

MINUTES
ST. MARY'S COUNTY METROPOLITAN COMMISSION
REGULAR MEETING
MARCH 13, 2008

The meeting commenced at 1:06 p.m. In attendance were Commissioners Werner, St. Clair, Lancaster, Owen, Hanson, Cranford and Oliver (representing Captain Glen Ives); staff members King, Shick, Sullivan, Cullins and Bryan. Also in attendance were Jacki Meiser, General Counsel; and Mr. Miguel Velez and Ms. Susan Eubank, representing River Bay Town Houses (RBT).

MOTION TO APPROVE AGENDA

Commissioner St. Clair moved to approve the Agenda as presented by staff. Commissioner Cranford seconded the motion and approval was unanimous.

APPROVAL OF MINUTES

Commissioner St. Clair moved to approve Minutes of Regular Session dated February 14, 2008. Commissioner Lancaster seconded the motion and approval was unanimous.

At this point, Commissioner Werner invited Ms. Eubank to address the Board.

Ms. Eubank reported that RBT consists of 173-units that provide housing to people at 60% of the median income level. Section 8 and renters with vouchers are also eligible. She explained that the Commission's policy of requiring the bill to remain with the owner is significantly affecting the financial viability of RBT, and requested that MetCom grant them some type of discretionary relief as provided for under its Code. However, Mr. King explained that doing so would require a change in the Code by the State legislature. He stressed that the initial form signed by them clearly states that although the bill is being sent to another party, the owner remains responsible for the payment. Counsel agreed and added that the section of the Code Ms. Eubank refers to simply allows an owner, for logistical purposes, to request that bills are forwarded to the tenant rather than to the landlord.

Ms. Eubank continued that because the debt remains with the properties, residents owing water bills are able to move freely within developments in the County. She agreed that RBT receives a copy of the tenants' bills but finds them difficult to decipher. Counsel suggested that it should be possible for them to track the monthly charges and determine the tenant's position if MetCom can clarify its bills to the point where it is easily understandable. The Commission is also relatively unique, in that its fees and service charges are liens against the property if they are not paid, and this cannot be enforced if it is not billed to the owner.

Mr. Velez reiterated Ms. Eubank's remarks, and added that landlords cannot present this debt in landlord/tenant court because utility bills are not incurred as rent. In answer to Mr. King's question regarding possibility of the debt being recovered from the tenant's security deposit, Ms. Eubank responded that the security deposit policy in St. Mary's County, as she understands it, specifically applies to apartment damages and rent. Following Ms. Meiser's suggestion, she continued that although unpaid utilities are included in an Addendum to the lease which itemizes items that can be used against the security deposit, judges within the court system rule that RBT is collecting the monies on MetCom's behalf.

In conclusion, Mr. King agreed that Counsel will clarify to the court that the Commission's utility bills are the responsibility of the landlord as owners of the property.

Ms. Eubank finally requested the Board to consider reducing the current policy of 60-days notice prior to turn offs. Counsel advised that turn offs cannot occur before completion of the normal eviction process in order to re-establish legal possession of the property. However, if the landlord can

demonstrate that the property is abandoned, the water can be turned off at the landlord's request. Mr. King cautioned that the onus will be on the landlord at this point to ensure actual abandonment.

At this point Mr. Velez and Ms. Eubank thanked the Board and left the meeting at 1:35 p.m.

EXECUTIVE SESSION

Commissioner St. Clair moved to adjourn into Executive Session at 1:36 p.m. to discuss Personnel issues, Contract Negotiations and Acquisition of Property. Commissioner Cranford seconded the motion and approval was unanimous.

The meeting readjourned into Regular Session at 2:55 p.m.

Commissioner Cranford moved to approve Minutes of Executive Session dated February 14, 2008. Commissioner Lancaster seconded the motion, and approval was unanimous.

Commissioner St. Clair moved to approve the personnel recommendation as discussed in Regular Session. Commissioner Owen seconded the motion, and approval was unanimous.

Commissioner St. Clair moved that the Director execute the electronic banking agreements as discussed in Executive Session. Commissioner Cranford seconded the motion, and approval was unanimous.

DIRECTOR'S REPORT

A. Capital Improvements Budget

Mr. King presented the Capital Improvements Budget (CIB) for FY09-FY13, and reviewed its impact on the System Improvement and Capital Contribution Charges. Prior to final approval by the Board, the document will be presented to both the Planning Commission and the Board of County Commissioners. He will inform the Board of exact dates/times of these presentations when the information becomes available. A copy of the complete document is attached to the Minutes.

B. St. Clements Shores WWTP Capacity

Mr. King reviewed copy of a letter from Denis Canavan dated January 25, 2008 requesting the Commission to explore the opportunities for expansion by testing nearby properties for rapid infiltration purposes. Copies of letters to two property owners requesting their permission to perform soil testing on their property are attached to the Minutes. He will follow up on these.

C. MetCom Public Forums

Mr. King reported that the BOCC's new conference room has been reserved for this purpose from 6:30-8:30 p.m. on April 9, July 9, October 8 and January 7, 2009.

