

NEWARK WATERSHED CONSERVATION AND DEVELOPMENT CORPORATION
 40 CLINTON STREET, 4TH FLOOR
 NEWARK, NEW JERSEY 07102

BOARD OF TRUSTEE REGULAR MEETING
 OCTOBER 24, 2011

MINUTES OF BOARD MEETING

OPENING OF MEETING

Called to order: 12:08 p.m.

INTRODUCTIONS/ROLL CALL

Name	Present/Y	Absent/N
The Hon. Cory A. Booker, Mayor, City of Newark		X
The Hon. Donald M. Payne, Councilman at Large		X
Oscar James, II	X via Conference Call	
William T. Merritt	X	
Rodney Johnson	X	
Linda Watkins-Brashear . Executive Director	X	
Elnardo J. Webster, II, Esq. . General Counsel	X	
Jodi M. Luciani, Esq.	X	

Were any members of the public present?		X
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Review of the call for the meeting: This is a public meeting of the Board of Trustees of the Newark Watershed Conservation and Development Corporation. At the public meeting action will be taken on a variety of motions.

Board Vice Chair Johnson calls the meeting to order at approximately 12:08 pm. Board Vice Chair Johnson asked if all Board Members present received their packages and had an opportunity to review same, and the minutes from the September 19, 2011 regular meeting contained therein. Board Vice Chair Johnson states that the minutes be amended to reflect a change on page 5, paragraph 3, reflecting Board Member Johnson as the Board Vice Chair. Board Vice Chair Johnson states that, otherwise, the minutes accurately reflect the meeting and contain no material deficiencies or omissions. Board Vice Chair Johnson requests said minutes be moved for approval, as amended.

ADMINISTRATIVE MATTERS

Motion to approve meeting minutes of September 19, 2011, as amended.

Board Vice Chair Johnson requests a motion to approve the minutes.

Motion to approve minutes, as amended:

Moved by W. Merritt Second by O. James

Vote:	<u>Yes</u>	<u>No</u>	<u>Absent/ Not Present</u>
The Hon. Cory A. Booker, Mayor			X
The Hon. Donald M. Payne, Councilman at Large			X
Oscar James, II	X		
Rodney Johnson	X		
William T. Merritt	X		

Action taken Motion Passed

Executive Summary

Tax Appeals

Board Vice Chair Johnson introduced Phil Elberg, Esq. to provide a status update to the Board of Trustees on the pending tax appeals on the watershed properties. Mr. Elberg introduced himself and briefly discussed the history surrounding the tax issues on the watershed properties. He stated that at the time the City of Newark (the City) acquired the approximately 35,000 acres of watershed lands, studies were performed regarding the potential redevelopment of the properties. He explained that this led to many challenges and litigation because of the desire to conserve the land. Shortly thereafter, the City sold conservation easements to the State. Mr. Elberg indicated that the watershed properties are the only example of publically owned land taxed on the same basis as privately owned land without regard to improvements on the land.

Mr. Elberg explained that the taxes began at two million dollars per year, half of that attributable to West Milford. At the time the watershed properties became undevelopable, the Newark Watershed filed tax appeals on behalf of the City. Mr. Elberg indicated that a large reduction in taxes occurred in 1995 as a result of the appeals. Thereafter, Mr. Elberg was charged with filing additional tax appeals when the moratorium on development went into effect. Mr. Elberg circulated a chart to the Board of Trustees reflecting the historical cost savings achieved by the filing of these tax appeals.

With respect to the current status of taxes, Mr. Elberg stated that the taxes have increased to over two million dollars. He indicated that the municipalities take the position that regardless of the fact that the watershed lands are undevelopable, the taxes should be assessed and charged based upon the water utility value of the land. Mr. Elberg explained that he has filed appeals in

