

**MINUTES OF A MEETING OF THE
DuPAGE WATER COMMISSION
HELD ON THURSDAY, JUNE 12, 2008
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, L. Hartwig, W. Maio, G. Mathews, W. Murphy, F. Saverino, J. Vrdolyak, G. Wilcox, D. Zeilenga (by teleconference), and L. Rathje

Commissioners Absent: W. Mueller and A. Poole

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

Commissioner Hartwig moved to open the Public Hearing regarding the Annual Budget and Appropriation Ordinance for the Fiscal Year Commencing May 1, 2008 and Ending April 30, 2009. Seconded by Commissioner Wilcox and unanimously approved by a Voice Vote.

All voted aye. Motion carried.

In response to Chairman Rathje's suggestion, Staff Attorney Crowley explained that the Annual Budget and Appropriation Ordinance operated as the "legal" spending authority for the Commission while the Management Budget Ordinance adopted in April operated as internal guidance for staff. Chairman Rathje then opened the floor to questions and comments from those in attendance at the meeting. There being no questions or comments, Commissioner Wilcox moved to close the Public Hearing regarding the Annual Budget and Appropriation Ordinance for the Fiscal Year Commencing May 1, 2008 and Ending April 30, 2009. Seconded by Commissioner Vrdolyak and unanimously approved by a Voice Vote.

All voted aye. Motion carried.

PUBLIC COMMENTS

None

APPROVAL OF MINUTES

Commissioner Mathews moved to approve the Minutes of the May 8, 2008 Regular Meeting of the DuPage Water Commission. Seconded by Commissioner Saverino and unanimously approved by a Voice Vote.

All voted aye. Motion carried.

Commissioner Chaplin questioned certain inconsistencies in the documentation of public comments in meeting minutes. General Manager Martin indicated that meeting

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minutes were not intended or required to be verbatim records and that, due to the increasing volume of such comments, Chairman Rathje and General Manager Martin decided to provide only a brief summary in the meeting minutes. After Commissioner Maio voiced his concerns, stating that meeting minutes should not include a detailed recitation of public comments, it was the consensus of the Commissioners to limit the documentation of public comments in the meeting minutes to an identification of the speakers and the general nature of their comments.

Commissioner Murphy moved to approve the Executive Session Minutes of the May 8, 2008 Regular Meeting of the DuPage Water Commission. Seconded by Commissioner Mathews 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 May 2008 which showed receipts of \$5,959,826.00, disbursements of \$15,838,035.00, and a cash and investment balance of \$71,419,063.00.

Commissioner Hartwig moved to accept the May 2008 Treasurer's Report. Seconded by Commissioner Vrdolyak and unanimously approved by a Voice Vote.

All voted aye. Motion carried.

COMMITTEE REPORTS

Administration Committee – Reported by Commissioner Hartwig

Commissioner Hartwig reported that the Administration Committee reviewed and recommended no changes to the Commission's Purchasing Policy. Commissioner Hartwig next reported that the Administration Committee reviewed the Commission's Ethics Policy and made two recommendations. Commissioner Hartwig advised that the first recommendation from the Administration Committee was a direction to staff to forego purchasing from a vendor items for which non-work related complimentary items are also provided that cannot be refused, even if the vendor providing such automatic non-work related complimentary items also offers the lowest dollar price for the items to be purchased.

After the Commissioners concurred with the recommended staff direction, Commissioner Hartwig advised that the second recommendation from the Administration Committee was a proposed amendment to the Commission's Ethics Policy to provide that the benefit of any rewards program maintained by a Commission vendor must benefit the Commission and not any Commissioner, employee, or appointee of the Commission. After the Commissioners conceptually concurred with the recommended Ethics Policy amendment, the Staff Attorney was directed to prepare the appropriate documentation for further review at the July Board meeting.

Engineering & Construction Committee – Reported by Commissioner Wilcox

Commissioner Wilcox reported that the Engineering & Construction Committee reviewed and recommended for approval all items listed on the Engineering & Construction Committee Agenda, with one change to the proposed procedure for completing the cathodic protection remotely-operated valve modifications recommended by EN Engineering.

With respect to the proposed procedure for completing the cathodic protection remotely-operated valve modifications recommended by EN Engineering, Commissioner Wilcox advised that the Engineering & Construction Committee recommended that the Commission purchase the polarization cell replacement (PCR) devices and associated equipment directly from the suppliers for installation under the Commission's existing Quick Response Electrical Contract. After the Commissioners concurred with the Engineering & Construction Committee's recommendation, Commissioner Wilcox concluded his report by requesting that the General Manager report on the status of staff's evaluation of the bids received on Contract PSC-4 (Lexington Pumping Station Backup Generator Project).

