

ORANGE WATER AND SEWER AUTHORITY

MEETING OF THE BOARD OF DIRECTORS

MARCH 9, 2006

The Board of Directors of the Orange Water and Sewer Authority (OWASA) met in regular session on Thursday, March 9, 2006, at 7:00 P.M., in the OWASA Community Room.

Directors present: Michael A. (Mac) Clarke, Chair; Penny Rich, Vice Chair; Randy Kabrick, P.E., Secretary; Terri Buckner; Milton S. Heath, Jr.; Marge Anders Limbert; Mark Marcoplos; Gordon Merklein; and Laura Sandvik.

Others present: Ed Kerwin, Imtiaz Ahmad, Mary Darr, Patrick Davis, Greg Feller, John Greene, Ed Holland, Andrea Orbich, and Kevin Ray of the OWASA staff; Robert Epting, Esquire, Epting and Hackney; Meg Holton, Water, Wastewater, and Stormwater Manager, UNC; Ken Bruce, Brown and Caldwell; and Gary Phillips, Conservation Trust of North Carolina.

There being a quorum present, Chair Mac Clarke called the meeting to order.

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MOTIONS ACTED UPON

1. Penny Rich made a motion to adopt the minutes of the January 12, 2006, Meeting of the Board of Directors. The motion was seconded by Laura Sandvik, and carried by unanimous vote.

2. Penny Rich made a motion to adopt the minutes of the January 26, 2006, Meeting of the Board of Directors. The motion was seconded by Laura Sandvik, and carried by unanimous vote.

3. BE IT RESOLVED THAT the Orange Water and Sewer Authority adopt the Resolution Adopting an Excess Capacity Credit Policy for Water and Sewer Facilities with the noted deletion and addition. (Resolution so titled attached hereto and made a part of these minutes. Motion by Mark Marcoplos, seconded by Terri Buckner and was carried by unanimous vote.)

4. Milton Heath made a motion for the Board to ratify the Executive Director's execution of the Interlocal Agreement between OWASA and Chatham County signed by Bunkey Morgan, Chair of the Chatham County Board of Commissioners, and Ed Kerwin, Executive Director of OWASA, on February 13, 2006. The motion was seconded Laura Sandvik and carried by unanimous vote.

5. Terri Buckner made a motion for the Board to go into a Closed Session for the purpose of discussing land acquisition and for an update on two potential litigation issues. The motion was seconded by Mark Marcoplos, and carried by unanimous vote.

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ITEM ONE: ANNOUNCEMENTS

CONFLICT OF INTEREST

Mac Clarke said any Board Member who knows of a conflict of interest or potential conflict of interest with respect to any item on the agenda tonight is asked to disclose the same at this time. There were none.

PROPOSED WATER CONSERVATION RULE (N.C. HOUSE BILL 1215)

Mac Clarke said a letter was sent to N.C. Emergency Management Commission on the proposed water conservation rule. He thanked the Board and staff for preparing the letter and noted that the letter is posted, along with those from other utilities, on the N.C. Division of Water Resources website at:

[http://www.ncwater.org/Water\\_Supply\\_Planning/Water\\_Conservation/hb1215/view.php?topic=13](http://www.ncwater.org/Water_Supply_Planning/Water_Conservation/hb1215/view.php?topic=13).

REUSE CONTRACT LETTER

Mac Clarke said a letter was sent to the local governments notifying them that the OWASA Board of Directors will receive comments from the public regarding our plans for a water reuse system as part of the Board's regular business meeting at 7:00 P.M. on March 23rd in the Council Chambers at Chapel Hill Town Hall.

PRESENTATION ON WATER SUPPLY

Ed Kerwin said Ed Holland will give a presentation on Water Supply and Demand Projections to the Carrboro Board of Aldermen on Tuesday, March 14, 2006. This same presentation was provided to the Chapel Hill Town Council on Monday, February 27, 2006 and the Orange County Board of County Commissioners on Thursday, March 2, 2006.

COMMITTEE MEETINGS

Ed Kerwin announced that a Human Resources (HR) Committee meeting will be held on Thursday, March 16, 2006, at 8:00 A.M. in the OWASA Boardroom to discuss alternative employee compensation strategies.

Ed Kerwin announced that a Budget and Financial Planning Committee meeting will be held on Tuesday, March 21, 2006, at 8:30 A.M. and said that, if necessary, the Committee will

meet again on Wednesday, March 22, 2006, at 8:00 A.M. in the OWASA Boardroom to review the first draft 15-Year Capital Improvement Program (FY 2007-2021).

