



Established

1996

SPRINGFIELD WATER AND SEWER COMMISSION

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Minutes of Meeting

November 16, 2023

The Springfield Water and Sewer Commission held a public meeting on November 16, 2023, in accordance with Chapter 2 of the Acts of 2023.

Chairwoman Otero called the meeting to order at 10:02 a.m. and announced the Commissioners that are participating. Secretary for the Commission Jaimye Bartak called the attendance roll:

Daniel Rodriguez, Present
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
Jaimye Bartak, Communications Manager/Secretary to the Commission
Tanya Campbell, Marcum
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 Engineering
Kristin Monfette, Safety Manager
Raemarie Walker, Deputy Director of Finance

Business Matters

1. Approve the minutes of the meeting held on October 26, 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
October 26, 2023.

2. Approve the minutes of the executive session held on October 26, 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 October 26, 2023.

New Business

3. FY23 Draft ACFR presentation: Report by Marcum LLC.

Tanya Campbell of Marcum reported on the FY23 draft audit. It is the role of the auditors to issue opinions on financial statements and make sure they are free of inaccurate information, though every receipt is not reviewed. Auditors use the concept of materiality to design audit testing. There are two presumed risks: management override of controls, and improper revenue recognition. There were no other significant risks noted.

Ms. Campbell continued that management is responsible for financial statements and maintaining effective internal controls. Management provides the attestation of accuracy of financial statements. Commissioners are responsible for overseeing the entire process.

The ACFR is receiving its 11th certification. The previous 10 were all awarded certificates of achievement in financial reporting. Most organizations do not make such an effort, and the award is an accomplishment.

The ACFR needs to be filed by December 31. It goes to members of a special review committee of specialized CPAs. The review takes about nine months. Standards for ACFRs are set by the Government Accounting Standards Board (GASB).

Ms. Campbell reported that financial statements are issued on an accrual, not cash, basis (assets or liabilities). Budgets and rates are set on a cash basis.

The net pension liability is the Commission's share of the City's unfunded pension liability (just under \$74 million, an increase of over \$7 million). The increased liability is due to the stock market downturn in 2022, and a reduced discount rate. The discount rate is a blend of the municipal bond rate and the investment ROI (5.25%).

Commissioner Rodriguez asked what percentage of total pension is owed by the Commission. Comptroller Tony Basile responded that the Commission represents approximately 9% of the overall pension liability. The City is scheduled to pay off the liability in 2033. Ms. Campbell continued that OPEB liability decreased by \$600,000. The Commission contributed \$750,000 last year.

The Commission was required to have a Federal grant audit. Draws on the WIFIA loan are considered Federal, as well as a portion of the SRF loan. No issues were found.

4. Financial Update: Report by Comptroller.

Mr. Basile reported ending cash of \$120.1 million, a \$1.8 million increase.

Revenue is projected at \$104.4 million, a negative variance of \$1.4 million due a 3% decrease in actual usage compared to what was budgeted. Solutia is also going through renovations, so that has slowed down their consumption and resulted in a \$500,000 revenue decrease. More interest earnings are being generated than anticipated.

Ninety-eight percent of the operating budget is projected to be spent. A projected \$1.7 million surplus due to budgeted vacancies will offset revenue loss.

Commissioner Rodriguez asked what is driving the variance for purchased services. Mr. Basile responded the wastewater treatment plant service contract and various small line items that fluctuate from month to month. Mr. Basile added the variance is also a projection.

Commissioner Otero asked at what point does the projection start informing next year. Mr. Basile responded that budgeting starts next month, but meanwhile as much work as possible is done during the course of the year to spend allocated budgets. Executive Director Josh Schimmel added materials and projects being affected by City/DOT/seasonal schedules have also contributed to the variance.

Commissioner Otero asked how the variances can be reduced. Mr. Basile responded that variances need to be considered in a larger context, and may not always indicate over- or under-budgeting.

For the capital budget, Mr. Basile reported \$23.6 million has been expended, with a projected spend-out of \$85 million based on project schedules.

