

**COMMITTEE ON MDC GOVERNMENT
SPECIAL MEETING**

555 Main Street
Hartford, Connecticut 06103
Tuesday, May 9, 2023

Present: Commissioners Kyle Anderson, John Avedisian, John Bazzano, Avery Buell, Peter Gardow, Allen Hoffman, Jean Holloway, Maureen Magnan, Alvin Taylor and District Chairman William DiBella (10)

Remote

Attendance: (0)

Absent: Commissioners Dimple Desai, James Healy and David Steuber (3)

Also

Present: Commissioner Donald Currey
Commissioner Richard Bush
Commissioner Joan Gentile (Remote Attendance)
Commissioner Bhupen Patel
Commissioner Pasquale Salemi
Scott Jellison, Chief Executive Officer
Christopher Stone, District Counsel
John S. Mirtle, District Clerk (Remote Attendance)
Christopher Levesque, Chief Operating Officer
Kelly Shane, Chief Administrative Officer (Remote Attendance)
Jamie Harlow, Director of Human Resources (Remote Attendance)
Victoria Escoriza, Executive Assistant
Dylan Pecego, IT Consultant (Remote Attendance)
Dave Baker, IT Consultant (Remote Attendance)
Joseph Szerejko, Independent Consumer Advocate

CALL TO ORDER

Chairman Bazzano called the meeting to order at 5:05 PM

PUBLIC COMMENTS RELATIVE TO AGENDA ITEMS

Judy Allen, of West Hartford, agrees with the recommendations from the Internal Audit Committee and agrees with the revision to ByLaw B2K, as well as Chairperson and Vice Chairperson term limits. She stated that she has read through the sewer ordinances and sees references to program requirements, but does not see the requirements of the program

APPROVAL OF MINUTES

On motion made by District Chairman DiBella and duly seconded, the meeting minutes of April 5, 2023 were approved.

Commissioner Gardow abstained.

**REFERRAL FOR PUBLIC HEARING - SEWER ORDINANCES RE:
PRIVATE PROPERTY SEWER CONNECTION POWER RODDING OR
REPAIR**

Without objection, the Sewer Ordinances re: Private Property Sewer Connection Power Rodding or Repair was referred to a Public hearing by Chairman Bazzano.

**REFERRAL FROM DISTRICT BOARD RE: MODIFICATION OF
BYLAW § B2K**

Without objection, the modification Bylaw § B2k was referred to the Office of District Counsel for revisions by Chairman Bazzano.

Commissioner Salemi spoke and requested the following memo be made part of the record:

MEMORANDUM

MAY 7, 2023

TO: The Members of the Committee on MDC Government

Anderson, Healy, Avedisian, Hoffman, Bazzano (C), Holloway, Buell (VC), Magnan, Desai, Steuber, DiBella (Ex-Officio), Taylor, Gardow,

FROM: Pasquale Salemi, Commissioner

SUBJECT: Agenda Items 5, 6, 7 of May 9, 2023, Meeting.

The agenda for your meeting captioned above is posted on the MDC website and the following items are listed as referrals from the District Board:

5. CONSIDERATION AND POTENTIAL ACTION RE: REFERRAL FROM DISTRICT BOARD RE: MODIFICATION OF BYLAW § B2K

6. CONSIDERATION AND POTENTIAL ACTION RE: REFERRAL FROM DISTRICT BOARD RE: DEVELOPMENT OF ANNUAL TRAINING AND ORIENTATION OF COMMISSIONERS RELATING TO COMMISSIONER AUTHORITY UNDER DISTRICT'S CHARTER, ORDINANCES AND BYLAWS

7. CONSIDERATION AND POTENTIAL ACTION RE: REFERRAL FROM DISTRICT BOARD RE: TERM LIMITS OF CHAIRPERSONS AND VICE-CHAIRPERSONS

This agenda does not include an attachment of the actual recommendations adopted by the District Board for your review.

