



DuPage Water Commission

600 E. Butterfield Road, Elmhurst, IL 60126-4642
(630)834-0100 Fax: (630)834-0120

AGENDA

ADMINISTRATION COMMITTEE
THURSDAY, JULY 9, 2009
7:00 P.M.

600 EAST BUTTERFIELD ROAD
ELMHURST, IL 60126

COMMITTEE MEMBERS

W. Murphy, Chair
E. Chaplin
T. Elliott
J. Zay

- I. Roll Call
- II. Approval of Minutes of June 11, 2009
- III. Possible Water Service
 - a. Illinois American Water
 - b. City of Aurora
- IV. Review of "Closed Session Minutes and Verbatim Record Policy"
- V. Other
- VI. Adjournment

Board/Agendas/Administration/ADM0907.DOC

All visitors must present a valid drivers license or other government-issued photo identification, sign in at the reception area and wear a visitor badge while at the DuPage Pumping Station.

**MINUTES OF A MEETING OF THE
ADMINISTRATION COMMITTEE
OF THE DUPAGE WATER COMMISSION
HELD ON JUNE 11, 2009**

The meeting was called to order at 7:02 P.M. at the Commission's office located at 600 East Butterfield Road, Elmhurst, Illinois.

Committee members in attendance: E. Chaplin, T. Elliott, and J. Zay

Committee members absent: W. Murphy and L. Rathje (*ex officio*)

Also in attendance: R. Martin and M. Crowley

Commissioner Elliott moved to appoint Commissioner Zay as Chairman Pro Tem of the June 11, 2009, meeting of the Administration Committee. Seconded by Commissioner Chaplin and unanimously approved by a Voice Vote.

All voted aye. Motion carried.

Commissioner Chaplin moved to approve the Minutes of the March 12, 2009, Administration Committee meeting. Seconded by Commissioner Elliott and unanimously approved by a Voice Vote.

All voted aye. Motion carried.

With respect to the materials assembled by the General Manager regarding the historical cost of legal services and the Commission's legal service providers, Commissioner Chaplin commented that it was clear the Commission had not paid more for legal services since the Staff Attorney position was created in 2004. Commissioner Zay expressed his concern that the Commission had been using the same firm for an extended period of time and that the firm was a downtown firm with downtown rates. Commissioner Elliott responded that the rates were not outrageous, citing as an example the discounted rate of the principal partner in charge. Commissioner Elliott requested, however, that the Board be consulted before outside legal counsel was retained to handle "significant" legal matters.

Commissioner Zay questioned whether there was any conflict in utilizing the services of the Staff Attorney's former law firm to represent the Commission. Staff Attorney Crowley replied that there was no conflict and that she preferred to use the firm because of their extensive institutional knowledge of Commission matters, their exceptional expertise in local government law, and the trust that develops from years of working together. Staff Attorney Crowley did note, however, that she would work with any firm the Board desired to use.

Before moving on to the next Agenda Item, Commissioner Zay asked who evaluates the performance of the Staff Attorney and who determines her salary increases. Staff Attorney identified the General Manager as the responsible party.

Minutes 06/11/09 Administration Committee Meeting

With respect to the FY 2009-2010 Project Schedule, General Manager Martin reported that the delay in building permit issuance for the electrical generation facilities (Contract PSC-4/08) and photovoltaic system (Contract PSC-5/08) projects negatively impacted the FY 2009-2010 Project Schedule. General Manager Martin explained that the City's Office of Underground Construction, which is under the jurisdiction of the Chicago DOT, is responsible for the 9± month delay in issuing a building permit. General Manager Martin added that it was for this reason that he advised the Board that staff resources would not be diverted away from Commission projects to expedite Chicago DOT's request for temporary construction easements in connection with the City's South Laramie Viaduct Project. General Manager Martin also noted that Chicago DOT personnel and/or its soil borers entered the site in the face of an express direction not to do so and broke the security fencing with the intent of gaining easier access in the future, all of which led staff to believe that the impact of Chicago DOT project may no longer be as simple a matter as temporary construction or access easements but, rather, an issue of whether the physical construction may negatively impact Commission facilities and/or operations.

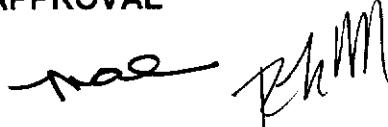
Commissioner Zay requested the permit application number to see if he could lend assistance in obtaining the permit. Having been promised the permit within the next week or two, and hating to do anything that would further delay permit issuance, General Manager Martin requested that no Commissioner overtures or requests be made at the present time.