West Milford and Jefferson Township, hired an appraiser and met with the tax assessors and counsel for these municipalities. He indicated that he made proposals based upon the last round of easements granted to the State, which would result in substantial savings. Mr. Elberg concluded by stating that whatever the cost of the tax appeals, it is important to file in order to demonstrate that the Newark Watershed is always paying attention. Elnardo Webster, II, Esq., General Counsel, inquired whether our argument is based upon the sale of redevelopment rights and Mr. Elberg responded in the affirmative, explaining that we take the position the land should be assessed at a nominal value because of the inability to develop. He indicated that we have solid arguments based on the sale of the development rights to the State. Board Vice Chair Johnson inquired what factors are taken into consideration when the assessments are performed and Mr. Elberg responded that everything, including lake bottoms and government owned property, is taken into consideration. Mr. Webster asked how other utilities are assessed and Mr. Elberg responded that utilities are assessed differently. In addition, he explained that North Jersey District Water Supply Commission is less aggressive at challenging the taxes. Executive Director Linda Brashear inquired what the rationale was behind filing a tax appeal annually. In response, Mr. Elberg stated that there is a freeze for two years when an appeal is granted, however he explained that the freeze does not occur in a revaluation year. He stated that West Milford perform its revaluation next year. At this time, a discussion took place regarding proposed ideas to stop litigating the tax appeals and commence negotiation discussions. Mr. Elberg concluded that he is satisfied the Newark Watershed ought to file the tax appeals on behalf of the City, as it could result in substantial savings to the City. Phil Elberg departs the meeting at 12:40 p.m.

Status Report on Department of Water and Sewer Utilities

Board Vice Chair Johnson introduces Joseph Beckmeyer, consultant to the Newark Watershed, to present his monthly status report regarding the Department of Water and Sewer Utilities to the Board of Trustees. Mr. Beckmeyer stated that he negotiated a new bulk water contract on behalf of the City with Pequannock, and provided the requisite documentation to the New Jersey Department of Environmental Protection (~~%NJDEP+~~) for approval. He further indicated that the City began construction on the Jackson Street CSO facility and found the abutment protrudes into the CSO. A redesign and relocation of the NJDEP Administrative Consent Order (~~%ACO+~~) mandated Jackson Street CSO facility is required. Mr. Beckmeyer stated that negotiations have begun with J. Fletcher Creamer, the contractor, for a change order relative to the redesigned facility. Mr. Webster inquired about the cost associated with the change order and Mr. Beckmeyer responded four hundred thousand dollars. He further indicated that if the work is completed in the following three months, the City will meet its ACO.

Mr. Beckmeyer updated the Board of Trustees on the new billing software. He explained that as a result of an issue with publication, the City had to readvertise for proposals. Said proposals were received last week are being evaluated by the staff. Mr. Beckmeyer stated that the City needed to find user friendly software that would allow access by other City Departments. A discussion took place amongst Mr. Webster, Mr. Beckmeyer and the Board Members regarding specific vendors. Mr. Beckmeyer then discussed water shut offs. He stated that implementation of the water shut off policy was initially very good, but has dropped off a bit. Mr. Webster asked when the shut time occurs and Mr. Beckmeyer responded that there is no cut off time but that the City does not shut off residential in the cold weather.

With respect to the Department of Water and Sewer Utilities budget, Mr. Beckmeyer explained that he recently made a presentation to the City Council and responded to all questions. He

further indicated that he recently attended a meeting with the Big 6 regarding the use of dams for flood control. Moreover, Mr. Beckmeyer stated that, in regards to the Cedar Grove project, the repair contract is moving ahead and draining of the reservoir has begun. He explained that the interconnection between Passaic Valley Water Commission is being utilized to receive water from Great Notch and all residents have been informed of this project.

Mr. Beckmeyer informed the Board Members that he has recently met with East Orange Water Commission to negotiate new bulk water contracts, after it was determined that East Orange was taking unauthorized water from the City. Mr. Beckmeyer stated that the ACO for covering Cedar Grover is on target; however, there have been recent discussions regarding building tanks for storage versus a treatment facility. Mr. Beckmeyer explained that an RFP was issued to study and recommend changes to the City's Water and Sewer Connection Fees, Fire Protection Stand-By Fees, Bulk Water Rates, the Department allocated PVSC charges and sewer charges to the East Orange Water Commission. One proposal was received by Public Works Management. Due to budget cuts, the City can only authorize one project directly related to the Department of Water and Sewer. Mr. Beckmeyer indicated that he is meeting with Public Works Management regarding this project, specifically the East Orange Water Commissioner sewer charge study.