These are in fact, the recommendations found on page 45 and 46 of the INVESTIGATION REPORT RELATING TO SANDLER & MARA, P.C. INVOICES APRIL 4, 2023, by Patrick J. McHale and Jennifer L. Dixon of Kainen, Escalera & McHale, P.C. April 4, 2023. They are presented under the heading:

VII. Recommended Changes (Note: To the extent any of the following recommendations relate to the Office of District Counsel, many of these recommendations are consistent with past and existing procedures of that office).

These Recommended Changes are presented in response to the Internal Audit Committee's resolution defining the scope of the investigative legal counsel's work found on page 1 of the REPORT as follows:

- (1) findings of fact,
- (2) determine if there is a violation of the MDC Charter, Ordinances, By-Laws or Policies,
- (3) based on findings of items 1 & 2, recommend changes of the MDC Charter, Ordinances, By-

Laws or Policies as may be necessary.

It certainly appears that the Internal Audits Committee has assigned itself the role of recommending Charter Changes in response to their findings of violations to said Charter which McHale presents in Section VI of the report. In assigning McHale the tasks above the Internal Audits Committee ignores the original resolution of the District Board passed on August 1, 2022 and creates its own, with, I assume, the advice and counsel of District Counsel. (No transcript is available for this meeting). Here below is the actual resolution of the Board:

*Commissioner Torres made a motion to refer the matter to the Internal Audit Committee to review the following: **verification of the work performed, whether the work and invoices were properly authorized by an MDC Representative with authority to do so and whether the invoices constitute an obligation by the MDC to pay.** Commissioner Patel seconded the motion.*

*Without objection, Commissioner Gentile made a friendly amendment for the Internal Audit Committee **to also review whether the invoices were timely, complete, accurate and reasonable.***

*Without objection, Commissioner Bush made a friendly amendment for the Internal Audit Committee to also review **if all meetings occurred, who called the meetings, who authorized payment of the meetings and what or where is the resulting work product. The motion to refer to the matter of outstanding 2021 & 2022 Sandler & Mara P.C.***

The District Board does not contemplate suggested Charter revisions, nor does it assign the task of recommending Charter Revisions to the IAC.

McHale reports that the aforementioned resolution of the Board is passed unanimously in the very first sentence of the REPORT;

On August 1, 2022, at a special meeting of the Board of Commissioners of The Metropolitan District ("MDC"), the Board of Commissioners ("the MDC Board") addressed outstanding Sandler & Mara, P.C. ("Sandler & Mara" or "the Firm") invoices from 2021 and 2022 totaling \$85,036.25. A motion was passed unanimously referring the matter to the Internal Audit Committee of the MDC.

This statement is FALSE! The motion to refer the "matter" as stated above was passed by a majority vote of 15 yeas to 7 nays.

Those voting nay were; Commissioners John Avedisian, David Drake, Peter Gardow, Allen Hoffman, Diane Lewis, Dominic Pane and Raymond Sweezy. Five of the seven nay votes are actually, members of the Internal Audits Committee and constitute a majority of that committee, which would take up the issue only 3 days later.

I point to this serious lapse in due diligence on the part of Atty. McHale and the members of the IAC in concurring with the REPORT as they have, and hope that the District Board itself and in fact all of the members of the Government Affairs Committee who were present when the recommendations were presented are not influenced by the suggestion of unanimity of the Board and then releasing themselves from what they are informed of as unanimity in considering the findings of fact and thereby suggesting these recommendations.

Here are the actual recommendations you are asked to consider written, I assume, by Atty. McHale.

13. The first paragraph of Section B2k in the MDC By-Laws, which appears designed to prohibit the MDC Commissioners and citizen members from pressuring the MDC employees to act or refrain from acting in a desired manner, is unclear. It should be modified to require the MDC Commissioners (including the MDC Chairman) to direct any individual requests only to the Chief Executive Officer, not to both the District Chairman and the Chief Executive Officer, because all District employees ultimately report to the Chief Executive Officer. Referred to the Committee on MDC Government.
14. The Committee on MDC Government shall develop an annual training and orientation of new and existing Board members to provide such members with information relating to their specific authority under the District Charter, Ordinances and By-Laws and the operation, organization, and governance of The Metropolitan District in general.
15. The Committee on MDC Government shall consider the issue of whether, and if so to what extent, the terms of the chairpersons and vice chairpersons of the Board and all committees, bureaus and subcommittees should be limited, by ordinance or by-law, and shall report its recommendations, if any, to the District Board on or before September 1, 2023.

