

MINUTES
ST. MARY'S COUNTY METROPOLITAN COMMISSION
REGULAR MEETING
FEBRUARY 16, 2017

The regular meeting commenced at 3:00 p.m. In attendance were Chairman Barthelme, Vice Chairman Russell, Commissioners Carey, Gaskin, Mummaugh, Thompson and Willing. MetCom Staff in attendance were Sullivan, Cullins, Hollander, Fehn, Engleson, Ferris, Jarboe, Harding, Thomas, and Comeau-Stanley. Others present: R. Christopher Beaver (*MetCom General Counsel*), Jason Babcock (*The Enterprise*), Shertina Mack (*The BayNet*) and Phil Dorsey, III (*Smith Fields Park, LLC*). Several staff members in attendance for the Length of Service Award presentation to William "Bill" Colver.

Commissioner Barthelme welcomed everyone to the meeting.

APPROVAL OF AGENDA

Chairman Barthelme performed a review of the agenda and announced that the approval of the two sets of Executive Session minutes would be tabled until later in the meeting to allow Board members the opportunity to review them. **Commissioner Mummaugh moved to approve the agenda. Commissioner Thompson seconded the motion. Motion carried 5-0.**

LENGTH OF SERVICE AWARD

Following a review of his service to the Metropolitan Commission by Ms. Ferris, Human Resources Specialist, Chairman Barthelme presented at 30-Year Length of Service Award to William "Bill" Colver, Utility Locator.

APPROVAL OF MEETING MINUTES

Commissioner Willing moved to approve the minutes of the November 17, 2016 Regular Meeting. Commissioner Gaskin seconded the motion. Motion carried 6-0.

Commissioner Willing moved to approve the minutes of the December 15, 2016 Regular Meeting. Commissioner Russell seconded the motion. Motion carried 5-0-1. Commissioner Gaskin abstained from voting, as she was not present on December 15, 2016.

Commissioner Willing moved to approve the minutes of the December 15, 2016 Special Meeting. Commissioner Russell seconded the motion. Motion carried 5-0-1. Commissioner Gaskin abstained from voting, as she was not present on December 15, 2016.

APPROVAL OF CONSENT AGENDA

1. EnviroSight Replacement Camera
2. Renewal of Services & Commodity Contracts
3. Check Registers 01/26 & 2/02

Commissioner Gaskin moved to accept the Consent Agenda, as presented, and to hereby approve all matters contained upon the Consent Agenda. Commissioner Carey seconded the motion. Brief discussion ensued amongst the Board and staff on the EnviroSight Camera, which is being replaced due to a theft that occurred to the exterior vehicle storage area of the

Petty Building. Following discussion, call for vote by Chairman Barthelme. Motion carried 6-0.

DIRECTOR'S REPORT

1. Change to Water Meter Procedures

Mr. Sullivan provided an overview of the change to the Water Meter Procedures, citing changes for the issuance of new water meters for new houses and buildings. Mr. Sullivan explained that the developer or contractor would be issued address/account specific new water meters when they are issued permits, instead of a temporary meter until the property gains an occupancy permit, which is the current procedure. Mr. Sullivan advised that staff intends to conduct a meeting with the construction and development community prior to the implementation of the new procedure. Mr. Sullivan advised that the procedure change would result in a cost savings to the customer and prevents swapping out meters by Water Technicians; freeing them up for other work. Mr. Sullivan cited additional benefits to this procedure change and brief discussion ensued amongst the group on the responsibility placed upon the developers and contractors for proper installation.

2. Legislative Updates: SB 280, HB 228 & HB 453

Mr. Sullivan provided Board members with a brief overview of the legislative initiatives of industry wide interest and concern for this legislative session.

Senate Bill 280 (SB 280) [Cross-filed with House Bill 1239 (HB 1239)] if passed, would prohibit manufacturers of nonwoven disposable products from labeling and advertising them as safe to flush unless the nonwoven disposal product is flushable. Mr. Sullivan noted that this is a worldwide problem, as they cause binding of pumps and clogs in sewer systems. Mr. Sullivan advised that the Maryland Association of Municipal Wastewater Agencies (MAMWA) is lobbying for this bill and data was supplied to them regarding the impacts of the products on our wastewater systems.

