The meeting commenced at 3:06 p.m. In attendance were Commissioners Werner, St. Clair, Tudor, Hanson, Oliver; MetCom staff Meiser, Ichniowski, Shick, Frederick, Sullivan, Fehn, Edwards, and Comeau-Stanley; Others present: Mike O’Brien.

MOTION TO APPROVE AGENDA

Commissioner Tudor moved to approve the Agenda as presented by staff. Commissioner Hanson seconded the motion and approval was unanimous.

APPROVAL OF MINUTES

Commissioner St. Clair moved to approve Minutes of the Regular Session, dated July 8, 2010. Commissioner Hanson seconded the motion and Commissioner Tudor abstained. Remaining Commissioners voted unanimously to approve.

APPROVAL OF CONSENT AGENDA

Commissioner Tudor moved to accept the Consent Agenda as presented, and to hereby approve all matters contained upon the Consent Agenda. Commissioner Hanson seconded the motion and approval was unanimous.

DIRECTOR’S REPORT

Ms. Meiser was not able to participate in the beginning portion of the meeting, as she is involved in a telephone conversation with the County Attorney. In her absence, Mr. Ichniowski advised the Board that he would present two of her three agenda items.

A. Corporate Secretary Resolution

Mr. Ichniowski informed the Board that our by-laws prohibit the Executive Secretary from being the Corporate Secretary until after they have successfully completed their six-month probationary period. Ms. Comeau-Stanley has successfully completed her first six-months of employment with MetCom, thus relieving the Assistant Director of his duties as acting Corporate Secretary. Mr. Ichniowski stated that the Resolution prepared and enclosed in Commission Member binders accomplishes this. Immediately following Mr. Ichniowski’s comments, Commissioner St. Clair read aloud the Corporate Secretary Resolution, Number 2010-02, which reads as follows:

WHEREAS, Section 113-1(C) of the St. Mary’s County Code provided in pertinent part that the Commission shall appoint, among other corporate officers, a Corporate Secretary; and
WHEREAS, the office of Corporate Secretary has historically been filled by the Executive Assistant to the Executive Director of the Commission; and

WHEREAS, the Commission has historically required that any new employee filling the Executive Assistant’s position be required to complete the probationary period of employment which probationary period extends for six (6) months after the date on which a new employee is hired; and

WHEREAS, Laura Comeau-Stanley was hired as the new Executive Assistant was hired on January 11, 2010, whose probationary employment period was completed, without incident, on July 11, 2010;

NOW THEREFORE, BE IT HEREBY RESOLVED, that on this 29th day of July, 2010, Laura Comeau-Stanley, Executive Assistant, having completed her six-month employment probationary period, is hereby appointed to the position of Corporate Secretary, to serve in such position until such time as the Commission may determine, without the requirement for any periodic renewal; and

AND BE IT FURTHER RESOLVED, that effective immediately, Daniel F. Ichniowski, the acting Corporate Secretary, is hereby relieved of all duties of the position of the Corporate Secretary; and

AND BE IT FURTHER RESOLVED, that this Resolution shall be effective immediately, on July 29, 2010.

Commissioner St. Clair moved to approve the Corporate Secretary Resolution, No. 2010-02. Commissioner Tudor seconded the motion and approval was unanimous.

B. Joint Meeting with Board of County Commissioners

Mr. Ichniowski announced that the next Joint Meeting of the Metropolitan Commission and the Board of County Commissioners is scheduled for August 24, 2010 at 2:00. The meeting will be held at the College of Southern Maryland, Leonardtown Campus, Building C, Room 216 (Besche Meeting Room), located on the 2nd floor. An agenda has not been established yet; if Commission Members have any topics that they would like to specifically consider at this meeting, Mr. Ichniowski asked that they please let staff know, so that it can be passed along to the County Administrator and County Commissioner’s Office.