They are derived from the following findings of fact:

VI. Violations of Relevant Governing Documents Based on the findings of fact, the following violations of the MDC's Charter and By-Laws were found:

1. Chairman DiBella exceeded the authority provided to the Chairman in the Charter and By-Laws when he authorized Attorney Sandler to continue working on the property disposition project after August 17, 2021. Also, none of the governing documents provide such authority to the commissioners. Chairman DiBella admitted that Mr. Jellison told him and Commissioner Salemi that Attorney Sandler's work on the property disposition project should stop because an issue about the payment of his fees existed. Yet, he disregarded Mr. Jellison's directive and did not tell Attorney Sandler to stop working on the property disposition issue even though he knew that Attorney Sandler was continuing to work on this issue. In addition, he discussed with Commissioner Salemi and Attorney Sandler the need for a budget to continue Attorney Sandler's work, and there was an understanding that Attorney Sandler would continue working until the budget was resolved. Further, Chairman DiBella knew, but ignored, that the MDC had no engagement letter or contract with Sandler & Mara for Attorney Sandler's work in 2022.
2. Chairman DiBella exceeded the authority provided to the Chairman in the Charter and By-Laws when he authorized Attorney Sandler to work on the South Meadows project in 2022. Also, none of the governing documents provide such authority to the commissioners. Chairman DiBella admitted that he authorized Attorney Sandler to perform work on the Hartford Solid Waste Task Force in 2022, and Attorney Sandler stated that he was performing the work "under the direction of Chairman DiBella." In addition, Chairman DiBella knew that Attorney Sandler was performing work on the South Meadows issues and property disposition project even though Attorney Sandler had no engagement letter with the MDC in 2022.
3. Chairman DiBella violated the third paragraph of Section B2k of the By-Laws, which prohibits Commissioners from "either explicitly or implicitly, ask[ing] or direct[ing] staff to take or not take any particular course of action," when in 2022 he asked Mr. Jellison to pay the Sandler & Mara invoice dated October 1, 2021 in the amount of \$14,095.25, which was received in 2022 relating to the property disposition project.

4. Commissioner Salemi exceeded the authority provided to the Board of Finance in Section 3-1 of the Charter when he continued to work on the property disposition project with Attorney Sandler after August 17, 2021, the date that Mr. Jellison directed that Attorney Sandler's work on the property disposition project end. Also, none of the governing documents provide such authority to the commissioners. Commissioner Salemi disregarded Mr. Jellison's directive and continued working on the project with Attorney Sandler because he expected that funding would be approved by the Board and Attorney Sandler would ultimately be paid. Thus, Attorney Sandler agreed to work "in good faith" due to his communications with Commissioner Salemi. In fact, Commissioner Salemi acknowledged that he attended all of the meetings reflected in the entries of Attorney Sandler's invoice dated June 1, 2022. Further, he, Attorney Sandler, and Chairman DiBella discussed the need for a budget to continue Attorney Sandler's work, and there was an 44 understanding that Attorney Sandler would continue working until the budget was resolved.

5. Attorney Sandler's work listed in entries after August 17, 2021 in the Sandler & Mara invoice #2021-05-03 (Property Disposition) dated October 1, 2021 (totaling \$4,013.75) was not properly authorized by the MDC. Mr. Jellison directed on August 17, 2021 that all work by Attorney Sandler stop, and Chairman DiBella, Commissioner Salemi, and Attorney Sandler all knew about this directive.

6. While the work listed in entries dated in 2021 in the Sandler & Mara invoice #2009- 28-98 (Energy) were properly authorized by the MDC, the payment for this work was included in the retainer fee paid under the February 23, 2021 engagement letter between Sandler & Mara and the MDC. One entry in this invoice, dated January 3, 2022, however, was not authorized by the MDC, since the engagement letter dated February 23, 2021 expired on December 31, 2021, and no engagement agreement existed between Sandler & Mara for the year 2022.

