

**MINUTES**  
**ST. MARY'S COUNTY METROPOLITAN COMMISSION**  
**REGULAR MEETING**  
**AUGUST 25, 2016**

The Regular Session of the St. Mary's County Metropolitan Commission Agenda Meeting commenced at 3:03 p.m. In attendance were Chairman Barthelme, Vice-Chairman Russell, Commissioners Carey, Gaskin, Mummaugh, Thompson, and Willing. MetCom staff in attendance included Bundy, Cullins, Shick, Elberti, Sullivan, Fehn, Meiser, Thomas and Comeau-Stanley. Several staff members on hand for the length of service award presentations to Freddie Swann and Mike Jacobs. Others present included Ruth Montgomery, Jason Babcock (*Reporter, The Enterprise*), and Dick Myers (*Reporter, The BayNet*).

**ROLL CALL OF METROPOLITAN COMMISSION BOARD**

Chairman Barthelme welcomed everyone to the meeting and noted that all seven (7) Commissioners are present today.

**APPROVAL OF THE AGENDA**

Chairman Barthelme performed a review of the Agenda and Mr. Bundy requested that items 4 and 8 under the Executive Director's Report be moved to items 10 and 11 under New Business, as they require Board action.

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

**LENGTH OF SERVICE AWARDS**

Following a review of his service and contributions to the Metropolitan Commission by Ms. Cullins, Chairman Barthelme presented a 10-Year Length of Service Award to Freddie Swann, Utilities Electrical/Mechanical Technician.

Following a review of his service and contributions to the Metropolitan Commission by Ms. Cullins, Chairman Barthelme presented a 15-Year Length of Service Award to Mike Jacobs, Cleaning Specialist.

**PUBLIC FORUM**

Chairman Barthelme acknowledged Ms. Ruth Montgomery in the audience she addressed the Board, detailing her interaction with billing and operations staff members related to the investigation of a suspected water leak/water line break following the receipt of a high water bill. Ms. Montgomery advised that it was determined that her hose was left on accidentally for a period of more than a month, resulting in a water bill of \$843. Some discussion ensued amongst the Board members, Ms. Shick, Mr. Sullivan, and Ms. Montgomery regarding the matter, more specifically available options to provide some relief to Ms. Montgomery under existing billing policies. Further discussion ensued amongst the group regarding concerns over setting a precedent by providing such relief.

Following additional discussion with Ms. Montgomery and staff, Board members were in collective agreement to provide some reduction to the water and sewer component of her bill.

**Commissioner Russell moved that the Commission approve the reduction of the water component of the bill in question by 50% and cap the sewer component of the bill to normal usage. Commissioner Gaskin seconded the motion. Motion carried 6-0.**

## **APPROVAL OF MEETING MINUTES**

**Commissioner Willing moved to approve the minutes, as presented, of the Special Meeting held on July 13, 2016. Commissioner Thompson seconded the motion. Motion carried 6-0.**

**Commissioner Gaskin moved to approve the minutes of the meeting held on July 21, 2016. Commissioner Thompson seconded the motion. Motion carried 5-0-1. Abstention by Commissioner Willing, who was not present at the July 21, 2016 meeting.**

**Commissioner Willing moved to approve the Regular Meeting minutes of July 28, 2016, as presented. Commissioner Gaskin seconded the motion. Motion carried 4-0-2. Abstentions by Commissioners Russell and Carey, who were not present at the July 28, 2016 meeting.**

## **EXECUTIVE DIRECTOR'S REPORT**

### **1. Water Conservation Measures**

Mr. Bundy asked that Mr. Sullivan provide the Board with an update on Water Conservation Measures. Mr. Sullivan advised that on August 15, Level 1 Water Restrictions were placed into effect at the Villages of Leonardtown and Grandview Haven. Mr. Sullivan cited the limitations of our groundwater appropriation permits for each system, issued by the Maryland Department of the Environment (MDE), as the reason for the restrictions. Brief discussion ensued amongst the group on continued efforts to encourage water conservation, smaller neighborhood water systems, and efforts to petition for increased use for irrigation purposes. In closing, Mr. Sullivan noted that since issuing the water restrictions, there has been a slight reduction in use, which could be due to the significant rain events during the month of August.