FISCAL OFFICER’S REPORT

A. FY11-16 Capital Improvement Budget Amendment

Ms. Shick provided Board Members with details of the proposed budget amendment, which adequately funds the FDR Boulevard – Victory Housing Project, specifically the
replacement of substandard materials discovered in the existing water line feeding the project. Ms. Shick stated that the project, as budgeted, is a cost share project with the developer to increase a new water line from eight inches to twelve inches. MetCom plans to run a line approximately 660 feet in length from Lexington Village driveway down FDR to Scott Circle. The connection at Scott Circle will provide the needed fire protection loop for Clements Point Subdivision. Once compete, all of the water line along FDR Boulevard will be 12-inch diameter and in the future will function as a main trunk line, per the Facility Plan recommendation. Ms. Shick announced that the cost of the additional work is $66,000 and proposed moving funds from Water Contingency to the FDR – Victory Housing Project. Discussion ensued amongst the Board and staff regarding the definition of substandard materials. Mr. Frederick noted that the lines are old and were originally installed by National Trailer Park. In addition to having been installed at a time when there weren’t standards in place, the lines have been out of service for some time. Mr. Frederick further noted that the concern is continuous flow and higher volumes. Without replacement of the lines, it is believed that we could experience problems and potential failures.

Commissioner Hanson moved to amend the FY11 Capital Improvement Budget, as recommended by the Commission’s Chief Financial Officer, to re-allocate $66,000 from water contingencies to provide $66,000 in additional funding for the FDR-Victory Housing Project. This Budget amendment does not change the total budget amount in the FY11-16 Capital Improvement Budget. Commissioner Tudor seconded the motion and approval was unanimous.

B. Bond Counsel Services

Ms. Shick advised the Board that we are working on a loan from the Maryland Water Quality Financing Administration (MWQFA) for the St. Clements Shores Well for $400,000.00 and the radio read meter project for $2,000,000.00, which will close sometime in September. In connection with this loan, MetCom will need bond counsel services. Due to the specialized nature of the legal services required and McKennon, Shelton & Henn LLP’s expertise and familiarity with MetCom, Ms. Shick recommended that the Commission accept the proposal submitted by this firm to provide bond counsel services for this loan. Ms. Shick further noted that this is the same rate paid for their services on the MWQFA loan that closed in March, 2010.

Commissioner Tudor moved to accept the proposal submitted by McKennon, Shelton & Henn, LLP, dated July 15, 2010, in the amount of $7,500 plus expenses, for the provision of bond counsel services for the upcoming Water Quality Financing Loan, the proceeds from which will fund the St. Clements Shores Well and the Water Meter Project. Commissioner Hanson seconded the motion. Discussion initiated by Commissioner St. Clair, who asked for clarification of “plus expenses,” as listed in the proposal. Ms. Shick advised that covers out of the ordinary expenses associated with services performed, to include any required travel. Discussion closed and approval of the motion was unanimous.
C. DHCD & MDE Loan Status

Ms. Shick announced that the DHCD Loan, previously identified in a Resolution approved by this Board, is scheduled to close on August 23, 2010. It will not require any additional action on the part of this Board.

DIRECTOR’S REPORT (Continued)

C. Talon, LLC: Broad Creek Extension Request

After joining the meeting, Ms. Meiser presented the Broad Creek Extension Request by Talon, LLC. Pursuant to a Public Works Agreement, dated August 26, 2007, which provided for the payment of the Marlay Taylor sewer capacity charges and water supply and storage fees, the developer has come in each year thereafter to request an extension to pay those fees that relate to the lots that have not yet been developed. So far, this Commission has granted those extensions.

Since this Commission last granted an extension, 40 additional lots have been developed. The developer is requesting an extension of the remaining 67 lots in Phases 5 & 6, which have not yet been developed. In exchange for that extension, they would pay the supply and storage fees for the 40 lots, which is consistent with what they have done the past few years. Mike O’Brien, on behalf of Talon, LLC, is present today to answer any questions.

Discussion ensued amongst the Board and Ms. Meiser reiterated that this extension would be for just the 67 lots which have not yet been developed in Phases 5 & 6. Furthermore, it was noted that in the past, this developer has always fulfilled the agreements made with this Commission.

Commissioner St. Clair moved to approve the request of Talon, LLC to further extend the payment due date for the payment of a portion of the Marlay-Taylor Treatment Capacity Charges, the Water Supply Fees and the Water Storage Fees, for the Broad Creek Subdivision, from the previously approved due date of August 26, 2010, until August 26, 2011, contingent upon:

1. The payment by Talon, LLC of the sum of $71,341.60, on or before August 26, 2010, which sum represents the charges, fees and accrued interest corresponding to 40 lots in Phase Four of the project; and

2. The execution by Talon, LLC, of an amendment to the Public Works Agreement for the Broad Creek Subdivision, dated July 26, 2007, to memorialize the above-described modification.

