

Newark Watershed Conservation and Development Corporation

Minutes of the Special Meeting of the Board of Trustees

Wednesday, June 19, 2013

Opening of Meeting

Called to order at 3:16 P.M.

Introductions/Roll Call

Participants:

- Hon. James R. Zazzali, Trustee (Chairman)
- Hon. James H. Coleman, Trustee
- Hon. Dorthea O’C. Wefing, Trustee
- Dr. Clement A. Price, Trustee
- William T. Merritt, Trustee (via teleconference)

Counsel:

- Christopher M. Hartwyk, Esq.
- Samuel S. Cornish, Esq.
- Matthew Baker, Esq.
- Edward W. Schroll, Esq.
- Jodi D. Luciani, Esq.
- Joshua M. Mann, Esq. – Attorney of Trustee Oscar S. James, II (via teleconference)

Secretary:

- Tyler Stearns – Recording Secretary

Members of the Public:

- There were no members of the Public in attendance.

Minutes

All board members present acknowledged the receipt of draft minutes from the previous special meeting, conducted on June 13, 2013.

Motion to Approve the Minutes:

Moved by Trustee Price Second by Trustee Coleman

Vote:	<u>Yes</u>	<u>No</u>	<u>Absent/ Not Present</u>
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The Hon. Cory A. Booker, Mayor			X
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The Hon. James R. Zazzali	X	
The Hon. Dorothea O’C. Wefing	X	
The Hon. James H. Coleman	X	
Dr. Clement A. Price	X	
Oscar S. James, II		X
William T. Merritt	X	

Action taken _____ Motion Passed _____

Future Meetings

Resolution No. 01-041 to Establish Meeting Dates and Times

The resolution designates that the Board of Trustees (the “Board”) of the Newark Watershed Conservation and Development Corporation (the “NWCDC” or the “Corporation”) shall hold public meetings on Wednesday, June 26, 2013 and Tuesday, July 2, 2013 at the offices of Genova Burns Giantomasi Webster LLC (“GBGW”).

Motion to Approve Resolution No. 01-041:

Moved by _____ Trustee Zazzali _____ Second by Trustee Wefing _____

Vote:	<u>Yes</u>	<u>No</u>	<u>Absent/ Not Present</u>
The Hon. Cory A. Booker, Mayor			X
The Hon. James R. Zazzali	X		
The Hon. Dorothea O’C. Wefing	X		
The Hon. James H. Coleman	X		
Dr. Clement A. Price	X		
Oscar S. James, II			X
William T. Merritt	X		

Action taken _____ Motion Passed and Resolution Approved _____

Discussion Items/Updates

Employee Health Benefits – Ms. Luciani advised the Board that, because the NWCDC no longer has more than twenty employees, Aetna will not manage the NWCDC’s Consolidated Omnibus Budget Reconciliation Act (“COBRA”) temporary health insurance plan (the “COBRA Plan”), and that the NWCDC will need to appoint its own COBRA Plan Administrator. Ms. Luciani described the duties of the COBRA Plan Administrator, and further described Resolution No. 01-042 which provided for the appointment of a Trustee to that position.

In discussing Resolution No. 01-042, Mr. Hartwyk advised the Board that they may change the Plan Administrator at any time, and that once the position of interim Executive Director has been filled, the interim Executive Director would become the COBRA Plan Administrator. Chairperson Zazzali inquired regarding the hiring of a professional to assist the

Plan Administrator, and the \$5,000 fee authorized by Resolution No. 01-042 for such a professional. Ms. Luciani responded that the fee was calculated based on the fee structure used by Aetna for COBRA Plan administration. Mr. Hartwyk suggested that the Board defer voting on Resolution No. 01-042 until after discussing the candidate for the interim Executive Director; the Board agreed.

