



Established

1996

SPRINGFIELD WATER AND SEWER COMMISSION

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Minutes of Meeting

January 11, 2024

The Springfield Water and Sewer Commission held a public meeting on January 11, 2024, in accordance with Chapter 2 of the Acts of 2023.

Chairwoman Otero called the meeting to order at 9:03 a.m. and announced the Commissioners that are participating. Secretary for the Commission Jaimye Bartak called the attendance roll:

Daniel Rodriguez, Participating Remotely
Vanessa Otero, Present
Matthew Donnellan, Present

Also Present

Joshua Schimmel, Executive Director
Norm Guz, Commission Counsel
Anthony Basile, Comptroller
Domenic Pellegrino, Director of Finance
Steven Frederick, Director of Wastewater Operations
Theo Theocles, Director of Legal Services
Jaimye Bartak, Communications Manager/Secretary to the Commission
Attorney Bruce Leiter

Also Participating Remotely

Katie Shea, Educational Outreach Manager
Darleen Buttrick, Director of Engineering
Jim Laurila, Director of Water Operations
Christina Jones, Deputy Director of Water Operations
Jennifer Boulais, Director of Human Resources
Rick Gomez, Director of IT
Raemarie Walker, Deputy Director of Finance

Public Comment

- a. Jason Kauppi, Merit Construction Alliance of MA.

Mr. Kauppi respectfully recommended not imposing a Project Labor Agreement (PLA) on the new West Parish Filters Water Treatment Plant project. Mr. Kauppi said PLAs violate MGL Chapter 149 and render “merit shops” unable to compete because they need to replace full-time employees with temporary ones. Mr. Kauppi noted that the State Legislature mandated the Soldiers Home PLA and subsequently that the PLA made it difficult to attract bidders (with 0 bids from masonry, electrical, or HVAC contractors).

Atty. Norm Guz confirmed that the document sent by Mr. Kauppi prior to the Board meeting had been shared with the Commissioners.

- b. Greg Beeman, Associated Builders and Contractors MA Chapter.

Mr. Beeman commented that Associated Builders and Contractors – MA Chapter represents 475 contractors and related businesses. Mr. Beeman commented that all contractors and workers should have a clear opportunity to work, and that PLAs deny them this fair opportunity. Mr. Beeman noted that 83.8% of Massachusetts’ workforce is not unionized. Because of this, many “open shop” contractors choose not to bid on PLA projects. Mr. Beeman referred to a report submitted to Commissioners earlier, which noted statistics and data that illustrate PLAs hinder participation by small and disadvantaged businesses.

Business Matters

1. Approve the minutes of the meeting held on December 13, 2023, without reading, because copies were furnished to each member of the Commission for their review.

UPON MOTION DULY MADE BY COMMISSIONER DONNELLAN AND SECONDED BY COMMISSIONER RODRIGUEZ

VOTED YES –

**COMMISSIONER RODRIGUEZ
COMMISSIONER OTERO
COMMISSIONER DONNELLAN:**

to approve minutes of the meeting held on December 13, 2023.

2. Approve the minutes of the executive session held on December 13, 2023, without reading, because copies were furnished to each member of the Commission for their review.

UPON MOTION DULY MADE BY COMMISSIONER DONNELLAN AND SECONDED BY COMMISSIONER RODRIGUEZ

VOTED YES –

**COMMISSIONER RODRIGUEZ
COMMISSIONER OTERO
COMMISSIONER DONNELLAN:**

to approve minutes of the executive session held on December 13, 2023.

New Business

3. Financial Update: Report by Comptroller.

Comptroller Tony Basile reported an ending cash balance of \$134 million at the end of December, which represents a 16 million cumulative increase in cash flows. This is due to WIFIA drawdowns and SRF reimbursements. There was \$45 million in drawdowns from both of those sources.

The projected revenue variance is \$1.2 million, due to lower usage than anticipated in the summer months and a shortfall on Solutia revenue projections. The operating budget is projected to be 98% spent, and the revenue shortfall should be offset by vacancies in personal services and some lower operational expenses.

