

**MINUTES  
REGULAR SESSION  
ST. MARY'S COUNTY METROPOLITAN COMMISSION  
MARCH 26, 2015**

The meeting commenced at 3:01 p.m. In attendance were Commissioners Willing, Russell, Barthelme, Mummaugh, Pessagno, and Thompson. MetCom staff in attendance included Ichniowski, Shick, Elberti, Sullivan, Fehn, Meiser, Potter, Smouse, and Comeau-Stanley. Others present included Dick Myers (*The BayNet*) and Jason Babcock (*The Enterprise*).

Chairman Willing welcomed everyone and performed a review of the meeting agenda.

Mr. Ichniowski read aloud a news release regarding the sad and untimely passing of Elaine Kramer, Chief Financial Officer for St. Mary's County. Following the announcement, a moment of silence was observed.

**MOTION TO APPROVE AGENDA**

**Commissioner Russell moved to approve the Agenda, as presented. Commissioner Barthelme seconded the motion. Motion carried 5-0.**

**APPROVAL OF CONSENT AGENDA**

**Commissioner Barthelme moved to approve the Consent Agenda. Commissioner Russell seconded the motion. Motion carried 5-0.**

**APPROVAL OF MINUTES**

Commissioner Mummaugh posed a question regarding the amendment made to the minutes, specifically that the Capital Budget Water and Sewer Summary Sheets, which were distributed to the Board members at the Budget Work Session on January 22 and included in the binders for the February 12 meeting, but were not sent electronically prior to those meetings. Staff clarified that the amendment made to the minutes reflects the discussions recorded at that meeting. Additional discussion ensued on post-commission meeting mailings, which is intended to provide the Board members with electronic copies of any meeting documents not previously transmitted as part of the pre-commission mailing.

**Commissioner Russell moved to approve the minutes of the February 12, 2015 meeting, as presented. Commissioner Barthelme seconded the motion. Motion carried 5-0.**

**EXECUTIVE DIRECTOR'S REPORT**

A. Update: Planning Commission Presentation of FY 2016 Capital Improvement Plan and Budget

Mr. Ichniowski advised the Board that a presentation of the FY 2016 Capital Improvement Plan and Budget was made to the Planning Commission on Monday, March 23, 2015. Mr. Ichniowski noted that five (5) of the six (6) Planning Commission members present and Mr. Elberti performed the majority of the Capital Plan and Budget review. Mr. Ichniowski advised that the Planning Commission found the budget and plan to be consistent with both the Comprehensive Plan and the Comprehensive Water and Sewerage Plan and authorized the Chairman, Howard Thompson, to sign

a letter to the Commissioners of St. Mary's County confirming this finding of consistency and recommended approval.

#### B. Training for Board, Committees and Commissions

Mr. Ichniowski announced that St. Mary's County is offering training for volunteers serving on Boards, Committees and Commissions, which will be held on April 8, 2015 at 5:00 p.m. in the Commissioners Meeting Room inside the Chesapeake Building. Mr. Ichniowski provided a brief summary of the topics included in this training and encouraged all Board members to attend.

### **CHIEF FINANCIAL OFFICER'S REPORT**

#### A. DRAFT FY 2016 Operating Budget

Ms. Shick performed a review of the third draft FY 2016 Operating Budget for the Board members consideration. Ms. Shick identified the two changes made since the last meeting, citing the removal of the Salary Study and the addition of the Implement Shed for St. Clement's Shores Wastewater Treatment Plant, noting that the work was scheduled to occur this year, but staff was not able to get the work done and have moved it into FY16. Ms. Shick fielded questions from the Board members on various aspects of the budget, including contingencies, reserves, implementation of the new rate structure, and the effects on commercial customers, which accounts for 11% of MetCom's customers.

Extensive discussion ensued amongst the group regarding the proposed salary increases for employees, with some Board members indicating their desire to eliminate increases for staff members making more than \$40,000.00 annually. Following considerable dialogue between the Board members both in favor of and against any salary increase for staff in FY16, suggestion made by Commissioner Pessagno that salary increases should be authorized for Grade 13 and below. Ms. Shick performed a review of the Salary Grades and Steps for the benefit of the Board members.

