

ORANGE WATER AND SEWER AUTHORITY

MEETING OF THE BOARD OF DIRECTORS

APRIL 10, 2008

The Board of Directors of the Orange Water and Sewer Authority (OWASA) met in regular session on Thursday, April 10, 2008, at 7:00 P.M., in OWASA's Community Room.

Directors present: Randolph M. Kabrick, P.E., Chair; Gordon Merklein, Vice Chair; Braxton Foushee, Secretary; Fred Battle; Michael A. (Mac) Clarke; and Alan Rimer. Directors absent: Marge Anders Limbert; Gene Pease; and William R. Stott.

OWASA staff: Ed Kerwin; John Greene; Mason Crum; Patrick Davis; Greg Feller; Ed Holland; Andrea Orbich; Kevin Ray; and Robert Epting, Esq., Epting and Hackney.

Others present: Carolyn Elfland, Associate Vice-Chancellor for Campus Services, Ben Poulson, Associate Director of Energy Services, Meg Holton, Water, Wastewater, and Stormwater Manager, Kirk Pelland, and Willie Scroggs of the University of North Carolina at Chapel Hill; Doug Chapman, NC Green Industry Council; Butch Kisiah, Director of Public Works at the Town of Chapel Hill; Beth Velliquette, Chapel Hill Herald; Tricia Thompson, Daily Tar Heel; Adam Klein, Chapel Hill-Carrboro Chamber of Commerce; Anthony Carey, The Siena Hotel; Mike Dickinson, Dickinson Garden Center; Suzy Osborne, Citizen; and Ken Robinson, Williams Landscape.

There being a quorum present, Chair Randy Kabrick called the meeting to order.

MOTIONS ACTED UPON

1. Fred Battle made a motion to approve the Minutes of the February 14, 2008 Board Meeting; the motion was seconded by Braxton Foushee, and carried by unanimous vote.

2. BE IT RESOLVED THAT the Orange Water and Sewer Authority adopt the resolution titled "Resolution Rescinding the Stage Three Water Shortage Declaration and Reinstating Stage One Restrictions." (Resolution so titled attached hereto and made a part of these minutes. Motion by Braxton Foushee, second by Fred Battle, and carried by unanimous vote.)

3. BE IT RESOLVED THAT the Orange Water and Sewer Authority adopt the resolution titled "Resolution Setting Date of May 22, 2008 for a Public Hearing on the Proposed OWASA Budget for Fiscal Year (FY) 2008-2009 and on the Draft Capital Improvements Program for FY 2009-2023 Including a Five-Year Capital Improvements Budget for FY 2009-2013." (Resolution so titled attached hereto and made a part of these minutes. Motion by Braxton Foushee, second by Mac Clarke, and carried by unanimous vote.)

4. BE IT RESOLVED THAT the Orange Water and Sewer Authority adopt the resolution titled "Resolution Setting May 22, 2008 as Date for Public Hearing on the Proposed Revisions of Water and

Sewer Rates, Fees and Charges.” (Resolution so titled attached hereto and made a part of these minutes. Motion by Braxton Foushee, second by Mac Clarke, and carried by unanimous vote.)

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ITEM ONE: ANNOUNCEMENTS

CONFLICT OF INTEREST

Randy Kabrick 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.

ITEM TWO: PETITIONS AND REQUESTS FROM THE PUBLIC

Randy Kabrick asked for petitions and requests from the public, Board and staff. There were none.

ITEM THREE: MINUTES

Fred Battle made a motion to approve the Minutes of the February 14, 2008 Board Meeting; the motion was seconded by Braxton Foushee, and carried by unanimous vote. Please see Motion No. 1 above.

ITEM FOUR: RESOLUTION AWARDED AUDIT CONTRACT TO CHERRY, BEKAERT & HOLLAND, LLP AND AUTHORIZING CHAIR OF THE BOARD OF DIRECTORS AND THE FINANCE OFFICER TO EXECUTE SAID CONTRACT

Braxton Foushee said he did not have enough information for this item to make a decision and requested that staff provide additional qualifications on the proposed auditor, present it to the Board at the April 24th meeting as well as making the contract for one year.

Mac Clarke said there was no dissatisfaction with the current auditors; however, as a matter of general policy OWASA should change auditors from time to time.

Mac Clarke made a motion to adopt the resolution and Gordon Merklein seconded it.