7. Attorney Sandler's work listed in the following invoices was not properly authorized by the MDC because no engagement agreement existed between the MDC and Sandler & Mara for the year 2022, and also, with respect to the property disposition project, Mr. Jellison had directed that Attorney Sandler's work stop after August 17, 2021: (1) invoice #2021-05-04 dated July 1, 2022 (Property Disposition) in the amount of \$8,950.50; (2) invoice #2021-04-13 dated February 1, 2022 (South Meadows) in the amount of \$11,807.25; invoice; (3) invoice #2021-04-14 dated March 1, 2022 (South Meadows) in the amount of \$12,028.25; (4) invoice #2021-04- 15 dated April 1, 2022 (South Meadows) in the amount of \$8,541.00; (5) invoice #2021-04-16 dated May 1, 2022 (South Meadows) in the amount of \$9,421.75;(6) invoice #2021-04-17 dated June 1, 2022 (South Meadows) in the amount of \$6,175.00; (7) invoice #2021-04-18 dated July 1, 2022 (South Meadows) in the amount of \$10,344.75

I do hope to be present at your meeting on May 9, 2023, and hope that you allow me to provide my commentary on the items before you. Please find attached here a written summary of that commentary.

Comments of Commissioner Pasquale Salemi on the bylaw changes suggested by the Internal Audits Committee, accepted by the District Board and submitted to the Committee on MDC Government for action.

As to the proposed changes to B2k;

13. The first paragraph of Section B2k in the MDC By-Laws, which **appears designed to prohibit the MDC Commissioners and citizen members from pressuring the MDC employees** to act or refrain from acting in a desired manner, is unclear. It should be modified to require the MDC Commissioners (including the MDC Chairman) to direct any individual requests only to the Chief Executive Officer, not to both the District Chairman and the Chief Executive Officer, because all District employees ultimately report to the Chief Executive Officer. Referred to the Committee on MDC Government.

Comments:

1. *This "recommendation" mentions the "first paragraph" BUT DOESN'T SHOW THE READER THE FIRST PARAGRAPH. B2k is provided with the following statement of purpose in **its first paragraph**;*

The “proposer” doesn’t trust you to analyze the “meaning” of B2k for yourselves, they simply provide it to you after having found “violations” that include the District Chair who they now seek to remove from the process.

From the By-Laws of the Metropolitan District:

B2k COMMISSIONER INTERACTIONS WITH DISTRICT STAFF, CONSULTANTS AND CONTRACTORS

In order to ensure proper adherence with existing protocols of the Board of Commissioners and to **maintain awareness of issues or concerns that may arise**, should any commissioner or citizen member wish to make a request of any District employee with ultimate reporting authority to the Chief Executive Officer, including Executive Administrative staff, or any of its consultants or contractors, regarding District business, they shall direct their request to the District Chairman and Chief Executive Officer who, upon receipt of any such request, **shall either facilitate the interaction between the Commissioner and the appropriate employee, consultant, or contractor, as the case may be, and/or provide the Commissioner with a response to any such request.** Any request and/or subsequent response that involve matters of District policy or relate to either customers or member towns generally shall be shared with all Commissioners.

No Commissioner shall take any action in direct contravention to the proper implementation by District staff of the policy decisions and directives formally adopted by the District Board. 12 Violation of this by-law may result in the subject Commissioner being removed from committee assignments or reassigned to another committee, and/or reporting said violation to his/her appointing authority.

Nothing in this section shall preclude a Commissioner or Citizen Member from making inquiries to District Staff regarding operations or community activities provided such Commissioner or Citizen Member does not, either explicitly or implicitly, ask or direct staff to take or not take any particular course of action.

(Adopted December 6, 2021)

(For the record, both Commissioner Taylor and I were inpatients at St. Francis Hospital on December 6, 2021, both of us having undergone major surgery during the days before this meeting. I was unable to attend virtually due to my condition and restrictions imposed by the Hospital and my physician.)

