

**MINUTES  
REGULAR SESSION  
ST. MARY'S COUNTY METROPOLITAN COMMISSION  
JUNE 23, 2016**

The regular session of the St. Mary's County Metropolitan Commission meeting commenced at 3:04 p.m. In attendance were Commissioners, Willing, Russell, Barthelme, Gaskin, Mummaugh, Pessagno, Thompson, and Oliver (On behalf of Captain Scott Starkey, USN, Commanding Officer, NAS Patuxent River). MetCom staff in attendance included Bundy, Cullins, Shick, Elberti, Fehn, Potter, Edwards, and Comeau-Stanley. Others Jason Babcock (*Reporter, The Enterprise*), Dick Myers (*Reporter, The BayNet*), Ryan Morgan (*Reporter, The BayNet*), Guy Leonard (*Reporter, The County Times*), John Mattingly, Julia Mattingly, Lauren Mattingly, and John Carey.

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

**MOTION TO APPROVE AGENDA**

**Commissioner Russell moved to approve the Agenda, as presented. Commissioner Thompson seconded the motion. Motion carried 6-0.**

**APPROVAL OF CONSENT AGENDA**

Commissioner Mummaugh sought clarification of projects funded through loans for planning and design and inquired about the status of the Hickory Hills Water Tower and Piney Point Pumping Station. Mr. Bundy and Mr. Elberti collectively provided updates on both projects, advising that they anticipate that it will be at least six-months until construction would begin on both.

Ms. Shick pointed out that the list reflects all of the projects that are in the Capital Improvement Budget, not just those that have loans. Commissioner Mummaugh asked that Mr. Elberti highlight those projects funded through existing Department of Housing and Community Development (DHCD) loans.

**Commissioner Russell moved to accept the Consent Agenda, as presented, and to hereby approve all matters contained upon the Consent Agenda. Commissioner Barthelme seconded the motion. Motion carried 6-0.**

**APPROVAL OF MEETING MINUTES**

**Commissioner Russell moved to approve the meeting minutes of May 12, 2016, as presented. Commissioner Thompson seconded the motion. Motion carried 5-0-1. Commissioner Gaskin abstained, as she was not present at the May 12, 2016 meeting.**

**EXECUTIVE DIRECTOR'S REPORT**

Mr. Bundy announced that the elections for the position of Chairman and Vice-Chairman for the Fiscal Year 2017, which begins July 1, would be conducted at the end of the meeting today.

**A. FY 2017 Commission Meeting Schedule & Format**

Mr. Bundy advised the proposed change to the meeting schedule and format has been discussed at

recent meetings, reiterating that this change would allow for more in-depth discussion between the Board and staff on matters requiring consideration before any Board action. Mr. Bundy noted that he recommends this change and indicated that Board action is required today in order for staff to post the new FY 2017 meeting schedule. Commissioner Thompson noted that the Board could try the new format and if it does not work out as expected, a return to the old schedule would be appropriate. Mr. Bundy and Chairman Willing indicated their collective agreement with Commissioner Thompson's assessment.

**Commissioner Barthelme moved to approve and adopt the Fiscal Year 2017 Commission Meeting Schedule, presented as Exhibit B of the Executive Director's Report. Motion seconded by Commissioner Mummaugh. Motion carried 6-0.**

B. General Legal Services RFP

In response to the Board's request that Mr. Bundy seek counsel of Mr. Kurt Fischer to review and comment on the Scope of Services for General Legal Services, prior to it being released for solicitation of proposals, a revised scope was provided for review and consideration following Mr. Fischer's review and suggestion of minor edits.

