

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

BOARD OF TRUSTEE REGULAR MEETING
SEPTEMBER 10, 2012

MINUTES OF BOARD MEETING

OPENING OF MEETING

Called to order: 10:13 a.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	
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

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 10:13 am. 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 July 9, 2012, regular meeting contained therein. Board Vice Chair Johnson states that the minutes accurately reflect the meeting and contain no material deficiencies or omissions. Board Vice Chair Johnson requests said minutes be moved for approval.

ADMINISTRATIVE MATTERS

Motion to approve meeting minutes of July 9, 2012.

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

Motion to approve minutes:

Moved by W. Merritt Second by O. James

Vote:	<u>Yes</u>	<u>No</u>	<u>Absent/ Not Present</u>
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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

Camp Watershed

Executive Director Linda Brashear advises the Board of Trustees that Camp Watershed Summer Program has come to a close. She stated that the program was successful, and further that there were at least 250 children on site per day. Ms. Brashear expresses her gratitude to Investor's Savings Bank for donating to Camp Watershed, making parent's day a success, as well.

At this time, Ms. Brashear introduces Lissette Morales from Wells Fargo and Malik Burnett, to make a presentation regarding potential community partnership project. Ms. Brashear explains that Wells Fargo has been integral in Camp Watershed, awarding grant funds for the program. Board Vice Chair Johnson extends his appreciation for Wells Fargo's support with Camp Watershed. Mr. Burnett began the presentation by discussing the potential for a community partnership with Wells Fargo. Ms. Morales explains that Wells Fargo provides non profit entities with certain grant funding, including volunteer time for various projects. She states that the bank offers its time in the form of educational programs on financial awareness. Mr. Burnett indicates that the program would provide 25 to 50 individuals the opportunity to attend a financial empowerment seminar at the Charlottesville House. Board Vice Chair states that this program should target Newarkers for the betterment of the community. Board Member James inquires what the incentive to such a program would be and Mr. Burnett responds that the program would allow those who have not visited the Watershed to participate in a seminar free of charge that will better themselves, while discovering the Watershed. Board Member James recommends a small business day program, in order to bring more businesses to the Watershed to promote Camp Watershed and potentially raise funds for next year's program. Board Vice Chair Johnson asks where Wells Fargo is located and Ms. Morales indicates that there are branches nationwide. The presentation concludes at this time and Ms. Brashear and Board Vice Chair Johnson thank Ms. Morales and Mr. Burnett for taking the time to speak to the Board about a great opportunity.

Water and Sewer Department Update

Ms. Brashear introduces Joseph Beckmeyer, consultant to the Newark Watershed, to present a the monthly report to the Board regarding the ongoing projects in the Water and Sewer Department. Mr. Beckmeyer began by indicating that he recently attended a meeting with the New Jersey Department of Environmental Protection (“NJDEP”) and the North Jersey District Water and Supply Commission (“NJDWSC”) to discuss the Virginia Street pump station and potential drought issues. He states that the NJDWSC will submit a proposal to the City of Newark with a proposed solution to the Virginia Street station, and indicates he will monitor this issue. Elnardo J. Webster, II states that NJDWSC is interested in pumping water through the Raritan and would rather pump water from Virginia Street free of charge than buy water from the City. He explains that if the City receives a wielding fee the deal would make more sense. Currently, he states there is no justifiable reason to expend monies to repair the Virginia Street pump station to place it in working condition.

Mr. Beckmeyer discusses the status of the Cedar Grove Administrative Consent Order, indicating that the City provided the NJDEP with an alternate solution to cover the unfinished water. At this time, Mr. Beckmeyer states that the City has not received a response from the NJDEP, but rather the NJDEP has scheduled a site visit on September 21, 2012, for the NJDEP and the Environmental Protection Agency to observe whether there is diminimus run-off at the site in order to approve the alternate solution of constructing a UV treatment plant at Cedar Grove. Mr. Beckmeyer will keep the Board apprised of the outcome of this site visit.

