

**CONFIDENTIAL**



**Water Authority of the Cayman Islands**

**Minutes of 239<sup>th</sup> Meeting held on 19<sup>th</sup> of June 2013**

**Members Present:**

Chairman:	Mr J L Hurlston
Members:	Mr J Banks Mr T Hydes Mrs P McGaw-Lumsden Ms A Owens Mr W Scott Ms R Sharma Mr M Smith Mr O Watler
Secretary:	Dr G Frederick-van Genderen
Apologies:	Mr C McLaughlin Mrs I Simms

**Call to Order**

The Chairman welcomed members and called the meeting to order at 1:29pm after ascertaining that there was a quorum and acknowledging apologies from Mrs I Simms and the absence of Mr C McLaughlin. The Chairman then proceeded to open the meeting with prayer.

The Chairman noted that as there is a new Government it is possible that there may be changes in the composition of the Board. He thanked members for their service to the Cayman Islands as a member of the Board. The Chairman expressed his

gratitude to members for their support and genuine interest in looking out for the best for the Water Authority and the country as a whole.

The Secretary provided Mr O Watler with information requested at the last Board meeting regarding the number of Water Authority customers receiving assistance from the Department of Children and Social Services.

**Minutes of the 238<sup>th</sup> Meeting held on 15<sup>th</sup> of May 2013**

The Chairman asked for confirmation of the Minutes of the 238<sup>th</sup> Meeting held on 15<sup>th</sup> May 2013.

The following corrections to the Minutes were noted:

**Page 4**, 1<sup>st</sup> paragraph 1<sup>st</sup> line, 2<sup>nd</sup> sentence should read "The Chairman reported that he....."

**Page 10**, 2<sup>nd</sup> paragraph 5<sup>th</sup> lines should read "...is the customer's responsibility....."

Mr J Banks moved the motion to accept the Minutes as amended, Ms A Owens seconded the motion and the motion passed unanimously.

**Declaration of Conflicts of Interest**

None were declared.

**Matters Arising**

**a) Lower Valley Reverse Osmosis Plant (LVRO) - Update.**

\* Redacted under section 21 (1) (b) of The Freedom of Information Law, 2007



The Chairman reported that the water production rate of the LV RO plant during the month of May 2013 averaged 2,446 cubic metres per day.

**b) 30 June 2013 Audit of Consolidated and Divisional Statements - Update.**

*30 June 2013 Audit of Consolidated and Divisional Financial Statements for Water, Wastewater and Statutory*

The Chairman reported that the Finance Department continued to work diligently on the audit working papers and noted that at this time the Authority did not foresee any problems in meeting the 31 August 2013 deadline as prescribed in the Public Management & Finance Law (PMFL) for submission of the 30 June 2013 trial balance and draft financial statements to the auditors.

*Annual Report 2011/2012*

The Chairman reported that the 2011/2012 annual report was forwarded to the Ministry on 31 December 2012 for the Honourable Premier and Minister's comments and signature upon agreement. The Authority awaits confirmation on the status of this report with the new Ministry.

*KPMG Engagement – Strategic Option Analysis (SOA)*

The Chairman reported that the Authority communicated with KPMG on 30 May 2013 and a decision was made for KPMG to complete the draft report from their perspective and provide to the Authority for review. Once the Authority receives the final draft it will be reviewed and feedback sent back to KPMG for modification, this is not expected to happen before the end of the first quarter or beginning of the second quarter of the next fiscal period.

**c) Cayman Water Company (CWC) Negotiations Update.**

The Chairman reported that to date there had been no new developments.

**d) West Bay Beach Sewerage Rehabilitation Project (2013) – Update.**

\* Redacted under section 21 (1) (b) of The Freedom of Information Law, 2007



\* Redacted under section 21 (1) (b) of The Freedom of Information Law, 2007



e) **National Roads Authority Fees Update.**

The Chairman reported that on 16 May 2013 the Water Authority wrote to the NRA (copied to the Ministry) in response to their revised Trench Permit & Reinstatement Policy, detailing how it will impact the Authority's cost of doing business and affect its customers. A copy of this letter was provided to members.

