



44865 Loudoun Water Way • P.O. Box 4000 • Ashburn, Virginia 20146 • www.loudounwater.org

Minutes of the Loudoun Water Board Meeting, December 9, 2010

The Board Meeting was held at 3:00 pm in the Boardroom of the Loudoun Water building located at 44865 Loudoun Water Way, Ashburn, Virginia.

Board Members:

Chairman Fred Jennings	Ed Burrell	Dimitri Kesari
Tanja Thompson	Mark Koblos	Johnny Rocca
Patti Psaris	Hobie Mitchel-Absent	Chuck Harris

General Counsel – Jonathan Rak, Stanley Franklin

Loudoun Water Staff in Attendance:

Dale Hammes-GM/ Treasurer	Jewell Lilly/Secretary
Mary Arnsbarger-DGM Administration	Tom Broderick-DGM Operations
Carla Burleson-DGM Finance	

AGENDA ITEM 1 – CALL TO ORDER

The meeting was called to order by Chairman Jennings at 3:00 pm.

AGENDA ITEM 2 – GENERAL MATTERS

2A. Approval of Minutes

Upon **MOTION** of Ms. Psaris, second by Mr. Burrell, the minutes of the meeting of November 10, 2010 were approved as presented. **Vote:** Mr. Jennings-Aye, Ms. Psaris-Aye, Mr. Koblos-Aye, Ms. Thompson-Absent for the vote, Mr. Rocca-Aye, Mr. Mitchel- Absent, Mr. Kesari-Absent for the vote, Mr. Harris-Aye, Mr. Burrell-Aye.

2B. Public Speakers

- No public speakers during this meeting.

2C. General Manager’s Report

- The Town of Hamilton provided notice that they plan to manage their own system, effective tomorrow.
- The Shay Allen Morgan lawsuit has been settled.
- Tim Coughlin’s retirement celebration will be held Friday, December 17 from 2pm to 5pm.

2D. Board Member Comments

- Mr. Koblos wished everyone a happy, safe holiday.
- Chairman Jennings announced the appointment of two new Board Members, Mr. Pravin Gandhi and Mr. Ralph Watson. The Chairman thanked Mr. Kesari and Mr. Mitchel for their years of service.
- The Chairman recognized Tim Coughlin and Stanley Franklin, each attending their last Board Meeting before retirement.
- Chairman Jennings described an invitation from Supervisor McGimsey to himself and Mr. Burrell to participate in an Energy Meeting at the County level.

AGENDA ITEM 3 – AMENDMENT/ADOPTION OF AGENDA

Upon **MOTION** of Mr. Burrell, second by Ms. Psaris, the agenda was adopted as presented.

Vote: Mr. Jennings-Aye, Ms. Psaris-Aye, Mr. Koblos-Aye, Ms. Thompson-Absent for the vote, Mr. Rocca-Aye, Mr. Mitchel- Absent, Mr. Kesari-Absent for the vote, Mr. Harris-Aye, Mr. Burrell-Aye.

AGENDA ITEM 4 – BOARD COMMITTEE ACTION

Finance – Mr. Harris speaking on behalf of Committee Chairman Mitchel referenced the 2011 Budget item present on the Action Agenda.

CIP - Mr. Rocca – reported that Change Order No. 3 for East Water Reuse Main would remain on the Consent Agenda.

PNC - Mr. Burrell – Provided a brief summary of the November 17th meeting.

Policy – Ms. Psaris – The Policy Committee has recommended one action item before the Board today, a Resolution Concerning Authority of the General Manager.

AGENDA ITEM 5 – CONSENT AGENDA

Upon **MOTION** of Mr. Burrell, second by Mr. Koblos, the following Consent Agenda Items were approved. **Vote:** Mr. Jennings-Aye, Ms. Psaris-Aye, Mr. Koblos-Aye, Ms. Thompson-Absent for the vote, Mr. Rocca-Aye, Mr. Mitchel-Absent, Mr. Kesari-Absent for the vote, Mr. Harris-Aye, Mr. Burrell-Aye.

Item 5A. Approval of Change Order No. 3 and 4 or East Water Reuse Main to NRUCFC – Elizabeth Sitter

This project consists of 7,630 feet of 16-inch and 12-inch water reuse main, including 246 feet of 30-inch jack and bore under Rt. 28. Work is 97 percent complete (7,368 feet of main in place). 43 percent (106 feet) of the Rt. 28 bore is complete. The contractor has invoiced \$502,846 (81 percent) to date.