Commissioner Hanson seconded the motion and approval was unanimous.
ENGINEER’S REPORT

A. FDR Boulevard Water Line Replacement Contract Award

Mr. Frederick presented details of the proposed contract award for the water line replacement at FDR Boulevard – Victory Housing Project, as mentioned earlier in the Fiscal Officer’s Report. Mr. Frederick stated that while we were aware that the pipe size was smaller and we were prepared to deal with that, we were not aware that the materials were substandard. Because of other problems we have encountered in the County when inheriting systems, we have opted to address the problem in this fashion. Mr. Frederick advised the Board that there is nothing currently connected to this line, so it is an easy and timely fix. Quotes to perform this work were sought by contractors.

Commissioner Tudor moved to approve the proposal dated June 23, 2010, from Jimmy Richards & Sons Excavating, Inc. for a fixed bid of $52,263.00, to remove and replace the existing water line extending from Lexington Village, south to the connection with the Victory Woods-FDR project near the Scott Circle crossing, approximately 660 feet in length; and a contingent amount of $10,071.00 for crossing Scott Circle, if directed by MetCom. Commissioner Hanson seconded the motion and approval was unanimous.

B. Greenhouse Gas Inventory

Mr. Frederick provided details of Change Order No. 2 for the Marlay Taylor WRF ENR Upgrade Contract, specifically the work to be performed by Brown & Caldwell, as detailed in their documentation dated June 7, 2010, to perform a greenhouse gas inventory in order to establish a baseline quantification of the greenhouse gas (GHG) emissions from its wastewater treatment plants and from the entire utility.

Ms. Meiser noted that it is likely that these inventories will be required at some point and the decision to perform this now, as opposed to some point in the future, is incentivized by wanting to capture the benefits that we would recognize by reducing the greenhouse gases that are going to be emitted once the Co-Gen project comes on-line. But we can’t capture or quantify that benefit if we don’t have the inventory documented prior to Co-Gen coming on-line. Commissioner St. Clair commended staff for the wise decision making to get in front of this effort, so that we can prove the figures when the time comes.

Commissioner Hanson moved to accept and approve Change Order No. 2, dated July 26, 2010, issued by Dewberry & Davis LLC, to conduct a Greenhouse Gas Inventory for Five (5) MetCom Wastewater Treatment Plants for a total cost of $75,175.00. The Change Order brings the total Marlay Taylor WRF ENR Upgrade Design Engineering Contract #8-38-S to $2,698,676.00. Commissioner Tudor seconded the motion and approval was unanimous.
C. Project Updates

Mr. Frederick provided the Board with a status update on the ongoing MetCom projects. His review included Great Mills Road/ MD 246 Streetscape SHA Project; Patuxent Park, Phase 1; Chancellors Run Road/ MD 237 SHA Project; St. Clements Shores Well; Meadow Lake Lane Water Line Replacement; Piney Point Sewer Rehabilitation.

With this being Mr. Frederick’s last meeting, Commissioners Tudor took a moment to say that hopefully Mr. Frederick’s time remaining this week will be short and sweet. Commissioner St. Clair also took a few moments to praise Mr. Frederick for his integrity and his dedication to MetCom. He went on to thank Mr. Frederick for his efforts and on behalf of all of the Commissioners, said he would be missed.

FACILITIES MANAGER’S REPORT

A. Piney Point Water Test

Mr. Sullivan announced that notices were sent to our customers in the Point Point Water System regarding the monthly total coliform sampling. A recap of the email already sent to the Commissioners was provided by Mr. Sullivan, who stated that Regulations, specifically the Safe Drinking Water Act, requires we conduct monthly bacteriological testing at various distribution points in our water system. The number of customers served by each water system dictates the number of sites to be sampled each month. The regularly scheduled monthly sample on July 13, 2010, revealed a positive analysis for total coliform. Total coliform is a non-harmful bacterium naturally present in the environment. The presence of total coliform is an indication that other bacteria may be present. As required by regulations, we conducted follow up sampling at that original site, at the Piney Point Water Station where the well is located and at three additional locations in the Piney Point Water Distribution System. The follow up sampling revealed positive total coliform at two of the additional locations; but negative at the original site and negative at the water station, where the well is located; and negative at the other additional sites, where we were required to test.

