

**MINUTES
REGULAR SESSION
ST. MARY'S COUNTY METROPOLITAN COMMISSION
MAY 12, 2016**

The regular session of the St. Mary's County Metropolitan Commission meeting commenced at 3:05 p.m. In attendance were Commissioners, Willing, Barthelme, Mummaugh, Pessagno, Russell, and Thompson. MetCom staff in attendance included Bundy, Cullins, Shick, Elberti, Fehn, Sullivan, Meiser, Edwards, and Comeau-Stanley. Others Jason Babcock (*Reporter, The Enterprise*), and Dick Myers (*Reporter, The BayNet*).

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

MOTION TO APPROVE AGENDA

Commissioner Mummaugh inquired about the removal of Executive Session from the agenda. Mr. Bundy advised that the Personnel Item, previously listed under Executive Session has been placed under Commission Members' Time. Chairman Willing noted that Commission Gaskin, who is currently traveling out of state, contacted him today to request that the Board postpone discussion on this item until she can be present to participate.

Commissioner Russell moved to approve the agenda as presented, with an amendment that the Employment and Performance of General Legal Counsel will be deferred until the next meeting. No second received. Motion failed.

Commissioner Barthelme moved to approve the Agenda, as is. Commissioner Mummaugh seconded the motion. Motion carried 4-1. Commissioner Russell opposed the motion.

APPROVAL OF CONSENT AGENDA

Commissioner Thompson moved to accept the Consent Agenda, as presented, and to hereby approve all matters contained upon the Consent Agenda. Commissioner Russell seconded the motion. Motion carried 5-0.

EXECUTIVE DIRECTOR'S REPORT

A. CSMC & MetCom Joint Meeting Overview

Mr. Bundy provided a brief overview of the Joint Meeting held between the MetCom Commissioners and the Commissioners of St. Mary's County (CSMC) on Tuesday, May 10, 2016. Mr. Bundy highlighted the work group proposed to identify funding options for the Capital Contribution Charges to connect existing residents, where MetCom extends water and/or sewer service. Mr. Bundy noted that the results would include a ratification of the Connection Policy with County agreement and adherence. Mr. Bundy further noted that the CSMC have asked that a member or two from the Board serve on the committee. Commissioner Russell volunteered to serve, as well as Commissioner Mummaugh.

B. Water Leak Adjustment Policy

Mr. Bundy performed a brief review of the Water Leak Adjustment Policy and recommended that the Board move forward with the policy, as written. Brief discussion ensued amongst the

Board and staff regarding the frequency of leaks, leak detection, and prior action taken when leaks are determined to be the cause of customer bill increases.

Commissioner Barthelme moved that the commission approve and adopt the Water Leak Adjustment Policy, as presented, to become effective immediately. Commissioner Russell seconded the motion. Motion carried 5-0.

C. Grease Interceptor Requirement & Waiver Policy

Mr. Bundy advised the Board that the Health Department has been deferring to MetCom when Grease Interceptor (Grease Trap) waivers are requested. Mr. Bundy explained that the draft Grease Interceptor Requirement and Waiver Policy presented provides staff the ability to grant waivers and noted that the policy, as written, includes staff's preferred language. However, staff is awaiting concurrence from the Health Department before presenting it for Board approval and adoption; once received, staff expects to present this for action. Brief discussion ensued amongst the group on the policy and waiver conditions.

D. Salary Study: Draft Scope of Work

Mr. Bundy announced that he has not yet been able to work on the draft scope of work for the Salary study.

E. FY 2017-FY 2022 Capital Improvement Budget & Plan Presentation to the Commissioners of St. Mary's County (CSMC)

Mr. Bundy advised the Board that the final presentation before the CSMC to gain approval of the FY 2017-FY 2022 Capital Improvement Budget and Plan is scheduled for May 24, 2016. Mr. Bundy noted that when the agenda is published, staff would pass along the presentation time.

Mr. Bundy made mention of MetCom's participation in the Chamber of Commerce Business Showcase held yesterday, noting that there was a good turnout, which provided an opportunity for him to meet several from the community.

Commissioner Pessagno inquired about the Finance and Connection Policy Committee discussed during the Joint Meeting and expressed his desire to serve on the Committee. Brief mention by staff regarding Commissioner Pessagno's term expiration of June 30, 2016 and Commissioner Mummaugh advised that he would drop out to allow Commissioner Pessagno to serve, noting that he would step in as his replacement at the expiration of Mr. Pessagno's term on the MetCom Board.