Mr. Beckmeyer then explains that the City has retained Arcadis, Malcolm Pirnie to conduct a rate study within the following 90 days. He indicates that the Department of Finance issued a Request for Proposals, paid for by the Department of Water and Sewer, and Arcadis was awarded the contract. Mr. Webster inquired whether the rate study will cover water and sewer fees, as well as capital funds, and Mr. Beckmeyer answered in the affirmative.

Mr. Beckmeyer updates the Board on the status of the Combined Sewer Overflow (“CSO”) facilities. He indicates that the Clay Street CSO facility is under construction, and the bridge will be closed until the end of December. With respect to the CSO Administrative Consent Order, Mr. Beckmeyer states that the City is still in the process of acquiring certain properties. He believes the timing could affect compliance with the ACO in the long run. Mr. Beckmeyer also states that the stormwater ordinance is up for first reading.

With respect to the Master Permit, Mr. Beckmeyer indicates that the State recalculated how much water available to the City. He further states the NJDEP will calculate using the highest amount of water contracted or taken, which could leave the City with a deficit. Mr. Webster inquires about new development permitting and Mr. Beckmeyer responds that no new development permits will be issued after August of 2013 if the City can not figure out the reason for the higher calculation. He explains that this calculation may also affect bulk water agreement. Mr. Webster and Mr. Beckmeyer then have a brief discussion on the status of the East Orange bulk water contract negotiations with the Board of Trustees.

Mr. Beckmeyer discusses the current status of the proposed water projects. Mr. Beckmeyer states that the plate settlers are still out of date and thus, the Treatment Plant had to shut down at various times. Mr. Beckmeyer explains that without a rate increase to cover the debt service that would be imposed if the City bonded for these projects, the State would approve the bonds. He indicates that the State, as part of the 2013 Master Permit, mandated the City to repair the plate settlers. The cost associated with this project is approximately \$2.2 million. Mr. Beckmeyer advises that the City is looking to pay for this project out of the 2013 budget for Water and Sewer. Mr. Webster inquires how the City will certify to the funds available and Mr. Beckmeyer responds that he is unsure whether the money is available and currently does not know whether the City may proceed.

Mr. Beckmeyer states that the City has awarded a contract to replace the pressure regulators to Scafar, which project is almost complete. He explains that said replacement project will eliminate leaks between low and high pressure zones. Mr. Webster asks how much leaking occurs and Mr. Beckmeyer responds an estimated 28-35 percent of water. A discussion then ensues regarding leaks at various points in the distribution system. Board Vice Chair Johnson inquires whether these regulators are evident on the GIS system. Mr. Beckmeyer explains that only the main aqueducts and the main pipes are detected on the GIS system; the distribution system is currently not part of the GIS system.

Ms. Brashear inquires as to the status of the City's Water Task Force. Mr. Beckmeyer responds that there have been various conference calls in the past few weeks and further, that as a result of the Water Task Force, the administration will be placing an Ordinance creating a Municipal Utilities Authority on the September Municipal Council agenda. In addition, Mr. Beckmeyer indicates that a resolution to extend the Pequannock Water Treatment Plant Memorandum of Understanding ("PTWP MOU") with the Newark Watershed is on the Municipal Council's agenda for consideration at tomorrow's regular meeting. Mr. Beckmeyer also states that the Committee of Petitioners' Save Our Water Ordinance is on tomorrow's Municipal Council agenda for consideration. Mr. Beckmeyer concludes his presentation and departs from the Board of Trustees meeting at 10:57am.

Save Our Water Ordinance Initiative

At this time, Board Member James discusses the inefficiencies of the City's water and sewer system. Mr. Webster explains that there are many projects coming down the line that the City will need to be able to fund, such as compliance with the Cedar Grove ACO with the NJDEP. A discussion is also held regarding the proposed resolution to extend the PTWP MOU, and the next step should the Municipal Council deny the extension. With respect to the Save Our Water Ordinance, the Board of Trustees discusses the likelihood of the Municipal Council approving such an ordinance. Mr. Webster explains that the Newark Watershed provided the administration with correspondence last week, outlining the Newark Watershed's objections and challenges to the Save Our Water Ordinance, including the following:

- The Municipal Council does not have the authority to disband the corporation;
- The Municipal Council cannot legally mandate requirements that are statutorily placed on the administration, a separation of powers argument; and
- The Municipal Council cannot preempt existing State statutes regarding contracting procedures.