Commissioner Elliott moved to adjourn the meeting at 7:20 P.M. Seconded by Commissioner Chaplin and unanimously approved by a Voice Vote.

All voted aye. Motion carried.

DATE: July 2, 2009

REQUEST FOR BOARD ACTION

AGENDA SECTION	Administration Committee	ORIGINATING DEPARTMENT	General Manager's Office
ITEM	Possible Water Service: Illinois American Water and City of Aurora	APPROVAL	
<p>Illinois American Water ("IAW") and the City of Aurora ("Aurora") are requesting consideration of a supplemental water supply from the Commission (copies of letters attached). The following are some of the issues that need to be evaluated prior to making a determination about whether to provide such service:</p> <ol style="list-style-type: none">1. Hydraulics – Does the Commission's system have the hydraulic capacity to provide water service to these systems and/or what improvements would be necessary? Will the addition of these systems jeopardize existing and future customer utilities within the Commission's service area?2. Water Allocation – Is the Illinois Department of Natural Resources (IDNR) willing to provide a Lake Michigan allocation to these systems?3. Chicago – Is the City of Chicago willing to provide additional water to the Commission to provide water service to these systems?4. Financial – What is the equitable cost for providing water service within the parameters of the rates allowed by state statute? These systems are outside of the Commission's service area and as such have not been paying, and will not be paying in the future, any sales tax to the Commission.5. Policy – Whether the Commission should change its policy of deferring consideration of extraterritorial service until after the entire County is served. Whether the Commission should change its position on partial service (Minimum Take or Pay) contracts. Partial service contracts have long been problematic (e.g. Warrenville's request to serve the Cantera Business, Residential and Industrial Park). Partial service contracts were specifically denied Charter Customers when the Commission was originally established and some view them as a more favorable contract than the Charter Customer Contract. <p>In discussions with IAW and Aurora, it was stated that the Commission is not actively seeking additional customers. If these systems wish to be considered for water service, they would have to agree to pay all costs for any evaluations. The first step in this process is for the Board to determine if they are willing to consider additional systems.</p>			
MOTION: To direct staff to evaluate issues related to providing water service to Illinois American Water and the City of Aurora.			



City of Aurora

Mayor's Office • 44 E. Downer Place • Aurora, Illinois 60507-2067 • 844-3612 • FAX 892-8967

Thomas J. Weisner
Mayor

July 1, 2009

Robert Martin P.E.
Manager of Water Operations
DuPage Water Commission
600 East Butterfield Road
Elmhurst, Illinois 60126-0120

Dear Mr. Martin:

Thank you for taking the time to speak with me last week about the potential of obtaining lake water from DuPage Water Commission. The City of Aurora is requesting that DuPage Water Commission formally evaluate if a supply connection in our Aurora service area is a possibility.

As part of our long-term planning process, the City of Aurora is currently looking for a supplemental interconnection for lake water supply ranging from 5 MGD to 15 MGD to reduce draw-down on the city's deep aquifer source. Our internal system maps, distribution models, connection points and water delivery information will be available for your engineer to perform the requested services. As per our discussion, the City of Aurora will make an upfront payment (up to \$10,000) to DuPage Water Commission for engineering services to perform the evaluation.

Once again, thank you for your time and consideration of our request. If you should have any questions please feel free to call me at any time. You can reach me at (630) 844-3612.

Sincerely,

Thomas J. Weisner, Mayor
City of Aurora



ILLINOIS
AMERICAN WATER

Illinois American Water
1000 Internationale Parkway
Woodridge, IL 60517
amwater.com

May 29, 2009

Robert Martin P.E.
Manager of Water Operations
DuPage Water Commission
600 East Butterfield Road
Elmhurst IL 60126-0120

Dear Mr. Martin,

Thank you for taking the time to speak with me last week about the potential of obtaining lake water from DuPage Water Commission. Illinois-American is requesting that DuPage Water Commission formally evaluate if a supply connection in our Bolingbrook service area is a possibility.

As part of our long-term planning process, Illinois-American is currently looking for an interim, supplemental or emergency interconnection for lake water supply ranging from 5 MGD to 15 MGD. Our internal system maps, distribution models, connection points and water delivery information will be available for your engineer to perform the requested services. As per our discussion Illinois-American will make an upfront payment to DuPage Water Commission for engineering services to perform the evaluation.

Once again, thank you for your time and consideration of our request. If you should have any questions please feel free to call me at any time. You can reach me at (847) 508-9555.

