

OCTOBER 19, 2011

Minutes of the monthly meeting of the Municipal Services Commission held October 19, 2011 at the office of the Commission, 216 Chestnut Street. The meeting was called to order at 4:00 P.M. with Robert S. Appleby, President, Commissioner, presiding.

Attendance Report:

Present:

Robert S. Appleby, President, Commissioner

Daniel F. Knox, Commissioner

Dr. Roy J. Sippel, Commissioner

Francis L. Patterson, Secretary

Special Guest: Pamela Patone, Comptroller and Jeffery S. Cianciulli, Weir & Partners LLP.

#### MEETING WITH JEFFERY S. CIANCIULLI, ATTORNEY FOR CONVERTING SOLUTIONS

Mr. Cianciulli, Attorney for Converting Solutions, addressed the Commissioners about his client who is in Chapter 11 bankruptcy. Mr. Cianciulli gave the Commissioners background on who Converting Solutions is and what they do. He said as part of the plan to emerge from bankruptcy Converting Solutions was unable to provide the ninety day adequate assurance the Municipal Services Commission required for future electric payments so he suggested the MSC bill his client twice a month which the MSC agreed to do. This, Mr. Cianciulli said, resulted in his client paying two demand charges in a thirty day period. He told the Commissioners the MSC and his client have come to a new payment arrangement but that he would like the Commissioners to waive one of the demand charges for each thirty day period under the old payment plan and credit his client's account.

The Commissioners questioned the Comptroller and Mr. Cianciulli regarding particulars and asked Mr. Cianciulli when he thought his client would emerge from the bankruptcy. Mr. Cianciulli said he would like to file a plan within the next two months. After discussion the Commissioners agreed to apply a credit on the December 27, 2011 Converting Solutions' bill assuming the Comptroller and Mr. Cianciulli agree on a figure that represents an accurate over collection for demand charges as a result of billing twice a month.

Mr. Cianciulli thanked the Commissioners and left the meeting. The Commissioners had a follow up discussion.

#### MINUTES

With the concurrence of all the Commissioners the minutes of the September 13, 2011 regular monthly meeting were approved without alteration.

## COMPTROLLER'S REPORT

Comptroller Patone presented her monthly reports starting with Accounts Receivable. She said the MSC is down 12% for the month and down 12% for the year. She added in the Aging Report for Accounts Receivable, the 120 day and older column reflects the \$56,000 that Converting Solutions owed when it declared bankruptcy. In Assets & Liabilities she said cash increased \$95,000 from last month and total accounts receivable decreased \$181,000 from last month. She went on to report Change in Net Assets was in excess of \$408,000 which she said was less than last year and better than budgeted. She went on to explain the reason why the differences. She reported Riverbend related legal costs were \$14,318 for McCollom Thomas and \$35,906 to Morris James which is expected to be reimbursed by insurance carriers.

Commissioner Knox asked whether the Comptroller knew the legal charges related to Converting Solutions. Comptroller Patone said she has asked for an invoice from Jeff Waxman of Morris James. Secretary Patterson said he expects it to be substantial. Commissioner Knox asked the Secretary to define substantial. This exchange led to a lengthy discussion about Converting Solutions and collection efforts leading up to their filing for bankruptcy and the efforts the Secretary and Comptroller made to represent the MSC's interest in the bankruptcy hearings which then led to hiring legal counsel. This then led to a discussion on the MSC's policy regarding deposits and surety against defaults. The Comptroller said she had tried previously to address this with the Commissioners and had made suggestions regarding commercial deposits. The Commissioners asked her to draft a policy which reflects her thoughts for them to consider.

She told the Commissioners she has reconciled the Substation reports to DEMEC. Commissioner Appleby said at the DEMEC Board meeting discussions were held about refinancing debt at lower rates. He asked the Comptroller if the MSC used excess monies from the substation project to retire bonds what effect would that have on the monthly payment. Secretary Patterson said he spoke with President of DEMEC Pat McCullar and there is a prepayment penalty. The Secretary said he also spoke with Mr. McCullar about the balloon payment. Mr. McCullar suggested the Commission may want DEMEC to refinance the project since rates are so low. Commissioner Appleby said he as he thinks about this more maybe it should be addressed as part of the rate study. The Commissioners concurred and turned their attention to the three companies who the Comptroller narrowed down to perform a rate study. The Comptroller said she sent out in advance of the meeting quotes from the three companies she felt could do the work along with her preference. The three companies were Utility Financial Solutions, Sawvel & Associates and JW Wilson & Associates. Commissioner Sippel cautioned the Comptroller about the importance of the contract and how costs can escalate if the contract terms are not specific as to the Commission's expectations. She acknowledged his concern. Upon the recommendation of the Comptroller, with a motion being made and unanimous approval, the firm of Utility Financial Solutions was selected to perform an electric and water rate study for the MSC for the sum of \$22,000.

Commissioner Appleby questioned the Comptroller on the quote from Horty & Horty to do the audit for the Commission. He said he looked on the City's web site for their cost last year and it

is less than Horty is proposing. A discussion of whether to do a one year versus a three year contract was had. The Commissioners upon motion made and unanimous approval authorized a one year extension to Horty & Horty for the sum of \$14,500.