All samples we conducted were negative for ecoli, which is a harmful bacteria. Mr. Sullivan stressed that the water in the system is completely safe to drink and there are no harmful bacteria present in the water. The pattern of positive samples shows evidence of possible contamination at the localized sampling sites during the sampling process or during the analysis of the samples. The sample sites are typically customer outdoor hose connections or hose bibs and contamination can easily occur from insects or other animals contacting the connection or from a buildup of corrosion or other materials or infrequent use of the hose connection.

Additional details of sampling and test results were provided to Commissioners. Additional actions taken by staff were identified by Mr. Sullivan, to include an increase of
the chlorine concentration in the water system and flushing the water mains in the Piney Point System, in an attempt to flush out any accumulated sediments that may be present.

Commissioner Tudor thanked Mr. Sullivan for his advance email. It was very clear and concise. Commissioner Tudor went on to indicate that from a customer service standpoint, it was very explanatory. Specific discussion occurred between Commissioner St. Clair and Mr. Sullivan on testing procedures.

B. FEMA Reimbursement Update

Mr. Sullivan announced that we recently received notification that we qualified for FEMA reimbursement for our expenses related to the snow storms this past February. We have been working with representatives from St. Mary’s County Emergency Management Agency and the Federal Emergency Management Agency (FEMA) and just last week an application for reimbursement was finalized by FEMA and submitted to their headquarters. With that, we expect to receive $12,646.17 in reimbursements, which is 75% of the expenses incurred for snow removal for a 48-hour period, and that was February 8-9. We will also receive 75% of the expenses incurred in water and wastewater operations above and beyond our normal operating expenses for that entire snow period, which was for a period of about a week.

CONTINUING BUSINESS

A. Task Force Final Report – Review of Recommendations

As requested by Board at the last meeting, Ms. Meiser and staff prepared a matrix which will allow the Board to assign some level of priority to accomplishing the recommendations that have been made. This table has been titled Prioritization and Implementation Plan and was presented for the Boards consideration. The blue sections reflect those recommendations to be acted upon exclusively by MetCom. The green sections reflect those recommendations to be acted upon jointly by the County and MetCom. Lastly, the yellow sections are those recommendations to be acted upon by the Delegation. Staff has also taken a stab at establishing a priority ranking, with 1 being the items that should be addressed in the near future; 2 being the items that should be addressed in the next 6 to 12 months; and 3 being those that should be addressed, but is of less relative importance and perhaps less critical.

Ms. Meiser provided further details of the Prioritization and Implementation Plan matrix and indicated that we can move forward with this in any way that Board would like to proceed. Commissioners indicated that since some members are missing, their collective preference would be that we take the time to further review the documents and consider work sessions to address each of the groupings. Commissioners further indicated that attempting to address all fourteen recommendations at one work session seems unrealistic, but tackling one priority grouping at a time would be wise. Ms. Meiser recommended that
Ms. Comeau-Stanley identify some dates for Boards consideration to establish upcoming work sessions.

Also attached as part of the table, is a copy of the initial draft amendments to Section 113 of the St. Mary’s County Code. As you know, several of the recommendations refer to changes that should be made to Section 113, so staff has gone through and made some initial draft amendments to Section 113 to implement each of the recommendations that were made. Ms. Meiser asked if Board would take a look at the initial draft of the amendments, which too will be a work in progress with respect to which of these actually end up being a part of the 2011 Legislative Session, which begins in October, and as the process moves forward, these draft amendments will be formalized by Legislative Services into actual Bills and Amendments.

Ms. Meiser clarified for Commissioner Werner that these initial draft amendments only relate to the Task Force recommendations and do not include the prior submitted amendments that were not acted upon. One of the Task Force recommendations is to take a comprehensive look at Section 113 and decide what amendments might need to be made. Ms. Meiser noted that this does not try to tackle that recommendation either. This initial draft includes those amendments to Section 113 that were specific enough to get them submitted by October for inclusion in the 2011 General Assembly. To take a comprehensive review of Section 113 and figure out all of the changes, which are both desirable and necessary, is unlikely and can't be finished in enough time for a comprehensive package to be completed by October of this year. What has been presented for Boards consideration does not incorporate any of those items.