### **2. Employee Award**

Mr. Bundy advised the Board that Charlie Bogie, Utilities Maintenance Mechanic in our Water Division, is going to be awarded the Barry Walter Award for Water Distribution from the Water and Wastewater Operators Association (WWOA) at their upcoming conference in Ocean City. Mr. Bundy recommended that Mr. Bogie be recognized at a future meeting.

### **3. Employee Fitness Challenge**

Mr. Bundy made mention of the 10,000 Steps Fitness Challenge, a virtual walking tour across America, and noted that there are approximately 50 employees currently participating. Mr. Bundy noted that it is a great program and gave kudos to all of the employees taking part in this challenge.

Mr. Bundy advised that with the exception of the Legal Services Request for Proposal, unless the Board wishes to address that at this time, he does not have anything further to present. Chairman Barthelme requested the Board discuss the matter at the end of the meeting, provided the other Board members concur. Commissioners Russell and Willing noted their desire to address this at another time, as there is a need to review materials. Chairman Barthelme suggested a special meeting to address the matter and recommended Wednesday, August 31 at 2:00 p.m. Brief discussion ensued amongst the Board members and Mr. Bundy regarding the objective of the meeting.

Commissioners Gaskin and Carey inquired about the presentation of the other items reflected on the Director's report and Mr. Bundy advised that they were all informational; however, should the board wish, he is willing to discuss any of the items. Board members indicated their collective agreement that discussion is not necessary at this time.

### **CONSENT AGENDA**

**Commissioner Willing 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 6-0.**

Commissioner Thompson noted that the comparison data recently added to the Operations Standard Report by Mr. Sullivan is very helpful.

### **NEW BUSINESS**

1. Department of Housing and Community Development (DHCD) Loan Reprogramming Resolution 2016-03

Ms. Shick provided a brief explanation of the DHCD Loan Reprogramming Resolution, noting that this amends the Resolution from 2013 and adds eleven (11) additional projects, making them eligible for the DHCD Loan. Ms. Shick advised that if approved by the Board today, the Resolution would be presented to the Commissioners of St. Mary's County on Tuesday, August 30, for their approval. Ms. Shick further advised that this does not affect the rates.

**Commissioner Russell moved to approve and adopt Resolution 2016-03, to authorize the reprogramming of the unexpended DHCD loan proceeds from the St. Mary's County Metropolitan Commission Infrastructure Bond, 2013 Series A, all as more specifically set forth in the Resolution. Commissioner Gaskin seconded the motion, Motion carried 6-0.**

2. FY 2016 Fourth Quarter Financial Statements

Ms. Shick performed a brief review of the FY 2016 Fourth Quarter Financial Statements, detailing the Water, Sewer, Engineering, General and Administrative Divisions, as well as income, expenses and debt service. Ms. Shick noted that these statements are unaudited and further advised that the Audit is currently underway by Murphy & Murphy and once complete, the audited financial statements would be provided.

3. FY 2017 Operating Budget Amendment

Ms. Shick performed a review of the items associated with the FY 2017 Operating Budget amendment, citing an increase of sewer materials and supplies to purchase a powered air purifying respirator (PAPR) for the sewer maintenance division.

**Commissioner Gaskin moved to amend the FY 2017 Operating Budget, as recommended by the Commission's Chief Financial Officer, to adjust expenditure line items as follows:**

- (1) Increase the Sewer Materials & supplies line item by \$2,000; and**
- (2) Decrease the Sewer Employee Related Expense line item by \$2,000.**

**This amendment will result in no change in Net Income from Service Charges.**

4. Piney Point Sewer Line Replacement Change Order No. 1

Mr. Elberti performed a summary of the items associated with the proposed Change Order No. 1, noting that this is the final cost change order for the new force main along MD 249 in Valley Lee, which includes the pumping bypass, support services and pavement restoration. Mr. Elberti noted that MetCom acted as the general contractor for this project.