Some of the Authority's observations were:

- In the absence of any appropriate Regulations the NRA does not have the legal authority to demand the fees/charges.
- Subsection 25(2) of the Roads Law (2005 Revision) does not apply.
- The 10-year maintenance period for transverse and longitudinal cuts on Hot Mix Asphalt (HMA) Roads (previously only 12 months) is excessive and unreasonable.

Also noted is the fee of \$175 to be applied for any approval request to make a road crossing. This fee, if imposed would need to be a direct pass through to customers applying for service that requires a road crossing.

The Chairman reported that on 30 May 2013 the NRA responded. In their letter they refuted the various statements by the Water Authority but indicated that they would 'endeavour to reach an agreement that is "practical, fair, and reasonable"'. A copy of this letter was provided to members. The Chairman reported that the Authority contacted the NRA and both parties agreed to meet on 20 June 2013 to discuss this matter.

**f) Miscellaneous Updates.**

- a) *In-House Pipelaying Crews*** – The Chairman reported that one of the pipelaying crews continues work on the pipeline upgrade (from 6-inch to 12-inch) in South Sound, between the boat ramp and the intersection with Walker's Road. Nearly all pipework for the second phase (total length approximately 1,430 feet) has been installed. Progress was much slower than anticipated due to the amount of traffic and other unforeseen obstructions experienced. (e.g., irrigation lines and underground electricity ducts installed by property owners within the public road reserve).

On 26 May 2013 the second pipelaying crew completed a road crossing in Shamrock Drive in Lower Valley to connect a new sub-division. Additionally, on 13 June 2013 this crew completed the replacement of nearly 1,500 feet of 6-inch pipe at Raven Avenue (off Spotts Newlands Road). This crew also extended a 3-inch pipeline (270 feet length) in Breakers. This work was completed on 10 June 2013.

- b) *Water Supply Division*** – The Chairman reported that on 06 June 2013 Operations completed work on the replacement of approximately 800 feet of 4-inch pipe in Greenwood Drive. Additionally, Operations started the replacement of nearly 1,000 feet of 6-inch pipe in Memorial Avenue on 10 June 2013. All affected customers have been connected to the temporary pipeline.
- c) *Wastewater Division*** – The Chairman reported that during the month of May 2013 some days had significant rainfall, and the design hydraulic capacity of the plant (2.5 mgd) was exceeded for seven days during the month. The average daily inflow was approximately 2.35 mgd (or 94% of design capacity), which was almost 2% more than the average inflow during May 2012 (2.31 mgd).

It is anticipated that the new pump control panel for PS1 will be ready for shipment by the end of June 2013. The Engineering Services Department (ESD) is preparing drawings and tender documents for the construction of a new control panel wall at PS1. Due to the critical nature of this pump station, both control panels (old and new) will initially work in parallel with the pumps being gradually connected from the old panel to the new panel.

- d) *For Cayman Investment Alliance – George Town Landfill Closure and new Waste Management Facility in Bodden Town*** – Since the last Board meeting in May 2013 the following has taken place:

- The Honourable Minister Osbourne Bodden publicly announced that the newly elected Government will not pursue the previous Government's plans to establish the new Waste Management Facility east of the Midland Acres Subdivision in Bodden Town. The Honourable Minister has asked to meet with the Environmental Advisory Board; this meeting is scheduled for 04 July 2013.

- e) *FOI updates* - The Chairman reported that no new requests had been received since the last Freedom of Information (FOI) Report dated 16 April 2013.

### Current Business

a) **Request from [REDACTED] for Reduction in Quarry Permit Fees.**

\* Redacted under section 21 (1) (b) of The Freedom of Information Law, 2007

The Chairman reported that [REDACTED], the Managing Director of [REDACTED], had written the Board for consideration of the quarry permit fee. A copy of [REDACTED] letter was provided to members. [REDACTED] explains that the 5 year fee would now increase from less than \$6,000 paid each 5 years to over \$30,000 and asked the Board to consider a different approach. He proposed to base the fee on the projected 5 year production rate or to pay the fees quarterly based on production. The production rate for consideration of the fee is the area that is excavated and not the volume, as permit fees are charged by the area that is quarried. The supporting letter from the land surveyor explained that the first phase is scheduled for completion by 2024 and that the projected excavation rate is 237,250 square feet per year (equivalent 22,041 m<sup>2</sup> or 5.4 acres per year).

