

# Albany Pool CSO Communities Corporation

Capital District Regional Planning Commission  
One Park Place, Suite 102,  
Albany NY 12205  
Tel: (518) 453-0850

## Minutes of Board of Directors Meeting Thursday, August 13, 2015

**Present:**

Martin Daley – CDRPC Staff  
Rocco Ferraro – CDRPC Staff  
Kimberly Moshier - CDRPC Staff  
Steve Gordon – Beveridge & Diamond  
Joe Scott – Hodgson, Russ LLP  
Jeanine Rogers Caruso – Fiscal Advisors  
Mike Miller – Albany Pool Joint Venture Team (CHA)  
Bill Simcoe – City of Albany  
Chris Wheland – City of Troy  
Neil Bonesteel – City of Troy  
Rich Lyons – Albany County Sewer District  
Tim Murphy – Albany County Sewer District  
Gerry Moscinski – Rensselaer County Sewer District  
Garry Nathan – City of Cohoes  
Dave Dressel – City of Watervliet  
Jeremy Smith – City of Watervliet  
Mark Hendricks – City of Rensselaer  
Sean Ward – Village of Green Island  
Maggie Alix – Village of Green Island

Rich Lyons called the meeting to order at 9:07am.

**A. Call to Order/Determination of Quorum**

Following introductions and a roll call Rich Lyons reported a quorum.

**B. Reading and Approval of Minutes of July 9, 2015**

The minutes were distributed before the meeting. Sean Ward requested two changes to the minutes in the “present” section. “Dan Durfee” should be changed to “Dan

Lowenstein” and “Rick Hendricks” should be changed to “Mark Hendricks.” Martin will update the minutes and repost.

**Action Taken**

Bill Simcoe made a motion to approve the meeting minutes as amended with the changes and Garry Nathan seconded.

The motion was approved unanimously.

**C. Oath of Office (new designee and alternate for the City of Rensselaer)**

Per a memo from the Mayor of Rensselaer, Charles Moore is stepping down as designee. Tony Manfredi will become the city’s designee and Mark Hendricks will be the city’s alternate.

**Action Taken**

Jeremy Smith made a motion to accept Tony Manfredi as a new designee and Mark Hendricks as an alternate. Sean Ward seconded.

The motion was approved unanimously.

**F. Appointments to Committees**

Charles Moore was previously appointed by the Board to serve on the Governance Audit, Finance, and technical committees. Due to the change in the City of Rensselaer designee, the board needs to replace Charles on each of the committees.

**Actions Taken**

Garry Nathan made a motion to appoint Tony Manfredi to the Governance Committee, and Bill Simcoe seconded. The motion was approved unanimously.

Chris Wheland made a motion to appoint Tony Manfredi to the Audit Committee and Bill Simcoe seconded. The motion was approved unanimously.

Chris Wheland made a motion to appoint Tony Manfredi to the Finance Committee and Bill Simcoe seconded. The motion was approved unanimously.

Chris Wheland made a motion to appoint Tony Manfredi to the Technical Committee and Jeremy Smith seconded. The motion was approved unanimously.

**G. Draft Calendar and location of committee meetings**

A draft calendar of committee meetings was distributed to the board. The calendar was developed by the Authority Budget Office and modified by Beveridge and Diamond for the Corporation’s needs. The board requested CDRPC develop a complete calendar that

incorporates IMA Board, LDC Board, and committee meetings and suggested this calendar be accompanied by an electronic notification system such as Outlook. Martin said he would develop these tools prior to the next meeting.

**H. CDRPC Code Audit and GI Design Guideline RFP response review**

A copy of the DRAFT GI Code Audit and Technical Design Guideline RFP was distributed prior to the meeting. The RFP was drafted with input from Rich Lyons. The draft RFP is consistent with the procurement policy and has a 30% MWBE goal. This project, comprised of two tasks in the Order on Consent's schedule 7-B, was submitted to NYSDOS for a Local Government Efficiency Grant, and will be held to that agencies MWBE goals if awarded. Martin explained that while the RFP would be sent out by CDRPC, it was being done so on behalf of the Albany Pool and thus, as a cost share Pool project, would be administered in accordance with the Corporation's Policies. The application was submitted to DOS because at the time it was the only grant program CDRPC believed it was eligible and as not to compete with other WQIP and GIGP grants communities applied for in the CFA grant program.

Sean Ward requested more time be added for response to comments. The board agreed that five days, instead of four, be established for turn-around time on written questions on the RFP. Sean Ward also suggested the RFP include language requesting the credentials of any subcontractor proposed in the project.