Mr. Webster indicates that the Newark Watershed is prepared to file an action challenging the Save Our Water Ordinance in Superior Court, should the Municipal Council approve said ordinance at tomorrow's regular meeting. He explains the procedural timeframe to challenge such an ordinance, depending on whether the Municipal Council approves or votes against the ordinance. Ms. Brashear inquires whether the City itself will be challenging the ordinance, if approved, and Mr. Webster believes that the City will join in any action filed against the Committee of Petitioners or the Municipal Council. Mr. Webster distributes a copy of the ordinance to the Board of Trustees and explains the impact implementation of each provision will have on the Newark Watershed and the City, and the reason to challenge each provision. At this time, Board Member James makes a motion authorizing General Counsel to file an action against the Municipal Council and the Committee of Petitioners challenging the Save Our Water Ordinance.

Motion to authorize General Counsel to file an action against the Committee of Petitioners and the Municipal Council, challenging the Save Our Water Ordinance:

Moved by O. James Second by W. Merritt

Vote:	<u>Yes</u>	<u>No</u>	<u>Absent/ Not Present</u>
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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

Mr. Webster discusses the split in residents regarding the water issue. He states that there is a strong sentiment in the City that residents are weary of quasi-government agencies. Therefore, he explains that the people are motivated behind the Save Our Water Ordinance. He indicates that the Water Group, led by Dan O’Flaherty, feeds off of this weariness, and takes an irrational political approach, but rational financial approach to the water issue. Mr. Webster also states that there are those individuals who are just wholly against the Municipal Utilities Authority (“MUA”) as it is currently proposed, because the new application does not reflect those negotiations made with labor and unions in 2009. Mr. Webster indicates that at a recent Municipal Council meeting the Newark Watershed consultants were praised for working with the employees during the 2009 proposed MUA and trying to save their jobs, while mirroring their existing benefits. The discussion concludes with a brief discussion on whether the City foresees a solution to these issues.

RESOLUTIONS

Ms. Brashear presents the Board of Trustees with Resolution 12-007, a Resolution to approve and adopt an amendment to the Certificate of Incorporation. Ms. Brashear explains that with the recent ongoing political issues surrounding the Newark Watershed’s contracts, the Newark Watershed has elected to amend its Certificate of Incorporation to allow the corporation to expand its purpose and potentially contract outside the City of Newark for the betterment of the State and its conservation and water initiatives. The Board has a brief discussion on the Certificate of Incorporation and its proposed Amendment.

12-007– Resolution approving and adopting an Amendment to the Certificate of Incorporation

Moved by O. James Second by W. Merritt

Vote:	<u>Yes</u>	<u>No</u>	<u>Absent/ Not Present</u>
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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

With respect to the proposed amended By-Laws, Mr. Webster states that, after a review of the By-Laws, there is some hesitation to adopt them in their current form. The Board of Trustees then discusses the need to include a provision to allow for vote by proxy, as well a need to further discuss the procedure for Board of Trustees nominations. At the time, the Board of Trustees consents to table Resolution 12-008, a resolution approving the amended By-Laws, and hold a Special Meeting on Thursday, September 13, 2012.

Ms. Brashear concludes the meeting by advising the Board of Trustees once again of the Municipal Council regular meeting, scheduled for tomorrow, September 11, 2012, wherein the resolution to extend the PTWP MOU will be considered, as well as the Save Our Water Ordinance and the MUA Ordinance. She further indicates that the Board of Trustees will find copies of all the recent articles regarding the state of water and sewer, and the Newark Watershed.

New Business

None.

Old Business

None.

NEXT MEETING:

Date / Time: October 22, 2012

MEETING ADJOURNED

Motion to adjourn the meeting.

Moved by O. James Second by W. Merritt

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

Action taken Meeting adjourned

Adjourned at approximately 11:40a.m.