ITEM TWO: PETITIONS AND REQUESTS FROM THE PUBLIC, THE BOARD AND STAFF

Mac Clarke asked for petitions and requests from the public, the Board and staff. There were none.

ITEM THREE: QUARTERLY REPORT ON ATTENDANCE AT BOARD OF DIRECTORS MEETINGS

The Board received the quarterly report on attendance at Board of Directors' meetings as an information item.

ITEM FOUR: QUARTERLY REPORT ON CONSUMPTION, EXTENSIONS AND CONNECTIONS

The Board received as an information item the quarterly report on extensions and connections to the water and wastewater systems.

ITEM FIVE: FACILITY CAPACITY AND SERVICE DEMAND TRACKING REPORT

The Board received the March 2, 2006, report on facility capacity and service demand tracking as an information item.

ITEM SIX: SEMIANNUAL PERFORMANCE MEASUREMENT REPORT FISCAL YEARS 2002-2006

Marge Anders Limbert suggested, and the Board agreed, that when staff presents the Annual Performance Measurement report later this year, it would be useful to have the Board and staff spend time reviewing it in more detail to examine items such as established goals, additional measurements, etc.

Milton Heath noted that the diversity percentage remains within the established goal but has been on the decline for the past couple years.

Marge Anders Limbert said the HR Committee could review the diversity percentage issue.

Terri Buckner commented that regarding Historically Underutilized Businesses (HUB), she urges OWASA staff to contact the University regarding its HUB program as a way to address diversity; and that the HR Committee could also address this issue.

ITEM SEVEN: BIMONTHLY STATUS REPORT ON THE MASON FARM WASTEWATER PLANT (WWTP) UPGRADE AND EXPANSION PROJECT

John Greene provided a brief update on what caused the new ultra-violet light disinfection system to fail at the Mason Farm WWTP on the Monday, February 27, 2006 and Saturday, March 4, 2006. Mr. Greene said staff was currently working with the system vendor and design team to ensure the problem is properly solved.

ITEM EIGHT: MINUTES

Penny Rich made a motion to adopt the minutes of the January 12, 2006, Meeting of the Board of Directors. The motion was seconded by Laura Sandvik, and carried by unanimous vote. Please see Motion No. 1 above.

Penny Rich made a motion to adopt the minutes of the January 26, 2006, Meeting of the Board of Directors. The motion was seconded by Laura Sandvik, and carried by unanimous vote. Please see Motion No. 2 above.

ITEM NINE: QUARTERLY FINANCIAL REPORT AND ANALYSIS

Kevin Ray presented a summary of the report on the quarterly financial report and analysis.

ITEM TEN: OPERATING DEPARTMENT BUDGET VARIANCES

John Greene gave a report on and discussed how rising energy, chemical and biosolids management costs are affecting expenditures for OWASA's operations.

ITEM ELEVEN: VERBAL UPDATE ON THE FEBRUARY 27 AND MARCH 2, 2006 PRESENTATIONS TO CHAPEL HILL TOWN COUNCIL AND THE ORANGE COUNTY BOARD OF COMMISSIONERS REGARDING WATER SUPPLY AND DEMAND AND GROWTH PROJECTIONS

Mac Clarke updated the Board regarding the two meetings on Monday, February 27, 2006, for the Chapel Hill Town Council and on Thursday, March 2, 2006, for the Orange County Board of Commissioners. Mr. Clarke advised the Board that the Chapel Hill Town Council directed the Town Manager to prepare a list of conservation measures that the Town Council and OWASA should consider in the near term. The Council also stated that OWASA should be represented on the Carolina North Leadership Advisory Committee.

ITEM TWELVE: VERBAL UPDATE ON THE MARCH 2, 2006 MEETING OF THE CAROLINA NORTH LEADERSHIP ADVISORY COMMITTEE

Mac Clarke announced that he will represent OWASA on this 29-member committee. Mr. Clarke suggested, and the Board agreed, that his role on this advisory committee would be

limited to technical matters related to water and sewer services. Randy Kabrick is the alternate representative for OWASA on this committee.

ITEM THIRTEEN: UPDATE ON OWASA'S LONG-TERM BIOSOLIDS MANAGEMENT PLANNING EFFORT AND CONCEPTUAL PLAN FOR BIOSOLIDS DEWATERING SYSTEM

The Board received a presentation from Patrick Davis on OWASA's long-term biosolids management program and a conceptual proposal to design and install biosolids dewatering facilities at the Mason Farm Wastewater Treatment Plant. Mr. Davis said additional technical and financial evaluations would be provided in the coming weeks and discussed with the Natural Resources/Technical Systems Committee before staff presents any specific proposal for Board consideration.

