ORANGE WATER AND SEWER AUTHORITY

MEETING OF THE BOARD OF DIRECTORS

MAY 22, 2008

The Board of Directors of the Orange Water and Sewer Authority (OWASA) met in regular session on Thursday, May 22, 2008, at 7:00 P.M., at the Chapel Hill Town Hall.

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

OWASA staff: Ed Kerwin; Mason Crum; Stuart Carson; Mary Darr; Patrick Davis; Greg Feller; Damon Forney; Walter Gottschalk; Thurman Green; Ed Holland; Kenneth Loflin; Andrea Orbich; Kevin Ray; and Robert Epting, Esq., Epting and Hackney.

Others present: Ben Poulson, Associate Director of Energy Services, and Meg Holton, Water, Wastewater, and Stormwater Manager, University of North Carolina at Chapel Hill; Ginny Hoyle, Chapel Hill Herald; and Lauren Hills, NBC 17 News.

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

MOTIONS ACTED UPON

- 1. BE IT RESOLVED THAT the Orange Water and Sewer Authority adopt the resolution titled "Order and Resolution Adopting Revised Capital Project Resolutions for Water Supply Improvements and Water Treatment and Distribution Improvements." (Resolution so titled attached hereto and made a part of these minutes. Motion by Alan Rimer, second by Fred Battle, and carried by a unanimous vote.)
- 2. BE IT RESOLVED THAT the Orange Water and Sewer Authority adopt the resolution titled "Resolution Reclassifying the Vacant Accounting Manager Position to the new position of Finance Manager." (Resolution so titled attached hereto and made a part of these minutes. Motion by Alan Rimer, second by Mac Clarke, and carried by a vote of six to two with Fred Battle and Braxton Foushee opposing.)
- 3. BE IT RESOLVED THAT the Orange Water and Sewer Authority adopt the resolution titled "Resolution Rescinding Stage One Water Shortage Restrictions and Surcharges and Reinstating a Water Supply Advisory." (Resolution so titled attached hereto and made a part of these minutes. Motion by Braxton Foushee, second by Gordon Merklein, and carried by a unanimous vote.)

4. Braxton Foushee made a motion for the Board to convene in a closed session for the purpose of discussing a personnel issue; the motion was seconded by Fred Battle and unanimously approved.

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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.

ORANGE COUNTY MEETING

Randy Kabrick said that OWASA staff and he meet on May 14, 2008 with elected officials and staff (attendees were Orange County Commissioners Barry Jacobs and Valerie Foushee; Laura Blackmon, County Manager; Dave Stancil, Director of Environmental Resource Conservation; Rich Shaw, Orange County Lands Legacy Program; Ed Kerwin, Ed Holland, Randy Kabrick) from Orange County to discuss land acquisition and partnership opportunities; biosolids issues; and Jordan Lake water quality issues.

CONFERENCES

Randy Kabrick said that Mason Crum and he attended the *WaterVision: The Future of Water Resources* in North Carolina held on May 22, 2008, in Research Triangle Park, today hosted by the School of Government.

Ed Kerwin said he was invited by the Triangle Area Chamber of Commerce to serve on a panel of area utilities including the Utility Director from Raleigh, a Deputy Director from Durham and Director from Cary, to talk about water at the Community Success Forum "Our Water, Our Economic Future-Regional Cooperation, The Next Stage" on May 13, 2008 in Cary, North Carolina. Each director was able to provided experience from the drought of 2001-02 as well as the current drought and looking forward. Key points made from OWASA's perspective were water conservation and how essential it is now and in the future in a collaborative way with customers and stakeholders as well as conservation pricing; stressed the importance for regional interconnections if only for emergency purposes; and pricing water to reflect its true costs to provide it including infrastructure and maintaining that infrastructure.

COMMITTEE MEETINGS

Alan Rimer said the that Board's Natural Resources/Technical Systems Committee will meet on Wednesday, May 28, 2008 to discuss work plan priorities for the coming year. Two

issues are conservation rules and water supply planning as it relates to Jordan Lake; there will be a further report at the next meeting.

Mac Clarke said the Nominating Committee will meet following the Board's Closed Session, in the First Floor Conference Room, Chapel Hill Town Hall, to discuss the nomination of OWASA Board Officers for the coming year.

Gene Pease requested staff assistance to coordinate an Ad Hoc Planning Committee meeting in July 2008.