**Action Taken**

Bill Simcoe made a motion to accept CDRPC's Code Audit and GI Design Guideline RFP as amended. Jeremy Smith seconded. The motion was approved unanimously.

**I. APVJT Extra Work authorization**

The APVJT is working off a pre-existing extra work authorization, Authorization #6, executed 10/6/2014. Extra Work Authorization #7 will cover work for the implementation of the PCCMP. The APVJT will present a new extra work authorization for the next fiscal year at the September meeting.

**J. PCCMP work authorization**

CDRPC entered into several contracts with project consultants prior to the establishment of the local Development Corporation. One such contract was with the APVJT for development of the LTCP and services to help communities administer the program. The Local Development Corporation does not need to procure engineering services for LTCP implementation assistance, but does need to adhere to its fiscal policies in the authorization of payment for services when certain thresholds are met. Any future procurement for a service or good for the implementation of a LTCP project will have to adhere to the LDC's procurement and financial policies.

Because of the timing of the Post Construction Compliance Monitoring Program (PCCMP) task in the Order, the Pool Communities needed to develop the program and submit it to DEC for approval prior to May 1, 2015. Over the course of several months, the APJVT modified the program, which was initially in the LTCP, in response to DEC comments requesting additional transects, sampling, and collection of data as it relates to return times. The Albany Pool Communities, not yet a formal entity but working together on program development, hosted several meetings with the APJVT and DEC to develop the PCCMP, negotiate the program's scope with DEC, and to implement an approved program on May 1. Costs of the program were revised along the way. A conservative estimate for annual costs was included in the Plan of Finance submitted to DEC.

Prior to the meeting the final PCCMP scope and costs were shared with the Board. Costs include the lab fees, data analysis, and reporting. While the administration of the Post Construction Compliance Monitoring Program (PCCMP) is not a new procurement, the board should adhere to its own financial policy when reviewing the PCCMP workplan and tasks and authorize payments as the LDC will be with paying for the program, despite the fact by the nature of the Order, delaying implementation was not possible and the program began on May 1. In addition, the PCCMP is essentially the "report card" for which the demonstrative CSO LTCP will be measured.

Staff recommended that the Board formally accept the PCCMP and extra work authorization under the existing PCCMP.

Bill Simcoe and Mike Miller discussed potential impacts on Big-C by construction of a diffuser on a cooling water outfall immediately adjacent the facility. Ongoing communication with the State Office of General services will be necessary during the design of Big C's satellite treatment facility.

Sean Ward requested an hourly rate be added to the PCCMP workplan.

#### **Action Taken**

Garry Nathan made a motion to accept the APJVT PCCMP work authorization and Bill Simcoe seconded. The motion was approved unanimously.

The APJVT's invoice, dated 8/11/2015, was distributed to the Board. The invoice is for professional services rendered between January 1 and July 31 and covers by Extra Work Authorizations #6 (Engineering serviced and the Development of the Discharge Notification System) and #7, implementation of the PCCMP. The total due is \$90,961.39. As per the Corporation's Fiscal Policy payment for disbursements of funds, the disbursement shall be in accordance and with guidelines established by the Board. In addition disbursements above \$1500 require the prior approval of the Board.

#### **Action Taken**

Chris Wheland made a motion to authorize CDRPC to pay the APJVT August 11 voucher and Sean Ward seconded. The motion was approved unanimously.

## **K. Banking**

CDRPC has collected information on business checking from several local institutions and will present the board with a comparison in advance of the September meeting so that the board can pick a bank to open an account for the LDC.

## **L. Distribution of Board Binders**

CDRPC has completed the collection and organization of documents and materials to assemble the board binders and put these materials on CDs that were distributed to each of the Board Members, Officers, and program consultants. The CDs contain the materials that will be printed to make the binders. These materials include the certificate of incorporation and amendments; policies of the board; committee charters; bylaws of the corporation; Authority Budget Office guidelines; list of Board Members, alternates, and officers; applicable General Municipal Law as it pertains to local development corporations; calendar and location of meetings, mission statement and measurements; an organizational chart; compliance calendar, and more.

The CDs were distributed in advance of hard copy binders so that Board Members could have a chance to review, comment, and suggest additional materials prior to incurring the expense of printing and assembling the binders.

CDRPC has requested comments on the binder materials no later than **September 8**.

## **M. EFC Grant Application**

The Environmental Facilities' New York State Water Infrastructure Improvement Act of 2015 provides \$200 million in grant funding over the next three state fiscal years to fund municipal wastewater and drinking water infrastructure projects that improve water quality and protect public health. The program is administered by the state's Environmental Facilities Corporation (EFC) and Department of Health (DOH).

