

**MINUTES OF A MEETING OF THE  
DuPAGE WATER COMMISSION  
HELD ON THURSDAY, DECEMBER 11, 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: T. Bennington, E. Chaplin, L. Hartwig, W. Maio, G. Mathews, W. Mueller, W. Murphy, A. Poole, F. Saverino, J. Zay, D. Zeilenga, and L. Rathje

Commissioners Absent: T. Elliott

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

**PUBLIC COMMENTS**

Charles Lech, 936 Cadwell, Elmhurst, Illinois, voiced his concerns relating to the newly installed security fence at the DuPage Pumping Station stating it was offensive to the residents living across the street and negatively affecting property values.

Jennifer Finkl, 438 E. Harrison, Elmhurst, Illinois, stated that even though she did not live on the block, she was attending the meeting in support of the neighborhood and that the newly installed security fence at the DuPage Pumping Station was devaluing property in the neighborhood.

Joe and Joanne Lech, 414 Cadwell, Elmhurst, Illinois, stated their opinion that the newly installed security fence at the DuPage Pumping Station was not necessary, at least until the future reservoir was installed in approximately six years, and urged the Board to tear it down.

Kathy Pivoney, 960 Cadwell, Elmhurst, Illinois, noted that the Commission had previously advised that the security fence to be installed at the DuPage Pumping Station would look like the existing fence in the front and that, in any event, more consideration should have been taken to make the fence more aesthetically appealing.

**APPROVAL OF MINUTES**

Commissioner Zay moved to approve the Minutes of the November 13, 2008 Regular Meeting of the DuPage Water Commission. Seconded by Commissioner Mueller and unanimously approved by a Voice Vote.

All voted aye. Motion carried.

Commissioner Zay moved to approve the Executive Session Minutes of the November 13, 2008 Regular Meeting of the DuPage Water Commission. Seconded by Commissioner Chaplin and unanimously approved by a Voice Vote.

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All voted aye. Motion carried.

### TREASURER'S REPORT

Treasurer Thorn presented the Treasurer's Report for the month of November 2008 which showed receipts of \$6,269,905.00, disbursements of \$6,895,901.00, and a cash and investment balance of \$74,180,711.00.

Commissioner Bennington moved to accept the November 2008 Treasurer's Report.  
Seconded by Commissioner Saverino and unanimously approved by a Voice Vote.

All voted aye. Motion carried.

### COMMITTEE REPORTS

#### **Administration Committee – Reported by Commissioner Murphy**

Although there was no meeting due to lack of a quorum, Commissioner Murphy reported that a timetable concerning goals for the General Manager for 2009 was discussed among those Committee members present and the following schedule was recommended:

- April – Board reviews General Manager's accomplishments from the prior fiscal year.
- May – Board completes evaluation of General Manager's job performance.
- June – General Manager submits draft goals for the next fiscal year, which the Board may adopt, either singly or in combination, with or without modifications, reject and/or supplement.

#### **Engineering & Construction Committee – Reported by Commissioner Maio**

Commissioner Maio advised that the votes of the Committee members on the Agenda items would stand for the report of the Engineering & Construction Committee.

#### **Finance Committee – Reported by Commissioner Mathews**

Commissioner Mathews reported that the Finance Committee recommended for approval the Accounts Payable.

### CHAIRMAN'S REPORT

None

**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 Poole and unanimously approved by a Roll Call Vote:

**Majority Omnibus Vote**

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

Nays: None

Absent: T. Elliott

Item 1: Resolution No. R-66-08: A Resolution Awarding a Contract for the Construction of Granular Material Storage and Vehicle Storage Buildings (Contract PSD-6A/08)—"Majority Omnibus Vote"

**SUPER/SPECIAL MAJORITY OMNIBUS VOTE AGENDA**

Commissioner Murphy requested that Resolution Nos. R-67-08 and R-72-08 be removed from the Super/Special Majority Omnibus Vote Agenda for separate consideration.

Commissioner Mathews 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 Mueller and approved by a Roll Call Vote:

**Super/Special Majority Omnibus Vote**

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

Nays: W. Maio

Absent: T. Elliott

Item 1: Resolution No. R-65-08: A Resolution Approving and Ratifying Certain Work Authorization Orders Under Quick Response Contract QR-8/08 at the December 11, 2008, DuPage Water Commission Meeting—"Super/Special Majority Omnibus Vote"

Item 2: Resolution No. R-68-08: A Resolution Approving and Ratifying Certain Contract Change Orders at the December 11, 2008, DuPage Water Commission Meeting—"Super/Special Majority Omnibus Vote"

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- Item 3: Resolution No. R-69-08: A Resolution Approving a First Amendment to Task Order No. 1 Under the Master Contract with Jacques Whitford Company, Inc.—“Super/Special Majority Omnibus Vote”
- Item 4: Resolution No. R-70-08: A Resolution Approving and Ratifying Certain Task Orders Under a Master Contract with Westin Engineering, Inc. at the December 11, 2008, DuPage Water Commission Meeting—“Super/Special Majority Omnibus Vote”
- Item 5: Resolution No. R-71-08: A Resolution Awarding Quick Response Electrical Contract (QRE-4/08)—“Super/Special Majority Omnibus Vote”