Mr. Beckmeyer explained that the Department of Water and Sewer's ten year strategic plan was completed by Hatch, Mott, McDonald last year. A follow-up presentation was made to the City Administration and the City Council two weeks ago. Mr. Beckmeyer indicated that one very important recommendation in this plan is the level of funding required to support the recommendations and the water and sewer rates to be charged in order to support those funding levels. As such, Mr. Beckmeyer stated that rate Ordinances have been proposed to the Council and the most recent attempt to pass a rate increase will be placed on the Council's upcoming agenda. Mr. Beckmeyer explained that the rate increases are necessary for the operation of the Pequannock Treatment Plant, including replacing plate settlers and repairing sludge clogging issues. Mr. Beckmeyer listed the following consequences if the City Council does not approve a rate increase:

- Shut down the Pequannock Treatment Plant without Cedar Grove back-up;
- Sludge lagoon overflow;
- Environmental Protection Agency penalties and fines; and
- EPA implemented construction ban in City if there is no ability to undertake projects.

Mr. Beckmeyer concluded this discussion by stating that he has prepared a memorandum to the City council outlining these issues regarding the failure to increase rates and the need to do so. Board Vice Chair Johnson inquired whether the City is aware of the forbearance they will receive on the loan for the Treatment Plant projects, if passed, and Ms. Brashear responded affirmatively.

Mr. Beckmeyer indicated that the 4-inch water main replacement project is almost complete. He stated that a new truck was received, and the Department is waiting for decal approval. Mr. Beckmeyer discussed the new stormwater ordinances, the commencement of work on the CSO facilities, the contract to repair pressure valves throughout the City and the water meter change out program. Mr. Beckmeyer concluded his presentation and the Board Members thanked him for his time.

Accounting Update

Ms. Brashear introduced Walter Frye to present an accounting update to the Board of Trustees. Mr. Frye informed the Board Members that cash flow began and money came in once the City approved the contract with the Newark Watershed for 2011. However, he indicated that under the Pequannock Treatment Plant contract the Newark Watershed usually has underexpenditures. Due to the lack of capital funding from the City to make any repairs, the Newark Watershed has utilized operating costs in order to keep the Plant running. Mr. Frye further explained that the Newark Watershed maintains a large cash reserve in order to make payroll should the 2012 contract not be approved and the funds not received on time. Mr. Frye stated that, with respect to Camp Watershed, the Newark Watershed was able to accomplish the task of saving City money and running the camp, and stayed under budget. Board Vice Chair Johnson stated that the children were still smiling about the camp. Ms. Brashear concluded the accounting discussion by informing the Board of Trustees that the Newark Watershed is attempting to place the 2012 contract with the City on the November Council agenda for approval, and looking to place the Pequannock Water Treatment Plant contract before the City Council in January for approval.

New Board Members

Ms. Brashear explained that the Newark Watershed has been working with the administration and the Council to appoint new Board Members to fill Trustee vacancies. She indicated that at the previous Council meeting there was some concern that appointments for other Boards were not being addressed. Therefore, Ms. Brashear explained that the Council was addressing the other Boards before it would approve any Newark Watershed appointments to its Board of Trustees. Ms. Brashear stated that she would keep the Board informed of any progress.

Fall Energy Tour

With respect to the fall energy tour, Ms. Brashear stated that it was recently cancelled due to weather conditions. She indicated that the tour had been rescheduled for this upcoming Thursday, October 27, 2011. At this time, a brief discussion was held on the procurement process for energy savings contracts. Ms. Brashear concluded the discussion by informing the Board Members that the Newark Watershed has reached out to the City's office of sustainability for its input and assistance with such projects, as they are for the benefit of the City. Board Vice Chair Johnson wished Ms. Brashear good luck with the fall energy tour and the meeting adjourned.

Old Business

None.

NEXT MEETING:

Date / Time: November 21, 2011

MEETING ADJOURNED

Motion to adjourn the meeting.

Moved by W. Merritt Second by R. Johnson

Vote:	<u>Yes</u>	<u>No/</u>	<u>Absent/ Not Present</u>
The Hon. Cory A. Booker, Mayor			X
The Hon. Donald M. Payne, Councilman at Large			X
Oscar James, II	X		
William T. Merritt	X		
Rodney Johnson	X		

Action taken Meeting adjourned

Adjourned at approximately 1:36 p.m.