General Manager Martin explained that, in the bidding documents, the Commission reserved the right to accept the Bidder's Proposal that is, in its judgment, the best and most favorable to the interests of the Commission, the City of Chicago, and the public; to reject the low Price Proposal; to accept any item of any Bidder's Proposal; and to reject any and all Bidder's Proposals. General Manager Martin also explained that of the four bids received, Joseph J. Henderson and Son, Inc. was the low bidder on the entire project, as well as the low bidder on the generator facilities and the replacement variable frequency drives portions of the project, but the high bidder on the photovoltaic system portion of the project.

In addition to noting that all bids exceeded the engineer's estimate, General Manager Martin noted that, pursuant to the January 22, 2007, Intergovernmental Agreement Concerning the Construction, Operation, and Maintenance of Electrical Generation Facilities and Other Capital Improvements at the Lexington Pumping Station between the Commission and the City of Chicago, the Commission and the City agreed to share equally in the aggregate costs of the project subject to certain limitations: First, neither party's share of the aggregate costs can exceed \$15,000,000.00; *and* Second, the City's total share cannot exceed the sum of the following:

- 50% of the cost of designing and constructing the two replacement variable frequency drives,
- \$4,000,000.00 plus 100% of the cost of designing and constructing the photovoltaic system over and above the sum of \$8,000,000.00, and
- \$8,500,000.00, which amount represents the average generation cost per average daily pumping capacity at the pumping stations where the City

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has already constructed backup generation, as such amount is adjusted by the ENR Construction Index.

Based upon costs incurred to date and costs estimated to be incurred in the future, General Manager Martin advised that the \$15,000,000.00 limit on each party's share of aggregate costs will likely be exceeded and, as such, staff was exploring with the City various options for proceeding with the project, including (1) awarding Contract PSC-4/08 to the low bidder for the entire project and running the risk that all costs in excess of the \$15,000,000.00 limitation on the City's share of aggregate costs will be the responsibility of the Commission; (2) awarding Contract PSC-4/08 to the low bidder for the generation facilities and the replacement variable frequency drives portions of the project and running the risk that 100% of the costs will be the responsibility of the Commission; (3) raising the limitations on aggregate costs and/or cost sharing under the Chicago Intergovernmental Agreement, (4) rebidding the entire project with a reduced design scope; and (5) awarding Contract PSC-4/08 to the low bidder for the generation facilities and the replacement variable frequency drives portions of the project, redesigning the photovoltaic system portion of the project to achieve the necessary cost reductions, and rebidding and/or negotiating a separate contract for the photovoltaic system portion of the project.

General Manager Martin concluded his report by noting Option Number 5 seemed to be the most workable option, especially since representatives of the City advised that they did not want to seek additional funding from the City Council and would not recommend proceeding with the generation facilities without also proceeding with the photovoltaic system.

Commissioner Vrdolyak asked if the photovoltaic system was the City of Chicago's idea. General Manager Martin confirmed that it was and that the City of Chicago will not approve the project unless the back-up generators and photovoltaic system are both implemented.

Commissioner Murphy asked if it was the photovoltaic system that caused the cost overrun. General Manager Martin responded that it was not the system that caused the cost overrun but, rather, increases in the cost of materials plus other uncontrollable factors such as the tight work site, load limits for work on top of the reservoir, and unknown permitting costs.

Commissioner Zeilenga commented that the engineering estimate was wrong, and staff should be questioning the qualifications of the hired engineering firm.

Commissioner Mathews reminded the Board that the project had been in the planning stage for many years and that, with the time delay and the downturn in the economy, the Board should not be shocked by the cost increase. Commissioner Mathews added that further prolonging the generator project would only continue to increase costs and Commissioner Mathews recommended moving forward with project.

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Commissioner Chaplin questioned the value of the project, especially at the increased cost. Commissioner Chaplin added that, like the proposed TW-3 project, the benefit did not outweigh the cost.

After acknowledging his frustration with the City's refusal to increase its funding commitment and refusal to proceed unless the photovoltaic system was included, Commissioner Murphy stated that he agreed with Commissioner Mathews that the project should move forward and requested that General Manager Martin report back with a final recommendation at the July meeting.

General Manager Martin noted that under Option Number 5, he anticipated that both sides would, in essence, be equally impacted: The Commission would obtain the generators that it wanted but at an approximate \$4MM increase in its share of the costs and the City would obtain a photovoltaic system with a capacity significantly less than it wanted due to the design changes needed to achieve an approximate \$4MM decrease in City's share of the costs.

Commissioner Wilcox commented that, at this late date, the Commission is probably forced to move forward and that he could live with the \$4MM by \$4MM trade off. Commissioner Wilcox also suggested that staff explore options to recoup the \$4MM increase on the Commission's share of costs at the Lexington Pumping Station by offsetting design changes to the proposed generator and associated facilities at the DuPage Pumping Station to achieve a \$4MM savings.

At the request of Commissioner Murphy, Chairman Rathje informally polled the Commissioners and there was a preliminary and reluctant consensus for staff to continue exploring proceeding with the PSC-4/08 project under Option Number 5 as preliminarily outlined by staff.