The Chairman advised that if the fee, as proposed by [REDACTED] is based on the projected area to be excavated in 5 years, it would be \$4,408.20. If this is paid on a quarterly basis, it would be \$220.41 per quarter.

The Chairman provided some historical background to assist members in understanding past practices and in making their decision as follows:

*Provisions in the Water Authority Law (2011 Revision) and Regulations (2012 Revision)*

- Under Section 34 of the Law the construction of canals or quarrying requires a permit from the Authority, the grant of a quarry or canal permit does not dispense with the necessity to obtain Planning Permission if such permission is required.
- Part III of the Regulations determines the procedures and fees for granting quarry permits. Regulation 14 (1) (b) prescribes that quarry permits are valid for 5 years and Regulation 14 (4) prescribes that the fee is to be paid with the application for a permit, or for the renewal of the permit and annually thereafter if the permit is valid for more than one year.
- Schedule 2 of the Regulations determines the quarry permit fee at \$0.04 per square metre. This fee applies since 01 November 2012 per the Water Authority (Amendment) Regulations, 2012. Prior to 01 November 2012 this fee was \$0.02 per square metre. The quarry permit fee of \$0.04 per square metre equals \$161.88 per acre.

*Water Authority's practice for fees associated with quarry permits*

The Authority grants quarry permits in accordance with the Law and Regulations. The way the fees are collected differs from that prescribed in the Regulations. When an application is made the fee is charged, but the fee is not charged on an annual basis for the duration of the permit as per Regulation 14 (4). When a permit expires after 5 years and the quarry operator has not completed the quarry, an application to renew the permit is made. At that time the Authority charges the quarry permit fee for that portion of the quarry that has not been excavated yet. This has been the process for fee collection for over twenty years.

The Chairman noted that the Regulations have the same approach to charge annual fees for discharge permits and canal permits; however the Authority follows the same practice. Only if a discharge permit or a canal permit is renewed the applicable fee is charged again, but not on an annual basis. For canal permits the fee is also levied on the balance of the excavation.

*Permits for [REDACTED] Quarry*

1. The [REDACTED] quarry was established in [REDACTED] on [REDACTED]. The [REDACTED]. The initial Planning Permission was for 2 separate lakes, each surrounded by a residential subdivision. The Water Authority granted a quarry permit for the excavation of 248,480 m<sup>2</sup> (61.3 acres), the fee was \$5,969.72. The permit was granted for 5 years from [REDACTED], permitted excavation depth was 12ft below water table.
2. The permit was renewed in 2003 for 5 years, the fee was levied on the balance of the excavation: \$3,690.74 for 185,342 m<sup>2</sup> (45.8 acres), permitted excavation depth was 14ft below water table.
3. In 2008 the permit was renewed for 5 years, the fee was levied on the balance of the excavation and the 2 additional lakes that had received Planning Permission in 2005: \$4,542.37 for 227,119 m<sup>2</sup> (56.1 acres), permitted excavation depth was 50ft below water table.

*Current [REDACTED] Quarry Permit Renewal Application*

The Chairman advised that in June 2011, the Central Planning Authority agreed to modify the Planning Permission to allow for the excavation of the entire property to 50ft below water table and to eliminate the planned residential subdivision on the property. This Planning Permission does not allow excavation to 50ft from the boundary of the property and a road corridor is reserved for the future east-west road. The Operations/Closure Plan for this quarry splits the quarry in four phases:

- phase 1 projected for completion by 2024 (2,609,750 sq ft (242,400 m<sup>2</sup>, or 59.9 acres))

- phase 2 projected for completion by 2034 (2,455,920 sq ft (228,100 m<sup>2</sup> or 56.4 acres))
- phase 3 projected for completion by 2041 (1,734,335 sq ft (161,100 m<sup>2</sup> or 39.8 acres))
- phase 4 projected for completion by 2048 (1,713,705 sq ft (159,200 m<sup>2</sup> or 39.3 acres))

The [REDACTED] quarry is projected to be operational for another 35 years. The Chairman noted that [REDACTED] along with several other quarry operators, participated in the Government's Aggregate Advisory Committee's pilot test for deeper excavation. As a result several commercial quarries had been granted permission to excavate to 50ft below water table.