Proposed Change Order Nos. 3 and 4:

- The Rt. 28 jack and bore was anticipated to take 15-18 working days at 10-20 feet of progress per day. This bore was started May 5, 2010 and was 43% complete August 21, 2010. Large diabase boulders were encountered, which required hand-digging, including rock splitting. A summary of the work to date is attached.

- On August 21, 2010, the subcontractor chose to stop work and develop alternatives for continuing this crossing. On September 24, 2010, the contractor, subcontractor, Loudoun Water staff and Loudoun Water legal counsel met to discuss the subcontractor's options and determine if there were any other alternatives that could assist in completing this project to meet NRUCFC's schedule and minimize the cost. The best alternative was determined to be tunneling using 48-inch diameter liner plate to provide a larger shaft diameter to remove the large diabase boulders. The liner plate tunnel alternative has been reviewed and approved by VDOT, with the same surface monitoring requirements as noted in the summary of previous change orders (attached).
- The contractor submitted their cost proposal to complete the crossing with a 48-inch liner plate tunnel. The cost for the completion of the tunnel work using this new means is \$131,508 (Change Order 3).
- Contractor has also submitted three additional claims to Loudoun Water for payment:
 - Because of the difficulty and labor intensive costs Contractor incurred in having to remove the boulders from the Project area, Contractor requested payment of \$122,873 for the additional labor cost it incurred to perform this work ("Boulder Claim").
 - Contractor had also previously submitted a loss of productivity claim ("Loss of Productivity Claim") in the amount of \$148,770 for delays it allegedly incurred because Notice to Proceed occurred later than the contractor anticipated.
 - Contractor also submitted a claim for \$37,094 tied to additional costs it incurred due to extreme wet weather conditions ("Weather Claim")
 - The Boulder, Loss of Productivity, and Weather Claims total \$308,737.40.
 - Although Loudoun Water denies liability for the above noted claims, at the advice of legal counsel, and in order to avoid the time and significant costs that Loudoun Water would incur in litigating Contractor's claims, it was decided that the best course action was to settle all of Contractor's outstanding claims for a total \$122,873 (Change Order No. 4) in exchange for a full release of any and all claims Contractor has to date against Loudoun Water. Contractor has agreed to accept this reduced sum to resolve its claims, and will provide Loudoun Water with a full release of all claims incurred to date, including, but not limited to, the Boulder Claim, the Loss of Productivity Claim, and all prior weather related claims that have been made by Contractor.

Path Forward

The tunnel crew and material are available to start within a week. The tunnel completion is anticipated to take seven weeks.

The Board approved Change Order No. 3 for \$131,508 and Change Order No. 4 for \$122,873 to the Contract for the East Water Reuse Main to NRUCFC for a not to exceed amount of \$254,381. The new contract amount will be \$969,189. Additional expenditures will require further Board Approval.

Work to Date on the Route 28 Crossing

Description	Date Range	Feet Progress	Additional Labor Cost
Original Contractor Estimate	5/5-5/31/10	246	
Actual work conducted by Subcontractor to date			
Jack and Bore set-up	5/5-5/7/10	0	
Jack and Bore	5/7-5/8/10	32	
Boulder 1 (hand-dig)	5/7-6/4/10 (3 weeks)	4	\$34,000
Jack and Bore	6/4-6/7/10	54	
Boulder 2 (hand-dig)	6/7-6/30/10 (3 weeks)	4	Approx \$34,000
Jack and Bore	6/30/10	6	
Boulder 3 (hand-dig)	6/30-7/14/10 (1 week)	1	Approx \$13,000
Holiday for crew	7/5-7/9/10	0	
Jack and Bore	7/15/10	1.5	
Hand digging in diabase rocks	7/15-8/21/10 (5 weeks)	3.5	Approx \$41,873
Total	5/5-8/21/2010	106	\$122,873

Summary of Previous Change Orders

Change Order No. 1:

Change Order No. 1 was issued to cover the pre-construction and construction portions of new VDOT mandated permit requirements at Rt. 28 (7 lanes wide at bore). VDOT required daily survey of the road profile at the bored crossing, and a traffic control plan, during the jack and bore operation, to monitor for road subsidence. Change Order No. 1 is for \$58,033 and assumed the jack and bore would take 18 working days of survey and (including pre-construction survey and the associated traffic control) for the 246-foot crossing of the seven-lane road with significant maintenance of traffic (MOT) requirements for working within a limited access highway. The cost split is approximately 45 percent survey and 55 percent maintenance of traffic.