2. *Which of the “violations of the Charter” does this respond to? Please ask the District Counsel to explain.*
3. *This appears to be proposed by a party to the report who feels aggrieved by the decision of the District Board at the December 5, 2022, District Board Meeting.*

POTENTIAL VIOLATION OF BYLAW § B2k BY COMMISSIONER TAYLOR To: District Board December 5, 2022.

Commissioner Salemi moved that this action be dismissed. The motion passed by majority of a roll call vote.

The result of the roll call:

Yeas: Commissioners Andrew Adil, John Bazzano, Avery Buell, Donald Currey, William DiBella, John Gale, Jean Holloway, Byron Lester, Diane Lewis, Pasquale J. Salemi, Alvin Taylor, Calixto Torres, and James Woulfe (13)

Nays: Commissioners John Avedisian, Richard Bush, Dimple Desai, David Drake, Joan Gentile, James Healy, Allen Hoffman, Maureen Magnan, Jacqueline Mandyck and Dominic Pane (10)

Abstentions: (0) Absent & Not Voting: Commissioners Peter Gardow, Bhupen Patel, Jon Petoskey and Richard Vicino (4)

These Minutes are, indeed, sparse! The argument I provided in support of my motion to dismiss speaks directly to B2k and **the fact that not all employees ultimately report to the CEO.**

The argument provided in the “recommendation of Atty. McHale and the IAC” suggests the opposite, **“because all District employees ultimately report to the Chief Executive Officer”**.

This recommendation seeks to overturn the vote of the District Board of December 5, 2022.

Additionally, **it ignores the Charter itself** wherein the Position(s) of District Counsel, District Clerk, Board Chair and CEO are promulgated by the Commission and for the Commission’s benefit directly as it sees fit.

In fact, the Charter itself would have to be amended to support this “recommendation” and the creation of positions directly by the Board, obviated by the recommendation itself.

The Metropolitan District Commission has long enjoyed its relationship with all its employees and enjoyed the opportunity to communicate directly and candidly with all its employees in its mission to create policies and plans which directly effect those employees. It has been the practice of our current chair to keep the lines of candid communications open for the benefit of the Commission and the employees and I, along with other Commissioners have supported that practice along with representatives of the employees and individual employees as well.

The By-Law B2k is created to support the free exchange of the Commissioners and employees and provides protocols to that free exchange and actually directs the CEO to support it.

This recommendation seeks to turn a suspicious eye on those communications and suggest that any conversation not approved by the CEO would be a “violation” if the CEO determines it to be.

This recommendation amounts to the response of a petulant child, angry over being rebuked. (see the video of the December 5, 2022 DB Meeting)

The District Board cannot relinquish its responsibilities for oversight of the faithful adherence to its own Policies by the CEO and any District employee with ultimate reporting authority to the Chief Executive Officer. The CEO is charged with;

“District Chairman and Chief Executive Officer who, upon receipt of any such request, shall either **facilitate the interaction between the Commissioner and the appropriate employee, consultant, or contractor, as the case may be, and/or provide the Commissioner with a response to any such request.** Any request and/or subsequent response that involve matters of District policy or relate to either customers or member towns generally shall be shared with all Commissioners.

B2k goes on to enumerate what can only be described as punitive actions to be taken against Commissioners and Citizen Members should they be declared in violation of B2k and describes how that might come to be.

It does not suggest that there is any way that the CEO might be found in violation and what punitive actions might be taken against the CEO if found to be in violation of B2k.

With the good and benefit of the District at stake and fairness and transparency as a stated goal could the District Board have intended this?

As I stated before I was not present when B2k was proposed to the District Board due to my hospitalization. Had I been, I most certainly would have objected to this one-way street that allows only Board members to become, through their own actions and with the judgement of the Chair and CEO, miscreants deserving of punishment(s). I have consoled myself with the acknowledgement that the Board maintains its prominence in such matters with the participation of its Chair, representing the Board as a whole or any one of its members. I see now that my only consolation is to be summarily removed with prejudice.

I recognize that the Board has adopted B2k with its approval on December 5, 2022, and have accepted that my opportunity to object had passed. However, The Board's referral of this matter to the MDC Committee on Government has opened this By-Law up for reconsideration.