Additional discussion ensued on the proposed 1% Cost of Living Allowance (COLA) for all employees. In the course of discussion, Commissioner Barthelme advised that he cannot support a COLA for all employees, and that one or two people who make a higher salary are holding back the whole company. Following those comments, Ms. Meiser indicated that she would forego consideration of a COLA if it were going to jeopardize consideration of a COLA for all. After much consideration, it was the consensus of the Board to authorize a 1% COLA for all, except the General Counsel and authorize merit increases for staff in Grade 13 and below.

Ms. Shick performed a review of the new fees proposed in FY16, which includes a meter re-read fee, data-logging fee, manual meter read charge, and meter testing fee. Ms. Shick also performed a review of the proposed rates for the residential and commercial customers, based upon meter size and average usage. Discussion initiated by Commissioner Pessagno on the large ready to serve lines installed for commercial customers with sprinkler systems to handle fire protection; moreover, the benefits they reap as a system was built by MetCom to satisfy their needs, which they don't pay for unless the water runs through their meters. Suggestion made that perhaps we consider a higher connection cost in the future for those customers. Mr. Ichniowski noted that cost of connection for commercial customers in Charles County is significantly higher than MetCom's connection fees. Mr. Ichniowski advised that funds are proposed in the budget for a Rate Study on the connection charges and connection fees and the possibility of establishing a new structure. Ms. Shick

performed a brief review of the proposed service charges for FY 16, as compared to the rates in the adjacent counties and provided additional information on the proposal for the Rate Study for the Assessment of Water and Sewer Capital Cost Recovery Charges, as mentioned by Mr. Ichniowski. Ms. Shick reviewed the Operating Budget Calendar, citing seven instances the budget has been reviewed and discussed with the Board.

Discussion ensued on the vacant Senior Inspector position, with Mr. Ichniowski citing the key roles and responsibilities associated with the position and the need to fill this position. Suggestion made by Commissioner Mummaugh that the position be a contract position and not a permanent employee position. Following extensive discussion on the inspection budget, planned projects in FY16, as well as the benefits and shortcomings of making this a contract position, several Board members agreed that as a contract position, they would support funding the position.

Ms. Shick fielded questions regarding the Other Post-Employment Benefits (OPEB) Trust and the percentage of health insurance coverage premiums paid by MetCom. Ms. Shick provided a summary of the premiums paid by MetCom as well as other governmental entities and utilities.

Inquiry made to Ms. Shick regarding the timing of the Operating Budget (OB) versus the Capital Improvement Budget (CIB) and why a review of the OB is not done before the CIB. Ms. Shick, Mr. Ichniowski and Ms. Meiser provided an explanation of timing and advised that this is how it has been done for many, many years and cited the need to present the CIB to the Commissioners of St. Mary's County for their approval as one driving factor. Ms. Shick indicated that if the Board's desire is to review the OB sooner, we could certainly modify that with the next budget cycle.

Discussion ensued on the Legal Assistant position and the increase from 32 hours per week to 40 hours per week under the FY16 Budget. Following a review of the duties of this position by the Director, Legal Counsel and Chairman Willing, Ms. Shick advised that this is an accounting fix to make the budget more accurate, as the individual is already working 40-hours many weeks in light of the volume of work being performed. Commissioners Barthelme and Mummaugh suggested that the increase not be funded, as they expect that the workload is going to fall off. Commissioner Barthelme advised that he would not support this. Chairman Willing noted that we are talking about 1/1,000 of the budget and Commissioner Russell and Pessagno collectively indicated that the money is already being spent, therefore this is merely accounting for it in the budget.

Ms. Shick detailed the next step in the process, noting that the Public Hearing on April 1, 2015 at 6:00 p.m. at the Bay District Volunteer Fire Department and then two meetings from now, staff will be seeking final approval of the Budget from this Board. In closing, Ms. Meiser identified all of the amendments to the draft motion, as discussed throughout the presentation.