**Commissioner Barthelme moved to authorize the Executive Director to solicit proposals for general legal services, utilizing the scope of services provided as Exhibit C of the Executive Director's report. Commissioner Mummaugh seconded the motion. Motion carried 4-2. Commissioners Russell and Gaskin opposed the motion.**

C. Engagement of Special General Public Law Counsel

In response to the Board's request that Mr. Bundy solicit a proposal from Mr. Kurt Fischer for special counsel services to the Board, a proposed letter of engagement was provided for review and consideration. Chairman Willing noted that he would be remiss if he didn't make note that if the Board were to utilize Mr. Fischer for 20-hours per week for all types of counsel needed, the cost to the Commission would be \$525,000.00 per year. Commissioner Thompson noted that this is only for our immediate needs.

**Commissioner Barthelme moved to authorize the Executive Director to execute the Letter of Engagement, dated June 16, 2016, with Mr. Kurt Fischer of the firm Venable, LLP, to provide general public law advice on an as-needed basis, in the form provided as Exhibit D of the Executive Director's Report. Commissioner Thompson seconded the motion. Motion carried 4-2. Commissioners Russell and Gaskin opposed the motion.**

## **HUMAN RESOURCES DIRECTOR'S REPORT**

A. Executive Director Search

Ms. Cullins performed a brief overview of the advertisement, position description and a list of proposed advertising venues for the Executive Director position, noting that the venues are the same utilized the last time this position was advertised. Commissioner Barthelme addressed Mr. Bundy's resignation and asked if he would reconsider, as he would like him to stay. Mr. Bundy indicated

that he does not know if he is prepared to say if he would reconsider. Commissioner Thompson noted his desire to proceed with the search process, given the time it is going to take.

**Commissioner Russell moved to approve the position advertisement and the advertising venues for the Executive Director position, as recommended by the Human Resources Director. Motion seconded by Commissioner Thompson. Motion carried 4-2. Commissioners Mummaugh and Barthelme opposed the motion.**

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

##### **A. FY 2016 Operating Budget Amendment**

Ms. Shick performed a review of the needs associated with the FY 2016 Operating Budget Amendment and advised that this amendment adjusts funds between line items in the sewer division of the budget.

**Commissioner Barthelme moved to amend the FY 2016 Operating Budget, as recommended by the Commission's Chief Financial Officer, to:**

- Increase the Leonardtown Treatment Plant line item by \$5,000;**
- Increase the Sewer Power line by \$30,000;**
- Increase the Sewer Telephone line item by \$300;**
- Decrease the Sewer Contingencies line item by \$35,300.**

**This amendment will result in no change in Net Income from Service Charges. Commissioner Gaskin seconded the motion. Motion carried 6-0.**

##### **B. FY 2016 Uncollectible Accounts/Write-Off Request**

Ms. Shick advised the Board of two accounts that are severely delinquent, noting that all available collection efforts have been taken to obtain payment on both accounts. Ms. Shick indicated that the amounts due are for inspection fees and a hydrant meter and advised that because these are not utility accounts, there is no lien on property for these debts and recommends that they be written off. Brief discussion ensued amongst the group on the matter.

**Commissioner Russell moved that the Commission authorize the Chief Financial Officer to write-off, as uncollectable, the account balances of \$5,680.11 and \$1,078.91, as presented in the Uncollectible Accounts Report. Commissioner Thompson seconded the motion. Motion carried 5-0-1. Commissioner Pessagno noted his abstention.**

##### **C. 1.5" Meter Billing Corrections**

Ms. Shick presented a listing of properties with 1.5" meters and identified that a problem occurred with the set-up of new and retrofit meters, at which time the 7-digit dial set-up was changed to an 8-digit dial, resulting in readings of only 10% of actual water use. Ms. Shick detailed the steps taken to correct the meters and recalculate the customer bills and advised that letters were sent to all of the affected customers, who have been given a six-month extension to pay the adjusted amount

due. Brief discussion ensued amongst the group on the matter. In closing, Ms. Shick clarified that there is nothing wrong with the meters; the problem occurred during the set-up.