The Comptroller said the final part of her report is an update on what she is doing in operations. She told the Commissioners that Bramhall & Hitchens came in with a quote of less than a 1% increase for insurance so the policies were renewed. In addition, she said, the MSC added flood insurance for three locations which border on a flood plain, 216 Chestnut Street, 100 Municipal Blvd. and the Wilmington Road Substation. She went on to say the MSC is preparing to do its annual identity theft update to comply with federal requirements. She told the Commissioners she had purchased the scanner software and hardware for the front desk and will incorporate it into customer payment processing in early 2012. She concluded by saying that Secretary Patterson directed her to state laws regarding record retention so she has a meeting scheduled with a representative from the Delaware Public Archives.

Upon motion made and unanimous approval, the Commissioners accepted the financial report for the month of September and approved the payment of the September bills attached hereto.

#### SECRETARY'S REPORT

Secretary Patterson reported on the October 19, 2011 meeting of DEMEC. He told the Commissioners President McCullar made a proposal to the Board on how to handle the overpayments for energy supply. The Secretary said the proposal was to retain a portion of the funds to help DEMEC with it's liquidity and to refund a portion to members. He said after Board discussion the members voted to approve the President's plan to build a 10 million dollar reserve and refund the remainder to the full requirement members. The Secretary said a second topic the Board discussed was the PSC's approval of the Bloom Energy surcharge to Delmarva Power customer's electric bill. The Secretary said this was the last piece of the puzzle to implement the subsidy for the fuel cells known as "Bloom Boxes". The Secretary said there was considerable concern on the part of the Board that the State's next step will be to mandate the Municipals and Co-Op install Bloom Boxes into their systems. The Secretary next shared with the Commissioners a handout showing the progress of the different energy generation projects DEMEC is participating in. He told the Commissioners the Laurel Hill wind project was scheduled to be in commercial operation in late 2012. The Fremont natural gas plant was complete and should be commercially operational in January 2012. He added that the economics for this plant in the short run are better than originally anticipated which he went on to describe. He said the DEMEC meeting ended with a ground breaking ceremony for the Beasley Unit #2.

Upon motion made and unanimous approval the Commissioners voted to go into Executive Session to discuss legal matters relating to a lawsuit with Riverbend in Old New Castle. Upon motion made and unanimous approval the Commissioners voted to return to their General Session.

The Secretary reported, in Riveredge Business Park, Standard Distributing had activated their solar generation and an initial metering reading show they generated 5 kWh of electric which was backfeed into the MSC distribution system. The Secretary said the Comptroller and he are at

odds over how this is credited and are working on a solution before billing. The Secretary said TA Instruments' solar installer has indicated there are problems related to state funding, so panels have yet to be installed. The Secretary said in Twin Spans Business Park the Planning Commission has been asked to approve an expansion of the Five Below warehouse. Commissioner Knox asked which Business Park Goodwill was going into. Secretary Patterson said Centerpoint

The Secretary gave the Electric Department report for Supervisor Blomquist. Secretary Patterson said Supervisor Blomquist investigated and pursued a billing error he felt Delmarva Power had made in May 2011. With the help of DEMEC, Delmarva acknowledges the error and the MSC should receive a \$21,000 refund. Supervisor Blomquist said Mr. Joe George, Site Superintendent at Riverbend, called him about electric for the townhomes and left a message. Supervisor Blomquist reports he returned the call but has never heard anything further from Mr. George. Supervisor Blomquist reports he was contacted by Mike Derammo of Derammo Design about solar for Zenith Corp. He further reports there has been no follow up. He goes on to say in his report he met with Chris Castagno, Bob Thatcher, Mark Chura and Al Leightner about electric to the buildings on the Penn Farm. The Secretary said the MSC will install conduits and the Trustees or their tenant must do the remainder of the work. The Secretary said the electric crew replaced lighting for the city on the walkway to Battery Park and the public restrooms. The Electric Department also installed a GE meter in series with the Quantum meter at the Wilmington Road substation. The Secretary said Supervisor Blomquist reports at the Dobbinsville substation Keystone Engineering and Security Instruments tied the security system into the SCADA system. He also relates that while working with Norm Baron and Jim Havrilla of Utility Engineers on a polarity issue with the relays at Dobbinsville, the circuit switcher failed to operate properly. The Secretary said this was reported under the warranty to Southern States who sent a Technician to trouble shoot the problem. It was diagnosed as water penetration into the control box and a design flaw with the heater. The Secretary said at the same time a relay had to be pulled and sent to the manufacture to replace a faulty computer chip. The Secretary said Dobbinsville substation will be down until these items are repaired. The Secretary said Supervisor Blomquist goes on to report that he can do no further work to analyze power factor until Dobbinsville is up and running. He also reports he has begun infield training with the apprentice lineman by changing out the oldest poles in the MSC's system. The Secretary said the Supervisor concludes his report reporting the MSC hired a replacement lineman for Jake Henasey who will be retiring. The Secretary said the new lineman is Kent Schmeusser who is a journeyman lineperson Supervisor Blomquist worked with at Area Utilities. The Secretary said there is currently some dialog with a potential candidate for the position of Assistant Electric Supervisor. The Secretary said he has been working and encouraging DEMEC to institute a program for training municipal lineman.