Commissioner Murphy distributed a handout identifying his objections concerning Resolution Nos. R-67-08 and R-72-08. Commissioner Murphy stated that due to the County's failure to meet certain requirements of the Water Purchase and Sale Contract, the Commission should not accelerate the design of the Commission facilities needed to connect the Glen Ellyn Heights and Greene Road service areas. After Commissioner Murphy stated that the County should either comply with its contractual commitments or explain its non-compliance to the Board, Commissioner Murphy moved to table consideration of Resolution No. R-67-08: A Resolution Approving Task Order No. 24 Under a Master Contract with Consoer Townsend Envirodyne Engineers, Inc. for the DuPage County Glen Ellyn Heights Service Area and Resolution No. R-72-08: A Resolution Approving Task Order No. 25 Under a Master Contract with Consoer Townsend Envirodyne Engineers, Inc. for the DuPage County Greene Road Service Area.

Before the motion was seconded, Chairman Rathje called on DuPage County Public Works Deputy Director, Nick Kottmeyer, to respond to Commissioner Murphy's remarks. Before Mr. Kottmeyer responded, Commissioner Zay commented that with respect to the delays identified in Commissioner Murphy's handout, Commission staff was fully and regularly informed of the status of the County's efforts to obtain water allocations for its various service areas and of the County's efforts to negotiate wheeling agreements with adjoining communities. Commissioner Zay added that Woodridge was fighting the County every step of the way, noting that it was the first time in the history of IDNR that a water allocation request had been challenged. In addition, according to Commissioner Zay, the DuPage Mayors and Managers Conference had also taken its time in developing a model wheeling agreement for use with the County. Commissioner Zay finally noted that the County had deposited with the Commission a check in the amount of \$585,000.00 and is ready to proceed with direct connections for the Glen Ellyn Heights and Greene Road service areas.

Mr. Kottmeyer concurred with the statements made by Commissioner Zay and then concluded remarks on behalf of the County by addressing the Financial/Accounting concerns identified in Commissioner Murphy's handout. With respect to the Financial/Accounting concerns identified in Commissioner Murphy's handout, Mr. Kottmeyer stated that extensive documentation had been provided to Woodridge by

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County Board Chairman Schillerstrom, and that the County's auditors had no concerns with the adequacy of the books and records maintained by the County in connection with its water system.

Chairman Rathje asked the Commissioners to submit any further questions or concerns in writing to him directly which he will then forward on to Commissioner Murphy.

Commissioner Chaplin stressed the importance of getting water to the unincorporated areas of DuPage County and suggested moving forward with the project.

Commissioner Zeilenga asked General Manager Martin to respond to the strong, and seemingly not neutral, statements made in Commissioner Murphy's handout. General Manager Martin replied that he could not comment on the adequacy of the County's financial records, noting that the Water Purchase and Sale Contract simply required that financial books and records be maintained and audited. General Manager Martin did agree that, for whatever reason, the County is behind the contract schedule. General Manager Martin added, however, that even though the County was behind schedule, the Commission had not been harmed by that delay and there was no risk to the Commission in accelerating the Commission's design work as requested by the County because the County had deposited more than \$500,000.00 with the Commission to cover the Commission's costs.

Commissioner Zeilenga thanked the General Manager for rendering an impartial opinion on the matter.

Commissioner Poole inquired whether the storage required by the Water Purchase and Sale Contract for the Glen Ellyn Heights and Greene Road service areas had been satisfied, adding that part of the Greene Road service area is included within a Naperville boundary agreement area and, as such, it was important to proceed with the project because of fire flow issues. Both General Manager Martin and Mr. Kottmeyer confirmed that the County was in compliance with all contractually-required storage requirements.

After Commissioner Murphy's motion to table failed for lack of a second, Commissioner Bennington moved to adopt in a single group pursuant to the Omnibus Vote Procedures Resolution No. R-67-08: A Resolution Approving Task Order No. 24 Under a Master Contract with Consoer Townsend Envirodyne Engineers, Inc. for the DuPage County Glen Ellyn Heights Service Area and Resolution No. R-72-08: A Resolution Approving Task Order No. 25 Under a Master Contract with Consoer Townsend Envirodyne Engineers, Inc. for the DuPage County Greene Road Service Area. Seconded by Commissioner Mueller and approved by a Roll Call Vote:

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

Nays: W. Murphy

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Absent: T. Elliott

### OLD BUSINESS

In reference to the Board's November direction to convene a meeting among Commission representatives Chairman Rathje, General Manager Robert Martin, and Staff Attorney Crowley, City of Naperville representatives Mayor Pradel and City Manager Marshall, and DuPage County representatives Chairman Schillerstrom and a representative from the Office of the State's Attorney for DuPage County, regarding responsibility for the cost of relocating the Commission's South Transmission Main at 75<sup>th</sup> and Washington Streets, in Naperville, Chairman Rathje explained that the meeting had not been held due to scheduling conflicts. General Manager Martin stated that he would continue attempting to arrange for the meeting, noting that even though the urgency of the relocation had subsided as the City of Naperville had recently requested that the Commission delay the relocation until November of 2009, 70% design plans for the relocation had been received and would be distributed for review by all affected parties.