Fred Battle said he shares the same concerns as Mr. Foushee and stated that he would like to see more information on the proposed auditor prior to making a decision.

Mr. Clarke rescinded his motion.

Staff will follow-up at the April 24, 2008 Board meeting.

ITEM FIVE: ADDENDUM TO OWASA APRIL 10TH BOARD MEETING AGENDA ITEM NUMBER 3 – WATER SUPPLY UPDATE AFTER WEEKEND RAINS AND

RECOMMENDATION TO RETURN TO STAGE ONE WATER SHORTAGE
RESTRICTIONS

Ed Holland updated the Board on the current water supply and demand situation and stated that staff recommends a return to Stage One Shortage restrictions instead of the previously reported Stage Two Water Shortage Restrictions (the Board received an “Addendum to OWASA April 10th Board Meeting Agenda Item Number 3 – Water Supply Update After Weekend Rains and Recommendation to Return to Stage One Water Shortage Restrictions”).

Randy Kabrick invited the public to speak.

Butch Kisiah, Director of Public Works for the Town of Chapel Hill, said the drought and mandatory water use restrictions have impacted two major construction projects underway by the Town of Chapel Hill. The new Homestead Aquatic Center and Southern Community Park represent significant investments by the Town that need substantial water for their completion and start-up. If alternative water resources, such as trucking in water or drilling wells are required, or if the Town must wait to complete the projects, this will add a financial burden to the Town. Other impacts of the drought are landscaping needs around Chapel Hill and all the recreational athletics fields which might result in the possibility of canceling the 2008 fall programs due to the poor conditions of fields and the safety of participants. Mr. Kisiah said the Town has to protect their investment and supports the implementation of Stage One Shortage Restrictions.

Alan Rimer commented that if the Town’s considers drilling wells, it would impact others down gradient; it is a concern and would not conserve the region’s total water resources.

Fred Battle asked how participation would be impacted in the Town’s athletic programs.

Mr. Kisiah said the reason the Town would cancel fall programs is due to safety concerns of participants using fields in unacceptable playing condition.

Anthony Carey, Manager of The Siena Hotel, said that OWASA’s education programs have intensified what local businesses do and urged the Board to go to Stage One Shortage Restrictions. Mr. Carey said that he and his staff will continue to conserve water throughout the year even when the drought is over.

Adam Klein, Director of Government Relations and Economic Development at Chapel Hill-Carrboro Chamber of Commerce, commended the Board and staff for the management of this drought and conservation measures. The Chamber will continue to work with OWASA to promote water conservation in the business industry even after the drought. At the State level, the Chamber is working to put a water saving loan fund on the legislative agenda and lobbying to secure a \$1 million loan pool to retrofit businesses with water-saving toilets and other water-efficient fixtures. Locally, the Chamber has worked to educate businesses on the severity of the drought and provides steps on saving water in a monthly publication called “Government Matters.” The Chamber does support the staff recommendation to move to the Stage One Shortage Restrictions.

Carolyn Elfland, Associate Vice-Chancellor for Campus Services, said the University supports a return to Stage One Shortage Restrictions.

Mike Dickinson, with Dickinson Garden Center, thanked OWASA staff for the communication over the past few months. His business educates customers on conservation as well as marketing drought tolerant plants and he supports the Board moving to Stage One Shortage Restrictions.

Doug Chapman, NC Green Industry Council, supports the Board moving to Stage One Shortage Restrictions. Mr. Chapman said that the Green Industry has almost completed a draft bill that will be introduced in the legislative short session that will create an irrigation certification program for landscape and irrigation contractors. This bill will involve licensing, testing, continuing education, and will create a set of standards for irrigation installation. The bill will provide a more professional installation and provide municipalities with the needed regulations to require upgrade of existing installations as well as a set of standards for future irrigation systems. An intensive training program is in progress for landscape and irrigation contractors throughout the State to ensure irrigation projects are done under the guidelines of the proposed standards. The first training session will be held this weekend in Charlotte. Finally, the Green Industry believes the ordinances governing water use restrictions must be rewritten to reflect the both more equitable water use efficiency during times of drought where the greatest water savings will be realized and they would like to be a part of the process.

Suzy Osborne, citizen, said that even though she has been conserving her water bill increased and surcharges have an impacted her budget.

Ken Robinson, Williams Landscape, said he would like to see more educational information distributed to those who use excessive amounts of water for new lawns, plants, landscaping and irrigation. They encourage customers who have irrigation system to keep them off for as long as possible. Mr. Williams supports a move to Stage One Shortage Restrictions.