<u>ITEM TWO: PETITIONS AND REQUESTS</u>

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

ITEM THREE: ORDER AND RESOLUTION ADOPTING REVISED CAPITAL PROJECT RESOLUTIONS FOR WATER SUPPLY IMPROVEMENTS AND

WATER TREATMENT AND DISTRIBUTION IMPROVEMENTS

Alan Rimer made a motion to approve the resolution; the motion was seconded by Fred Battle and unanimously approved. Please see Motion No. 1 above.

ITEM FOUR: RESOLUTION RECLASSIFYING THE VACANT ACCOUNTING MANAGER POSITION TO THE NEW POSITION OF FINANCE MANAGER

Braxton Foushee said he felt this item should have been reviewed by the Human Resources (HR) Committee before consideration by the full Board.

Randy Kabrick asked if the Mr. Foushee would like the item to be referred to the HR Committee.

Mr. Foushee agreed.

Ed Kerwin said that he would like the Board's approval tonight. This item was considered by the Board Chair, HR Committee Chair, and Budget and Financial Committee Chair. This item is critically important to the organization; it is a relatively minor, straightforward request, and he would appreciate the Board's consideration this evening.

Mr. Foushee reiterated his position that this type of item should be reviewed by the HR Committee first before full Board discussion.

Mr. Kabrick said his opinion is that this is an operational issue, and he agrees with the staff recommendation but would like to hear from other Board members.

Marge Anders Limbert, Chair of the HR Committee, agreed with Mr. Kabrick as well as Mr. Kerwin's recommendation to not take this matter to the HR Committee, however, in the future it could be handled as Mr. Foushee suggested.

Fred Battle said he agrees with Mr. Foushee's position on protocol since the position was frozen and because of the proposed expansion of duties and responsibilities.

Mac Clarke requested clarification if the position was frozen.

Mr. Kerwin said that the position was not frozen but it is vacant and needs to be filled.

Gene Pease said he agreed with Mr. Foushee if that is the protocol, however, he does feel it is an operational issue and requested guidance from General Counsel on whether the Bylaws should be changed.

Robert Epting said that the Bylaws could be amended.

Mr. Kerwin said that this item is on the agenda because North Carolina Statute requires Board action on such matters.

Mr. Kabrick said this item should go through the HR Committee, and while it did not this time, in the future it will.

Alan Rimer made a motion to adopt the resolution; the motion was seconded by Mac Clarke and carried by a vote of six to two with Fred Battle and Braxton Foushee opposing. Please see Motion No. 2 above.

ITEM FIVE: VERBAL UPDATE ON THE MAY 19, 2008 CHAPEL HILL TOWN COUNCIL MEETING

Randy Kabrick said that on Monday, May 19, 2008, three items were discussed and they are Jordan Lake; odor and budget; and conservation initiatives. He reported that Mayor Kevin Foy:

- Said Chapel Hill has an interest in use of Jordan Lake because of potential land use impact on the Town and region.
- Believes it is important for OWASA to have access to its 5 million gallon per day Jordan Lake allocation for emergency purposes (not for growth).
- Suggested that a Committee with one elected official from each local government be assigned to work with OWASA regarding Jordan Lake.

No formal action was taken by the Council on May 19th.

Gordon Merklein, Chair of the Budget and Financial Planning Committee, said he presented information to the Council regarding OWASA's budget challenges. He reported that

the OWASA Board will discuss the Budget Committee's latest recommendation for a 24 percent rate increase which includes funding for odor elimination at the Mason Farm Wastewater Treatment Plant (WWTP) as well as other priority items at tonight's meeting. Four residents of Highland Woods provided comments to the Council that were consistent with comments heard by the OWASA Board on May 8th. Mayor Foy said he supported the budget proposal to include the odor elimination project. No formal action was taken by the Council.

Regarding conservation initiatives, the Town Council approved moving forward to further develop work on the conservation measures jointly proposed by local government and OWASA staffs. The Orange County and Carrboro Board's previously approved this initiative.

ITEM SIX: PRESENTATION ON THE JONES FERRY ROAD WATER TREATMENT
PLANT PARTNERSHIP FOR SAFE WATER AND MASON FARM
WASTEWATER TREATMENT PLANT PROCESS CONTROL PROTOCOL

The Board received this report as an information item.