I suggest that the Chair remain as a part of the management of requests by Commissioners.

I suggest that if the punitive actions against Commissioners as described are to remain that they be extended to the Chair and CEO should they fail in their responsibilities as described herein. B2k cannot possibly be considered "Just and Fair" if only the creating body of this By-Law is subject to punishments for violations.

With respect to the second recommendation before you;

14. The Committee on MDC Government shall develop an annual training and orientation of new and existing Board members to provide such members with information relating to their specific authority under the District Charter, Ordinances and By-Laws and the operation, organization, and governance of The Metropolitan District in general.

I would say that perhaps not as a promulgated plan from the Government Committee this has been provided for Commissioners in the past and in particular for myself, more than 30 years ago.

Consideration should be given to the fact that it is here presented as a development of the REPORT having found violations and being interested in providing recommendations gleaned from its investigation of same. **As such I'm of the opinion that it at once, looks backward and forward and suggests that Commissioners should be (and should have been) armed with this "training" so that violations would be readily recognized and transgressors duly punished forthwith without having to spend \$50,000.00 of the Board's budget.**

With that acknowledgement, I would concur with the recommendation having already received such training myself, but ask that a **training program be described in detail before adoption and that those details include who, will provide such training.**

Finally, with respect to the third recommendation;

15. The Committee on MDC Government shall consider the issue of whether, and if so to what extent, the terms of the chairpersons and vice chairpersons of the Board and all committees, bureaus and subcommittees should be limited, by ordinance or by-law, and shall report its recommendations, if any, to the District Board on or before September 1, 2023.

This is so obviously directed at the favorite "miscreants" of the IAC's Reports as to be laughable. Hahahahahaha!!! Let us not forget, that it is derived from the findings of violations of the Charter by Atty. McHale with the unanimous concurrence of the IAC. It suggests that somehow, longevity in the position of chair becomes more and more suspect as time goes by and the obvious solution is to guarantee that no one achieve such longevity as a way to prevent the abuses of a chair with respect to their duties. Does this prevent a chair, with a shorter tenure from violating his or her chartered duties?

I'll tell you what, "you show me an appointing authority of a District Commissioner that is subject to term limitations in their own office, and I will agree that that Commissioner so appointed should be limited to the same tenure restrictions as their appointing authority.

Please accept this an official communication to your committee from Commissioner Pasquale Salemi.

REFERRAL FROM DISTRICT BOARD RE: DEVELOPMENT OF ANNUAL TRAINING AND ORIENTATION OF COMMISSIONERS RELATING TO COMMISSIONER AUTHORITY UNDER DISTRICT'S CHARTER, ORDINANCES AND BYLAWS

Without objection, the development of annual training and orientation of Commissioners relating to Commissioner authority under the District's charter, ordinances and bylaws was referred to the Office of District Counsels for revisions by Chairman Bazzano.

Commissioner Buell exited the meeting at 6:00 PM

REFERRAL FROM DISTRICT BOARD RE: TERM LIMITS OF CHAIRPERSONS AND VICE-CHAIRPERSONS

Commissioner Anderson made a motion to not refer potential term limits for chairpersons and vice-chairperson to the Office of District Counsel.

The motion was approved by majority by a roll call vote.

The results of the roll call vote:

Yeas: Commissioners Kyle Anderson, John Bazzano, William A. DiBella, Jean Holloway and Alvin Taylor (5)

Nays: Commissioners John Avedisian, Peter Gardow, Allen Hoffman and Maureen Magnan (4)

Abstentions: None

Absent &

Not Voting: Commissioners Clifford Avery Buell, Dimple Desai, James Healy and David Steuber (4)

OPPORTUNITY FOR GENERAL PUBLIC COMMENTS

Judy Allen, of West Hartford, stated that there is usually a Commissioner that speak up to give context regarding resolutions at Board meetings. There was no one in attendance from the Internal Audit Committee that explained the background for why these recommendations on the agenda were before The Committee on MDC Government.

ADJOURNMENT

The meeting was adjourned at 6:14 PM

ATTEST:

John S. Mirtle, Esq.
District Clerk

Date of Approval