For year-to-date through December, \$38.5 million was spent in the capital budget, mostly on the York Street Pump Station and Locust Street projects. There are still \$411 million in capital appropriations to be spent in various projects, with a total of \$85 million expected to be spent by the end of June.

Unrestricted revenue represents 30% of cash. There were \$986,843,541 in assets, and \$723,993,912 in liabilities.

4. Consideration of Utility Billing Credit Summary and Summary of Accounts Receivable
December 2023: Report by Director of Finance.

Director of Finance Domenic Pellegrino reported net billings of \$7.8 million, collections of \$7 million, with an accounts receivable balance of \$7.3 million.

There was \$2.3 million in outstanding receivables, which represents a normal increase during the shutoff season. Advisory letters are going out to remind customers of outstanding balances.

Mr. Pellegrino reported 88 credits in the amount of \$19,134.48.

UPON MOTION DULY MADE BY COMMISSIONER DONNELLAN AND SECONDED BY COMMISSIONER RODRIGUEZ

VOTED YES –

**COMMISSIONER RODRIGUEZ
COMMISSIONER OTERO
COMMISSIONER DONNELLAN:**

to approve credits in the amount of \$19,134.48 as presented.

AT 9:18 AM UPON MOTION DULY MADE BY COMMISSIONER OTERO AND SECONDED BY COMMISSIONER DONNELLAN

**VOTED YES –
COMMISSIONER DONNELLAN
COMMISSIONER OTERO
COMMISSIONER RODRIGUEZ:**

to enter into executive session to discuss existing litigation related to SWSC et. al. vs. DEP and the decision of Superior Court, and to discuss the Draft Administrative Consent decree. It was determined that public session would have a detrimental effect on the Commission's position in litigation and negotiation of these items. It was announced that the Commission will come back into public session in approximately 30 minutes.

Executive Session

5. Update on SWSC, et. al. v DEP – Superior Court Decision (Water Management Act): Report by Executive Director.
6. Discussion of Draft Administrative Consent Decree: Report by Executive Director.

Public session resumed at 9:59 AM.

New Business (continued)

7. Consideration of Project Labor Agreement.

Commissioner Otero reported that she requested staff place this item back on the agenda after the last Board meeting. Commissioner Otero reported that she had since reviewed information provided by the Commission's staff, the Pioneer Valley Building Trades Council, ABC Massachusetts, the Associated General Contractors of America, and Commission counsel related to matters affecting the West Parish Water Treatment Plant. After said review and considering the notice received from MassDEP regarding the issuance of a draft Administrative Consent Decree for continued non-compliance of disinfection byproducts, which includes deadlines for completion; the financial terms of the WIFIA loan which have strict contractual schedule restrictions; the potential for workforce disruptions due to state/labor agreement negotiations which are scheduled to occur during the construction of the treatment plant; and because a Project Labor Agreement provides protection for the Commission from such potential disruptions, Commissioner Otero made a motion to consider the PLA.

Commissioner Rodriguez asked when the project would go out to bid. Director of Engineering Darleen Buttrick responded February 28, 2024.

Commissioner Rodriguez asked if special requirements are needed for a bidding package with a PLA, whether those requirements would slow down the bidding process, whether the decision could wait until the next Board meeting, and whether there was time to have a dialogue with those who contributed public comment. Mr. Schimmel responded that in order to keep the schedule as detailed the Commission would need to proceed without delay in negotiating contract terms of a potential PLA (if directed by the Board), and that extending the discussion until the February Board meeting would delay bidding schedules.