#### D. FY 2017 Capital Improvement Budget Amendment

Ms. Shick advised the Board that the Maryland Department of the Environment (MDE) has awarded MetCom a Grant for the Upgrade of the Co-Generator at the Marlay-Taylor Plant, totaling \$945,000. Ms. Shick further advised that the project has been added to the FY 2017 Capital Improvement Budget, so that we can take advantage of this Grant funding. Ms. Shick noted that the project has to be under construction by June of 2017, which has prompted staff to act quickly in order to obtain the necessary approvals from the MetCom Board, the Planning Commission, and the Commissioners of St. Mary's County. Chairman Willing commended Mr. Petty and Ms. Shick, as well as the Engineering staff and others involved for working hard to secure this Grant. Brief discussion ensued amongst the Board and staff on the Co-Generator process and the generation of heat and electricity to the plant.

**Commissioner Barthelme moved to amend the FY 2017 Capital Improvement Budget, as recommended by the Commission's Chief Financial Officer, to provide additional funding for the Co-Generator Upgrade at the Marlay-Taylor Wastewater Treatment Plant, in the amount of \$945,000. Commissioner Russell seconded the motion. Motion carried 6-0.**

#### CHIEF ENGINEER'S REPORT

##### A. Marlay-Taylor Water Reclamation Facility ENR Upgrade: Change Order No. 14

Mr. Elberti performed a review of the nine (9) items associated with Change Order No. 14 for the Marlay-Taylor Water Reclamation Facility ENR Upgrade. Mr. Elberti referenced the May 13 ferric chloride incident and noted that this change order includes a \$50,582.00 back charge to the contractor for the costs to re-stabilize the biological process following the incident. Mr. Elberti advised that the plant has reached 93% construction completion and the plant should be operational by the end of August, with an updated project completion date of September 30, 2016. Brief discussion ensued amongst the Board members and staff on the status of the plant following the May 13 incident and the new completion date.

**Commissioner Barthelme moved to approve Change Order No. 14, dated June 23, 2016, to Contract #8-38-S (Marlay-Taylor WRF ENR Upgrade) with MEB General Contractors of Chesapeake, Virginia, to:**

- (1) increase contract costs by \$5,946.00 to install additional handrails on Pre-Recovery Tank;**
- (2) reduction of retainage from 5.0% to 2.5%;**
- (3) increase contract costs by \$62,994.00 for additional demolition and delayed tie-in at Secondary Clarifier #3;**
- (4) increase contract costs by \$7,928.00 for additional demolition to clarifiers;**
- (5) increase contract costs by \$44,685.00 to install additional electrical for HVAC;**
- (6) reduce contract costs by \$10,410.00 by deleting the demolition of the Maintenance building;**

- (7) Time Extension for weather delay January 2016 through May 2016;**
- (8) Time Extension for Gravity Belt Thickener installation; and**
- (9) reduce contract costs by \$50,582.00 to re-stabilize plant after ferric chloride incident on May 13, 2016.**

**The approval of Change Order No. 14 is recommended by the Chief Engineer and will result in a contract cost increase of \$60,561.00 and 98 calendar days of additional contract time with an updated completion date of September 30, 2016.**

**Further, move to authorize and direct the Executive Director to execute all documents as may be necessary to finalize this Change Order. Commissioner Gaskin seconded the motion. Motion carried 6-0.**

#### **APPROVAL OF EXECUTIVE SESSION MINUTES**

**Commissioner Russell moved to approve the Executive Session minutes of May 12, 2016. Commissioner Thompson seconded the motion. Motion carried 5-0-1. Commissioner Gaskin abstained, as she was not present at the May 12, 2016 meeting.**

#### **COMMISSION MEMBERS' TIME**

**Commissioner Mummaugh moved to release the Executive Session Minutes of November 14, 2012 and December 13, 2012. Commissioner Barthelme seconded the motion. Extensive discussion ensued amongst the Board members and Mr. Bundy. Commissioner Russell moved to amend the motion to include the Executive Session Minutes of May 12, 2016. No second received on the amendment to the motion.**