ITEM SEVEN: DRAFT ANNUAL BUDGETARY REPORTS FOR FISCAL YEAR 2008-09
AND DISCUSSION OF THE RATE INCREASE PROPOSAL THAT WILL
BE THE SUBJECT OF THE JUNE 12, 2008 PUBLIC HEARING

Gordon Merklein, Chair of the Budget and Financial Planning Committee, provided an overview of some of the key factors that have shaped the development of the draft annual budget, capital improvements program, and proposed rate adjustments for Fiscal Year 2009. Mr. Merklein said that as a result of reduced water sales associated with the drought, OWASA projects a net operating revenue shortfall between \$1.3 and \$1.8 million in FY 2008, after factoring in the expected \$1.3 million reduction in operating and maintenance expenses being made in response to the drought.

Mr. Merklein also said that FY 2008 availability fee revenues are \$1.9 million below OWASA's projection, and that the projected debt service coverage ratio for FY 2008 is expected to be only slightly above the minimum legal requirement. Projected water sales in FY 2009 are expected to be 13 percent less than prior projections, and revenues from new connections are projected to remain low in FY 2009 due to the slowdown in local development. These revenue reductions come at a time when the cost for operating expenses such as chemicals, energy, and health insurance are rising faster than historical trends.

The draft annual budget for FY 2009 includes \$33.7 million in expected revenues, \$18.4 million in operating expenses, and \$13.8 million for capital improvements and equipment. The draft operating budget includes \$416,000 in high priority funding items requested by staff, but reflects significant deferrals of other items. Also, seven staff positions that are currently vacant and would not be filled next year. The draft capital improvements program is very lean compared to the prior five years; however, based on feedback from the Chapel Hill Town Council and our neighbors near the Mason Farm WWTP, it includes funding for completion of odor elimination improvements as previously planned.

A combined rate increase of about 24 percent would be required to fund the proposed budget and capital program, and to maintain a four-month operating reserve fund balance. This is significantly higher than the 12 percent increase that was previously presented by the Committee; however, that proposal would not have funded the odor project or the \$416,000 in additional priority operating expenses, and it would have only provided a minimal three-month operating reserve balance.

Mr. Merklein said that the impact of a 24 percent increase for the average residential customer would be about \$14.50 a month on the total water and sewer bill, or about \$175 a year. However, it would be needed to fund the operating and capital expenditures next year and to maintain the target fund balance. Mr. Merklein said the Committee recommends that the advertisements and materials for the June 12, 2008 reflect the revisions to the draft operating budget and capital improvements program, and the potential combined rate increase of about 24 percent for FY 2009.

Marge Anders Limbert said she is not comfortable with a 24 percent rate increase; however, she is also uncomfortable with not charging the full cost of service. Ms. Limbert encouraged customers to voice their comments, and said she looks forward to considering those comments.

Braxton Foushee said he does not favor a 24.9 percent rate increase because it is too much for the customers to bear. He suggested that OWASA could cover fewer aeration basins to reduce the rate increase, since there is no specific timeframe for when the odor elimination improvements must be completed. By rescheduling the improvements, OWASA can still keep its commitment to the Highland Woods neighborhood as well as keep rates at an acceptable increase such as 15 to 17 percent while maintaining a debt service coverage ratio of 1.4 to 1.5.

Gene Pease said that in accepting the Special Use Permit (SUP), OWASA and the Board made a commitment to the community to resolve odor at the Mason Farm Wastewater Treatment Plant (WWTP) within a timeframe. If the odor improvements are not included in this year's budget, OWASA would not be keeping its commitment. There is no guarantee that in two or three years, the Board will not also further delay the project.

Ed Kerwin noted that the SUP states that OWASA will eliminate odor at the WWTP, determine how best to eliminate that odor, and then provide a report the Town Council. The Council will then determine whether that goal was met by OWASA. OWASA has stated that it cannot meet the goal until all the necessary work is done; while there is no timetable, there is an obligation for OWASA to eliminate odor.

Fred Battle said OWASA should make water service affordable for all customers and a rate increase of 24 percent is adding a burden to customers who cannot afford such an increase. He said there is more to be concerned about than who smells odor.