Change Order No. 2:

Change Order No. 2 issued to cover the post-construction portion of new VDOT mandated permit requirements and five Loudoun Water requested changes. The VDOT costs included the permit requirement to monitor for road subsidence has post-construction surveys at two, four, and eight weeks after construction and two additional construction entrances for this project. Loudoun Water requested changes for items, including replacing an existing leaking 12-inch valve, converting a hydrant that is ten feet deeper than anticipated, removal of an additional deep hydrant not shown on the conversion work and the addition of a 16-inch tee and blow off for future connection by developers. Total Change Order No. 2: \$58,775.

Item 5B. Approval of Write-Off of uncollected Accounts – Mark Guanco

There are approximately 83 utility bills that have outstanding balances greater than \$100 and for which all collection efforts have been exhausted including reminder notices, telephone calls and searching the Authority's and the County's database if they have a property within our service area.

The \$17,530.29 in write offs for the year is comprised of:

- \$ 4,590.16 for Residential & Commercial Bankruptcies
- \$ 12,940.13 for uncollectible Residential & Commercial Accounts

In an effort to reduce the write-offs we have stepped up our effort in filing liens and have become assertive in our turn off and collection processes. Since joining the State of Virginia Set-Off Program, which will allow us to garnish state tax refunds, we have seen an increase in payment of past due final bills after sending notification of possible garnishment of tax refunds.

The total operating revenues for service charges for 2010 totaled approximately \$40.6 million through October. The amount of write-offs represents 0.04% of the revenue.

The Board authorized the write-off of all uncollectible accounts with outstanding balances greater than \$100.

AGENDA ITEM 6 – ACTION AGENDA

Item 6A. Resolution Concerning Authority of General Manager – Patti Psaris (Board Member)

At the Board Chairman’s request, the Policy Committee reviewed the by-laws and identified the need for clarification of the General Manager’s signatory authority to bind Loudoun Water. Legal counsel has prepared the attached resolution that outlines the General Manager’s authority to sign certain contracts and instruments in accordance with policies and directives of the Board.

Specifically, the General Manager is authorized to sign:

- Contracts for goods or services authorized in the Annual Budget adopted by the Board, except construction or professional services contracts for \$100,000 or more or any amendment to a construction or professional services contract which would cause a contract to be or exceed \$100,000.
- Developer Agreements for On-Site Facilities and Main System Extensions.
- Community Water and Waste Water Agreements.
- Reclaimed Water Agreements.
- Deeds of Easement.
- Draws Upon Letters of Credit.
- Demands Upon Bonds; and
- Any documents or instruments pursuant to his authority as custodian of the funds of the Authority.
- Other documents and instruments expressly approved by the Board.

RESOLUTION CONCERNING AUTHORITY OF GENERAL MANAGER

WHEREAS, pursuant to Section 15.2-5114 of the Virginia Code, Loudoun Water is authorized to procure goods, services, insurance and construction, consistent with the requirements of Section 2.2-4300 et seq. of the Virginia Code (the “Virginia Public Procurement Act”); and

WHEREAS, pursuant to Section 2.2-4302 of the Virginia Code, Loudoun Water is authorized to adopt procurement resolutions and regulations consistent with the Virginia Public Procurement Act; and

WHEREAS, pursuant to Section 15.2-5113 of the Virginia Code, the General Manager of Loudoun Water shall perform such duties as may be delegated to him by the Board; and

WHEREAS, pursuant to Article III, Section 4 of the By-Laws of the Authority, the Board may specifically authorize the General Manager to sign contracts and other instruments on behalf of the Authority.

NOW, THEREFORE BE IT RESOLVED that the Board of Directors does hereby authorize the General Manager to sign on behalf of the Authority the following categories of contracts and other instruments that are in accordance with the general policies and directives of the Authority:

1. Contracts for goods or services authorized in the Annual Budget adopted by the Board, except construction or professional services contracts for \$100,000 or more or any amendment to a construction or professional services contract which would cause a contract to be or exceed \$100,000.
2. Developer Agreements for On-Site Facilities and Main System Extensions.
3. Community Water and Waste Water Agreements.
4. Reclaimed Water Agreements.

5. Deeds of Easement.
6. Draws Upon Letters of Credit.
7. Demands Upon Bonds; and
8. Any documents or instruments pursuant to his authority as custodian of the funds of the Authority.
9. Other documents or instruments expressly approved by the Board.