Resolution No. 01-043 to Authorize the Opening of a Checking Account to Administer COBRA Continuation Health Coverage

Motion to Approve Resolution No. 01-043:

Moved by Trustee Zazzali Second by Trustee Price

Vote:	<u>Yes</u>	<u>No</u>	<u>Absent/ Not Present</u>
The Hon. Cory A. Booker, Mayor			X
The Hon. James R. Zazzali	X		
The Hon. Dorothea O’C. Wefing	X		
The Hon. James H. Coleman	X		
Dr. Clement A. Price	X		
Oscar S. James, II			X
William T. Merritt	X		

Action taken Motion Passed and Resolution Approved

Status of Remaining Employees – Mr. Hartwyk advised the Board that, for every employee who works more than 1,000 hours in a year, the corporation must increase the amount it contributes to its Defined-Benefit pension plan (the “DB Plan”) for that employee for that year. Mr. Hartwyk further advised the Board that between six and nine NWCDC employees were likely to pass this 1,000-hour threshold in the upcoming week. Trustee Wefing asked if there was an estimate of the amount of the increase, per employee, of the contribution. Mr. Hartwyk advised the Board that one will be provided. Mr. Hartwyk also stated that notice to NWCDC employees regarding their pension and benefit plans would be sent after the meeting.

Mr. Hartwyk stated that notice was provided to the employees regarding the status of their employment with the Corporation, the transfer of employees to City of Newark (the “City”), and the status of their employment with the Corporation during the dissolution process. Trustee Wefing asked if there was any reaction following provision of the notice. Mr. Hartwyk related that the number of questions and inquiries from employees decreased and that, because the majority of the employees had already transferred to the City, the notice only affected a limited number of employees. Mr. Hartwyk advised the Board that GBGW will determine what the Corporation’s separation obligations with respect to certain employees will be, and that a determination regarding those obligations will need to be made within the next two weeks. Trustee Coleman expressed concern that the transfer of employees be undertaken in a non-discriminatory manner. Mr. Hartwyk advised the Board that, while part of every separation package will be discretionary, the City’s hiring criteria was based solely on whether an

employee's work was operational or administrative in nature. Trustee Wefing advised that any claim would likely be made against the City, and not against the NWCDC.

Pension and Retirement Account Plans – Mr. Hartwyk advised the Board that notice of the termination of the DB Plan and the 403(b) benefit plan (the “403(b) Plan”), and notice regarding the distribution process for the 403(b) Plan, had already been sent or would be sent by June 20, 2013. Mr. Hartwyk advised that the notices are statutorily controlled, both regarding their content and their timing, and that the notices comply with federal law. Trustee Coleman asked if the notices identified a contact person. Mr. Hartwyk advised that the phone number on the notices is a GBGW number, and that any calls will be directed to an individual with specific knowledge who can answer any questions.

Third Party Contracts and Vendors – Mr. Hartwyk advised that GBGW send a stop-work order on June 3, 2013, to Mr. Larry Belcher, CPA, who previously had been awarded an audit contract. Mr. Hartwyk advised that GBGW will ensure that the NWCDC does not incur any liability with regard to the termination of that contract. Mr. Hartwyk stated that we have not received any communication from Mr. Belcher following the stop-work order, but that GBGW self-proved delivery of the stop-work order by sending it overnight with a return receipt.

Request for Qualifications for Auditing Services – Mr. Hartwyk introduced the discussion regarding the need to retain an auditor to perform services for the Corporation. Ms. Luciani described the NWCDC's procurement policies, as adopted in March 2013, and the interplay between the NWCDC's policies and the Local Public Contracts Law. Ms. Luciani proposed that the Board issue a Request for Proposals (“RFP”) or Request for Qualifications (“RFQ”) to retain an auditor, and provided the Board with an overview of the proposed procurement process. Trustee Coleman noted that, in awarding a contract, even if the contract award is done through an RFP or RFQ process, the Board should be aware of any contributions made by prospective contract awardees to ensure compliance with current state laws and regulations and any potential amendments that may arise thereafter. Mr. Hartwyk advised the Board that a provision would be incorporated to the RFP or RFQ mandating that the bidder disclose political contributions. Mr. Hartwyk further noted that the RFP or RFQ would need to be approved quickly so that the Corporation may begin to receive proposals. GBGW provided the Board with a draft of the RFQ, and advised that GBGW would incorporate the changes discussed, specifically the modifications requiring disclosure of contributions.

Other Pending Professional Contracts – Mr. Hartwyk noted that the Board will need to consider whether to issue an RFQ for the services provided by Walter Frye, CPA, in addition to whether the Board wishes to issue an RFQ for legal services presently performed by GBGW. Mr. Hartwyk advised the Board that if the Board decides to issue an RFQ for legal services, that the RFQ would need to be prepared by the interim Executive Director and could not be prepared by GBGW. Mr. Hartwyk instructed the Board that such a determination need not be made at the present meeting, and that the Board should consider the above-mentioned contracts, which would be added to the Agenda for discussion at the June 26, 2013 Board Meeting.