Mr. Kabrick opened the discussion by the Board and reminded the Board of the revised Resolution Rescinding the Stage Three Water Shortage Declaration and Reinstating Stage One Restrictions.

Mr. Rimer distributed a table showing the basic differences between Stage One and Stage Two Shortage Restrictions. The primary difference between Stage One and Two is the restrictions on irrigation. If excessive irrigation use becomes an issue, then the Board can move back to Stage Two. Mr. Rimer supports a move to Stage One Shortage Restrictions.

Mr. Battle said he agrees with Mr. Rimer and supports a move to Stage One Shortage Restrictions.

Braxton Foushee said he supports a move to Stage One Shortage Restrictions.

Gordon Merklein said he supports a move to Stage One Shortage Restrictions but indicated that the Stages need to be improved once the drought is over. He also thanked the businesses for their work in the community to encourage conservation to their patrons.

Mac Clarke said he supports a move to move to Stage One Shortage Restrictions and that we need to be cautious and watch the water supply situation closely.

Braxton Foushee made a motion to approve the *Resolution Rescinding the Stage Three Water Shortage Declaration and Reinstating Stage One Restrictions*; the motion was seconded by Fred Battle, and carried by unanimous vote. Please see Motion No. 2 above.

The Board and staff expressed their appreciation to the Green Industry, Chamber of Commerce, the University, businesses and customers for the conservation efforts during the ongoing drought.

ITEM SIX: BUDGET AND RATE DEVELOPMENT FOR FISCAL YEAR 2009

Gordon Merklein updated the Board on the Budget and Financial Planning Committee meetings held on April 8 and 10, 2008. He stated water sales and revenue projections for Fiscal Year 2008 have declined because of the lower demand due to the drought and a reduction in Service Availability Fees as a result of slower growth. Capital Improvements Program (CIP) expenditures are proposed to be \$7.7 million in FY 2009 (excluding the reclaimed water system project costs being paid by the University). The FY 2009 Operations and Maintenance Budget is a “bare bones” budget that includes increases in chemicals, utilities and health insurance; freezes seven vacant staff positions; and includes projects that staff believes to be important (root control, water supply plan update, GIS improvements, and meter change-outs).

The Committee agreed with staff’s assumptions and the draft budget figures were then input into the financial model to determine financial conditions and rate increases required to fund the identified needs. The model indicated that a 24 percent rate increase would be required in FY 2009, followed by about an eight percent increase in FY 2010. The Committee concluded the projected 24 percent increase was too high, and decided to evaluate other options.

After evaluating several scenarios, the Committee agreed to the following: maintain the reduced water sales forecast of 7.1 million gallons per day, and the lowered service availability fee revenue forecast for FY 2009; defer \$3 million in CIB expenditures by delaying projects over the next three years (primarily the odor improvements at the Mason Farm Wastewater Treatment Plant); keep the draft O&M Budget at \$18.0 million and not include the additional O&M items requested by the staff. Some or all of those items could be accomplished during the coming year if financial conditions improved. Finally, the Committee decided that the target balance for the General Fund be reduced from four months to three. Based on these assumptions, the required rate increases would be 12 percent in Fiscal Year (FY) 2009 and 12 percent in FY 2010. The Committee was in consensus with this preliminary plan and the Committee plans to meet again at the end of April 2008 to continue discussing the draft O&M budget as well as rates, fees and charges.

Braxton Foushee made a motion to adopt the *Resolution Setting Date of May 22, 2008 for a Public Hearing on the Proposed OWASA Budget for Fiscal Year (FY) 2008-2009 and on the Draft Capital Improvements Program for FY 2009-2023 Including a Five-Year Capital Improvements Budget for FY 2009-2013*; the motion was seconded by Mac Clarke, and carried by unanimous vote. Please see Motion No. 3 above.

Braxton Foushee made a motion to adopt the *Resolution Setting May 22, 2008 as Date for Public Hearing on the Proposed Revisions of Water and Sewer Rates, Fees and Charges*; the motion was seconded by Mac Clarke, and carried by unanimous vote. Please see Motion No. 4 above.