For State Fiscal Year (SFY) 2015-2016, \$50 million in grant funding will be available to assist in funding water quality infrastructure projects - \$30 million for clean water (wastewater) projects and \$20 million for drinking water projects. The program will provide up to \$5m in grant assistance for a 25% match of an overall project cost. The application deadline for these grants is **September 4**.

The Albany Pool Communities have an estimated \$79m remaining in costs associated with the implementation of the Combined Sewer Overflow Long Term Control Plan (LTCP). This plan, administered jointly by six partner municipalities, is financed according to a formula developed by a CSO discharge volume and population of each of the pool communities. The Albany Water Board has a 58.68% share of LTCP program and the city of Troy has a 34.76% share. Thus, Albany's commitment to the remaining LTCP projects between FY2015 and FY 2027, when the LTCP program comes to a close, is \$46.38m.

Troy's share is \$27.48m. Albany and Troy's commitment to the program for FYs 2015, 2016, and 2017, as submitted to EFC for financing in the CWSRF are \$6.83m and \$4.08m, respectively. Because of the cost share outlined in the IMA, each and everyone one of the communities would benefit from any grant or principle forgiveness received for a LTCP project. Thus, should Albany and Troy be awarded \$10m, or even \$5m for their shares, the remaining communities would benefit according to the allocation formula. Furthermore, because Albany and Troy have previously submitted to the CWSRF, the application should be relatively simple in that all of the requirements have been met (plan of finance, supplemental report, bond authorization, SHPO review, to name a few). The program was announced in late July, meaning most communities will not be in position to apply this year. Thus, while less money is available in 2015, the cap will be the same and competition will increase in 2016. Now is the best time to apply. Very little guidance has been issued by EFC on this program. For example, if Albany and Troy apply for LTCP projects, and the cost share benefits ALL the Pool communities, can the other four parties apply this or next year for non-LTCP projects? Staff strongly recommended that only Albany and Troy apply as not to compete against ourselves.

Staff is working on scheduling a conference with EFC to find out more about the Water Infrastructure Improvement Act program and will relay this info back to the Pool.

#### **N. Other Business**

Rich Lyons reported that ACSD, Buffalo Sewer Authority, Westchester County, and Onondaga County will be sampling their effluent for enterococcus in an effort to ascertain if there is a correlation between fecal E.coli and enterococcus.

Martin requested certificates of compliance for GI-07, GI-08, and STCF-03.

Martin is working on an application to the IRS to obtain the 501c3 status for the corporation. The IRS requests qualifications for each board member and officer of the corporation. Martin believes resumes will suffice and requests each officer and board member send a resume no later than next Thursday (8/20).

Steve Gordon shared an update on the applicability of SEQRA and NEPA to the implementation of LTCP projects under the order. SEQRA and NEPA are not required for actions that are non-discretionary. The LTCP is mandated by an Order on Consent enforcement instrument. We were informed in early 2015 that EPA may require EFC to enforce SEQRA and NEPA requirements on all CWSRF projects, whether under an enforcement order or not. Beveridge & Diamond furnished a memo to EFC in early 2014 opining that the LTCP is a non-discretionary action and not subject to SEQRA or NEPA. We have been waiting for a determination from EPA. A Beveridge and Diamond attorney, formerly a general counsel at EPA, has been looking into the matter and we are optimistic it will be favorably resolved soon. Steve advised that in the meantime, communities implementing projects should adhere to the "non-discretionary" clause of SEQRA and NEPA and not begin these processes.

Mark Hendricks reported there may be a possible delay on the City of Rensselaer's Partition Street project (SSS-02). Martin will contact Richard Davis and coordinate with Rensselaer and their construction contractor to get an understanding of the delay and determine if a modification request is necessary.

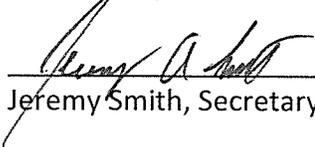
Rich Lyons needed to leave the meeting. Vice President Gerry Moscinski took over.

**Adjournment**

There being no further business, Bill Simcoe made a motion to adjourn the meeting and Sean Ward seconded. The motion was approved unanimously. The meeting adjourned at 10:54am.

The next LDC meeting is scheduled for Thursday, September 10, 2015 at 10:30AM. A technical committee meeting and a finance committee meeting will precede the full board meeting.

Respectfully submitted,

  
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Jeremy Smith, Secretary