

**BOARD OF FINANCE
SPECIAL MEETING
The Metropolitan District
Remote Meeting
April 28, 2021**

PRESENT: Commissioners Andrew Adil, Donald Currey and Pasquale J. Salemi;
Citizen Members Joan McCarthy Gentile and Awet Tsegai (5)

ABSENT: Commissioner Allen Hoffman; Citizen Members Ronald Angelo and Linda King-Corbin (3)

ALSO

PRESENT: Scott W. Jellison, Chief Executive Officer
Christopher Stone, District Counsel
John S. Mirtle, District Clerk
Kelly Shane, Chief Administrative Officer
Christopher Martin, Chief Financial Officer
Christopher Levesque, Chief Operating Officer
Tom Tyler, Director of Facilities
Rob Constable, Manager of Treasury
Shereese Rodgers, Senior Financial Analyst
Lisa Remsen, Manager of Budget and Analysis
Peter Krzyk, Financial Analyst
Carrie Blardo, Assistant to the Chief Operating Officer
Victoria S. Escoriza, Executive Assistant
Julie Price, Professional Level Trainee
Jeffrey Knight, Counsel, Pillsbury Winthrop Shaw Pittman
David Silverstone, Independent Consumer Advocate

CALL TO ORDER

Chairman Salemi called the meeting to order at 11:08 AM

PUBLIC COMMENTS RELATIVE TO AGENDA ITEMS

Judy Allen, West Hartford Resident, asked if the consent decree contents could be made public.

APPROVAL OF MINUTES

On motion made by Citizen Member Tsegai and duly seconded, the meeting minutes of the Board of Finance meeting of March 24, 2021 were approved.

AUTHORIZATION FOR CHIEF EXECUTIVE OFFICER TO MAKE PAYMENT OF PENALTY INCLUDED IN SEWAGE SLUDGE INCINERATORS CONSENT DECREE

To: Board of Finance for consideration on April 28, 2021

The Clean Air Act required the EPA to create emission limits and standards for Sewage Sludge Incinerators (SSIs). The EPA drafted guidelines and emissions standards for “new SSIs” and “existing SSIs.” The emissions limits are significantly stricter for “new” units. An existing SSI unit is defined as construction commenced before October 14, 2010. The Hartford Water Pollution Control Facility’s (HWPCF) SSI units were constructed in the 70s and would qualify as existing. If an existing SSI unit is “modified” i.e. over the life of the SSI unit the owner spends at least 50% of the original construction costs on improvements or upgrades, it is no longer considered an existing SSI and instead falls under the new SSI regulations.

In 2010, the EPA released a proposed rule to implement the emissions standards with an effective date of March 2016. The National Assoc. of Clean Water Agencies (NACWA) sued EPA over the proposed rule in 2011. In 2013 the DC Circuit Court of Appeals remanded portions of the rule directing EPA to explain portions of the rulemaking and emissions limits establishment process but the Court allowed the rule and emissions limits to remain in effect. *NACWA v. EPA*, 734 F.3d 115 (2013)

Since the rule went into effect in early 2016, the District has been engaged in debate with the EPA over whether the District’s SSI units are required to comply with the “existing” emissions limits or the more stringent “new” emissions limits. The disputed issues revolve around whether work performed at the HWPCF since the 1970s should be counted against the 50% modification threshold set in the rule. The EPA indicated that it believes the District’s SSI units exceed the 50% modification threshold and are therefore regulated by the “new” emission limits. The District provided substantial documentation and support for its position that some of the construction projects or physical components the EPA is including in its modification analysis should not be included under the SSI Rule. EPA issued a Notice of Violation against the District on January 12, 2017.

As currently designed, the District’s SSI units have historically demonstrated consistent compliance with the emissions limits for “existing” SSI units and also largely met the “new” limits for all controlled pollutants except for one, carbon monoxide. In order to avoid costly upgrades required to comply with the “new” emissions limits, the District repeatedly tried to convince the EPA for years that its modification analysis was flawed and the District’s SSI units rightly fall under the “existing” emission limits. Ultimately, EPA did not agree and notified the District that if the District did not agree to enter into a Consent Decree to bring the SSI units into compliance with the regulations, EPA would refer this issue to the Department of Justice for enforcement.

Staff briefed the Bureau of Public Works on this potential enforcement action and Consent Decree on September 30, 2020. The terms and conditions of a Consent Decree have been negotiated with EPA and DOJ since that time. If approved, the Consent Decree requires compliance by the District’s SSI units with the “new” emission limits and regulations by April 30, 2022 and payment of a civil penalty in the amount of \$298,000.

It is **RECOMMENDED** that it be

VOTED: That the Board of Finances recommends to the District Board passage of the following resolution:

RESOLVED: That the Chief Executive Officer of The Metropolitan District, Scott W. Jellison, on behalf of the District, hereby is authorized, empowered and directed to make payment of the \$298,000 penalty specified in the sewage sludge incinerator Consent Decree with the United States Environmental Protection Agency and United States Department of Justice.

Respectfully submitted,



Scott W. Jellison
Chief Executive Officer

On motion made by Citizen Member Gentile and duly seconded, the report was received and resolution adopted by unanimous vote of those present.

OPPORTUNITY FOR GENERAL PUBLIC COMMENTS

No one from the public appeared to be heard.

ADJOURNMENT

The meeting was adjourned at 11:43 PM

ATTEST:

John S. Mirtle, Esq.
District Clerk

Date of Approval