ITEM SEVEN: DISCUSSION OF THE MARCH 31, 2008 ORANGE COUNTY ASSEMBLY OF GOVERNMENTS MEETING REGARDING POTENTIAL JOINT USE OF JORDAN LAKE WATER SUPPLY

Randy Kabrick said that several elected officials at the March 31st Assembly of Governments meeting believed it was prudent to proceed with the regional planning efforts on the potential collaborative use of Jordan Lake as a regional water supply.

Ed Kerwin said that Mr. Kabrick made it clear to Orange County officials that OWASA staff will continue discussions with staff of the City of Durham and Chatham County. Chapel Hill Town Council will discuss this item in May and the Carrboro Board of Aldermen will schedule this topic for discussion at a future meeting.

ITEM EIGHT: REPORT ON THE UNIVERSITY'S REQUEST TO OBTAIN ADDITIONAL WATER FROM THE CITY OF DURHAM THROUGH OWASA'S TRANSMISSION LINES

Ed Kerwin said now that Stage One restrictions are in effect, the only item for consideration would be if the University needed to water more than the Stage One requirements allow in a week. He suggested that staff work out those details with the University, and if Board consideration or approval was needed, it would be requested.

The Board agreed with staff's recommendation.

ITEM NINE: REPORT FROM THE GENERAL COUNSEL

Robert Epting updated the Board on the Crain & Denbo trial, which ended a week earlier.

Crain & Denbo had filed claims for more than half a million dollars of additional compensation arising out of work done at the Stone Quarry Reservoir. Judge Stephens heard the case, and after a week of testimony, decided that Crain & Denbo was entitled to an additional \$5,800.00, and denied the rest of the claim.

After the Judge disclosed his probable ruling to the lawyers, OWASA's counsel proposed to pay Crain & Denbo that amount in settlement of this case and the other case filed by Crain & Denbo, which was to be tried in June. For reasons related to disclosures that would have been made on the public record if the judgment were actually signed by the Judge and filed in the Clerk's Office, Crain & Denbo agreed instead to accept this payment and dismiss both suits with prejudice.

Mr. Epting also reported that in the matter of the claims filed by Rogers Road residents with the US Department of Housing and Urban Development, lawyers for the County, Towns and OWASA have been meeting to develop a joint response. The primary complaint is that the community has suffered

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from the actions of the local governments. Since OWASA was established in 1977, our services are available to any customer at their expense. The joint response will be filed by the end of April 2008, and will emphasize that OWASA has not been a party to any discrimination.

There being no further business to come before the Board, the meeting was adjourned at 8:20 P.M.

Enclosures

**RESOLUTION RESCINDING THE STAGE THREE WATER SHORTAGE
DECLARATION AND REINSTATING STAGE ONE RESTRICTIONS**

WHEREAS, due to persistent and worsening regional drought conditions, available water supply, and customer demands levels, the Orange Water and Sewer Authority (OWASA) Board of Directors declared a Water Supply Advisory on August 23, 2007; a Stage One Water Shortage on September 27, 2007; a Stage Two Water Shortage on October 18, 2007; and a Stage Three Water Shortage on February 28, 2008; and

WHEREAS, conservation among virtually all OWASA customer classes has reduced overall water consumption and helped to mitigate the risk of emergency conditions; and

WHEREAS, the overall risk of reservoir depletion has decreased substantially due to several factors, including recent rainfall and streamflow that have significantly increased the amount of water stored in OWASA's reservoirs; improved water supply conditions among neighboring utilities; improved drought forecasts for the Southeastern United States; and OWASA's formulation of a specific contingency plan to avert worst-case reservoir depletion; and

WHEREAS, the OWASA Board of Directors has carefully considered these various factors of supply and demand, meteorological forecasts, availability of water from neighboring jurisdictions, as well as the substantial hardship and inconvenience that Water Shortage restrictions continue to impose on OWASA's customers;

NOW, THEREFORE, BE IT RESOLVED:

1. That the OWASA Board of Directors hereby rescinds its February 28, 2008 declaration of a Stage Three Water Shortage and reinstates all conditions of a Stage One Shortage, and hereby requests that the Mayors of the Towns of Carrboro and Chapel Hill and the Chair of the Orange County Board of Commissioners issue corresponding Proclamations.

2. That all Stage One water use restrictions as set forth in OWASA's Water Conservation Standards; OWASA's Schedule of Rates, Fees, and Charges; and in the respective conservation ordinances of the Towns and County, shall be in effect as of April 11, 2008.