Sincerely,

Chris Johnson
Senior Manager Business Development

CC: Karla Olson-Teasley, President Illinois American Water

DUPAGE WATER COMMISSION

ORDINANCE NO. O-2-04

AN ORDINANCE AMENDING THE
BY-LAWS OF THE DUPAGE WATER COMMISSION
(Amending Article VI Concerning Closed Meetings)

WHEREAS, the Board of Commissioners of the DuPage Water Commission has determined that it is appropriate and in the best interests of the Commission to amend the Commission's By-Laws, as restated in Ordinance No. O-5-92 and amended by Ordinance Nos. O-1-93, O-1-94, O-14-94, O-10-99, O-7-00 and O-11-02 to implement a policy regulating the creation, maintenance, storage, release, and destruction of closed meeting minutes and verbatim records of all public bodies of the Commission that are subject to the Illinois Open Meetings Act, 5 ILCS 120/1 et seq. ("Act"); and

WHEREAS, the Board of Commissioners of the DuPage Water Commission find and determine that implementation of the policy is useful to assure compliance with the Act;

NOW, THEREFORE, BE IT ORDAINED by the Board of Commissioners of the DuPage Water Commission as follows:

SECTION ONE: Recitals. The foregoing recitals are hereby incorporated herein as findings of the Board of Commissioners of the DuPage Water Commission.

SECTION TWO: Amendment. Article VI, entitled "Meetings," of the Commission's By-Laws shall be, and it hereby is, amended by adding a new Section 10, entitled "Closed Session Minutes and Verbatim Record," which new Section 10 shall hereafter be and read as follows:

"Section 10. Closed Session Minutes and Verbatim Record. The "Closed Session Minutes and Verbatim Record Policy" attached to these By-Laws as Exhibit A govern the creation, maintenance, storage, release,

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and destruction of closed meeting minutes and verbatim records of all public bodies of the Commission that are subject to the Illinois Open Meetings Act.”

SECTION THREE: Exhibit A. The “Closed Session Minutes and Verbatim Record Policy” attached to this Ordinance as Exhibit A shall be, and it hereby is, approved. Any and all references in the By-Laws to said policy or Exhibit A shall be deemed to refer to the policy and Exhibit A attached to this Ordinance.

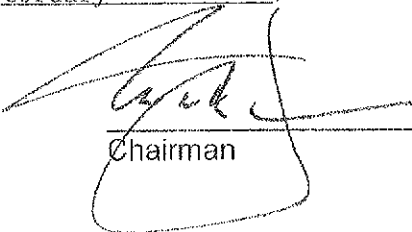
SECTION FOUR: Effective Date. This Ordinance shall be in full force and effect from and after its adoption.

AYES: R. Benson, E. Chaplin, T. Feltus, W. Murphy, W. Mueller,
R. Thorn, G. Wilcox, D. Zeilenga and M. Vondra

NAYS: None

ABSENT: R. Ferraro, L. Hartwig and A. Poole

ADOPTED this 12th day of February, 2004.


Chairman

ATTEST:


Clerk

Ordinance No. O-2-04

Exhibit A

DUPAGE WATER COMMISSION

CLOSED SESSION MINUTES AND VERBATIM RECORDS POLICY

- I. BACKGROUND AND PURPOSE. The Open Meetings Act requires all public bodies to keep minutes of their meetings, whether opened or closed. With the adoption of amendments to Section 2.06 of that Act, 5 ILCS 120/2.06, public bodies also must maintain a verbatim record of all closed meetings in the form of an audio or video recording. This Policy sets forth specific procedures to ensure that the Board of Commissioners of the DuPage Water Commission—and all committees of the Board of Commissioners and other bodies of the Commission that are subject to the Open Meetings Act (“Subsidiary Bodies”)—comply with the requirements for closed sessions.
- II. CLOSED MEETING MINUTES. Minutes of a closed meeting shall comply with the same requirements applicable to minutes for an open meeting. They shall include, at a minimum, the date, time, and place of the meeting; the members of the public body that are present and those that are absent; a summary of discussion on all matters proposed, deliberated, or decided; and a record of any votes taken. The Open Meetings Act exemption or exemptions applicable to the closed session should be identified in the minutes of the closed session. Minutes of closed meetings shall not be released for public inspection to the extent that there is a need to preserve confidentiality of matters stated in those minutes.
- III. CLOSED MEETING VERBATIM RECORDS. A verbatim record of each closed meeting is required and shall be subject to the following requirements:
 - A. Recordings. Verbatim records shall be made by audio or video recording. Each recording shall be labeled with the name of the meeting body and the date, time, and place of the meeting. A statement identifying each participant and the purposes for the closed meeting should be made at the beginning of the closed meeting.
 - B. Confidentiality. All verbatim records of closed meetings are hereby declared to be confidential and not subject to release except pursuant to this Policy or as required by law.
 - C. Duties of Clerk or Designee. The Clerk, or his or her designee, shall be responsible for creating the verbatim record. After a closed meeting, the verbatim record shall be delivered immediately to the Clerk for storage in a secure location within the DuPage Pumping Station. The Clerk shall be responsible for maintaining, storing, and restricting access to all verbatim records.
 - D. Access to Verbatim Records. No individual, nor the Board of Commissioners, nor any Subsidiary Body shall have access to any verbatim record of any closed session unless approved by one of the following specific methods:
 1. Individual Access. Unless otherwise required by law, no individual, including any member of the Board of Commissioners or any Subsidiary Body, shall have access to any verbatim record unless specifically approved by an affirmative majority vote of Board of Commissioners