Adopted this 9th day of December, 2010.

Loudoun Water Board Secretary

Upon **MOTION** by Mr. Psaris, second by Mr. Koblos, The Board approved the Resolution Concerning Authority of General Manager, as presented. **Vote:** Mr. Jennings-Aye, Ms. Psaris-Aye, Mr. Koblos-Aye, Ms. Thompson-Absent for the vote, Mr. Rocca-Aye, Mr. Mitchel- Absent, Mr. Kesari-Absent for the vote, Mr. Harris-Aye, Mr. Burrell-Aye.

Chairman Jennings thanked Ms. Psaris and the Policy Committee for their work during the past year and announced the successful conclusion of their assignment.

Item 6B. Adoption of the 2011 Budget – Carla Burluson

The Personnel Committee met on August 25, 2010 and forwarded their recommendation on the Personnel section of the budget to the Finance Committee. The Finance Committee met on October 26, 2010 to review the operating portion of the budget. The CIP and Finance Committees reviewed the capital section of the budget at their joint meeting on November 16, 2010.

Total operating expenses for 2011 (net of depreciation and amortization) are estimated at \$42.1 million or \$2.5 million more than the 2010 adopted budget. The primary drivers for the increase include wholesale purchases, personnel expenses and potential legal costs. Non-operating expenses which include payments on debt are estimated at \$12.1 million.

Total operating revenues for 2011 are projected at \$53.6 million and include the rate increase adopted by the Board for April 2011. Non-operating revenues are projected at \$30.9 million and include availability charges and interest income. Growth for 2011 is projected at 1,800 equivalent residential connections (ERCs). In the 2011 revenue projections availability charges are assumed to be maintained at existing rates.

A funding target of \$80 million has been established for capital expenditures for 2011. This target is based on projected revenue sources available to fund capital expenditures such as availability charges, a contribution from existing users and interest income. It is expected that Fairfax County will make a payment of approximately \$21 million in early 2011 for the purchase of 1 MGD of capacity at the Broad Run facility.

Staff will continue to monitor the budget and will provide a mid-year review in 2011.

The 2011 proposed annual budget will allow Loudoun Water to remain in full compliance with all covenants of the Revenue Bond Master Indenture of Trust.

(At this point in the meeting, Mr. Kesari arrived)

Upon **MOTION** by Mr. Burrell, second by Mr. Kesari, the Board adopted the 2011 annual budget as presented. **Vote:** Mr. Jennings-Aye, Ms. Psaris-Aye, Mr. Koblos-Aye, Ms. Thompson-Absent for the vote, Mr. Rocca-Aye, Mr. Mitchel- Absent, Mr. Kesari-Aye, Mr. Harris-Aye, Mr. Burrell-Aye.

AGENDA ITEM 8 – REPORTS

- A. **Water and Sewer Agreements** – No comments.
- B. **Central Water Supply Plan Monthly Report** – Tim Coughlin provided an update on recent and upcoming activities to include a Public Hearing on December 13. He introduced Kevin Wood as the interim manager until a new program manager is hired.

AGENDA ITEM 9 – INFORMATIONAL ITEMS

- A. **Rate Increase Customer Communication Plan – Mike McGill**
Mr. McGill provided a handout (available from the Board Secretary) and verbal update on this subject.

(At this point in the meeting Ms. Thompson arrived and explained that there was a security situation at the air base and she was unavoidably delayed).

AGENDA ITEM 10 – CLOSED MEETING

10A. Consultation with Legal Counsel Pertaining to Personnel Matters and Actual or Probable Litigation Discussion – Stanley Franklin and Jonathan Rak, Legal Counsel.

Upon **MOTION** of Chairman Jennings, second by Mr. Koblos, the Board moved to enter into Closed Meeting pursuant to Section 2.2-3711(A) Subsection 7. **Vote:** Mr. Jennings-Aye, Ms. Psaris-Aye, Mr. Koblos-Aye, Ms. Thompson-Aye, Mr. Rocca-Aye, Mr. Mitchel-Absent, Mr. Kesari-Aye, Mr. Harris-Aye, Mr. Burrell-Aye.

The items to be discussed were:

Subsection 7 - Consultation with legal counsel and briefings by staff members or consultants pertaining to actual or probable litigation and consultation with legal counsel regarding specific legal matters requiring the provision of legal advice by such counsel.