Alan Rimer agreed with Mr. Pease's comments. He also said that OWASA's water rates are comparable with other utilities in the region and compared to a cable bill, water is more precious and should reflect the cost of water. OWASA does not have retained earnings to fall back on to cushion the rate increases that may or may not be needed. Mr. Rimer said he did not want to see a rate increase of 24 percent, but the public needs to understand OWASA's circumstances

Mr. Merklein said he supports a 24 percent rate increase because OWASA has a moral obligation to fulfill its commitment to the Highland Woods neighborhood, and an obligation to maintain the water and sewer system infrastructure (root control, meter change-outs, etc.). OWASA cannot continue to delay maintenance projects because they could become a bigger issue in the future.

Mr. Pease said he supports a 17 to 18 percent increase and he hopes future Boards would honor a commitment that this Board made.

Mac Clarke said he agrees with Mr. Pease and Mr. Rimer's comments about honoring OWASA's commitment to the Highland Woods neighborhood for odor elimination. He also agreed with comments regarding a downside risk for revenue for the upcoming year. Mr. Clarke supports a 24 percent rate increase to maintain the standards of the OWASA operation.

Mr. Kabrick said sacrifices have to be made and to pass along a 24 percent rate increase is too much in the current economy.

Mr. Battle reiterated that all OWASA customers are not aware of the commitment that OWASA made to a few customers. While this is an affluent community, there are many customers who struggle to survive.

The Board agreed with the Budget and Financial Planning Committee recommendation to advertise a rate increase of no higher than 24 percent for the Board's June 12, 2008 public hearings.

Mr. Kabrick thanked the Board and staff for the hard work that has gone into the budget process this year. He said it has been a challenge and he looks forward to the comments from the public during the public hearing in June.

ITEM EIGHT: WATER SUPPLY AND DEMAND UPDATE, RECOMMENDATION TO RESCIND STAGE ONE WATER SHORTAGE RESTRICTIONS AND TO REINSTATE A WATER SUPPLY ADVISORY

Braxton Foushee made a motion adopt the Resolution Rescinding Stage One Water Shortage Restrictions and Surcharges and Reinstating a Water Supply Advisory; the motion was seconded by Gordon Merklein and unanimously approved. Please see Motion No. 3 above.

<u>ITEM NINE</u>: <u>CLOSED SESSION</u>

Braxton Foushee made a motion that the Board convene in a closed session for the purpose of discussing a personnel issue; the motion was seconded by Fred Battle and unanimously approved. Please see Motion No. 4 above.

There being no further business to come before the Board, the meeting was adjourned at $8:40\ P.M.$

Enclosures

ORDER AND RESOLUTION ADOPTING REVISED CAPITAL PROJECT RESOLUTIONS FOR WATER SUPPLY IMROVEMENTS AND WATER TREATMENT AND DISTRIBUTION IMPROVEMENTS

WHEREAS, Orange Water and Sewer Authority terminated the Crain & Denbo construction contract for the Stone Quarry Pump Station Improvements project in spring 2005; and

WHEREAS, litigation was commenced by Crain & Denbo, and has since been successfully defended by OWASA, and funds are required to pay the additional litigation related expenses resulting from the termination of this project; and

WHEREAS, funds for this expense have been identified in an unexpended surplus from Water Treatment and Distribution Improvements; and

WHEREAS, it is necessary to amend the previously approved project resolutions for the Water Supply Improvements and Water Treatment and Distribution Improvements, in order to authorize payment of the litigation expenses from this surplus;

NOW, THEREFORE, BE IT RESOLVED:

- 1. That pursuant to the provisions of North Carolina G. S. 159-13.2, the Capital Project Fund, in the Amount of \$206,000, as set forth in Exhibit A, attached hereto, is hereby revised and expenditures therefrom are authorized for the Crain & Denbo litigation expenses incurred in defense of the litigation arising out of the Stone Quarry Pump Station Improvement Project, as expenses necessary for Water Supply Improvements (Raw Water Supply Sources).
- 2. That pursuant to the provisions of North Carolina G. S. 159-13.2, the Capital Project Fund, in the Amount of \$1,987,000, as set forth in Exhibit A, attached hereto, is hereby revised and expenditures therefrom authorized for the Crain & Denbo litigation expenses incurred in defense of the litigation arising out of the Stone Quarry Pump Station Improvement Project, as expenses necessary for said Water Treatment and Distribution Improvements (Water Transmission and Distribution).
- 3. That this Order and Resolution shall be entered in the Minutes of this Authority, and within five (5) days after its adoption copies thereof are ordered to be filed with the Finance Officer, the Budget Officer, and the clerk to the Board of Directors, as required by G.S. 159-13.2(d), and in accordance with Section 505 of the Bond Order.
- 4. That the Executive Director is authorized and instructed to implement the revised budget appropriation as herein set forth.