**Commissioner Russell moved to authorize staff to present the FY 2016 Operating Budget, as amended\*, and the corresponding proposed rates, as amended, which rates are equal to or less than the duly advertised rates, at the Public Hearing to be held on April 1, 2015, with the amendments as noted by the Legal Attorney. Commissioner Pessagno seconded the motion. Motion carried 3-2 with Commissioners Barthelme and Mummaugh opposed.**

*\*to include a 1% COLA for all employees, except General Counsel; Step Increase for eligible employees Grades 13 & below; Senior Inspector funded as a contract position, rather than a regular full-time employee*

B. FY 2016-2021 Capital Improvement Budget

Ms. Shick performed a review of the proposed Capital Improvement Budget, noting that there is a slight reduction in the budget from what was presented at the last meeting, citing the specific projects where the funding portion was changed. Ms. Shick directed Board members to the rate and reserve data in their binders, noting that this has been prepared in the format that the County has requested. Ms. Shick highlighted the System Improvement Charges and Capital Contribution Charges from FY08 to present, as well as the Debt Ceiling Limit Analysis and the Debt Projections through FY21.

Ms. Shick advised that all of the pages presented would be included in the submittal to the Commissioners of St. Mary's County (CSMC) on Monday for the planned presentation on April 14, 2015. Ms. Shick noted that with the Planning Commission's approval and the submittal being made to the CSMC, we are approaching the end of this process, which was started last November. Ms. Shick reiterated that the Public Hearing would occur on April 1, 2015.

Commissioner Mummaugh inquired about the FDR Boulevard project and where it falls in the Budget and Mr. Elberti clarified the work completed and planned in relation to the project work that the County recently decided to postpone.

**Commissioner Barthelme moved to authorize staff to present the FY 2016 Capital Improvement Budget and supporting rates and FY17-FY21 Capital Improvement Plan at the Public Hearing to be held April 1, 2015. Further, move to authorize staff to forward the FY 2016 Capital Improvement Budget and FY17-FY21 Capital Improvement Plan to the Board of County Commissioners for discussion at meeting on April 14, 2015. Commissioner Russell seconded the motion. Commissioner Mummaugh initiated discussion noting that he is not going to support this because he believes we should add more of the Capital Improvement Projects into this year's budget, specifically the projects which were to be completed this year that were removed. He wants to take a look at those to determine if we can blend the rates by placing more of the work back into the budget. Chairman Willing noted his disagreement of Commissioner Mummaugh's suggestion and Commissioner Russell advised that the Board asked to have projects removed to reduce the rates. There being no other discussion, call for vote by Chairman Willing. Motion failed 2-3 with Commissioners Mummaugh, Pessagno & Thompson opposed.**

Chairman Willing noted that we do not have a Capital Improvement Budget to take to the County. Board members and staff inquired as to which projects Commissioner Mummaugh is seeking to have placed back into the budget. Commissioner Mummaugh advised that he is looking to reduce the connection charges/Capital Contribution charges and Ms. Shick advised that any reduction in Capital Contribution Charges would only occur if we were to move in projects that were Capital in nature and not maintenance in nature. Commissioner Mummaugh indicated that Town Creek is a project he would like to see placed back into the budget and Ms. Shick advised that by doing that, we would not reduce the Capital Contribution Charge, but instead would increase the System Improvement Charge.

Ms. Meiser clarified for the group where we are procedurally, noting that we have an Operating Budget that has been cleared to move forward to go to hearing next Wednesday and a Capital

Budget that the Board has said no to moving forward and taking to public hearing. Ms. Meiser advised that if we do not take the budget to public hearing next Wednesday, then we would need to re-advertise with a new set of rates, based upon whatever budget the Board wishes to put in place. Additional discussion ensued on projects to consider moving back into the budget and Mr. Ichniowski noted the imbalance on the budget that would occur if we consider moving a water project out of FY17 and move it to FY16. Additional discussion ensued along with a review of the Water Project Summary Sheets and Mr. Elberti advised the group which projects have MDE funding and need to be done.