House Bill 228 (HB 228) [Cross-filed with Senate Bill 546 (SB 546)] if passed, would severely inhibit our ability to shut off water service due to delinquent payments, as it prohibits the provider from shutting off service for certain reasons, which are vast in nature and establishes protocols and implements reporting requirements for the provider. Mr. Beaver addressed the vulnerable population protection referenced in the bill and noted that nearly every household would potentially qualify for protection under this legislation. Mr. Sullivan noted that MAMWA is lobbying against this bill and further noted that he has asked Mr. Beaver to draft a letter to the Southern Maryland Delegation, stating our position on this, and other bills under consideration.

House Bill 453 (HB 453) if passed, would prohibit tax sale of real property solely to enforce liens for unpaid water and sewer bills. Mr. Sullivan noted that this is a repeat of a bill presented in 2014, which did not pass. Mr. Sullivan advised that Mr. Beaver has been asked to draft a letter to the Delegation to state our position on this proposed legislation. Mr. Beaver indicated that staff has advised that the threat of tax sale is a collection tool and if taken away, many bills would go unpaid. Mr. Sullivan advised that as with the other bills mentioned, MAMWA is lobbying against this bill, as are other agencies throughout the state. In closing, Mr. Sullivan advised that if the Board desires, Mr. Beaver could attend the hearings in Annapolis.

NEW BUSINESS

1. FY 2017 Second Quarter Financial Statements

Ms. Shick performed a review of the FY 2017 Second Quarter Financial Statements (*October 1 2016 – December 31, 2016*) detailing the Water, Sewer, Engineering, General and Administrative Divisions, other income and expenses, as well as debt service. Discussion ensued amongst the Board members and Ms. Shick throughout the course of the presentation.

2. CDARS Program

Ms. Shick announced that in response to a prior board meeting discussion regarding MetCom's banking situation, she proposes utilizing the Certificate of Deposit Account Registry Service (CDARS) Network to invest MetCom funds, enabling MetCom to earn a higher interest rate and would provide security through the FDIC Insurance. Ms. Shick explained that the Network allows banks to place deposits into CD's issued by banks that are members of CDARS and the CD's are issued in increments of less than the standard FDIC insurance maximum, so that both principle and interest are eligible for FDIC protection. Ms. Shick fielded an array of questions from Board members on the program and discussion ensued amongst the group during the course of the presentation.

Commissioner Carey moved to authorize the Executive Director and the Chief Financial Officer to invest MetCom funds in the CDARS Network through either Old Line Bank or Community Bank of the Chesapeake. Further, move to authorize the Executive Director and Chief Financial Officer to utilize the ICS program at Old Line Bank for short-term cash investments. Commissioner Willing seconded the motion. Motion carried 6-0.

3. Marlay-Taylor WRF ENR Upgrade: MEB Change Order No. 16

Ms. Hollander performed a review of items associated with proposed Change Order No. 16 for the Marlay-Taylor WRF ENR Upgrade. Mr. Sullivan noted that this is essentially the contractor close-out for the project. Ms. Hollander advised that the work includes the relocation of signals, through wiring and conduit, from the Sludge Pumping Station to the North Control Building for the Cogeneration System, with a time increase of 42 days. In addition, a change to the contract documents is requested to allow MetCom to continue to hold some retainage after issuing the Certificate of Acceptance for the project, to ensure the completion of the weather-related final punch list items. Ms. Hollander noted that this Change Order includes a credit for landscape trees eliminated at MetCom's request. Brief discussion ensued amongst the group during the presentation.