Atty. Guz presented the basis of the motion arising from his discussions with Commissioner Otero. That (1) the Commission now faces a draft ACO from DEP with a completion date of September 30, 2028 and DEP has the ability to take further action against the Commission if the construction completion deadline is not met. Atty. Guz noted DEP issued the ACO apparently based on the six-month schedule revision by Commission staff, following review of the 60% design presented by the treatment plant project engineer. That (2) the loan agreement with WIFIA including a deadline of Projected Substantial Completion Date of December 31, 2027, with some ability to extend that date with approval by WIFIA, as stated in the loan agreement. WIFIA has been notified of the June 30, 2028 project completion date. WIFIA has the right to review and determine whether to allow the extension. That (3) the Commission recently received a draft of potential funding from the SRF that includes a completion date of August 9, 2028. An extension would require approval by SRF and DEP, representing an additional deadline for the completion of the project. That (4) the report from Hazen, the project engineer, based on 90% Design, presents numerous construction-related timelines needed to be achieved to meet the project completion deadlines.

Atty. Guz continued that union representatives noted that state labor agreements will be expiring during the four-year construction period. Permitting is another issue, though Commission staff will do everything

possible to achieve the needed permits in a timely manner. Supply chain delays are yet another issue, despite confidence in staff and the engineering consultant in anticipating any supply issues. In addition, the Board has expressed a strong desire to engage in hiring of local residents and minority and women labor as much as possible. A Project Labor Agreement (PLA) would provide protections and provisions for many of these concerns, including no-strike clauses (with penalties), uniform wages, and reliable and qualified workers.

Atty. Guz continued that the *Malden* case asserted that projects must be of a sufficient size, duration, timing, and complexity to justify the adoption of a PLA. Atty. Guz noted that the multiple deadline pressures for this project, including the updated draft ACO, as well as providing drinking water in compliance with regulations, align with the “choreographed dance” that the courts affirmed as justification for a PLA in the *Malden* case.

UPON MOTION DULY MADE BY COMMISSIONER OTERO AND SECONDED BY COMMISSIONER DONNELLAN

VOTED YES –

**COMMISSIONER OTERO
COMMISSIONER DONNELLAN:**

to authorize the Executive Director to enter into negotiations with the Pioneer Valley Trades Council and any other labor councils to establish a Project Labor Agreement for the West Parish Filters Water Treatment Plant project, in light of the deadlines posed by the WIFIA loan documents and by the draft Consent Decree issued to the Commission for disinfection byproducts by MassDEP, and because any workforce delays or disruptions would delay the completion of the West Parish Water Treatment Plant project which would compromise the Commission’s ability to meet those deadlines, and delay the Commission's ability to return to providing over 250,000 people and businesses drinking water in compliance with applicable drinking water regulations and the size, duration, timing and complexity of this project, that the adoption of a Project Labor Agreement is needed in this case to promote labor harmony, to ensure meeting or exceeding the federal workforce percentages related to Women and Minority workers from the local workforce, and to provide for open competition.

VOTED NO –

COMMISSIONER RODRIGUEZ

8. Consideration of CIP Amendment 2024-09: Report by Director of Finance.

Mr. Pellegrino reported that this CIP Amendment is to close out two CIP projects and transfer remaining balances to the CIP Reserve Account. Both projects are complete.

UPON MOTION DULY MADE BY COMMISSIONER DONNELLAN AND SECONDED BY COMMISSIONER RODRIGUEZ

VOTED YES –

**COMMISSIONER RODRIGUEZ
COMMISSIONER OTERO
COMMISSIONER DONNELLAN:**

to approve CIP Amendment 2024-09.

9. Consideration of CIP Amendment 2024-10: Report by Director of Finance.

Mr. Pellegrino reported that this CIP Amendment would increase the appropriations for hazardous material removals costs. These costs are reimbursed by Eversource.

UPON MOTION DULY MADE BY COMMISSIONER DONNELLAN AND SECONDED BY COMMISSIONER RODRIGUEZ

VOTED YES –

**COMMISSIONER RODRIGUEZ
COMMISSIONER OTERO
COMMISSIONER DONNELLAN:**

to approve CIP Amendment 2024-10.

