, W. Murphy, A. Poole, F. Saverino, D. Zeilenga, and L. Rathje

Nays: T. Bennington, E. Chaplin, W. Maio, and J. Zay

Absent: L. Hartwig

Commissioner Zay objected to retaining Chapman and Cutler saying that a new set of eyes is needed and that the Board should be looking towards retaining another firm.

Commissioner Mathews moved to retain the services of Public Sector Group, Inc. as Financial Advisor for the proposed short-term financing at a cost of \$5,000.00. Seconded by Commissioner Zeilenga and approved by a Roll Call Vote:

Ayes: T. Elliott, W. Maio, G. Mathews, W. Mueller, W. Murphy, A. Poole, F. Saverino, J. Zay, D. Zeilenga, and L. Rathje

Nays: T. Bennington and E. Chaplin

Absent: L. Hartwig

Commissioner Bennington moved to approve Purchase Order No. 12081 in the amount of \$8,800.00 to HSQ Technology. Seconded by Commissioner Zay and unanimously approved by a Roll Call Vote:

Ayes: T. Bennington, E. Chaplin, T. Elliott, W. Maio, G. Mathews, W. Mueller, W. Murphy, A. Poole, F. Saverino, J. Zay, D. Zeilenga, and L. Rathje

Nays: None

Absent: L. Hartwig

Commissioner Bennington moved to approve Purchase Order No. 12074 in the amount of \$6,300.00 to HSQ Technology. Seconded by Commissioner Mueller and unanimously approved by a Roll Call Vote:

Ayes: T. Bennington, E. Chaplin, T. Elliott, W. Maio, G. Mathews, W. Mueller, W. Murphy, A. Poole, F. Saverino, J. Zay, D. Zeilenga, and L. Rathje

Nays: None

Absent: L. Hartwig

ACCOUNTS PAYABLE

Commissioner Murphy moved to approve the Accounts Payable in the combined total amount of \$6,447,861.45, subject to submission of all contractually required documentation, for invoices that have been received and invoices that have not been received, but have been estimated. Seconded by Commissioner Mathews and unanimously approved by a Roll Call Vote:

Ayes: T. Bennington, E. Chaplin, T. Elliott, W. Maio, G. Mathews, W. Mueller, W. Murphy, A. Poole, F. Saverino, J. Zay, D. Zeilenga, and L. Rathje

Nays: None

Absent: L. Hartwig

Commissioner Zay questioned, and General Manager Martin confirmed that, the charge on the accounts payable to HR Plus for background checks involved the on-site construction contractors needing full access to the Commission facility without an employee escort.

Before the next agenda item, Chairman Rathje referred to an article published by the Chicago Tribune involving comments made by Commissioner Zay regarding the proposed legislation to bring the Commission under the direct control of the County of DuPage and asked Commissioner Zay for an explanation. Commissioner Zay noted that the article was misleading, stating that he was asked to prepare some thoughts and suggestions in which he suggested creating a separate layer which would be overseen by a Water Operations Committee within the County of DuPage comprised of municipal and county members. Commissioner Maio noted that he and Commissioner Saverino also received a letter from Senator Cronin looking for suggestions. Commissioner Zay lastly commented that the County of DuPage is neutral and not leading the charge specifically because the County of DuPage has no desire to inherit the large amount of debt that the Commission currently owes nor does the County want to hurt their AAA rating.

EXECUTIVE SESSION

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

Ayes: T. Bennington, E. Chaplin, T. Elliott, W. Maio, G. Mathews, W. Mueller, W. Murphy, A. Poole, F. Saverino, J. Zay, D. Zeilenga, and L. Rathje

Nays: None

Absent: L. Hartwig

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The Board went into Executive Session at 10:00 P.M.

Commissioner Zay moved to come out of Executive Session at 11:24 P.M. Seconded by Commissioner Murphy and unanimously approved by a Voice Vote.

All voted aye. Motion carried.

Commissioner Zay moved to adjourn the meeting at 11:26 P.M. Seconded by Commissioner Murphy and unanimously approved by a Voice Vote.

All voted aye. Motion carried.