Commissioner Russell moved to accept and approve change Order No. 16, dated February 9, 2017, to Contract #8-38-S (Marlay-Taylor WRF ENR Upgrade) with MEB General Contractors of Chesapeake, Virginia, to:

- 1. relocate signals at the Sludge Pumping Station #1 to the North Control building for the Cogeneration System, thereby increasing contract costs by \$40,377.65;**

2. **allow MetCom to continue to hold retainage after issuing the Certificate of Acceptance for the project in order to ensure completion of punch list items which are outstanding due to weather, with no additional costs; and**
3. **eliminate landscape trees at MetCom's request; thereby decreasing the contract costs by \$2,550.00.**

The approve of Change Order No. 16 is recommended by the Acting Chief Engineer and will result in a contract costs increase of \$37,872.65 and 42 calendar days of additional contract time. Further, move to authorize and direct the Acting Executive Director to execute all documents as may be necessary to finalize this Change Order. Commissioner Thompson seconded the motion. Motion carried 5-0-1. Commissioner Mummaugh abstained from voting.

4. **Marlay-Taylor WRF ENR Upgrade: Stormwater Pollution Prevention Plan Design Services Change Order No. 12**

Ms. Hollander provided an explanation of the Stormwater Pollution Prevention Plan (SWPPP) Design Services for Marlay-Taylor WRF ENR Upgrade described in the proposed Change Order No. 12. Ms. Hollander noted that this is required to comply with the Maryland Department of Environment (MDE) General Permit for Stormwater Discharges Associated with Industrial Activity. Ms. Hollander and Mr. Sullivan noted that State Regulatory changes, made after the project contract was executed with Dewberry, require the completion of the interim SWPPP, which will require revisions to reflect current conditions. Brief discussion ensued amongst the group on the associated civil violation fines for non-compliance and status of the project budget.

Commissioner Thompson moved to accept and approve Engineering Design Change Order No. 12, dated February 2, 2017, from Dewberry Consultants LLC, of Baltimore, Maryland, in the amount of \$21,400.00, for the additional Stormwater Pollution Prevention Plan Design Services required to complete the MTWRF ENR Upgrade, Contract #8-38-S, as recommended by the Acting Chief Engineer. Further, move to authorize and direct the Acting Executive Director to execute all documents as may be necessary to finalize this Change Order. Commissioner Gaskin seconded the motion. Discussion initiated by Commissioner Carey on the legislative change that prompted this mid-project, resulting in an additional cost to the Commission. Following discussion, call for a vote by the Chairman. Motion carried 6-0.

5. **St. Mary's Square WWPS Replacement: Design Services Change Order No. 2**

Ms. Hollander performed a review of the work associated with the St. Mary's Square WWPS Replacement Design Service, Change Order No. 2, which include additional funding for As-Built and construction services, as the funds originally budgeted were used during the design phase, due to extra effort needed to acquire easements and agency permit approvals. Discussion ensued amongst the Board and Ms. Hollander on the redesign of this project and Ms. Hollander noted that the Board recently approved the contract for construction on this project.

Commissioner Russell moved to accept and approve Engineering Design Change Order No. 2, dated January 13, 2017, from RK&K, of Baltimore, Maryland, in the amount of \$27,775.00

for the additional Design Services required to complete the St. Mary's Square WWPS Replacement, Contract #8121SS, as recommended by the Acting Chief Engineer. Further, move to authorize and direct the Acting Executive Director to execute all documents as may be necessary to finalize this Change Order. Commissioner Thompson seconded the motion. Motion carried 5-0-1. Commissioner Willing abstained from voting.

6. Water Tower & Tank Painting Inspection Services Contract Award

Mr. Sullivan performed a review of the scope of purchase for the Water Tower & Tank Painting Inspection Services, which includes inspection of water towers, ground storage tanks and the portable storage tanks during surface preparation and painting. Mr. Sullivan noted that these inspections include the Paw Paw Hollow and Pine Hill Run Water Towers, Piney Point Landings and Wildewood #1 Water Storage Tanks, and the Portable Water Storage Tank.

Commissioner Gaskin moved that the Commission accept and award the Water Tank Painting Inspection Services for the Paw Paw Hollow Water Tower, the Pine Hill Run Water Tower, the Piney Point Water Storage Tank, the Wildewood #1 Water Storage Tank, and the portable Water Storage Tank to Dixon Engineering, Inc. of Medina, Ohio, for a total cost, not to exceed \$50,000.00, as submitted in the Water Tank Inspection Services Contract, Contract Number 16-06-F. Commissioner Willing seconded the motion. Motion carried 6-0.