**Commissioner Russell moved to accept and approve the Final Cost Changes to Contract #5151SR, Piney Point Road Sewer Line Replacement, based on Staff's memorandum, dated August 8, 2016, for:**

- 1. Change Order No. 1, bypass pumping services by Xylem Dewatering USA of Upper Marlboro, Maryland in the amount of \$8,036.00; and**
- 2. Purchase Order No. 5649, support services by AB&H Excavating, Inc. of Callaway, Maryland in the amount of \$27,511.35; and**
- 3. Purchase Requisition No. 5926, paving repair and materials for AB&H Excavating, Inc. of Callaway, Maryland in the amount of \$13,000.00.**

**The approval of these Final Cost Changes is recommended by the Chief Engineer. Further move to authorize and direct the Executive Director to execute all documents as may be necessary to execute these Final Cost Changes. Commissioner Thompson seconded the motion. Motion carried 6-0.**

5. Exterior Petty Building Upgrades Design Services Contract Award

Mr. Elberti performed a review of the work associated with the Design Services Contract for the Petty Building Exterior Upgrades project, noting that the design-build bridging documents will provide schematic drawings of the buildings with architectural, structural, MEP, Fire Protection and IT/Data narratives for the expansion of MetCom's existing Operations and Maintenance building. Mr. Elberti recommended award to the lowest of the two bidders, which is one of MetCom's current on-call engineering design services and architectural consultants.

**Commissioner Carey moved to accept and approve the proposal, dated July 15, 2016, in the amount of \$36,180.00, from Rummel, Klepper & Kahl, LLP (RK&K) of Baltimore, Maryland, for Professional Architectural Services required to prepare bridging documents to be used in a design-build process for the Exterior Petty Building Upgrades, Project #8131BD, as recommended by the Chief Engineer. Further move to authorize and direct the Executive Director to execute all documents as may be necessary to execute this Professional Architectural Services contract. Commissioner Gaskin seconded the motion. Motion carried 5-0-1. Abstention by Commissioner Willing.**

6. Marlay-Taylor Water Reclamation Facility (WRF) ENR Upgrade: SCADA Design Services Change Order No. 11

Mr. Elberti advised the Board that Change Order No. 11 for the Marlay-Taylor WRF ENR Upgrade is associated with the new SCADA control system and includes the coordination of software implementation and additional programming. Discussion ensued amongst the Board members and Mr. Elberti regarding this work not being included in the original design services contract and the subsequent allowance for the work, license and software upgrades, as well as overhead fees of the subcontractor performing. Additional discussion ensued regarding the need for a separate maintenance contract in the future, following the warranty expiration, which Mr. Elberti indicated could likely be sourced locally with Sherwood-Logan.

**Commissioner Willing moved to accept and approve Engineering Design Change Order No. 11 dated August 8, 2016, from Dewberry Consultants LLC, of Baltimore, MD in the amount of \$59,120.00, for additional SCADA Design Services required to complete the MTWRF ENR Upgrade, Contract #8-38-S, as recommended by the Chief Engineer. Further move to authorize and direct the Executive Director to execute all documents as may be necessary to finalize this Change Order. Commissioner Carey seconded the motion. Motion carried 6-0.**

7. Miscellaneous Water Line and Saddle Repairs

Mr. Elberti performed a review of the scope of purchase associated with the new Miscellaneous Water Line and Saddle Repairs Capital Improvement Budget project, noting that the present target is the Esperanza Farms community, where eighteen (18) to twenty (20) test pits would be completed to determine the existing conditions for future repairs to the water system. Mr. Elberti advised that the work is performed between the main and the water meter.

**Commissioner Russell moved to approve and accept the cost proposal dated July 20, 2016, from AB&H Excavating, Inc. of Callaway, Maryland, in the estimated amount of \$20,000.00, for test pits in Esperanza Farms subdivision to determine existing conditions for future repairs to the water system required for the Miscellaneous Water Line and Saddle Repairs, Project #8172WR as recommended by the Chief Engineer. Further move to authorize and direct the Executive Director to execute all documents as may be necessary to finalize this Change Order. Commissioner Willing seconded the motion. Motion carried 6-0.**

8. Charlotte Hall Tower and Hollywood Tower Painting Inspections

Mr. Elberti performed a review of the scope of work associated with the Charlotte Hall and Hollywood Water Towers Painting Inspections, which includes daily inspections of the painting of both elevated water storage towers. Discussion ensued amongst the group on the timing of the painting, due to weather conditions, and Mr. Elberti advised that if initiated now, the work could be completed in approximately sixty (60) days, before the cold weather arrives in November. Additional discussion ensued regarding the life of the interior and exterior paint, as well as frequency of inspections.