Finance Committee – Reported by Commissioner Mathews

Although there was no meeting due to lack of a quorum, Commissioner Mathews reported that the Committee members present reviewed and recommended for approval all items listed on the Finance Committee Agenda and concurred with the recommendation of the Administration Committee that no changes were needed to the Commission's Purchasing Policy.

CHAIRMAN'S REPORT

Chairman Rathje asked General Manager Martin to provide a brief report on the Regional Water Supply Planning Group's upcoming meeting.

General Manager Martin reported that the next meeting of the Regional Water Supply Planning Group would be held at the Commission's facilities on June 24, 2008 from 10:00am to approximately 2:00pm with a tour of the facility to follow. General Manager Martin further reported that the 35-member Regional Water Supply Planning Group Board consists of half county representatives and half municipal representatives

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working together to develop, among other things, community programs on water conservation.

Chairman Rathje added that the meeting would be open to the public and encouraged all Commissioners to attend since the importance of water conservation affects all areas.

MAJORITY OMNIBUS VOTE AGENDA

Commissioner Chaplin requested that Ordinance No. O-5-08 be removed from the Majority Omnibus Vote Agenda for separate consideration.

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

Majority Omnibus Vote

Ayes: L. Chaplin, L. Hartwig, W. Maio, G. Mathews, W. Murphy, F. Saverino, J. Vrdolyak, G. Wilcox, D. Zeilenga, and L. Rathje

Nays: None

Absent: W. Mueller and A. Poole

Item 1: Ordinance No. O-6-08: An Ordinance Determining the Prevailing Rate of Wages in DuPage County and Cook County—"Majority Omnibus Vote"

Item 2: Resolution No. R-31-08: A Resolution Approving and Authorizing the Execution of a Consent Agreement between the DuPage Water Commission, the Village of Roselle, and RTG-Roselle Main Street Station, LLC Regarding the Main Street Station Development—"Majority Omnibus Vote"

Commissioner Wilcox moved to adopt Ordinance No. O-5-08: Annual Budget and Appropriation Ordinance for the Fiscal Year Commencing May 1, 2008 and Ending April 30, 2009. Seconded by Commissioner Murphy and approved by a Roll Call Vote:

Ayes: L. Hartwig, W. Maio, G. Mathews, W. Murphy, F. Saverino, J. Vrdolyak, G. Wilcox, D. Zeilenga, and L. Rathje

Nays: L. Chaplin

Absent: W. Mueller and A. Poole

SUPER/SPECIAL MAJORITY OMNIBUS VOTE AGENDA

Commissioner Hartwig 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 unanimously approved by a Roll Call Vote:

Super/Special Majority Omnibus Vote

Ayes: L. Chaplin, L. Hartwig, W. Maio, G. Mathews, W. Murphy, F. Saverino, J. Vrdolyak, G. Wilcox, D. Zeilenga, and L. Rathje

Nays: None

Absent: W. Mueller and A. Poole

Item 1: Resolution No. R-28-08: A Resolution Awarding Quick Response Contract (Contract QR-8/08)—“Super/Special Majority Omnibus Vote”

Item 2: Resolution No. R-29-08: A Resolution Approving and Ratifying Certain Contract Change Orders at the June 12, 2008, DuPage Water Commission Meeting—“Super/Special Majority Omnibus Vote”

Item 3: Resolution No. R-30-08: A Resolution Approving and Ratifying Certain Work Authorization Orders Under Quick Response Contract QR-7/05 at the June 12, 2008, DuPage Water Commission Meeting—“Super/Special Majority Omnibus Vote”

Item 4: Resolution No. R-32-08: A Resolution Approving and Authorizing the Execution of a Fifth Amendment to the Contract for Design of Concrete Reservoirs and Other Improvements at the DuPage Pump Station—“Super/Special Majority Omnibus Vote”

OLD BUSINESS

None

NEW BUSINESS

Commissioner Chaplin inquired as to whether there was any further information regarding a reported break-in at the Jardine Water Purification Plant. General Manager Martin responded that he was advised that four people were arrested after being seen on the premises.

ACCOUNTS PAYABLE

Commissioner Murphy moved to approve the Accounts Payable in the amount of \$20,154.37 subject to submission of all contractually required documentation.
Seconded by Commissioner Wilcox and approved by a Roll Call Vote:

Ayes: L. Hartwig, W. Maio, G. Mathews, W. Murphy, F. Saverino, J. Vrdolyak, G. Wilcox, D. Zeilenga, and L. Rathje

Nays: L. Chaplin

Absent: W. Mueller and A. Poole

EXECUTIVE SESSION

None

Commissioner Murphy moved to adjourn the meeting at 8:10 P.M. Seconded by Commissioner Wilcox and unanimously approved by a Voice Vote.

All voted aye. Motion carried.