Laura Sandvik suggested OWASA consider applying its biosolids within our watersheds.

Terri Buckner said she received information from a friend on the Orange County Board of Health who said the Board has received several complaints over the past few years from individuals who live in the area where biosolids from other communities are applied. Those individuals stated they are subjected to public health nuisances because of land application of biosolids. Ms. Buckner said there are public relations issues as well as environmental issues to address that will help inform the public regarding biosolids.

Gordon Merklein inquired as to land use changes and if OWASA has quantified the expected rate of change in the availability of land for biosolids management.

Mr. Davis said land use changes have not been quantified.

ITEM FOURTEEN: RESOLUTION ADOPTING AN EXCESS CAPACITY CREDIT POLICY

Mac Clarke requested two changes in the text of the Excess Capacity Credit Policy for Water and Sewer Facility Extensions on page 5 of the Policy:

1. Section F. Authorization, Interpretations and Revisions: delete a portion of the last sentence in the first paragraph "...for unusual technical situations"; and
2. Section G. Appeals: at the end of the paragraph add another sentence "*The decision of the Board of Directors shall be final.*"

Mark Marcoplos made a motion that the Board adopt the Resolution Adopting an Excess Capacity Credit Policy for Water and Sewer Facilities with the noted deletion and addition. The motion was seconded by Terri Buckner and carried by unanimous vote. Please see Motion No. 3 above.

ITEM FIFTEEN: RATIFICATION OF THE EXECUTIVE DIRECTOR'S EXECUTION OF INTERLOCAL AGREEMENT WITH CHATHAM COUNTY FOR TRANSFER OF CERTAIN CUSTOMERS IN THE ABBEY ROAD NEIGHBORHOOD

Milton Heath made a motion for the Board to ratify the Executive Director's execution of the Interlocal Agreement between OWASA and Chatham County signed by Bunkey Morgan, Chair of the Chatham County Board of Commissioners, and Ed Kerwin, Executive Director of OWASA, on February 13, 2006. The motion was seconded Laura Sandvik and carried by unanimous vote. Please see Motion No. 4 above.

ITEM SIXTEEN: CLOSED SESSION

Terri Buckner made a motion for the Board to go into a Closed Session for the purpose of discussing land acquisition and for an update on two potential litigation issues. The motion was seconded by Mark Marcoplos, and carried by unanimous vote. Please see Motion No. 5 above.

There being no further business to come before the Board, the meeting was adjourned at 10:00 P.M.

**RESOLUTION ADOPTING AN EXCESS CAPACITY CREDIT POLICY  
FOR WATER AND SEWER FACILITIES**

**WHEREAS**, it is desirable to institute a policy to provide a credit (payment) to individuals who extend the Orange Water and Sewer Authority (OWASA) water and wastewater facilities where such extensions provide capacity beyond the needs of the individual's development; and

**WHEREAS**, OWASA adopted a reimbursement policy on water and sewer extensions in February 1977 and revised this policy in April 1990 and July 1992 before rescinding the reimbursement policy in 1999; and

**WHEREAS**, information on the proposed principles for an Excess Capacity Credit Policy has been provided to the Town of Chapel Hill, the Town of Carrboro and Orange County;

**NOW, THEREFORE, BE IT RESOLVED:**

1. That the OWASA adopts the attached policy statement for excess capacity credits on oversized water and sewer facility extensions.
2. That the policy shall be effective upon adoption and applicable to all water and sewer facility extensions dedicated to OWASA on and after the date of adoption.
3. That the Executive Director be, and hereby is, authorized and directed to administer, implement, and enforce the adopted policy in determining any excess capacity credits due on water and sewer facility extensions within the OWASA service area.

Adopted this 9<sup>th</sup> day of March, 2006.

## **ORANGE WATER AND SEWER AUTHORITY**

### **EXCESS CAPACITY CREDIT POLICY FOR WATER AND SEWER FACILITY EXTENSIONS**

**PURPOSE:** The Excess Capacity Credit Policy sets forth principles and guidelines for providing credit to developers who, at their cost, install water and sewer facilities with capacity in excess of their project's needs and which will support future development in the Orange Water and Sewer Authority (OWASA) service area, and which have been dedicated to and accepted by OWASA.

**BACKGROUND:** All extensions of water and sewer facilities by parties other than OWASA must be performed in accordance with the policies and standards of OWASA. The extension of service may consist of constructing water and sewer mains, service lines, pump stations and other appurtenances necessary to serve a property. In some cases OWASA requires the developer to size such facilities with capacity in excess of the development's needs to ensure the orderly development of the water and sewer system. In these situations, the OWASA Board of Directors has determined that it is appropriate to provide a credit (payment) for a portion of the facility construction cost. Developers that fund projects with excess capacity may be provided a credit according to OWASA's adopted Excess Capacity Credit Policy.