The Chairman reported that since early 2013 the Water Authority and [REDACTED] had been in communication about the process to renew the quarry permit. Based on the plans as approved by the CPA and some specific provisions imposed by the Authority, the Authority calculated the total footprint of the quarry to be considered for the permit fee at 754,300m<sup>2</sup> (186.4 acres), this takes into account the area that had been excavated to 50ft depth already (this would not attract a fee), but charges the fees on the shallow parts of the quarry that will be re-excavated to 50 ft depth and the area that has not been excavated yet. The resulting fee is \$30,174.44.

*Recommendation from management*

The Chairman advised that to grant a specific quarry permit fee for [REDACTED] [REDACTED] would set the precedent for other quarries. It should be noted that the quarry permit fees paid to the Authority contribute to its overall statutory role to protect water resources. Staff spends a fair amount of time on administering, processing and monitoring of quarries and quarry permits. For example the pilot testing for deeper excavations carried out several years ago took substantial resources from the Authority without specific funding.

The Chairman noted that the reasons for the significant fee increase for the [REDACTED] quarry is that their permitted footprint increased substantially and because the permit fee doubled with the introduction of the 2012 Regulations. The fact that they are allowed to excavate a larger area to 50ft now instead of 14ft has substantially prolonged the life span of the quarry.

In deciding on the fee structure there are 3 options:

1. Apply the Water Authority Regulations exactly. The permit fees have to be paid on an annual basis for the permitted footprint of the quarry; this would mean approximately \$30,000 per year for [REDACTED] until the quarry is completed in 35 years.
2. Continue the current practice and apply the fees on a 5 year basis to the balance of the area that has not been excavated yet. [REDACTED] would



have to pay approximately \$30,000 now, \$25,600 in 2018, and each 5 years \$4,400 less until the quarry is completed.

3. Implement the fee structure as suggested by [REDACTED] and apply the fee to what has been excavated, this would be \$4,400 for 5 years, either payable upfront or annually or quarterly, subject to monitoring the excavated area.

Each of the 3 options has shortcomings:

- Option 1 applies the Regulations as intended, however now that very large quarries have been permitted by Planning, it is likely that this approach would result in quarry operators petitioning the Authority or Government for a different approach as they will incur additional fees not paid before. Alternatively, they can become creative and apply for permits to excavate the area that they project to excavate in the next 5 years only.
- Option 2 does not fully apply the Regulations, and now that commercial quarries may be ongoing for anywhere between 10 and 40 years, the fees levied over the lifespan of the quarry are substantial.
- Option 3 does not apply the Law and Regulations at all and puts the onus on the quarry operator and the Authority to monitor the progress of the quarry. It invokes additional administrative duties, yet the fee that is levied is limited in comparison to option 2 and 3.

The Secretary points out that under any of these options the permit fee applies to the footprint of the quarry, rather than to the volume of material that is quarried. By increasing the depth of a quarry from 12ft below water table to 50ft below water table, 4 times more rock is quarried, yet the quarry permit fee per quarried area remains the same.

The Chairman advised that the Authority's management is of the opinion that although option 2 is not an ideal approach, it recommended the Board to endorse this approach as a policy, with the caveat that when the Authority reviewed its statutory fee structure an alternative approach to quarry and canal permit fees is established that bases the permit fees on the volume that is quarried, rather than on the footprint of the quarry.

Members discussed the options presented, considering the pros and cons of each. Members subsequently decided to accept option 2. However, the Authority's management is requested to review current statutory fees against compliance and make recommendations for changes to the Regulations to coincide with the implementation of the RCAM method of calculating rates prior to the end of the calendar year.

**b) Management Accounts April 2013.**

The Chairman reported that as noted at the May 2013 Board meeting the April 2013 management accounts were not completely prepared and hence not

formally presented to the members. The Chairman reported that these statements had now been made available for the Board's review. Due to staff shortages and concentration on the completion of audit working papers the May 2013 management accounts are not yet available; however they will be made available by the end of the month to interested members.

Based on estimates for the first ten months of the 2012/13 financial period Operating Revenue increased over the same period as last year, showing a modest increase over the same ten month period in 2012/13 (increase of 10.5%). This was reasonable as the Authority had the rate adjustment effective 01 November 2012. Sales were expected to level off for the last 2 months of the fiscal period as the islands enter into the rainy season.