Chairman Willing called for a brief recess at 4:55 p.m.

Meeting reconvened at 5:02 p.m.

Mr. Ichniowski advised that during the recess, the topic of borrowing money and being able to complete the work for the projects that were discussed. Mr. Ichniowski further noted that in addition to the engineering work, we have to consider the procurement side of the effort in order to obtain the loans.

Commissioner Barthelme advised that he wished to make the motion again and read aloud the same motion. After recognizing that Commissioner Barthelme made the same motion made previously, Ms. Meiser requested a recess so that she may perform a review of Robert's Rules on this matter. Mr. Ichniowski suggested that we move on to Ms. Shick's next report item, which is informational in nature.

### C. Debt Feasibility Study

Ms. Shick advised that the Board members receive a copy of the second draft of the Debt Policy Study by Davenport and Company, which the County funded to look at the debt policies for both the County and MetCom. Ms. Shick directed the Board members to the Executive Summary and performed a review of the finding, indicating that MetCom's financial and debt profile is strong compared to other like entities. Further, MetCom's debt burden is not greater than that of our peer utilities and our debt amortization is relatively fast, compared to the national median. The cost to our utility customers is slightly below the national median and our operating margins are consistent with similarly sized organizations and demonstrate ample ability to pay our debt and have strong liquidity. Ms. Shick noted that this is positive feedback on our financial profile. Ms. Shick performed a brief review of the recommendations identified in the report and noted that the biggest question raised is whether MetCom should be issuing bonds as a stand-alone entity, rather than with the full faith in credit of the County. Brief discussion ensued regarding a bond rating issued for MetCom a few years ago and the models identified with the recent Rate Study to increase our reserves in order to obtain a better bond rating.

Mr. Ichniowski advised that the Debt Policy Study report is going to be presented by the consultant at a Joint Meeting between the MetCom Board and the Commissioners of St. Mary's County on April 21, 2015.

## **CHIEF ENGINEER'S REPORT**

### **A. St. Clement's Shores Water System Replacement: Engineering Design Services Contract Award**

Mr. Elberti described the scope of work associated with this project, which includes professional engineering and design services for the St. Clement's Shores Water System Replacement. Mr. Elberti advised that this is the oldest water system and is in the worst shape of any in our system. Mr. Elberti noted that this stand-alone system was built in the 1950s and was taken over by MetCom and does not meet our standards. Mr. Elberti advised that the work planned would be phased. Mr. Elberti performed a review of the project proposal and budget. Brief discussion ensued on the use of the existing water storage tank, plans for a future elevated water tower and the potential for gaining new customers with this project.

**Commissioner Barthelme moved to accept and approve the proposal dated March 2, 2015, from Rummel, Klepper & Kahl, LLP (RK&K) of Baltimore, Maryland, in the amount of \$490,980.00, submitted under the Engineering Services Contract #12-12-E, for professional engineering services required to design a replacement water system for St. Clement's Shores, Project #2101WR, as recommended by the Chief Engineer. Commissioner Mummaugh seconded the motion. Motion carried 5-0.**

## **CHIEF FINANCIAL OFFICER'S REPORT** *(Continued)*

### **B. FY 2016-2021 Capital Improvement Budget**

Ms. Meiser advised that if the identical motion is going to be remade, as one that just failed, it must be made in the form of a motion to reconsider. Further, the motion must be made by a member of the Board who voted in the prevailing way the first time, so it must be presented by someone who voted against the first motion. Once the motion is made to reconsider, it cannot be amended.