#### **A. Definitions:**

In this policy, unless otherwise provided, the following words and phrases shall have the meaning set forth below:

- a. "Base Size" – For water, the minimum base size main is the greater of 8 inches in diameter or the facility size necessary to provide adequate capacity to meet the fire flow and domestic water needs of the development, whichever is greater. For sewer, the minimum base size main is 8 inches in diameter or the facility size necessary to meet the wastewater needs of the development, whichever is greater.
- b. "Benefiting party or property" - the person, area, zone or property determined by the Board of Directors or its designee to be directly benefited by a specific water or sewer main extension.
- c. "Capital Improvement Plan (CIP)" - is a plan, which includes a listing of individual infrastructure projects and includes a schedule, estimated cost, detailed description and justification for each project.
- d. "Developer" - a person or entity who is developing his/her property.
- e. "Costs of extension" - the developer's actual, direct cost of constructing a water or sewer main extension.
- f. "Easement" - is a grant of the use of a parcel of land to OWASA for a specific, limited purpose, without including fee simple ownership of the land.
- g. "Public Water or Sewer Main" - the common water or sewer main directly controlled by OWASA.
- h. "Right-of-Way" - is a strip of land occupied or intended to be occupied by a street, alley, crosswalk, water main, sanitary or storm sewer main, storm drain, drainage ditch, or for another special use.

**B. Applicability**

Whenever any developer is required to construct, as determined by OWASA, or has constructed a public water main, sewer main or other water/sewer facility, of a size greater than the base size, to which connections can be or will be made to serve property not owned by the developer, the developer may enter into a contract with OWASA for an excess capacity credit. Any credit provided for water and sewer facility extensions by the Orange Water and Sewer Authority shall:

1. Be in accordance with OWASA's Water Extension Policy and Regulations, OWASA's Sewer Extension Policy and Regulation, OWASA's Standard Specifications for Water Distribution and Wastewater Collection Systems and OWASA's Schedule of Rates and Fees.
2. Be made only where the facilities constructed will be available to serve individual customers outside of the developer's project and allow for future orderly development of the water and sewer system to serve other customers in accordance with policies of OWASA.
3. Be available only to the original developer and limited to the water and sewer system components which are in excess of the base size and where water and sewer components are so located as to serve other properties.
4. Be for a period of ten (10) years from the date the Excess Capacity Credit Agreement is executed by OWASA. No credit shall be provided by OWASA to a developer after the end of the ten (10) year period of eligibility.
5. For water facilities, the excess capacity credit will be allocated from the OWASA Capital Improvements Plan. For sewer facilities the excess capacity credit will be paid from a surcharge collected at the time of connection and levied against all benefiting properties.
6. Be consistent with other policies of the OWASA Board of Directors, such as policies on the extension of water and sewer lines or service into the University Lake watershed, and policies and standards for construction of water and sewer facilities.

The developer, whether as the benefiting party or acting as the developer of a subdivision, commercial or industrial property shall be responsible for:

1. The cost of installing all water and sewer system components within, by or through their property of a size and in accordance with OWASA's rules for the orderly development of its water and sewer system.
2. The costs of extending and connecting water and sewer mains between their property and the existing water distribution and sewer collection system and/or improvement of existing mains, pump stations and appurtenances.

3. The initial financing of the water and sewer extensions both inside and outside the property of the developer with an excess capacity credit, as determined by OWASA, provided to the developer for costs in excess of their proportionate share.
4. Providing all documentation required by OWASA for acceptance of the water and/or sewer facilities including but not limited to: certifications, record drawings, easements and rights-of-way sufficient for the construction, operation, repair and expansion of the water and sewer system, including sufficient isolation from adjoining facilities within the boundaries of such easements or right-of-way.

### **C. Eligibility**

An excess capacity credit may be made to a developer for expenses incurred in providing oversized facilities which are subsequently utilized by OWASA to serve other customers. No allowance will be made for any water or sewer facilities which are not designed to serve property outside the developer's project.

#### 1. Off-site Extensions:

Mains or other system components subject to an excess capacity credit shall be those facilities between the current OWASA distribution or collection system and a subdivision or project and are so sized as to serve other properties and in excess of the base size or developer's capacity needs.

#### 2. On-site Extensions:

Mains or other system components subject to an excess capacity credit shall be those facilities within a subdivision or project which are of a size in excess of the need of the project itself and are so located to serve other properties.