Operating Expenses were up from last year, due primarily to the increase in water sales and hence the increase in water production costs, increase in repairs and maintenance as the Authority begins to remediate the WW assets as well as the inclusion of the New Works Crews remuneration, which was not included in Prior Year numbers. Even though the operating expenses were higher than prior year, they were still well under the estimated figures (9.0% less), primarily due to the delay in commencing the WW remediation projects. Administrative Expenses were in line with prior year (0.6% increase). Administrative expenses were under the budgeted figures.

The Chairman reminded members that the 30 April 2013 management accounts numbers may be subject to change once year-end entries are posted. Due to stringent expense monitoring, delayed projects and higher than average income the Authority is in a solid financial position end of April 2013\*

\* Redacted under section 21 (1) (b) of The Freedom of Information Law, 2007

same period last year. The Authority is cognizant that these figures were estimates and subject to audit and year end accruals/adjustments. For example, some adjustments expected are Audit Fees (~\$135k); Past Service Pension Liability (~\$200k); and Bad Debt Expense (~\$200k), etc. The Authority continues to be in a strong financial position and will continue to closely monitor operational and administrative expenses in light of the current economic situation and the new government's pending 2013/14 budget.

### **Donation Requests**

The Chairman advised that with the inclusion of all gift certificates that had not yet been redeemed and the increase in the revised budget, the remaining amount available for donations in the revised 2012/2013 budget is \$181.

#### **a) Request from National Gallery to change use of donated funds.**

Members requested that the National Gallery provide further details as to how they propose to utilise the funds and, in order to allow for the details

to be provided, agreed extending the deadline for a new agreement for disbursement of the funds to 30 August 2013.

**b) North Side Primary School – Year 6 Graduation trip to Orlando, Florida.**

Members agreed to sponsor the North Side Primary School – Year 6 Graduation trip to Orlando, Florida in the amount of \$75. It should be explained in the letter that the Water Authority's sponsorship budget has been fully subscribed and thus limited funds were available. The motion was moved by Mrs P McGaw-Lumsden, seconded by Ms A Owens and passed unanimously.

**c) Hy-Tech Tigers Track & Field Club – on behalf of Mr Andrew Bodden to participate in Miami Classic Track and Field Meet 07-09 June 2013.**

Members agreed to sponsor the Hy-Tech Tigers Track & Field Club – on behalf of Mr Andrew Bodden to participate in Miami Classic Track and Field Meet 07-09 June 2013 in the amount of \$75. It should be explained in the letter that the Water Authority's sponsorship budget has been fully subscribed and thus limited funds were available. The motion was moved by Mrs P McGaw-Lumsden, seconded by Ms A Owens and passed unanimously.

**d) Bethel Refuge Apostolic Church – Annual Summer Camp.**

Members noted that there were no more funds available from the donation budget and therefore no donation was made. The applicant should be advised accordingly.

**e) East End Church of the Apostolic Faith – Music Ministry Improvement.**

Members noted that there were no more funds available from the donation budget and therefore no donation was made. The applicant should be advised accordingly.

**f) Jambrac Choral CYB – Pre-Independence Concert.**

Members noted that there were no more funds available from the donation budget and therefore no donation was made. The applicant should be advised accordingly.

**g) Honourary Consul of Barbados for Sponsorship of Local Showing of Barbados-made film Chrissy.**

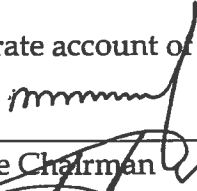
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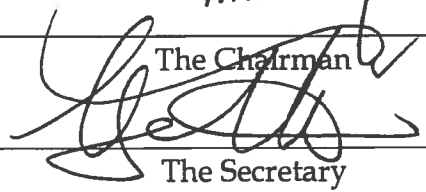
**Any Other Business**

The Secretary reminded members that she would be on leave during the period 28 June 2013 to 17 July 2013. The Secretary thanked the Chairman and members for their services to the Water Authority and their support throughout their tenure on the Board. Members voiced their thanks to the Chairman and the Secretary and everyone wished each other all the best.

There being no other business the Chairman thanked members for their support and then adjourned the meeting at 2:40pm.

This is a true and accurate account of the proceedings.

  
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The Chairman

  
\_\_\_\_\_  
The Secretary