Executive Session

Motion to Enter Executive Session:

Moved by Trustee Wefing Second by Trustee Coleman

Vote:	<u>Yes</u>	<u>No</u>	<u>Absent/ Not Present</u>
The Hon. Cory A. Booker, Mayor			X
The Hon. James R. Zazzali	X		
The Hon. Dorothea O’C. Wefing	X		
The Hon. James H. Coleman	X		
Dr. Clement A. Price	X		
Oscar S. James, II			X
William T. Merritt	X		

Action taken Motion Passed

The Board entered Executive Session at 3:47 P.M. to discuss pending litigation, personnel matters, and contract procurement issues.¹ The Board may reconvene in Public Session at the conclusion of Executive Session to take further action.

Motion to Exit Executive Session:

Moved by Trustee Price Second by Trustee Zazzali

Vote:	<u>Yes</u>	<u>No</u>	<u>Absent/ Not Present</u>
The Hon. Cory A. Booker, Mayor			X
The Hon. James R. Zazzali	X		
The Hon. Dorothea O’C. Wefing	X		
The Hon. James H. Coleman	X		
Dr. Clement A. Price	X		
Oscar S. James, II			X
William T. Merritt	X		

Action taken Motion Passed

The Board exited Executive Session at 6:04 P.M.

Motion to Reconvene in Public Session:

Moved by Trustee Price Second by Trustee Zazzali

Vote:	<u>Yes</u>	<u>No</u>	<u>Absent/ Not Present</u>
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¹ Mr. Mann left the meeting as the Board entered Executive Session.

The Hon. Cory A. Booker, Mayor			X
The Hon. James R. Zazzali	X		
The Hon. Dorothea O’C. Wefing	X		
The Hon. James H. Coleman	X		
Dr. Clement A. Price	X		
Oscar S. James, II			X
William T. Merritt	X		
Action taken _____	<u>Motion Passed</u>		

The Board reconvened in Public Session at 6:04 P.M.

Mr. Merritt rejoined the meeting via teleconference at 6:05 P.M.

Mr. Hartwyk stated that, during Executive Session, the Board discussed the ongoing investigation of the Office of the State Comptroller (the “Comptroller”), the Save the Water Litigation, By-Law Authorization related to expense costs for employees, trustees and contractors, and the appointment of an interim Executive Director. Mr. Hartwyk further noted that the materials discussed in Executive Session will be made available once the need for confidentiality no longer exists, that the need for such confidentiality will be revisited by the Board on a weekly basis, and that all other matters shall be made available to the public in the minutes of the public session.

Mr. Hartwyk reintroduced Resolution 01-042 regarding the appointment of a Trustee to serve as the COBRA Plan Administrator until such time as an interim Executive Director is hired and becomes the COBRA Plan Administrator, pursuant to the interim Executive Director’s contract. Mr. Hartwyk advised that a COBRA Plan Administrator is needed immediately because that person would need to sign documents related to the COBRA Plan bank account, and notices regarding the COBRA Plan.

Trustee Wefing volunteered to serve as the interim Health Plan Administrator, noting that her service in that capacity was contingent upon the appointment of an Executive Director.

Resolution No. 01-042 - Appointing a Plan Administrator of the AETNA Health Insurance Plan and to oversee and manage Employee COBRA Continuation Health Coverage

Motion to Approve Trustee Wefing as the Aetna Health Insurance Plan Administrator and the COBRA Plan Administrator:

Moved by Trustee Zazzali Second by Trustee Price

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. James R. Zazzali	X		
The Hon. Dorothea O’C. Wefing	X		

The Hon. James H. Coleman	X	
Dr. Clement A. Price	X	
Oscar S. James, II		X
William T. Merritt	X	

Action taken Motion Passed and Resolution Approved

Motion to Adjourn the Meeting:

Moved by Trustee Wefing Second by Trustee Zazzali

Vote:	<u>Yes</u>	<u>No</u>	<u>Absent/ Not Present</u>
The Hon. Cory A. Booker, Mayor			X
The Hon. James R. Zazzali	X		
The Hon. Dorothea O’C. Wefing	X		
The Hon. James H. Coleman	X		
Dr. Clement A. Price	X		
Oscar S. James, II			X
William T. Merritt	X		

Action taken Meeting Adjourned

The meeting was adjourned at 6:15 P.M.