### NEW BUSINESS

Commissioner Mueller moved to suspend the purchasing procedures of the Commission's By-Laws and approve Purchase Order No. 11080 in the amount of \$27,800.00, plus shipping, to Paradigm Systems. Seconded by Commissioner Mathews.

Commissioner Chaplin commented that the purchasing procedures set forth in the Commission's By-Laws should rarely be suspended absent some compelling reason. Commissioner Chaplin asked whether there was any time sensitivity associated with the purchase, and General Manager Martin explained that the purchase was not time sensitive but, rather, the employee that was handling the purchase was not familiar with the Commission's purchasing procedures for larger dollar items and had neglected to obtain sealed proposals. General Manager Martin added that, if the Board wished, he had no objection to delaying the purchase until sealed proposals had been received but that the price quote received telephonically included a government discount and represented a very good price compared to the other telephone quotes received.

In response to Commissioners Hartwig and Mathews questions, Staff Attorney Crowley confirmed that if the Commission's purchasing procedures were waived, then further reductions to the purchase price could be negotiated.

Commissioner Mueller asked if a cost estimate was received. Manager of Water Operations McGhee explained that the Management Budget reflected a budgeted expense of \$25,000.00 for five Panasonic Toughbooks but that after the Budget had been approved, it was decided to add a sixth laptop and certain security equipment for the laptops. Manager of Water Operations McGhee added that because the purchase

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was over budget, the Staff Attorney advised that Board approval was required to proceed with the purchase.

After Staff Attorney Crowley clarified that the Commission By-Laws state that any purchase over \$20,000.00 requires sealed proposals, regardless of whether the purchase is under or over budget, and Commissioner Zeilenga commented that there appeared to be no special deal or urgency justifying suspension of the Commission's purchasing procedures, Commissioner Mueller as the movant, and Commissioner Mathews as the seconder, agreed to withdraw the pending motion (and second).

It was the consensus of the Board to have staff solicit sealed proposals for the supply of the Panasonic Toughbooks including any necessary security equipment.

### ACCOUNTS PAYABLE

Commissioner Zay moved to approve the Accounts Payable in the amount of \$40,498.89 subject to submission of all contractually required documentation.  
Seconded by Commissioner Mathews and unanimously approved by a Roll Call Vote:

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

Nays: None

Absent: T. Elliott

### EXECUTIVE SESSION

None

Before the meeting was adjourned, Commissioner Poole revisited the discussion of the newly installed security fence at the DuPage Pumping Station noting that there are many unfenced public works facilities in the City of Naperville and the areas that are fenced are more aesthetically pleasing. Instead of fencing the area, Commissioner Poole recommended tearing down the new fence and posting No Trespassing Signs as an alternative solution.

Commissioner Mathews stated that unfortunately we live in different times which sometimes require more security but, perhaps, a smaller fenced-in area could be sufficient. Commissioner Mathews also suggested that designs for future projects with aesthetic impacts be presented to the Board for review and consensus.

Commissioner Hartwig asked staff to prepare a report for the January 2009 Board meeting regarding the approval history of the fence and its purpose. Commissioner Zeilenga agreed, adding that the report should offer alternatives (with cost estimates) for a more aesthetically pleasing look that still provides sufficient security.

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Commissioner Chaplin recommended replacing the newly installed security fence with something nicer.

Commissioner Saverino asked if staff had any prior discussion with the neighbors before the fence was installed. General Manager Martin stated that about one year ago the Commission conducted an informational meeting for the neighboring residents concerning the immediately pending relocation of Cadwell Avenue and other upcoming projects, including the installation of the security fence.

Facilities Construction Supervisor Bostick confirmed that he was the Commission representative who attended the January 2007 meeting and that the approximately 30 residents attending were provided with a full run down of all of the projects planned for the site, including the upcoming installation of the security fence. In response to Commissioner Saverino's further questioning, Facilities Construction Supervisor Bostick advised that the residents were told to expect the fence installation when the installation of the Granular Material Storage and Vehicle Storage Buildings got started but that construction of the fence had been accelerated by approximately 9 months ahead of the Granular Material Storage and Vehicle Storage Buildings. At least one audience member recollected the discussion, though quickly added that the residents were told the proposed fence would look like the existing fence in the front which it does not.

After concluding the discussion on the security fence, Commissioner Maio asked Staff Attorney Crowley to prepare a refresher memorandum concerning what constitutes a meeting under the Illinois Open Meetings Act, especially in relation to majorities of quorums and e-mail.

Commissioner Zay moved to adjourn the meeting at 8:25 P.M. Seconded by Commissioner Saverino and unanimously approved by a Voice Vote.

All voted aye. Motion carried.