**Chairman Willing called for the vote on Commissioner Mummaugh's original motion. Vote resulted in a 3-3 tie. Commissioners Russell, Gaskin and Pessagno opposed the motion. Chairman Willing cast his vote of opposition to break the tie. Motion fails 3-4.**

#### **FY 2017 BOARD ELECTIONS**

Commissioner Thompson inquired about the presentation of meeting minutes for the Board's review, noting that typically the minutes of the last meeting would be reviewed for approval at the next meeting. Mr. Bundy noted that since he has been here, that has been the case, however given the length and volume of our recent meetings, we are presently one meeting behind. Ms. Stanley advised that under the new meeting format, it is planned that the minutes of a meeting would be presented for review at the next meeting.

Chairman Willing opened the floor to nominations for the position of Board Chairperson for the Fiscal Year 2017 term. Chairman Willing weighed in, noting that the Commissioner who has been on the Board nearly as long as he has and nominated Commissioner Mummaugh as Chairperson. Chairman Willing advised that he is unable to serve as Chairman, as he is termed out according to the By-Laws. Commissioner Russell seconded the nomination and Commissioner Mummaugh declined and indicated he is not interested in the position. Chairman Willing noted the extensive experience and previous terms of service to the MetCom Board by Commissioner Barthelme and

nominated him to serve as Chairperson. Commissioner Barthelme declined the nomination, noting that he is unable to do it, as he is in transition during the summer and not always available. Commissioner Mummaugh nominated Commissioner Willing, who declined and restated his inability to serve in the capacity of Chairman due to term limits of the By-Laws. Commissioner Barthelme inquired if Commissioner Russell would consider serving as Chair and Commissioner Russell declined. Commissioner Russell nominated Commissioner Thompson for Chairperson. Commissioner Thompson also declined the nomination for good and sufficient reasons.

Discussion ensued amongst the group on how to proceed and Mr. Bundy advised that he is uncertain, but believes that in the absence of a Chair, the members present at each meeting will select a Chairman for the meeting. Chairman Willing noted that he believes that could be done temporarily; however, a Chairperson of Record is required to sign a variety of routine and legal documents for the organization. Following additional discussion on options moving forward, documents required for signature by the Chairperson in accordance with the By-Laws and/or Chapter 113, and the frequency of signing documents, Commissioner Barthelme agreed to serve at Chairperson.

**Chairman Willing moved to nominate Commissioner Barthelme as Chairperson of the Board for the Fiscal Year 2017 term. Commissioner Russell seconded the nomination. Motion carried nominated 5-0-1. Commissioner Barthelme abstained from voting.**

Chairman Willing opened the floor to nominations for the position of Vice-Chairperson of the Board for the Fiscal Year 2017 term. **Commissioner Gaskin moved to nominate Commissioner Russell as Vice-Chairperson. Commissioner Mummaugh seconded the motion.** Chairman Willing called for any other nominations for the position of Vice-Chairperson. Hearing none, Chairman Willing closed the floor to nominations. **Chairman Willing called for the vote to nominate Commissioner Russell as Vice-Chairperson of the Board for the Fiscal Year 2017 term. Motion carried 5-0-1. Commissioner Russell abstained from voting.**

Chairman Willing took a moment to thank Commissioner Pessagno for his service to the Board, as this is his last meeting. Board members thanked Commissioner Pessagno for his service and thanked Chairman Willing for his service as Chairman. Commissioner Barthelme advised that Commissioner Pessagno's intended replacement, Mr. John Carey, is in the audience today. Chairman Willing thanked him for stepping up and noted that he looks forward to working with him in July.

## **ADJOURNMENT**

There being no further business, **Commissioner Russell moved to adjourn the meeting at 4:11 p.m. Commissioner Gaskin seconded the motion. Motion carried 6-0.**

  
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Laura Comeau-Stanley, Corporate Secretary