There was \$120.1 million in cash, with unrestricted revenue of \$26.6 million, representing 22% of overall cash.

There was just over \$6 million in total receivables, with \$1.4 million over 60 days old.

There was \$980 million in assets, and \$730.3 million in liabilities, with long-term debt and pension obligations representing most of the liabilities.

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

Director of Finance Domenic Pellegrino reported net billings of \$9.2 million, and collections of \$11.6 million, for an accounts receivable balance of \$5 million.

There were 4,902 accounts with receivables over 60 days, representing just under \$1.5 million. Mr. Pellegrino commended the collections team, particularly for reducing payment plan defaults with reminders.

There were 71 credits issued for a total of \$13,942.82.

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 \$13,942.82 as presented.

6. Consideration of PFAS Settlement Agreement: Report by Commission Counsel.

Commission Counsel Norm Guz reported that the Commission received notice of a class action lawsuit settlement agreement with 3M from the U.S. District Court in South Carolina. The Commission is listed as a party in the settlement agreement. This does not indicate that PFAS is impacting the Commission's water quality, rather that the Commission was included as a Class 1 qualifying member due to it being a public water supplier in Massachusetts.

There is \$6,875,000,000 to address Class 1 entities. 3M is looking to limit their liability related to PFAS contamination. The settlement is not based on contamination that did or could take place. The settlement includes an extensive release and excludes any costs of remediation of any PFAS in the SWSC system, or damages to its customers, and damages to the treatment plants. If the Commission agrees to the settlement, 3M may request that the Commission send a letter to customers saying 3M has no further liability if any PFAS issues arise.

The Commission has until December 11 to opt out. Atty. Guz recommended opting out, as the final settlement amount is unknown, and any future potential PFAS damage costs are unknown. The City of Westfield (which had a PFAS issue) is expected to opt in, but MWRA (which has not had a PFAS issue) is expected to opt out.

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 or Director of Legal Affairs to file with the U.S. District Court in South Carolina to opt out of the proposed 3M settlement agreement.

7. Consideration of Labor Project Agreement: Report by Commission Counsel.

Atty. Guz reported on the necessary conditions for a Project Labor Agreement (PLA) to be approved by the Commission under current MA public construction law and MA case law on the matter. The Commission has not previously participated in a PLA. A PLA would be an agreement with the Pioneer Valley trade unions and the general contractor for the water treatment plant.

Mr. Schimmel added that Atty. Theocles, Atty. Guz, and himself met with union members at City Hall in October to discuss the details of a PLA, and have sent follow-up questions.

Mr. Guz continued that a PLA would require findings by the Commission, and demonstrating that a careful reasoned process led to the approval of the PLA. In order to be in compliance with existing case law, there would need to be a finding that the size, duration, time, and complexity of the West Parish Water Treatment Plant project are such that the goals of competitive bidding could not be achieved without a PLA.

Commissioner Otero asked how a finding is determined. Atty. Guz reported that Commission staff is gathering wage information, and what amounts of those are related to union costs. Hazen (the Commission's design engineer of record) would also perform project performance models (risk to cost and schedule) to determine potential impacts. Commission staff will review and determine in their opinion if a potential PLA would satisfy the statutory bidding goals and relevant case law.

Mr. Schimmel reported that RFQs were issued in July so there is a list of pre-qualified bidders. Three-fourths of the general contractors are union shops. Atty. Bruce Leiter added that it is usually state organizations of non-union contractors that pursue lawsuits against PLAs.

Mr. Schimmel reported that findings will be complete by early December. Mr. Schimmel added that there is schedule pressure related to water quality compliance.

8. Consideration of Contract Amendment No. 5 to the Service Contract with Veolia ISO of the ICIs: Report by Director of Wastewater Operations.

Director of Wastewater Operations Steve Frederick reported on a design-build project for nutrient removal. An amendment would cover change orders related to the change in status for a generator from stand-by to emergency, which generates new permitting costs. In addition, soils were found that will need additional testing and disposal, though these costs will be recouped from Eversource. Finally, the cost of finding MBE services for engineering as well as design-build services was added.