**Commissioner Thompson moved to approve the procurement of services from Dixon Engineering, Inc. of Lake Odessa, Michigan, under the Open Ended Water Tank Inspection Contract No. WO1717, to provide painting inspection services for the Hollywood and Charlotte Hall Water Towers (Projects #8092WT and 0091WT), in the amount of \$82,200.00, as recommended by the Chief Engineer. Further move to authorize and direct the Executive Director to execute all documents as may be necessary to execute this Change Order. Commissioner Russell seconded the motion. Motion carried 6-0.**

9. Great Mills WWPS Replacement Boundary Line Adjustment Plat & Easement Preparation

Mr. Elberti detailed the scope of work associated with the Great Mills Wastewater Pump Station (WWPS) Replacement Boundary Line Adjustment Plat and Easement Preparation. Mr. Elberti noted the significant cost difference of the two proposals received, citing the survey controls and data associated with that property, which Mr. Trautman has already collected, as the reason for his low bid.

**Commissioner Carey moved to accept and approve the proposal dated July 24, 2016, in the amount of \$6,800.00, from Robert E. Trautman of California, Maryland, for Professional Surveying Services required to prepare a boundary line adjustment plat and easement documents for the Great Mills Wastewater Pump Station, Project #8081SS, as recommended by the Chief Engineer. Further move to authorize and direct the Executive Director to execute all documents as may be necessary to execute this Professional Surveying Services contract. Commissioner Thompson seconded the motion. Motion carried 6-0.**

10. Wilson Court Capital Contribution Charge

Mr. Bundy displayed a map on the overhead monitor, depicting a vacant waterfront property on Wilson Court, within the Esperanza Farms Subdivision. Mr. Bundy advised that that the owner of the vacant lot is interested in placing metered water service on the property, as he intends to construct a dock and boardwalk on the lot and wishes to have water on the dock, but does not intend to build a home at this time. Mr. Bundy indicated that the owner has requested that he not pay the Capital Contribution Charge until he builds a home on the property. Mr. Bundy noted that there does not appear to be a mechanism to grant such a deferral under the Code, but wanted to bring this to the Board's attention for discussion. Brief discussion ensued amongst the group regarding the inability to permit such a waiver under our Code. No action taken by the Board on this matter.

## 11. Rescinding of Resignation

Mr. Bundy announced that he has given much thought to his future here and would like to continue his employment with MetCom and withdraw his resignation. Commissioners Mummaugh and Barthelme questioned the need to vote on this item and Mr. Bundy deferred to Counsel.

**Commissioner Willing moved to uphold Mr. Scott Bundy's resignation request and amend the terms therein as follows:**

- 1. The effective date of resignation shall remain September 30, 2016; however, as of close of business today, Mr. Bundy will be placed on paid Administrative Leave, through that date, at which time Mr. Bundy's employment shall be fully terminated; and**
- 2. Effective at close of business today, Mr. Bundy shall have no further access to any MetCom facilities, except to remove any personal effects and to return any and all keys and/or other MetCom property, and shall cease to serve in all capacities as the MetCom Executive Director.**

**Further move that the Commission retain past Executive Director, Mr. Daniel Ichniowski, to serve as Interim Executive Director, effective September 6, 2016, with the following conditions:**

- 1. He faithfully execute the duties of the Executive Director of the Metropolitan Commission, as a temporary contract employee, until the present search for a permanent Executive Director is successfully completed and a candidate is retained for said position; and**
- 2. Mr. Ichniowski shall serve until he has been able to provide sufficient training and guidance to the incoming Director to facilitate a smooth transition into that position and into the organization; and**
- 3. Mr. Ichniowski is to be compensated at the same annual rate as was effective at the time of his retirement from MetCom, but without any benefits, except for paid MetCom holidays and accrual of paid sick and vacation leave, such as was in effect at that time; and**
- 4. The contractual employment for Mr. Ichniowski is not to exceed 12 months from the effective date of employment.**