CONTINUING BUSINESS

1. Smith Field Parks, LLC

Mr. Beaver advised the Board that Chairman Barthelme notified the Board members that he has a potential conflict and has recused himself from participation on this matter; as such, Vice-Chairman Russell will serve as Chair for this portion of the meeting.

Chairman Russell solicited discussion from Board members and Mr. Sullivan advised that staff provided an analysis for the Board's consideration and indicated that based on historical policy and procedures, as well as concerns that this will set a precedent, staff has recommended that the project be subject to the current Capital Contribution Charges when the application is made; however, it is the Board's decision to change that if compelled to do so.

Mr. Beaver advised that he has prepared a motion, at the request of Commissioner Mummaugh, and sent that out by email to the Board, though a copy was not provided for placement in the meeting binders. Mr. Beaver exited the meeting room to print copies for the Board's consideration.

Upon Mr. Beaver's return, Board members engaged in extensive discussion regarding Mr. Dorsey's request to allow the connection of 16 EDU's in the Smith Fields Park project at Capital Contribution Charges for Fiscal Year 2011. Board members in support of Mr. Dorsey's request cited the benefit to economic development and the likelihood of future connections with the development of Mr. Dorsey's proposed apartment complex on the property. Additional discussion ensued on the language identified in the draft motion, which provides that should Mr. Dorsey develop the property, MetCom would collect the difference in Capital Contribution Charges for the

16 EDUs from the FY 2011 rates and the Capital Contribution Charge rate of the Fiscal Year in with future development takes place.

Board members opposed to Mr. Dorsey's request noted that 50% of all applicable construction costs and fees for this project are eligible for Bay Restoration Funding (BRF). Board members also cited concerns over the establishment of a precedent that will lead to additional developers requesting the same relief, which if granted, all other MetCom customers would then have to subsidize. Brief mention by Commissioner Mummaugh that the Board needs to find ways to finance connection fees in the future; noting that this has been talked about for as long as he has been on the Board and yet nothing has been done.

Following discussion on the matter, Chairman Russell called for a motion.

Commissioner Mummaugh moved to approve the Request of Smith Fields Park, L.L.C. to assess Capital Contribution Charges for Phase One of the Smith Fields Park project at the rate established for Capital Contribution Charges for the Fiscal Year 2011, contingent upon Smith Fields Park, L.L.C. meeting the following conditions: 1) that the Smith Fields Park project be eligible for and approved to receive Bay Restoration Funds grant funding, and 2) that should any plans be approved for future development of the Smith Fields Park project properties, any Capital Contribution Charges due will be assessed at the rate set for the Fiscal Year in which such future development takes place and additional Capital Contribution Charges will be assessed for those EDU's which are receiving a reduced rate in an amount equal to the difference between the 2011 Capital Contribution Charge rate and the Capital Contribution Charge rate of the Fiscal Year in which the future development takes place.

Further, move to authorize and direct the Acting Executive Director to execute all documents, as may be necessary to finalize this matter. Commissioner Carey seconded the motion. Additional discussion ensued amongst the Board members on the matter. Following discussion, Chairman Russell called for a vote. Chairman Russell and Commissioner Carey simultaneously questioned the ability for Commissioner Russell to vote and Mr. Beaver indicated that because he is acting as Chairman, he can only vote to break a tie. Motion carried 3-2. Commissioners Thompson and Willing opposed the motion.

Chairman Barthelme returned to the table following this agenda item.

2. Chapter 113 Amendments – Southern Maryland Delegation Draft

Mr. Beaver performed a review of the three (3) proposed pieces of legislation that would impact Section 113.

- 1.) House Bill 679 (HB 679) [Cross-filed with Senate Bill 395 (SB 395)] if passed, would modify Section 113.1, MetCom Personnel, providing for the Commission's ability to offer contracts for specific management positions, which is in keeping with what has been discussed before. Mr. Beaver noted that the Director and Assistant Director have been omitted, which he believes is an oversight. He plans to make an inquiry in a letter to the Delegation. Discussion ensued amongst the Board, Mr. Beaver and staff on the proposed legislation, specifically this legislation providing more flexibility to the Board.