D. House Bill 127

Mr. King expressed grave concern with proposed HB127, a copy of which is attached to the Minutes. The Bill, among other things, requires MetCom staff to knock on doors and inform property owners that their water is in the process of being turned off. He believes that this could result in staff either being assaulted, or the process being delayed. However, if the Bill passes, and property owners are not cooperative, he will instruct staff to leave the area immediately and return with the Sheriff. He has requested Southern Maryland delegates to oppose these provisions in the Bill, and Commissioner St. Clair suggested that this issue should also be brought before the SMC Chamber of Commerce.

E. Senate Bill 688

Mr. King has also requested the Southern Maryland delegation to oppose SB688, which proposes to eliminate special taxing districts' ability to sell the properties of owners who have not paid their bills; and would prohibit any new special taxing districts from being created in the State of Maryland. He predicted that this action would bankrupt every County and sanitary Commission in the State if it passes.

CHIEF FINANCIAL OFFICER'S REPORT

A. Accounts Receivable/Securities Reports

Commissioner Cranford moved to waive oral presentation by the Chief Financial Officer and to accept the routine monthly financial reports as submitted and reviewed by this Commission. Commissioner Lancaster seconded the motion and approval was unanimous.

B. Proposed Change in Billing Due Dates

Ms. Shick briefly reviewed this issue which was originally presented to the Board by Mr. Batts at the February meeting, and requested approval to implement the change.

Commissioner St. Clair moved that the Commission approve a modification to the billing policy to extend the date by which customers may make payment without a late fee until noon on the 4th day of each month. If the 4th day of any month falls on a weekend or a holiday, customers shall have until noon on the last business day prior to the 5th business day of each month to pay without a late fee. Commissioner Owen seconded the motion.

During the discussion period, Commissioner St. Clair amended the second to last line of his motion by deleting the word "business" following "5th", to finally read "...**business day prior to the 5th day of each month to pay...**" **Commissioner Owen seconded the motion and approval was unanimous.**

C. GASB 45 Accounting for OPEB Report

Ms. Shick referred to the Preliminary GASB 45 Report which was submitted to the Board for their review prior to the meeting. She noted that this is the final report which will be used for FY08/FY09, and emphasized that the projected amount of \$459K for FY08 has increased to \$470K. The FY09 expense is projected at \$456K. The Trust will be set up in conjunction with the County, but there is pending legislation that may impact the way that this can be done.

D. Water Meter Overage Policy

Ms. Shick briefly reviewed actions resulting in the proposed Water Meter Overage Policy, a copy of which is attached to the Minutes, and requested Board approval for its implementation. In answer to a question from Commissioner Werner, Mr. King replied that the issue will go to Public Hearing once its rate has been established. In the interim, staff will only charge the actual cost that is incurred by the Commission.

Commissioner Lancaster moved that the Commission adopt a policy to commence charging customers for the cost of meter testing if the meter testing is done at the customer's request and if the test results do not indicate that the meter's accuracy is outside the acceptable range. Commissioner St. Clair seconded the motion and approval was unanimous.

ENGINEER'S REPORT

Commissioner St. Clair moved to waive oral presentation by the Chief Engineer and to accept the routine monthly engineering reports as submitted and reviewed by this Commission. Commissioner Owen seconded the motion and approval was unanimous.

CHIEF FACILITIES & OPERATIONS MANAGER'S REPORT

A. Contract for Annual Water Quality Reports, Contract #08-09-F

Mr. Sullivan reviewed the Purchasing Agent's Memorandum dated March 13, 2008 and requested that the Board approve award of the above referenced contract to Wildes Spirit Design and Printing for the contract price of \$4,180.96.

Commissioner Owen so moved. Commissioner Cranford seconded the motion and approval was unanimous.

B. Marlay- Taylor WRF Variable Frequency Drives Programming

Mr. Sullivan detailed the history of this issue, a copy of which is attached to the Minutes. He concluded that DSI has submitted a proposal of \$8,280 for minor wiring changes and to reprogram the existing Wonderware SCADA and VFD programmable logic controllers. They agree that this is their cost, and are willing to pay half of the amount. He, therefore, requested Board approval to expend the amount of \$4,140.00.

Commissioner St. Clair so moved. Commissioner Cranford seconded the motion, and approval was unanimous.

LEGAL COUNSEL'S REPORT

A. MetCom Code Revision, System Improvement Charge

Ms. Meiser reviewed this issue which was discussed at the February 14th Board meeting. The request was forwarded to Delegate Bohanan's office and finally returned to the County Administrator's office for review and comment. At that time Messrs. Canavan and Savich questioned the possible effect the proposed amendment might have on how the County allocates EDU's. However, staff has assured them at a recent meeting that the Commission's sole purpose in requesting the revision was to attempt to make its Code consistent.

ADJOURNMENT

There being no further business, **Commissioner St. Clair moved to adjourn at 3:55 p.m. Commissioner Cranford seconded the motion and approval was unanimous.**

Lilian J. Bryan, Secretary