Mr. Bundy announced that Mr. Elberti would be presenting the Engineering Services Consultant Contract Award today, noting that there is no dollar amount associated with the award, as it is for task orders, as needed. Mr. Bundy advised that the firms selected have all of the resources available that MetCom would need and noted that with a greater number of consultants, staff plans to obtain price quotes from each to compete for specific projects. Brief discussion ensued amongst the group on the contract.

CHIEF ENGINEER'S REPORT

A. Engineering Services Consultant Contract Award

Mr. Elberti performed a review of the scope of the Engineering Service contract, which includes evaluation, design and inspection services, geotechnical water and wastewater systems, project management, cost estimating, construction engineering and inspection and bidding services. Mr. Elberti noted that thirteen (13) proposals were submitted and following the assessment of the evaluation committee, six (6) firms were selected to participate in the contract. Mr. Elberti provided a brief review of the selection criteria and evaluation process, as well as the contract terms. Brief discussion ensued amongst the group on the selected firms and their capabilities.

Commissioner Barthelme moved to accept and approve the proposals from:

- (1) AECOM Technical Services, Inc., of Baltimore, Maryland;**
- (2) CH2M Engineers, Inc. of Silver Spring, Maryland;**
- (3) Dewberry Consultants, LLC, of Baltimore, Maryland;**
- (4) RJN Group, Inc., of Baltimore, Maryland;**
- (5) Rummell, Klepper & Kahl, LLP (RK&K), of Baltimore, Maryland; and**
- (6) Whitman, Requardt & Associates, LLP (WRA), of Baltimore, Maryland**

for the Open-End Engineering Services Contract #16-07-E in accordance with the bid documents, as recommended by the Chief Engineer. Further move that staff be authorized and directed to sign all documentation relating to these six (6) separate Contract awards, including but not limited to the respective contracts, any contract renewals and all approved change orders under any such contract. Commissioner Thompson seconded the motion. Commissioner Mummaugh sought clarification on change order approvals. Mr. Elberti and Mr. Bundy collectively advised that this language refers to the execution of documents following Board approval of change orders. Discussion concluded and Chairman Willing called for a vote. Motion carried 5-0.

B. FDR Blvd., Phase 1B Construction Contract Award

Mr. Elberti performed a review of the scope of contract for the FDR Blvd., Phase 1B, which is a joint solicitation with St. Mary's County Department of Public Works and Transportation (DPW&T) for the installation of water mains in the FDR Blvd. right-of-way from First Colony Blvd. to Old Rolling Road. Mr. Elberti detailed the coordination of work with DPW&T on this phase of the FDR Blvd. project and performed a review of the bids received. Brief discussion ensued amongst the group.

Commissioner Barthelme moved to accept and award a contract, based upon the proposal dated April 21, 2016, from Great Mills Trading Post, Inc. of Great Mills, Maryland, in the amount of \$239,350.00, for installation of water mains in the FDR Blvd. right-of-way, from First Colony Boulevard to Old Rolling Road, for Project #8151WM, pursuant to a joint solicitation with the County Commissioners of St. Mary's County, under a Memorandum of Agreement, dated March 1, 2016, as recommended by the Chief Engineer. Further move that staff be authorized and directed to sign all documentation relating to this

Contract award, including but not limited to the contract, any contract renewals and all approved change orders. Commissioner Russell seconded the motion. Motion carried 5-0.

GENERAL LEGAL COUNSEL'S REPORT

A. Property Acquisition Update

Ms. Meiser provided the Board members with a brief update on the Piney Point property acquisition, noting that the settlement occurred earlier this afternoon and Chairman Willing executed all documents. Ms. Meiser advised that the seller's proceeds will be wired and the deed will be recorded to reflect MetCom as the owner of the property. Ms. Meiser advised that a boundary line adjustment is necessary to move the boundary line to include the required access area and in order to sell the balance of the property. Mr. Bundy noted that staff would provide additional information regarding the property at a future meeting.

Chairman Willing called for a brief recess at 3:36 p.m. to allow the Board members to review three sets of Executive Session minutes, which cannot be transmitted in advance of the meeting.

Meeting reconvened at 3:42 p.m.

APPROVAL OF EXECUTIVE SESSION MINUTES

Commissioner Russell moved to approve the March 10, 2016 Executive Session minutes. Commissioner Barthelme seconded the motion. Motion carried 5-0.

Commissioner Russell moved to approve the March 31, 2016 Executive Session minutes. Commissioner Barthelme seconded the motion. Motion carried 5-0.