Adopted this 22nd day of May, 2008.

Project Category	FY 2008 Capital Improvements Budget		Budget Amendment (Transfer)		FY 2008 Amended Capital Improvements Budget	
Raw Water Supply Sources	\$	106,000	\$	100,000	\$	206,000
Raw Water Transmission		0.00				0.00
Water Treatment Facilities	\$	211,000			\$	211,000
Finished Water Pumping	\$	433,000			\$	433,000
Finished Water Storage	\$	29,000			\$	29,000
Water Transmission and Distribution	\$	2,087,000	\$	(100,000)	\$	1,987,000
Wastewater Collection Lines	\$	5,727,000			\$	5,727,000
Wastewater Pump Stations	\$	1,074,000			\$	1,074,000
Wastewater Treatment and Disposal	\$	8,418,000			\$	8,418,000
Central Office and Operations		0.00				0.00
Information Services	\$	330,000			\$	330,000
	\$	18,415,000			\$	18,415,000

RESOLUTION RECLASSIFYING THE VACANT ACCOUNTING MANAGER POSITION TO THE NEW POSITION OF FINANCE MANAGER

WHEREAS, the Executive Director has determined that the duties and responsibilities of the vacant Accounting Manager position should be upgraded to ensure proper staffing to effectively manage OWASA's fiscal affairs; and

WHEREAS, the Executive Director has determined that there is a need to provide more management depth for the Finance and Customer Service Department; and

WHEREAS, the Executive Director recommends that the vacant Accounting Manager position be reclassified to the new position of Finance Manager;

NOW, THEREFORE, BE IT RESOLVED:

- 1. That the Board of Directors of the Orange Water and Sewer Authority approves the reclassification of the vacant Accounting Manager position to the new position of Finance Manager, Grade 31 (\$60,627 –\$87,911).
 - 2. That this reclassification shall become effective upon adoption of this resolution.
- 3. That the Schedule of Employee Classification and Authorized Compensation adopted on June 14, 2007 be amended to reflect this new job classification.
- 4. That the Executive Director is authorized to establish a detailed job description for this new position.

Adopted this 22nd day of May, 2008.

RESOLUTION RESCINDING STAGE ONE WATER SHORTAGE RESTRICTIONS AND SURCHARGES AND REINSTATING A WATER SUPPLY ADVISORY

WHEREAS, 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; a Stage Three Water Shortage on February 28, 2008; and reinstated Stage One Water Shortage Restrictions and Surcharges on April 10, 2008; and

WHEREAS, continued conservation among virtually all OWASA customer classes has further reduced overall water consumption and helped to mitigate the risk of more serious supply conditions; and

WHEREAS, the overall risk of reservoir depletion has continued to decrease – almost to pre-drought risk levels – due to rainfall and streamflow that have significantly increased the amount of water stored in OWASA's reservoirs; near-normal 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 hardship and inconvenience that Water Shortage restrictions have imposed on OWASA's customers;

NOW, THEREFORE, BE IT RESOLVED:

- 1. That the OWASA Board of Directors hereby rescinds its April 10, 2008 declaration of a Stage One Water Shortage and reinstates all conditions of a Water Supply Advisory to be effective as of May 23, 2008, 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 year-round water use restrictions, as set forth in OWASA's Water Conservation Standards and in the respective conservation ordinances of the Towns and County, shall remain in effect.
- 3. That subsequent decisions by the Board of Directors to change the Water Supply Advisory status to more or less stringent levels 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 copies of this Resolution be provided to the Carrboro Board of Aldermen, Chapel Hill Town Council, and Orange County Board of Commissioners.

Orange Water and Sewer Authority Water Supply Advisory Resolution May 22, 2008 Page 2 of 2

5. That, once again, OWASA hereby expresses it sincere appreciation to all customers for their conservation efforts during the 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 for their cooperation with the water use restrictions that have been in effect for the past eight months.

Adopted this the 22nd day of May, 2008.