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 the 5th amendment in the form as presented.

9. Quarterly Update on Capital Program: Report by Director of Engineering.

Director of Engineering Darleen Buttrick reported on first official quarterly capital report. As of September 30, \$200 million of the total WIFIA program was expended, including close to \$18 million of the WIFIA loan.

The water treatment plant is expected to be at substantial completion by June 2028. Peer review of 90% was completed, and design will be 100% complete in January. DEP's design review is anticipated to be complete at the end of December. Bidding will take place in February.

Design of the 42" valve is complete, and bidding will start this month.

The BWPS is online except for the domestic water system. The second tie-in should occur next month.

The Locust Street Transfer and Optimization Project should continue through the winter.

The FY23 sewer improvements are underway; Central Street should be finished at the end of January.

The Birnie Avenue main repair project is out to bid.

Mr. Frederick reported that a punch list was being worked through at the York Street Pump Station. The grit removal project is moving forward.

10. Consideration of Intergovernmental Agreements with Town of Blandford: Report by Water Resources Manager.

Water Resources Manager Nicole Sanford reported on two separate Intergovernmental Agreements with Blandford. The first is to re-grade South Street prior to, during, and after logging on an as-needed basis this winter. The second IGA is for a \$2,500 request to supply 10 firefighting backpack sprayers for brush fires, as Blandford's are not in good condition.

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 the two Intergovernmental Agreements with the Town of Blandford in the form substantially as presented.

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

Mr. Schimmel reported on a letter of appreciation that was sent to Veterans and a donation to Wreaths Across America in honor of the Commission's past and present Veteran employees.

Mr. Schimmel reported there was a summary judgment hearing on the Water Management Act appeal last week. If the judge does not issue findings, it will go to trial.

Mr. Schimmel reported that Engineering staff continue to work with the City on repair of the St. James Avenue water main at Abbey Brook. It is currently unclear if there will be FEMA or MEMA reimbursement.

Mr. Schimmel reported on another scheduled meeting with the City's Health and Human Services Subcommittee and the ribbon-cutting of the York Street Pump Station tomorrow.

Deputy Director of Water Operations Christina Jones reported that slightly higher organics were being observed in the reservoir due to seasonal turnover. The rapid sand filter plant is operating well with the new backwash pumps. There are still delays with the domestic water system and second transmission main connection.

Educational Outreach Manager Katie Shea reported on two Pipeline Program alumni that are working as interns for the school year.

Director of IT Rick Gomez reported that a new support technician was hired for the Tech Desk, as well as a new GIS analyst.

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

None considered.

Old Business

13. Consideration of Legislative and Regulatory Consultant: Report by Executive Director.

Mr. Schimmel reported on a potential contract with Smith Costello and Crawford to assist with regulatory interpretation and framework, and legislative advocacy at the state and local level.

Commissioner Otero asked if this firm has local presence. Mr. Schimmel responded they have presence at the statehouse.

Commissioner Rodriguez asked if Boston Water and Sewer Commission had a similar arrangement. Mr. Schimmel responded they have larger legal teams.

Commissioner Otero asked if this was intended to alleviate staff of current work. Mr. Schimmel responded it is intended to make efforts more effective, and depending on the task the firm would be in a leading or support role.

Commissioner Rodriguez requested a mechanism to evaluate if the contract ends up benefiting the Commission, and for a review at the end of six months or a year. Mr. Schimmel responded that a running list of their work and outcomes will be maintained.

Commissioner Otero noted that she would like to see efforts towards advocating for the local delegation to coalesce around a regional request.

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 the contract with Smith Costello and Crawford in the form substantially presented.

The next meeting will be held on December 13, 2023, at 9 AM.

Adjourned by unanimous vote at 11:47 AM.

Submitted By:



Jaimye Bartak, Secretary

Exhibits Considered:

October 26, 2023 Meeting and Executive Session Minutes
Monthly Financial Report
2023 October Finance Director Rpt
Contracts Signed by Josh Schimmel
Cobble Reservoir Capacity Levels
Regulatory and Legislative Consultant