Commissioner Russell moved to approve the April 14, 2016 Executive Session minutes. Commissioner Barthelme seconded the motion. Motion carried 5-0.

COMMISSION MEMBERS' TIME

Commissioner Thompson announced that one of his constituents suggested that we proceed with painting Hollywood on our new Water Tower, as many communities do. Brief discussion ensued amongst the group before Mr. Bundy requested that the discussion be deferred, as we have some time to consider this.

A. Nature of Employment & Performance of General Legal Counsel

Commissioner Mummaugh moved to go into Executive Session to discuss personnel matters. Commissioner Barthelme seconded the motion. Discussion ensued and Mr. Bundy advised the Board that Ms. Meiser has requested that any evaluation be done in open session and she has that right; if there is another issue to discuss, then we can proceed. Commissioner Mummaugh indicated there was not another issue; no vote taken.

Discussion continued and Commissioner Barthelme asserted that he was not allowed to discuss a matter involving an accusation made against him by Ms. Meiser in open session and voiced his displeasure that Ms. Meiser is being allowed to address a personnel matter in open session. Ms.

Meiser advised that the matter he is referring to was to discuss a conflict of interest and the Open Meetings Act is quite specific about what can be held in executive session. Ms. Meiser noted, for the record, that she never accused Mr. Barthelme of anything. Ms. Meiser indicated that the provision under the Open Meetings Act, under which she has requested that the matters related to her be held in open session, is quite specific. Ms. Meiser cited the provision for the benefit of the Board and noted that she provided her request in writing to Mr. Bundy. Additional comments made by Commissioner Barthelme regarding the matter, who concluded that he is not opposed to discussing the matter in open session.

Commissioner Mummaugh advised that he would like to go into Executive Session to speak to Mr. Bundy. Ms. Meiser indicated that the purpose should be indicated in the motion. **Commissioner Mummaugh moved to go into Executive Session to discuss personnel matters. Commissioner Barthelme seconded the motion. Discussion ensued and Ms. Meiser noted that to the extent that the personnel matters relate to her, she again renewed that she has stated in writing that she wants anything related to her held in open session. Chairman Willing advised that he believes we are bound to discuss this in open session.**

Discussion ensued and Mr. Bundy advised that there were two components to the issue related to Ms. Meiser. First, there is a conflict about what was agreed to between the Board members and General Counsel and he suggested that a discussion be held to gain a better understanding of that issue. Chairman Willing noted that to that end, there are executive session minutes, containing substantive discussion on that, which pre-dates the majority of the membership of this Board, with the exception of Commissioner Mummaugh and himself. He further noted that it would be important for Board members to review that material.

Commissioner Barthelme asked if it would be appropriate for Ms. Meiser to provide the Board with an explanation of her job description and Ms. Meiser indicated that her written job description speaks for itself, but if there is a specific question or they are seeking clarity, she would do her best to answer those questions. Commissioner Mummaugh inquired about the flexibility in Ms. Meiser's schedule and before any additional discussion, Ms. Meiser advised that there is a motion on the floor to go into executive session and discussion relative to that motion has occurred; however, the motion has not yet been voted upon. Ms. Meiser presented options to the Board. **Commissioner Mummaugh withdrew the motion.**

Commissioner Mummaugh advised that he sent an email asking to review the executive session minutes and did not receive a response. He indicated that he recalls that Ms. Meiser sought flexibility because of her son and asked for clarification from Ms. Meiser, who indicated that she is not going to characterize the executive session minutes, noting that they have been made available. She strongly recommended that Commissioner Mummaugh use those to refresh his memory, as that is an accurate and duly adopted summary of what occurred at each of the meetings. Ms. Meiser further noted that anything that she can offer is going to be her opinion, but what happened is documented in the executive session minutes. Ms. Meiser indicated that she does not think it is prudent for the Board to proceed with a discussion on this matter without having reviewed those minutes, but would be happy to provide her recollection to the Board.

Ms. Meiser stated that the minutes are very clear that the reason she was interested in moving from the Director position to the General Counsel position was to have greater scheduling

flexibility for purposes of accommodating her son. Discussion ensued between Commissioner Barthelme and Ms. Meiser regarding whom she reports to at MetCom. Ms. Meiser referenced the Organizational Chart and noted her reluctance in trying to characterize documents, which speak for themselves. Ms. Meiser indicated that there were substantial discussion and several iterations of the organizational chart included in the executive session minutes, including one that reflects a reporting to the Board and another that reflects a reporting to the Executive Director. Ms. Meiser advised that the result was that she keeps both the Board and the Executive Director apprised of everything that is going on and explained that it has been more of a collaborative relationship than that of a supervisor/supervisee relationship.