10. Consideration of CIP Amendment 2024-11: Report by Director of Finance.

Mr. Pellegrino reported that this CIP Amendment involves a \$1.85 million transfer from the Distribution account under WIFIA to the Bernie Avenue Transmission Main project. Both accounts are under the same program for WIFIA (water main replacement). The Bernie Avenue project costs are shared with regional customers. This transfer is needed to cover the bids that came in.

UPON MOTION DULY MADE BY COMMISSIONER DONNELLAN AND SECONDED BY COMMISSIONER RODRIGUEZ

VOTED YES –

**COMMISSIONER RODRIGUEZ
COMMISSIONER OTERO
COMMISSIONER DONNELLAN:**

to approve CIP Amendment 2024-11.

11. Consideration to Award Contract for the Birnie Ave Water Transmission Main Improvements Project (SWSC Bid No 24-31): Report by Director of Engineering.

Director of Engineering Darleen Buttrick reported that bids for the Bernie Avenue project ranged from \$4,650,790 to \$7,000,000. The project estimate was \$5 million. Baltazar Construction was the low bidder and recommended by the consulting engineer.

UPON MOTION DULY MADE BY COMMISSIONER DONNELLAN AND SECONDED BY COMMISSIONER RODRIGUEZ

VOTED YES –

**COMMISSIONER RODRIGUEZ
COMMISSIONER OTERO
COMMISSIONER DONNELLAN:**

to authorize the Executive Director to execute a contract with Baltazar Construction for the Bernie Avenue Transmission Main Project.

12. Consideration of Kleinfelder Task Order 45 Under Contract R-21-01: Report by Director of Engineering.

Ms. Buttrick reported that this task order would cover construction administration, full-time construction coordinator, and project closeout.

UPON MOTION DULY MADE BY COMMISSIONER DONNELLAN AND SECONDED BY COMMISSIONER RODRIGUEZ

VOTED YES –

**COMMISSIONER RODRIGUEZ
COMMISSIONER OTERO
COMMISSIONER DONNELLAN:**

to authorize the Executive Director to execute Task Order 45.

13. Water and Sewer Updates: Report by the Executive Director.

Mr. Schimmel reported that the HAA5 public notice was included in this month's bills. Three of the eight sample locations were slightly over the MCL.

Mr. Schimmel reported that staff are currently in discussions regarding strategies to control the deer population in the watershed. Proposals will be brought before the Board.

Mr. Schimmel reported that business intelligence is being utilized for water usage investigations. This is an effort to avoid catch-up billing for unmetered usage. Commissioner Otero asked whether payment plans are offered when unmetered usage is found. Mr. Schimmel replied that payment plans are offered in certain circumstances, and also that smart meters are installed to catch anomalies sooner. Commissioner Rodriguez commended the 1,700 investigations and innovative resource management completed by staff.

Mr. Schimmel requested permission to engage with an attorney to negotiate the Project Labor Agreement.

UPON MOTION DULY MADE BY COMMISSIONER DONNELLAN AND SECONDED BY COMMISSIONER RODRIGUEZ

VOTED YES –

COMMISSIONER RODRIGUEZ

COMMISSIONER OTERO
COMMISSIONER DONNELLAN:

to authorize the Executive Director to execute a contract with counsel for negotiations of the Project Labor Agreement, not to exceed \$25,000.

14. Consideration and/or action on any other matters that may come before the Commission at this meeting.

None considered.

The next meeting will be on February 14, 2024 at 1 PM.

Unanimously voted to adjourn at 10:40 AM.

Submitted By:



Jaimye Bartak, Secretary

Exhibits Considered:

December 13, 2023 Meeting and Executive Session Minutes
Monthly Financial Report
2023 December Finance Director Report
Contracts Signed by Josh Schimmel
Cobble Reservoir Capacity Levels
Letter of Appreciation of Springfield Public Schools
PLA – Public Loses Again – An Analysis by the Merit Construction Alliance
2023 Usage Investigation Summary
Draft ACO
SWSC WTP Final Design and Bidding
West Parish 90% Schedule
WMA Ruling_12.21.23