

**MINUTES OF A MEETING OF THE
DuPAGE WATER COMMISSION
HELD ON THURSDAY, OCTOBER 9, 2008
600 E. BUTTERFIELD ROAD
ELMHURST, ILLINOIS**

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

Commissioners in attendance: L. Hartwig, W. Maio, G. Mathews, W. Mueller, W. Murphy, A. Poole, F. Saverino, D. Zeilenga, and L. Rathje

Commissioners Absent: T. Bennington, E. Chaplin, T. Elliott, and J. Zay

Also in attendance: Treasurer R. Thorn, R. Martin, R. M. Richter, T. McGhee, M. Crowley, J. Schori, E. Kazmierczak, and J. Nesbitt

RECOGNITIONS, OATHS, AND PLAQUES

Chairman Rathje administered the official oath to reappointed Commissioner Larry Hartwig, Municipal Representative District 1.

PUBLIC COMMENTS

None

APPROVAL OF MINUTES

Commissioner Murphy moved to approve the Minutes of the September 11, 2008 Regular Meeting of the DuPage Water Commission. Seconded by Commissioner Mathews and approved by a Voice Vote.

Majority voted aye, with Commissioners Hartwig and Maio abstaining. Motion carried.

Commissioner Mueller moved to approve the Executive Session Minutes of the September 11, 2008 Regular Meeting of the DuPage Water Commission. Seconded by Commissioner Saverino and approved by a Voice Vote.

Majority voted aye, with Commissioners Hartwig and Maio abstaining. Motion carried.

TREASURER'S REPORT

Treasurer Thorn presented the Treasurer's Report for the month of September 2008 which showed receipts of \$6,772,485.00, disbursements of \$7,104,317.00, and a cash and investment balance of \$73,888,282.00.

Commissioner Poole moved to accept the September 2008 Treasurer's Report. Seconded by Commissioner Zeilenga and unanimously approved by a Voice Vote.

All voted aye. Motion carried.

COMMITTEE REPORTS

Administration Committee

Even though there was no meeting due to the lack of a quorum, Commissioner Murphy reported that the Committee members who were present favorably considered the creation of a Document Management Specialist position within the Commission's organization. General Manager Martin advised that the Document Management Specialist would assist in defining document management needs, goals, and objectives and coordinate the implementation and maintenance of a comprehensive document management program for the Commission. General Manager Martin further advised that if the Board approved the creation of the position, then he planned to promote the temporary recording secretary and GIS Intern, Jenessa Nesbitt, to the permanent, full-time position, noting that Jenessa is in her second GIS internship at the Commission and has proved herself in more than one field of work. General Manager Martin concluded his report by noting that even though current personnel costs were currently under budget, filling the position would result in a relatively small overage by fiscal year end.

Commissioner Murphy moved to create the position of Document Management Specialist within the Commission's organization and to authorize the promotion of the temporary recording secretary and GIS Intern to that permanent, full-time position. Seconded by Commissioner Mathews.

Commissioner Hartwig suggested it would be more appropriate for the Board to limit its action to creating the position, leaving the appointment to the discretion of the General Manager in accordance with the General Manager's authority under the By-Laws. After Commissioner Murphy, with the consent of the seconder, amended his motion to limit the Board's action to creating the position, the amended motion to create the position of Document Management Specialist within the Commission's organization was unanimously approved by a Roll Call Vote:

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

Nays: None

Absent: T. Bennington, E. Chaplin, T. Elliott, and J. Zay

In response to Commissioner Mueller's question, General Manager Martin confirmed that he did not intend to refill the GIS Intern position but, rather, the GIS Intern duties would be included within the duties of the Document Management Specialist. General Manager Martin also agreed to provide a copy of the job description for the Document Management Specialist once finalized, together with the starting salary for that position, as requested by Commissioner Hartwig.

Engineering & Construction Committee

Commissioner Maio reported that the Engineering & Construction Committee recommended that the request by the City of Naperville to supplement the cost of relocation of the transmission main at 75th St. and Washington Ave. be deferred for discussion at the end of the Regular Meeting Agenda due to the lengthy discussion that might take place. Commissioner Maio concluded his report by noting that the Engineering & Construction Committee recommended for approval all of the other items on the Engineering & Construction Agenda.

Finance Committee

Commissioner Mathews reported that the Finance Committee recommended for approval Resolution No. R-46-08: A Resolution Accepting the Proposal of Timothy W. Sharpe for Actuarial Services; Resolution R-54-08: A Resolution Authorizing the Electronic Transfer of Funds for the Remittance of Vendor Payments; and the Insurance Renewal. Commissioner Mathews explained that approval of the Electronic Funds Transfer Resolution would eliminate, or at least reduce, manual processing of checks for the remittance of payments to Commission vendors, and that the cost of the Insurance Renewals had decreased by about \$70,000 from last year's renewal, which represents about a 20% reduction.