Ordinance No. O-2-04

taken at an open meeting. An individual who is granted the right to access a verbatim record shall do so only at DuPage Pumping Station and in the presence of the Clerk or his or her designee. No verbatim record shall be copied or taken out of the DuPage Pumping Station except as specifically allowed in this Policy or as otherwise required by law.

2. Subsidiary Body Review. A Subsidiary Body may access a verbatim record of one of its closed meetings only by an affirmative majority vote, taken at an open meeting, of all members of that Subsidiary Body then holding office. A Subsidiary Body shall review a verbatim record only at a duly noticed closed meeting of that Subsidiary Body.
 3. Board of Commissioners Review. The Board of Commissioners may access a verbatim record of one of its closed meetings or of a closed meeting of any Subsidiary Body only by an affirmative majority vote of the Board of Commissioners taken at an open meeting. The Board of Commissioners shall review a verbatim record only at a duly noticed closed meeting of the Board.
 4. Clerk. The Clerk shall have access at all times to all verbatim records for purpose of ensuring their proper care and protection. The Clerk may review a verbatim record, however, only if authorized to do so by an affirmative majority vote of the Board of Commissioners taken at an open meeting.
 5. Court. If the Commission is directed by a court order issued in accordance with Section 2.06 of the Open Meetings Act, 5 ILCS 120/2.06, to deliver a verbatim record, then the Clerk or his or her designee shall deliver the relevant verbatim record to the court, after that record has been reviewed by the Commission's General Counsel or staff attorney.
- E. Verbatim Record Not Official Record. A verbatim record shall not be part of the official public record of any meeting. Rather, the approved minutes are to be deemed the official record of the meeting.
- F. Notification of Destruction of Verbatim Record. On a regular basis, the Clerk shall provide a written notice listing all verbatim records that are scheduled for destruction (the "Notice of Destruction"). The Notice shall be in a form substantially the same as the form attached as Exhibit 1 to this Policy. The Notice shall be given to (1) the members of the Board of Commissioners, (2) the members of the Subsidiary Body (if the verbatim record was created at a closed meeting of that Subsidiary Body), (3) the General Manager, and (4) the Commission's General Counsel or staff attorney. The Notice shall include a copy of the approved minutes for each verbatim record scheduled for destruction.
- G. Objection to Destruction.
1. Deadline for Objection. A written objection to the destruction of a verbatim record shall be filed with the Clerk within seven days after the