- 2.) House Bill 914 (HB 914) [Cross-filed with Senate Bill 735 (SB 735)] if passed, would require that the Commissioners of St. Mary's County review and approve any loan application prior to the Metropolitan Commission submitting a loan application to a lender. Discussion ensued amongst the Board and Mr. Beaver on the proposed legislation on what seems to be a greater layer of oversight and the additional associated administrative costs. Mr. Sullivan cited what he sees as a potential problem when submitting projects to MDE for potential funding.
- 3.) House Bill 1055 (HB 1055) [Cross-filed with Senate Bill 737 (SB 737)] if passed, would alter certain debt limits for St. Mary's County, subjecting certain limits for the Metropolitan Commission's borrowing and debt. Board members and Mr. Beaver engaged in discussion on the proposed legislation and that it could prevent borrowing for projects deemed necessary and/or critical.

The Chairman called for a brief recess at 4:35 p.m. to allow Board members an opportunity to read the multiple sets of Executive Session minutes. The meeting resumed at 4:42 p.m. and the Chairman announced that he would entertain motions for the approval of the Executive Session meeting minutes.

Commissioner Gaskin moved to approve the Executive Session Meeting Minutes dated October 27, 2016. Commissioner Willing seconded the motion. Motion passed 6-0.

Commissioner Willing moved to approve the Special Executive Session Meeting Minutes, dated November 9, 2016, as presented. Commissioner Mummaugh seconded the motion. Commissioner Thompson initiated discussion, asking that the spelling of the word "week" in the second paragraph be changed to "weak." Following discussion, Chairman Barthelme called for a vote. Motion passed 5-0-1. Commissioner Gaskin abstained, as she was not present on November 9, 2016.

Commissioner Willing moved to approve the Executive Session Meeting Minutes, dated November 17, 2016. Commissioner Thompson seconded the motion. Motion passed 6-0.

Commissioner Thompson moved to approve the Special Executive Session Meeting Minutes, dated December 15, 2016. Commissioner Mummaugh seconded the motion. Following the vote, there were three in favor and three abstentions. Commissioners Carey and Gaskin abstained, as they were not present at the December 15, 2016 Special Meeting and Commissioner Willing, who was unable to complete a review of the minutes prior to the vote. Chairman Barthelme voted to break the tie. Motion passed 4-0-3.

Commissioner Thompson moved to approve the Executive Session Meeting Minutes, dated December 15, 2016. Commissioner Mummaugh seconded the motion. Motion passed 4-2. Commissioners Gaskin abstained, as she was not present on December 15, 2016 and Commissioner Willing abstained, as he was unable to complete a review of the minutes prior to the vote. Motion passed 4-2.

COMMISSION MEMBERS' TIME

Commissioner Thompson indicated that MetCom is the only organization that he is aware of that does not allow the Chairman to vote and noted that today there were five members voting, when seven were present. Commissioner Thompson stated that all Board members are appointed to represent, including the Chairman, and suggested that we revise our By-Laws to allow the Chairman to vote. Chairman Barthelme voiced his agreement to Commissioner Thompson's suggestion.

Brief discussion ensued on the required procedure and timing for By-Law revisions. Chairman Barthelme suggested that Mr. Beaver bring this matter back for consideration at the next meeting and discussion ensued regarding a comprehensive overhaul of the By-Laws. Following additional discussion amongst the group, Board members in agreement to pursue the individual By-Laws change to allow the Chairman to vote, but indicated that a more comprehensive review of recommended By-Laws changes could occur at a later date. Mr. Beaver suggested that Board members provide their input to him on via email for future consideration.

ADJOURNMENT

There being no further business, **Commissioner Mummaugh moved to adjourn at 4:52 p.m. Commissioner Carey seconded the motion. Motion carried 6-0**



Laura Comeau-Stanley, Corporate Secretary