CHAIRMAN'S REPORT

Chairman Rathje thanked the Village of Addison for recording the 2008 Water Quality luncheon which featured Dr. Robert Morris discussing his book *The Blue Death*. He stated that the video of the 2007 Water Conservation luncheon featuring Peter Annin discussing his book *The Great Lakes Water Wars* was well received and has been repeatedly played on public access cable channels.

MAJORITY OMNIBUS VOTE AGENDA

Commissioner Hartwig 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 Zeilenga and unanimously approved by a Roll Call Vote:

Majority Omnibus Vote

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

Nays: None

Absent: T. Bennington, E. Chaplin, T. Elliott, and J. Zay

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- Item 1: Resolution No. R-49-08: A Resolution Awarding a Contract for Chain Link Fencing and Gate Work at the DuPage Pumping Station—"Majority Omnibus Vote"
- Item 2: Resolution No. R-50-08: A Resolution Authorizing the Disposal of Certain Personal Property Owned by the DuPage Water Commission—"Majority Omnibus Vote"
- Item 3: Resolution No. R-53-08: A Resolution Releasing Certain Executive Session Meeting Minutes at the October 9, 2008, DuPage Water Commission Meeting—"Majority Omnibus Vote"
- Item 4: Resolution No. R-54-08: A Resolution Authorizing the Electronic Transfer of Funds for the Remittance of Vendor Payments—"Majority Omnibus Vote"

SUPER/SPECIAL MAJORITY OMNIBUS VOTE AGENDA

Commissioner Mueller 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 Saverino and unanimously approved by a Roll Call Vote:

Super/Special Majority Omnibus Vote

- Ayes: L. Hartwig, W. Maio, G. Mathews, W. Mueller, W. Murphy, A. Poole, F. Saverino, D. Zeilenga, and L. Rathje
- Nays: None
- Absent: T. Bennington, E. Chaplin, T. Elliott, and J. Zay
- Item 1: Resolution No. R-46-08: A Resolution Accepting the Proposal of Timothy W. Sharpe for Actuarial Services—"Super/Special Majority Omnibus Vote"
- Item 2: Resolution No. R-47-08: A Resolution Approving and Ratifying Certain Work Authorization Orders Under Quick Response Contract QR-8/08 at the October 9, 2008, DuPage Water Commission Meeting—"Super/Special Majority Omnibus Vote"
- Item 3: Resolution No. R-48-08: A Resolution Directing Advertisement for Bids on a Contract for Valve Actuator Replacement (Contract VA-1/08)—"Super/Special Majority Omnibus Vote"
- Item 4: Resolution No. R-51-08: A Resolution Approving a First Amendment to Task Order No. 21 Under the Master Contract with Consoer Townsend Envirodyne Engineers, Inc.—"Super/Special Majority Omnibus Vote"

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- Item 5: Resolution No. R-52-08: A Resolution Approving and Ratifying Certain Work Authorization Orders Under Quick Response Contract QRE-3/07 at the October 9, 2008, DuPage Water Commission Meeting—"Super/Special Majority Omnibus Vote"

OLD BUSINESS

None

NEW BUSINESS

Commissioner Saverino moved to purchase property and liability insurance coverage in accordance with the September 10, 2008, Insurance Proposal prepared by Arthur J. Gallagher Risk Management Services, Inc., for a total premium of \$492,032.00. Seconded by Commissioner Mathews and approved by a Roll Call Vote.

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

Nays: None

Abstain: W. Maio

Absent: T. Bennington, E. Chaplin, T. Elliott, and J. Zay

Before moving on to the next Agenda item, General Manager Martin reported that he recently met with representatives of DuPage County who indicated that the County would be requesting, by letter, a further waiver of the capital cost recovery charge (capital buy-in) for the York Center service area. According to the County representatives, the portions of the DuPage County waterworks system serving the York Center service area were "close" to being sold to the Village of Lombard.

General Manager Martin reminded the Board that it had approved, at its December 2007 meeting, a waiver of the capital cost recovery charge payment attributable to the North Regional Water Facility and the York Center service areas until October 1, 2008, subject to charging the capital cost recovery charge attributable to the North Regional Water Facility service area and/or the York Center service area from January 1, 2008, if, at October 1, 2008, the portions of the DuPage County waterworks system serving the North Regional Water Facility service area and/or the York Center service area, as the case may be, were still in the possession of the County.

After Commissioner Mueller expressed his surprise at hearing that the proposed sale to Lombard was close at hand, Commissioner Murphy moved to approve, subject to ratification and further refinement at the November 2008 Board meeting, a narrowly defined time-limited waiver of the capital cost recovery charge for the York Center service area. Seconded by Commissioner Hartwig and unanimously approved by a Voice Vote.