Upon **MOTION**, by Mr. Kesari, second by Mr. Koblos, the Board voted to return to Open Meeting. **Vote:** Mr. Jennings-Aye, Ms. Psaris-Aye, Mr. Koblos-Aye, Ms. Thompson-Aye, Mr. Rocca-Aye, Mr. Mitchel-Absent, Mr. Kesari-Aye, Mr. Harris-Aye, Mr. Burrell-Aye.

Upon **MOTION**, by Mr. Kesari, second by Mr. Koblos, the Board adopted the following Certification for Closed Meeting. Pursuant to Section 2.2-3711(d) of the Code of Virginia the Loudoun County Sanitation Authority hereby certifies that, to the best of each member's knowledge, (i) only public business matters lawfully exempted from open meeting requirements by Virginia law, and (ii) only such public business matters as were identified in the motion convening the closed meeting were heard, discussed or considered by the Loudoun County Sanitation Authority. **Vote:** Mr. Jennings-Aye, Ms. Psaris-Aye, Mr. Koblos-Aye, Ms. Thompson-Aye, Mr. Rocca-Aye, Mr. Mitchel-Absent, Mr. Kesari-Aye, Mr. Harris-Aye, Mr. Burrell-Aye.

Upon **MOTION**, by Mr. Kesari, second by Mr. Rocca, the Board directed staff to add to the Resolution the following language "WHEREAS Loudoun Water wishes promptly to evaluate the practicable options which are consistent with the Loudoun County Revised General Plan" and adopted the Raspberry Falls Resolution. **Vote:** Mr. Jennings-Aye, Ms. Psaris-Aye, Mr. Koblos-Aye, Ms. Thompson-Aye, Mr. Rocca-Aye, Mr. Mitchel-Absent, Mr. Kesari-Aye, Mr. Harris-Aye, Mr. Burrell-Aye.

Resolution directing staff to consider installation of filtration and disinfection treatment at Raspberry Falls as an option identified in Virginia Department of Health letter dated November 23, 2010.

WHEREAS, correspondence received from the Virginia Department of Health on November 23, 2010 directed Loudoun Water to consider several actions in response to the determination that Raspberry Falls Well PW-1 is under the direct influence of surface water; and

WHEREAS, these actions to be considered include 1) install filtration and disinfection treatment for the GUDI source within 18 months of this notice, or by May 23, 2012, in accordance with 12VAC-590-420 of the Waterworks Regulations; 2) develop new or replacement sources; and 3) connect to another waterworks such as Town of Leesburg or Selma Estates; and

WHEREAS, Loudoun Water wishes promptly to evaluate the practicable options which are consistent with the Loudoun County Revised General Plan.

NOW, THEREFORE BE IT RESOLVED that the Board of Directors does hereby direct Loudoun Water staff as follows:

Staff shall prepare a Facility Plan for the following options: 1) a water treatment plant (WTP) for all potable water wells (Well PW-1, Well PW-2, and Well F), meeting the treatment technique requirements in 12VAC5-590-420 of the Virginia Waterworks Regulations and related facilities to serve Raspberry Falls; 2) a WTP meeting the treatment technique requirements in 12VAC5-590-420 of the Virginia Waterworks Regulations and related facilities to serve Selma Estates and; 3) a WTP meeting

the treatment technique requirements in 12VAC5-590-420 of the Virginia Waterworks Regulations and related facilities to serve Raspberry Falls and Selma Estates together as a single system.

The Facility Plans for each option shall describe the location nature and extent of the WTP and related facilities, incorporate existing facilities and planned improvements, include appropriate level of accuracy estimates of the design, construction and operational cost of the facilities and the schedule for permitting, designing and constructing the facilities.

Staff shall prepare a financing plan and develop rates and/or charges (to pay for the estimated costs of design, construction, and operations) for the properties that would benefit from use or potential use of the facilities.

Staff shall prepare an implementation plan and schedule for each option to deliver the facilities and establish the rates and/or charges.

Activity by Staff pursuant to this Resolution is intended to provide information to Loudoun Water Board which will permit it to make an informed decision regarding the feasibility and practicability of changing the currently approved disinfection treatment process.

This directive is not intended to defer or interrupt the current testing and regulatory approval of Well F and continued operation of the System as originally designed and approved.

Time is of the essence. Staff is authorized to utilize all appropriate procurement and contracting methods which will most timely permit completion of the Facility Plan.

Adopted this 9th day of December, 2010.

Loudoun Water Board Secretary

There being no further business, this meeting adjourned at 5:21 pm.

Chairman

Secretary