### **D. Excess Capacity Agreement**

OWASA may execute an Excess Capacity Credit Agreement with any developer who constructs an extension with excess capacity in accordance with this policy. Following OWASA's acceptance and start of the warranty period for the water and/or sanitary sewer facilities, the developer shall submit to OWASA an *Application for Excess Capacity Credit*. The application shall include the final construction quantities, the cost for the water or sewer facility constructed, the minimum water and/or sewer facility size required to serve the developer's project, and the established oversize credit amount from OWASA's approved Rates and Fees Schedule.

A letter from a professional engineer must also be provided indicating that the base water facility size was of adequate capacity to meet the fire flow and domestic needs of the development and that the base size should be used for purposes of establishing any capacity credit.

For the sewer system a professional engineer must certify that the base sewer facility size was adequate to meet the sewer needs of the entire development. The *Application for Excess Capacity*

*Credit* shall be signed and sealed by a professional engineer registered in the State of North Carolina and signed by the developer.

It shall be the responsibility of the developer to initiate and pursue the finalizing of the Excess Capacity Credit Agreement. The *Application for Excess Capacity Credit* must be made within one year of the acceptance date of the improvements. The excess capacity credit period for each developer will expire ten (10) years following the day of completed execution of the Agreement but in no instances beyond eleven (11) years from date of acceptance of the water and/or sewer facilities for service by OWASA, whichever is earlier.

In order to process the developer's application for an excess capacity credit, the following items must be submitted to OWASA:

1. A lien waiver certifying under oath that all payments due to suppliers and contractors have been made and that there are no liens on the water and sewer system.
2. Applicable documents associated with the acceptance of the water and/or sewer facilities as detailed in Section 4- Procedure for Approval of Water and/or Sewer Extension Projects of OWASA's Standard Specifications for Water Distribution and Wastewater Collection Systems.

**E. Basis of Payment**

For water facility extensions that comply with the conditions of the Excess Capacity Credit Policy, OWASA shall provide a capacity credit to the developer as a lump sum payment. For sewer facility extensions that meet the criteria for excess capacity as noted above, OWASA shall provide a capacity credit as an annual payment over the term of the agreement. In both cases an administrative fee shall be deducted from the credit amount to recover the cost of administering this policy.

OWASA through the collection of an Excess Capacity Sewer Surcharge will provide a credit to the developer who installed the sewer infrastructure, as new users connect to or benefit from developer constructed sewer facilities. Any credits due will be disbursed at the end of each calendar year. Connections to the sewer system from the developer's own development or future phases of the same development are not subject to the Excess Capacity Sewer Surcharge.

The following method shall be used to compute the amount of the capacity credit:

**Water and Sewer Mains:**

Cost per Linear Foot for Oversized Main	(minus)	Cost per Linear Foot for Base Size Main	(times)	Number of linear feet installed
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**Pump Stations & Booster Stations:**

Cost per Gallon for Oversized Facility	(minus)	Cost per Gallon for Base Facility	(times)	Capacity (gallons) of facility
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The per linear foot main cost or per gallon facility cost for the excess capacity credit shall be determined by OWASA according to the average unit cost for comparable work based upon the previous twelve months averages maintained by OWASA's Engineering Department.

**F. Authorization, Interpretations and Revisions:**

The Executive Director is authorized and empowered to direct, on behalf of the Orange Water and Sewer Authority, the Excess Capacity Credit allocation as provided under this policy and to establish regulations for the implementation of this policy. Implementation and interpretation of the Excess Capacity Credit Policy is the responsibility of the Executive Director or his/her designee. The Executive Director is authorized to implement the policy and establish and implement regulations for water and/or sewer excess capacity credits. Such regulations are to be uniformly and equitably implemented but deviations from the regulations may be approved by the Executive Director.

The Executive Director is authorized to withhold or terminate the Excess Capacity Credit Agreement for noncompliance by the developer with the policies and regulations of OWASA. Where unusual circumstances exist, the Executive Director may request that the Board of Directors make the determination on the applicability of any water and/or sewer excess capacity credit.

**G. Appeals**

Appeal of decisions or interpretations of the Executive Director regarding the implementation of the Excess Capacity Credit Policy may be made in writing to the Board of Directors of the Orange Water and Sewer Authority. The appeal should state clearly and specifically the relief sought and reasons therefore. The decision of the Board of Directors shall be final.

**H. References:**

1. OWASA Schedule of Rates and Fees
2. OWASA Standard Specifications for Water Distribution and Wastewater Collection Systems.
3. OWASA Water Extension Policy
4. OWASA Sewer Extension Policy

Revised: March 9, 2006