Commissioner Barthelme cited a Board action taken in 2002, when Ms. Meiser was selected as the Contract General Counsel and he suggested that we put the job out for bid for 20-hours a week; reporting to the Executive Director. Ms. Meiser attempted to comment on the matter, but her request was disregarded. **Commissioner Barthelme moved to put the attorney out on bid, for twenty (20) hours each week, and that the attorney report directly to our Director, Scott Bundy. Commissioner Mummaugh seconded the motion. Chairman Willing initiated discussion.**

Ms. Meiser advised that she does not believe that any of the Board members have reviewed the executive session minutes, which lead to her current position and not 2002, when MetCom had contractual outside counsel. Ms. Meiser indicated that a number of evolutions that have occurred over the last fourteen (14) years and cited the creation of a General Counsel In-House position, which was advertised and led to interviews of several candidates, before the Board made a unanimous decision in their selection of her for the position. Ms. Meiser noted that Commissioners Willing and Mummaugh sat on the Board that hired her for the agreed upon salary and now there is a motion pending to put General Counsel back out to a contract position, which would eliminate a currently approved employee position.

Ms. Meiser asked that in consideration of Commissioner Gaskin's prior request that this matter not be discussed without her present to participate, no action be taken until she is available to participate in the vote. Chairman Willing concurred and reiterated that it is extremely important that each Board member review the history documented in the executive session minutes, to fully understand the relationship and the history of how that position was created and filled. Commissioner Barthelme insisted that the Board can start something new and inquired with Ms. Meiser if the Board is able to do something, as a Board. Ms. Meiser noted that the Board can do whatever they desire, but questioned what then becomes of her position and asked if this motion results in her termination. Ms. Meiser again asked that the Board consider not making such a decision without the presence of the full Board and without having reviewed the executive session minutes that led to where she is currently.

Executive Director Bundy sought clarification of the organizational chart, advising that what he was provided when he began at MetCom depicts a direct line from the Board to the General Counsel. Ms. Meiser reminded the Board that she indicated earlier that the document speaks for itself and what she provided was her recollection, which she was clear to indicate when speaking earlier. Chairman Willing noted that there were multiple iterations of the organization chart in the minutes he reviewed prior to this meeting and indicated that without having the document in front of him, he would not know which one was which.

Commissioner Barthelme noted that the Board can do whatever it wants to do and there is a motion, a second and he wants to move on with this. Commissioner Barthelme further noted that he would like to see the attorney report to the Director. Chairman Willing reiterated that this is a major decision being contemplated and without the full membership of the Board here to discuss the matter and without full Board review of the appropriate history and documentation, he believes it is irresponsible to make such a significant action at this time. Commissioner Thompson indicated that he would like the opportunity to review documentation. Commissioner Russell noted that it makes no sense to cut her time in half and he feels certain that the job is more than a 20-hour a week job. Chairman Willing referenced additional documentation relating to costly estimates for outside legal counsel and the Board's decision then to create an in-house position, which resulted in a significant cost savings for MetCom.

Following discussion, Chairman Willing called for a vote. Motion carried 3-2. Commissioners Russell and Thompson opposed the motion.

EXECUTIVE SESSION

Mr. Bundy announced that as a result of the vote, he believes it is necessary to go into executive session to discuss personnel matters. Ms. Meiser inquired if the matter relates to her personally and Mr. Bundy advised that it does not and advised that he has questions on how to proceed on certain issues. Brief discussion ensued on the nature of the personnel matters and Mr. Bundy advised that this relates to personnel/contract matters.

Commissioner Mummaugh moved to go into Executive Session at 4:10 p.m. to discuss Contract Matters. Commissioner Barthelme seconded the motion. Motion carried 5-0.

Ms. Meiser announced that typically General Counsel remains to discuss contract matters.

Meeting reconvened at 5:25 p.m.

Commissioner Pessagno moved to Direct the Executive Director to prepare an RFP for Legal Services to be presented to the Board at the next meeting. Motion seconded by Commissioner Mummaugh. Motion carried 4-0.

ADJOURNMENT

There being no further business, **Commissioner Thompson moved to adjourn the meeting at 5:26 p.m. Commissioner Barthelme seconded the motion. Motion carried 4-0*.**



Laura Comeau-Stanley, Corporate Secretary

**Commissioner Russell departed the meeting at 5:00 p.m., during Executive Session.*