Commissioner Mummaugh sought an answer to his question, as did Chairman Barthelme. Mr. Meiser advised that there is a motion on the floor and Chairman Barthelme indicated that the question was asked before the motion was made. Ms. Meiser indicated that the Board needs to either second or not second the motion, at which time discussion can occur. Ms. Gaskin noted that the Rules of Order state that anyone can make a motion at any given time.

Ms. Meiser sought clarification of the question posed and noted that she was not consulted on this matter before the meeting and the inclusion of the motion was Mr. Bundy's decision, which would indicate that he believed it needed to be acted upon; however, the question was not previously posed to her. Ms. Meiser indicated that there was a formal resignation accepted by the Board and if the

Board is going to un-accept it, then a vote would likely be in order. However, that is not the motion currently on the floor.

Discussion ensued on the acceptance of Mr. Bundy's resignation and the belief by some Board members that the resignation submitted was not accepted by a vote, and as such, there is not a need to vote upon the rescinding of the resignation. Ms. Meiser advised that the Board could make a motion to accept his resignation, but that is not currently the motion on the floor and advised that all of the discussion is out of order, as the motion has not be seconded. **Commissioner Russell seconded the motion.**

Extensive discussion ensued amongst the Board members and Commissioner Mummaugh requested an explanation of the motion by Commissioner Willing. Commissioner Willing advised that he believed that Mr. Bundy was correct when saying, at the time of his resignation, that he did not see a successful path forward here at the organization.

Ms. Meiser addressed Parliamentary Procedures with regard to motions for the benefit of the Board and further discussion ensued amongst the group regarding the matter. Board members made inquiries to Mr. Bundy regarding the reasons for his resignation, as well as his request to rescind the resignation and continue employment with MetCom. Mr. Bundy cited reasons that led to his resignation and noted his disbelief over what is now occurring. Commissioner Thompson voiced his concerns regarding the ability to find a new director if this motion passes and indicated that he would not recommend moving forward with this action. Further discussion ensued amongst the Board and Mr. Bundy regarding his request to rescind his resignation.

**Following discussion, call for vote by Chairman Barthelme. Motion carried 4-2. Commissioners Mummaugh and Thompson voted against the motion.**

Chairman Barthelme announced a need to go into Executive Session to discuss a matter, under the recommendation of the Board's Attorneys, Mr. Kurt Fischer and Mr. Bob Ames, regarding communication with General Legal Counsel. Commissioner Carey sought and received clarification from Ms. Meiser on the permitted reasons the Board can to go into Executive Session.

## **EXECUTIVE SESSION**

**Commissioner Mummaugh moved to go into executive session at 4:41 p.m. to discuss Personnel Matters. Commissioner Russell seconded the motion.** Ms. Meiser went on record to state that if the personnel matter relates to her, she has the right to request that it be heard in open session, as permitted under the Open Meetings Act. Chairman Barthelme asserted that the Board's Attorneys advised that she is incorrect. Additional discussion ensued on the matter amongst the Board members, Ms. Meiser and Ms. Comeau-Stanley. **Following discussion, call for a vote by Chairman Barthelme. Motion carried 4-0-2. Abstention/vote not cast by Commissioners Gaskin and Willing.**

Meeting reconvened into regular session at 4:55 p.m.

**COMMISSION MEMBERS' TIME**

No items to address at this time.

Ms. Comeau-Stanley made mention of the draft Executive Session minutes planned for review and approval on the agenda. In light of the length of the minutes under consideration, Board members were in collective agreement to defer their review and approval until the next meeting.

**ADJOURNMENT**

There being no further business, **Commissioner Russell moved to adjourn the meeting at 4:56 p.m. Commissioner Thompson seconded the motion. Motion carried 6-0.**

  
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Laura Comeau-Stanley, Corporate Secretary