ACCOUNTS PAYABLE

Commissioner Mathews moved to approve the Accounts Payable in the amount of \$1,329,708.15 subject to submission of all contractually required documentation. Seconded by Commissioner Mueller and unanimously approved by a Roll Call Vote:

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

Nays: None

Absent: T. Bennington, E. Chaplin, T. Elliott, and J. Zay

EXECUTIVE SESSION

None

As requested by the Engineering & Construction Committee, the Board then discussed the request by the City of Naperville to supplement the cost of relocation of the transmission main at 75th St. and Washington Ave. Commissioner Maio asked for a presentation about the proposed pipeline realignment, which General Manager Martin asked Pipeline Supervisor Kazmierczak to present.

Pipeline Supervisor Kazmierczak advised that the City of Naperville and the County of DuPage have been working in partnership on a project designed to improve the flow of both vehicular and pedestrian traffic at the intersection of 75th Street and Washington Street in the City of Naperville. Pipeline Supervisor Kazmierczak further advised that Commission maintains a 30" diameter steel watermain extending throughout the entire length of the 75th Street limits of improvements. Pipeline Supervisor Kazmierczak added that, through design changes, all but approximately 500 L.F. of conflict with the Commission's 30" main had been eliminated (down from approximately 3,000 L.F.), and that the approximately 500 L.F. of relocation required is necessary solely to avoid conflict with the City's proposed pedestrian tunnel, which proposed pedestrian underpass crossing would have had little or no impact on Commission facilities if it had been located along an alignment the City presented to the Commission at a design meeting held with City representatives alone several years earlier. Pipeline Supervisor Kazmierczak concluded his report by noting that the City has offered to reimburse the Commission in an amount equal to 55% of the cost of relocation that the City estimates to be between \$150,000.00 and \$300,000.00.

Commissioner Poole responded that the proposed pedestrian tunnel is solely a County improvement, that the approximately 500 L.F. of relocation required is solely in County right-of-way, and that the City is the designated lead agency under an intergovernmental agreement with the County and is acting "on behalf of the County" in requesting the Commission relocate its conflicting watermain.

General Manager Martin countered that it was staff's understanding that the proposed pedestrian tunnel is a City improvement and that the County is not paying any part of the cost of the proposed pedestrian tunnel. General Manager Martin added that historically, in cases of right-of-way conflicts with municipal facilities, the Commission has always followed a "first in time; first in right" philosophy regarding relocation costs such that, if new Commission facilities required the relocation of pre-existing municipal facilities, the Commission would pick up the cost and vice versa.

In response to Commissioner Poole's question concerning whether the Staff Attorney had written an approving opinion to the City's attorney, Staff Attorney Crowley advised that she had orally advised the City's attorney that the Commission has an express statutory right to construct, maintain, and extend its water mains along, upon, under and across any highway, street, alley or public ground in the state, including highways within a municipality, as a proper use of highways, without payment of a fee, and that only State and County highway authorities have an express statutory right to require governmental utilities to relocate their facilities at their own cost only in highways under their jurisdiction. As such, the Staff Attorney noted that she had prepared and forwarded to the City's attorney a draft intergovernmental agreement providing for the relocation of the Commission's facilities at the City's sole cost and expense.

Commissioner Hartwig commented that if the proposed pedestrian tunnel is a County-desired improvement in County right-of-way, then the County should write a letter to the Commission requesting relocation of the conflicting facilities. Commissioner Mueller agreed with Commissioner Hartwig, noting the County needed to explain the genesis of the project and which party is requesting the proposed pedestrian tunnel.

Commissioner Murphy commented that acceding to Naperville's request would establish a very bad precedent, that the October 3, 2008, letter from the City's Department of Public Utilities—Water and Wastewater may not be entirely accurate, that it seemed as if this was a Naperville project that the County is involved with, and that he doubted the County would ask that the Commission relocate its facilities for the proposed pedestrian tunnel.

Commissioner Maio then summarized the additional information that he and the other Commissioners felt was needed before a decision could be made: (1) The justification and methodology for the cost sharing proposed by Naperville, especially in light of the County's lack of any financial contribution toward the proposed pedestrian tunnel; (2) A plan detailing existing and proposed City/County facilities together with Commission existing and proposed relocated facilities; and (3) A letter from the County explaining the genesis of the project, the party requesting the proposed pedestrian tunnel, and any relocation of conflicting Commission facilities being requested by the County. Commissioner Hartwig added a fourth item: The unique circumstances that would distinguish Naperville's request from other municipal right-of-way conflicts.

Commissioner Maio moved to table consideration of Naperville's request until such time as staff obtained the additional information requested by the Board and representatives

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of the County and/or Naperville are in attendance to make a formal presentation to the Board and answer questions regarding the project, its funding, and the request for the Commission to share in the cost of relocation. Seconded by Commissioner Hartwig and approved by a Roll Call Vote:

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

Nays: A. Poole

Absent: T. Bennington, E. Chaplin, T. Elliott, and J. Zay

Commissioner Maio moved to adjourn the meeting at 8:18 P.M. Seconded by Commissioner Hartwig and unanimously approved by a Voice Vote.

All voted aye. Motion carried.

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