3. That subsequent decisions of the Board of Directors to change the Water Shortage status to more or less stringent levels during the weeks and months ahead shall be guided by current and projected water supply and demand conditions, availability of water from neighboring utilities, meteorological forecasts, the Board's awareness of the hardship and convenience imposed on OWASA's customers by Water Shortage restrictions, and other factors that the Board may deem appropriate.

4. That a copy of this Resolution be provided to the Carrboro Board of Aldermen, Chapel Hill Town Council, and Orange County Board of Commissioners.

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5. That OWASA hereby expresses appreciation to all of its customers for their conservation efforts during the ongoing drought and throughout the year, and to the Town of Carrboro, Town of Chapel Hill, and Orange County for their support in informing the public of the need for conservation and enforcing the water use restrictions in effect in the OWASA service area.

Adopted this the 10th day of April, 2008.

**RESOLUTION SETTING DATE OF MAY 22, 2008 FOR A PUBLIC HEARING
ON THE PROPOSED OWASA BUDGET FOR FISCAL YEAR 2008-2009 AND ON THE
CAPITAL IMPROVEMENTS PROGRAM FOR FISCAL YEARS 2009-2023
INCLUDING A FIVE-YEAR CAPITAL IMPROVEMENTS BUDGET
FOR FISCAL YEARS 2009-2013**

WHEREAS, Section 159-12 of the General Statutes of North Carolina requires a Public Hearing on the budget for the ensuing fiscal year; and

WHEREAS, in accordance with Section 7.05 of the Bond Order, and Section 159-13 of the General Statutes of North Carolina, the Board of Directors of Orange Water and Sewer Authority shall adopt an Annual Budget for the Fiscal Year 2008-2009 on or before the first day of July, 2008; and

WHEREAS, the draft Annual Budget and the draft Capital Improvements Program for Fiscal Years 2009-2023, including a five-year Capital Improvements Budget for Fiscal Years 2009-2013 will be placed with the Clerk to the Board and will be available for public inspection prior to the Public Hearing;

NOW, THEREFORE, BE IT RESOLVED:

1. That a Public Hearing is hereby set for Thursday, May 22, 2008, at 7:00 P.M., in the Chapel Hill Town Hall, for the purpose of receiving public comment on the proposed operating budget for Fiscal Year 2008-2009, and on the Capital Improvements Program for Fiscal Years 2009-2023, including a five-year Capital Improvements Budget for Fiscal Years 2009-2013.

2. That the general public, customers of Orange Water and Sewer Authority, the Trustee, any Holder of Bonds, and any other interested person may appear in person, or by agent or attorney, and present any comments they may have regarding the proposed budget.

3. That notice of the time and place of the Public Hearing shall be advertised and mailed at least ten days prior to the date fixed above for the Public Hearing to the University of North Carolina at Chapel Hill, and to the Towns of Chapel Hill and Carrboro and to Orange County.

Adopted this 10th day of April, 2008.

**RESOLUTION SETTING MAY 22, 2008 AS DATE FOR PUBLIC HEARING
ON PROPOSED REVISIONS OF WATER AND SEWER
RATES, FEES AND CHARGES**

WHEREAS, current-year fiscal performance and revised demand projections indicate the need for additional revenue in Fiscal Year 2009 to provide sufficient financial resources to recover the cost of ongoing operations, pay for capital improvements, and provide sufficient financial resources to ensure sustainable fiscal strength and stability; and

WHEREAS, Section 162A-6 of the General Statutes of North Carolina and Section 7.04 of the Amended and Restated Bond Order adopted September 13, 2001, provide for the revision of such rates, fees and charges;

NOW, THEREFORE, BE IT RESOLVED:

1. That a Public Hearing is hereby set for Thursday, May 22, 2008 at 7:00 P.M., at the Chapel Hill Town Hall, for the purpose of receiving public comment on the proposed adjustments to Orange Water and Sewer Authority's rates, fees and charges.

2. That the general public, the University of North Carolina at Chapel Hill, governmental entities, customers of Orange Water and Sewer Authority, and any other interested person may appear in person, or by agent or attorney, to present comments on the proposed modifications to the current schedule of rates, fees and charges.

3. That notice of the time and place of the Public Hearing shall be advertised and shall be mailed at least ten days prior to the date fixed above for the Public Hearing to the University of North Carolina at Chapel Hill, Town of Carrboro, Town of Chapel Hill, and Orange County.

Adopted this 10th day of April, 2008.