Also related to the Task Force, is a letter that we received on July 15th from the Board of County Commissioners, stating their thoughts and comments on each of the recommendations. In response to that letter, a letter was prepared and signed by Ms. Werner to Jack Russell, President of the County Commissioners, responding to each of the comments raised by the Board of County Commissioners. That letter was hand-delivered, together with the proposed draft legislative amendments.

B. Capital Contribution Charges: Chancellor’s Run Road

Ms. Meiser revisited the actions of this Board at the April and May meetings this year; Chancellor’s Run Road project Zone 4 properties and a small part of Zone 3 properties and the anticipated distribution of ready-to-serve letters in the month of June. We anticipated that the Capital Contribution Charges (CCC) would increase on July 1, which they did. Given the fact that properties have six-months to connect once they receive their ready-to-serve letter, these properties would have received their ready-to-serve letter just prior to a CCC rate increase and their time to connect would have spanned two rate periods. At the time, the Board took action to allow those properties to connect at FY10 Capital Contribution Charge, provided they connected within the required 6-month time limit.
Due to project delays that have occurred, not necessarily in the control of this Commission, which have cause Zone 4 and a few in Zone 3 to not be ready to serve prior to July 1. Therefore, what we thought was going to happen did not occur. The system was not ready to serve prior to July and therefore did not receive their ready-to-serve letter prior to July 1. In fact, the ready-to-serve letters are not likely to be issued until mid-September, well into the new fiscal year and well into the new Capital Contribution Charge.

Ms. Meiser stated that if we act in accordance with the action taken in May, the properties would be allowed to pay last years’ CCC, even though they did not receive their ready-to-serve letter until well into the new fiscal year. Had we not believed that the line would be ready to serve in May or June, the question would have never been presented to the Board; however we believed that the service would be ready.

Ms. Meiser asked members to consider how they would like to handle this matter and some discussion ensued regarding the effects, if any, on those who have already been granted connection deferrals. Ms. Meiser explained that there will be no effect on anyone already granted a connection deferral, as each has been provided with the connection deadline date, corresponding rates, as well as consequences if the connection does not occur by deadline.

After additional discussion, it was determined that the original action is moot, as the ready-to-serve letters were not generated to property owners at the time Board anticipated and certainly not prior to the end of FY10.

Board members were in agreement that a new motion should be drafted, which Ms. Meiser will prepare for Boards’ consideration. Decision made to table the matter until later in the meeting, which will allow Ms. Meiser to prepare such a motion.

Additional discussion ensued amongst the group regarding the creation of a general policy to address this scenario each year, specifically when ready-to-serve letters are issued to properties and connection occurs over the span of an old fiscal year and a new fiscal year.

**EXECUTIVE SESSION**

Commissioner St. Clair moved to adjourn into Executive Session at 4:17 p.m. to discuss Personnel Matters and Contract Negotiations. Commissioner Tudor seconded the motion and approval was unanimous.

The meeting readjourned into Regular Session at 5:04 p.m.

Commissioner St. Clair moved to approve Minutes of Executive Session, dated July 8, 2010. Commissioner Hanson seconded the motion and Commissioner Tudor abstained. Remaining Commissioners voted unanimously to approve.
Commissioner Tudor moved to apply the FY2011 Capital Contribution Charges to the following properties on Chancellor’s Run Road, which will not receive a ready-to-serve letter until FY2011:

   a. All Zone 4 properties; and  
   b. 21925 Chancellor’s Run Road; and  
   c. 21929 Chancellor’s Run Road.

Commissioner Hanson seconded the motion and approval was unanimous.

From Executive Session, Commissioner St. Clair moved to accept the staff’s recommendation to fill the Chief Engineer’s position, after performing a nationwide search. Commissioner Hanson seconded the motion and approval was unanimous.

COMMISSION MEMBERS’ TIME

Commissioner St. Clair indicated that he would like to meet with staff to recommend some discussion topics for the Joint Meeting with the Board of County Commissioners. Mr. Ichniowski stated that he would be happy to meet with him draft something, which will then be provided to our Board.

ADJOURNMENT

There being no further business, Commissioner St. Clair moved to adjourn at 5:07 p.m. Commissioner Tudor seconded the motion and approval was unanimous.

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Laura Comeau-Stanley, Corporate Secretary