- date of a Notice of Destruction, or at least three days before the destruction date set forth in that Notice, whichever is later.
2. Who May Object. The Chairman or any Commissioner may object to the destruction of any verbatim record of a closed session of the Board of Commissioners or of any Subsidiary Body. A member of a Subsidiary Body may object to destruction of a verbatim record only of a closed session of that Subsidiary Body.
- H. Destruction of Verbatim Record if No Objection. Unless a timely written objection to the destruction of a verbatim record is filed with the Clerk in accordance with Section III.G of this Policy, the Clerk shall erase or otherwise destroy each verbatim record listed in the Notice of Destruction on the date set forth in the Notice. No verbatim record shall be erased or otherwise destroyed unless the Clerk certifies that (1) the verbatim record was created at a closed meeting that was concluded at least 18 months prior to the date of destruction and (2) there exists approved minutes of that closed meeting.
- I. Procedure When Objection. The following procedure shall apply when a timely objection to destruction is received by the Clerk:
1. Notice of Objection. The Clerk shall promptly send notice of the objection to all parties who received the Notice of Destruction.
 2. Deliberation on Objection. At a closed session of the Board of Commissioners or Subsidiary Body scheduled promptly after receipt of an objection, the Board of Commissioners or Subsidiary Body shall determine whether destruction of the verbatim record should be delayed. That decision shall require the vote set forth in the next Section III.I.3 of this Policy. If the required vote to delay destruction is not obtained, then the verbatim record shall be destroyed immediately by the Clerk in accordance with Section III.H of this Policy; provided, however, that no verbatim record of a Subsidiary Body shall be destroyed if either the Subsidiary Body or the Board of Commissioners votes to delay its destruction.
 3. Required Vote to Delay Destruction. The destruction of a verbatim record shall be delayed only if: (i) the Board of Commissioners, by an affirmative majority vote, or (ii) the Subsidiary Body, by an affirmative vote of three-fourths of the members of the Subsidiary Body then holding office, authorizes delay of that destruction.
- J. Procedure When Destruction Delayed. If the destruction of a verbatim record has been delayed pursuant to Section III.I of this Policy, then the Board of Commissioners and/or the Subsidiary Body, if any, that voted to delay destruction shall review the verbatim record in closed session. After that review, the reviewing body shall determine either: (1) that the verbatim record should be destroyed, or (2) that the verbatim record may be released pursuant to Section IV of this Policy, or (3) that the destruction of the verbatim record ought to be delayed to a date certain.

No verbatim record shall be destroyed if the Board of Commissioners or the Subsidiary Body, if any, determines that destruction should be delayed or released pursuant to Section IV of this Policy.

If destruction of a verbatim record is delayed to a date certain, then the Clerk shall provide a new Notice of Destruction for that verbatim record in accordance with Section III.F of this Policy.

IV. Review and Release of Closed Meeting Minutes and Verbatim Records.

- A. Review of Minutes. Not less than twice each year, the Board of Commissioners and each Subsidiary Body shall review its closed meeting minutes to determine if they are eligible for release to the public. In its review, the Board of Commissioners or Subsidiary Body shall determine if the minutes contain information that continue to require confidential treatment. Only portions of written minutes that no longer require confidential treatment shall be released. Written minutes shall not be released unless approved by an affirmative majority vote of the Board of Commissioners or Subsidiary Body taken in public session.
- B. Review of Verbatim Records. Pursuant to Section III.B of this Policy, verbatim records always are *per se* confidential. Not less than twice each year, the Clerk shall provide a list to the Board of Commissioners and to the relevant Subsidiary Body of existing verbatim records, the review of which list by the Clerk, by the Board of Commissioners, and by the Subsidiary Body, if any, shall constitute review of the verbatim records. The Board of Commissioners or the relevant Subsidiary Body may undertake a further review a verbatim record, but only in accordance with Section III.D of this Policy. After review of the verbatim record, the Board of Commissioners or the Subsidiary Body shall require that the verbatim record remain confidential unless, after reviewing the verbatim record in its entirety, the verbatim record is approved for release by an affirmative majority vote of the Board of Commissioners or, for a verbatim record of a Subsidiary Body, by an affirmative vote of three-fourths of the members of that Subsidiary Body then holding office. All such votes shall be taken in open session.

EXHIBIT 1

NOTICE OF PENDING DESTRUCTION OF VERBATIM RECORDS

[DATE]

To: Board of Commissioners
[Relevant Subsidiary Body]
General Manager
General Counsel or Staff Attorney

Subject: Notice of Impending Destruction of Verbatim Records

CONFIDENTIAL/PRIVILEGED

As required by the Illinois Open Meetings Act, the Office of the Clerk has been charged with the safekeeping of all verbatim records of all closed meetings of the Board of Commissioners and other bodies of the Commission subject to the Illinois Open Meetings Act.

Pursuant to the Open Meetings Act and to the "Closed Session Minutes and Verbatim Records Policy" of the Commission (the "Policy"), the confidential verbatim records listed below are eligible for destruction.

Public Body	Date of Meeting	Proposed Destruction Date

I hereby certify that (1) the relevant public bodies have previously approved written minutes of the closed meetings to which the verbatim records listed in this Notice were prepared and that those minutes are attached, and (2) the closed meetings to which the verbatim records listed in this Notice relate were concluded at least 18 months prior to the Proposed Destruction Date for those verbatim records.

The Office of the Clerk shall destroy the verbatim records listed in this Notice in accordance with the Policy, unless a written objection is filed with the Office of the Clerk within seven days after the date of this notice or not less than three days prior to the Proposed Destruction Date set forth above, whichever is later.

Clerk