**Commissioner Thompson moved to reconsider FY 2016 Capital Improvement Budget and FY 2017-FY2021 Capital Improvement Plan Motion, authorizing staff to present the FY 2016 Capital Improvement Budget and supporting rates and FY17-FY21 Capital Improvement Plan at the Public Hearing to be held April 1, 2015. Further, move to authorize staff to forward the FY 2016 Capital Improvement Budget and FY17-FY21 Capital Improvement Plan to the Board of County Commissioners for discussion at meeting on April 14, 2015. Commissioner Russell seconded the motion. Motion carried 4-1 with Commissioner Mummaugh opposed.**

## **GENERAL LEGAL COUNSEL'S REPORT**

### **A. Open Meetings Act**

Ms. Meiser advised that it was requested that she provide some information on the Open Meetings Act and indicated that Board members should please feel free to ask any questions during the course of her presentation. Ms. Meiser noted that Maryland has an Open Meetings Act and St. Mary's County has its own Open Meetings Act and the intent of the Federal, State and Local Statutes is to try to ensure that anytime public bodies are conducting official public business, that the public has

an opportunity to view and listen to the deliberations, discussions and actions by public bodies. Noting that MetCom is bound by the State and County Statute and the County's statute is more restrictive than the State's. Ms. Meiser noted that although the intent of both statutes is clear, there is a lot of gray area in the State Statute.

Ms. Meiser indicated that many advisory opinions have been rendered on the State Statute, however the same is not true of the St. Mary's County Statute and there is a vastly wide difference in the interpretations and Ms. Meiser provided examples as a point of comparison for the benefit of the Board and indicated that the County's Statute provides far more direction and is far more compelling than the State's policy provision.

Ms. Meiser provided an extensive review of the Act, what violates the Act in both the State, and the County's Statute and cited various examples to further illustrate those actions that are permitted and what actions result in violations. Ms. Meiser performed an overview of sequential communication versus non-sequential communication. Ms. Meiser noted that technological advances, such as email, teleconference, and text messaging, have made it so that immediate interaction amongst members of a public body occurs and result in the Act being implicated. Ms. Meiser stated that the Act not only applies to final decisions of the body, but to any gathering of information from the concept all the way up to the decision making process.

Ms. Meiser provided a brief review of court cases across the Country where violations occurred and civil penalties were imposed. Ms. Meiser stated that there is an administrative review process and a circuit court review process and if found in violation, the penalties are marginal, however the bigger issue is that if found in violation of the Act, any action that the Board took where the Act was violated, would likely be voided. Ms. Meiser noted that the voiding Board actions could result in tremendous consequences for any organization.

In closing, Ms. Meiser advised that the Act is not clear-cut, but we all need to be very careful about this. They are going to consider the intent, the content and the availability of immediate responses and anything that suggests that the body is looking to reach a consensus before a meeting occurs, would be considered an egregious violation of the act.

## **EXECUTIVE SESSION**

**Commissioner Mummaugh moved to go into Executive Session at 5:51 p.m. to discuss Personnel Matters. Commissioner Russell seconded the motion. Motion carried 5-0.**

Meeting reconvened at 6:01 p.m.

## **COMMISSION MEMBERS' TIME**

Commission Mummaugh asked what has to be done to establish a policy that the Board not vote on the Capital Improvement Budget until they have time to go through the Operating Budget. Ms. Meiser advised that no action needs to be taken, as Ms. Shick has already advised that the schedule can be modified for the next budget cycle. However, Ms. Meiser pointed out that the presentation of the Capital Improvement Budget (CIB) occurs first because the County has to approve it, prompting a longer lead-time on the CIB. However, the Operating Budget does not require their

approval. Ms. Meiser noted that the cost to operate MetCom is supported exclusively by the service charges and the Capital side of the budget is supported by System Improvement Charges and Capital Contribution. Ms. Meiser emphasized for the benefit of the group that these are two separate pots of money. Additional discussion ensued on the submittal deadlines for the Planning Commission and Commissioners of St. Mary's County and it was noted that MetCom has always made the required deadlines.

Commissioner Barthelme posed a question on the Salary Study performed nine (9) years ago and inquired if the consultant recommended the salary chart. Mr. Ichniowski provided additional background on the Salary Study and more specifically the salary chart, advising that the chart was developed based on the recommendations of the consultant.

#### **ADJOURNMENT**

There being no further business, **Commissioner Russell moved to adjourn the meeting at 6:08 p.m. Commissioner Thompson seconded the motion. Motion carried 5-0.**

  
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Laura Comeau-Stanley, Corporate Secretary