The Secretary gave the Water Department report for Supervisor Guyer. The Secretary said Supervisor Guyer is close to wrapping up the water project and paying Layne for their work. He said there was a meeting with Keystone Engineering to discuss cost overruns they incurred that were not authorized and some work that was in addition to the original contract. The Secretary said he agreed to a \$14,085 payment by the MSC as settlement of all disputes. The Secretary said US Tank has been delayed by weather on warranty issues on the Gray Street tank. They hope to have the work done by the end of October. The Secretary told the Commissioners there will be a

kick off meeting with Rick Duncan of Rural Water and Barry Walters, Hydro Design for the cross connection control program. The Secretary was informed that the Office of Drinking Water wants to reduce the Maximum Contaminant Level for TCE from 5ppb to 1ppb by the end of 2012. Supervisor Guyer spoke with DelDOT and they report Washington Street renewal is in the final stages of planning while Delaware Street and Ferry Cut-Off are still in negotiations with the City. Supervisor Guyer reports, on the Penn Farm well project, he is getting quotes for surveying to do well sighting. The Secretary asked Supervisor Guyer to be sure that placement of the well will not run afoul of any city zoning codes or building codes. Supervisor Guyer contacted Cathie Thomas and Building Official Jeff Bergstrom for assurance. Water system flushing took place between October 10<sup>th</sup> and the 17<sup>th</sup>. One hydrant was put out of service and will be scheduled for repair. The Secretary said Supervisor Guyer and he discussed eliminating the Sunday Water Operator visits to the School Lane treatment plant now that the system is automated and monitored by SCADA. The Secretary said elimination of this visit was implemented on October 9, 2011. The Secretary reported that Assistant Supervisor Jaeger is working on the final revisions to the water Technical Specifications which the Commissioners will be asked to adopt.

The Secretary said that Supervisor Guyer reports the following on the Buttonwood water main relining project. The contract was awarded to J. Fletcher Creamer & Sons and a “notice to proceed” was issued. On September 28, 2011 a pre-construction meeting was held and Creamer began immediately to mobilize. With the help of MSC water personnel temporary water services were established which are maintained by Creamer. As of October 18, 2011 fifteen hundred feet of 6 inch water main had been cleaned. Examination of the mains show iron spore build up but the structural integrity of the pipe to be intact. Residents were kept informed by letter of the actions to be performed. Supervisor Guyer has high praise for J. Fletcher Creamer and their personnel who were assigned to this project and the businesslike manner they have gone about the main renewal.

#### OLD BUSINESS

Secretary Patterson reported on the substations in which he said Commissioner Appleby looked at the road to the Dobbinsville substation and did not see a need for a curb to define the road and parking area. Commissioner Appleby asked if the other Commissioners had looked at the site. They said they hadn't, so he suggested they take a look. The Secretary said he has spoken about the relays and control box at Dobbinsville substation in the electric report so the only thing further to report is that the MSC is still waiting for the materials for the Wilmington Road substation to upgrade the control house. Commissioner Appleby asked about the trees for Dobbinsville substation. Secretary Patterson said he would get on that.

#### NEW BUSINESS

The Secretary spoke to the Commissioners about former Electric Supervisor Tom Spicer's intentions for applying for a disability pension. The Secretary said Commissioner Appleby spoke with Tom and they discussed medical insurance and the time necessary to qualify for Medicaid or Medicare under Social Security disability. Commissioner Appleby said he would be in favor of the MSC paying medical COBRA payments on Supervisor Spicer's behalf until he qualifies for Social Security benefits. The other Commissioners concurred and upon motion made with

unanimous approval voted to pay former Supervisor Spicer's medical COBRA payments up to 18 months while he qualifies for Social Security disability medical coverage.

The Secretary showed the Commissioners pictures of the deteriorating double hung windows at 216 Chestnut Street. He said he has talked with members of the Historic Area Commission and plans to attend their meeting on Thursday October 20, 2011 with an example of an energy efficient window he would like to install. He said the project can be funded with Green Energy monies. The Commissioners questioned him on cost and if replacement qualified under the Green Energy program. The Secretary said the windows may cost as much as \$1,000 a unit plus installation and it does qualify as an energy efficient upgrade. The Commissioners approved the project.

Commissioner Sippel advocated for the MSC to make available to its customers payment of their utility bills on-line. He said he would be willing to work with the Comptroller to investigate and bring to the Commissioners his findings and recommendations regarding on-line utility billing and payment. The Commissioners approved his working with the Comptroller and an investigation of an on-line billing and payment program. The Comptroller said she is in favor of investigating this but asked if it could be delayed until she implements the scanner program in early January 2012.

#### OCTOBER MEETING

The Commissioners set the date of the next monthly meeting to be November 17, 2011 at the office of the Commission, 216 Chestnut Street.

#### ADJOURNMENT

By motion made and unanimous approval, the Commissioners voted to adjourn.

Approved \_\_\_\_\_  
Date

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Francis L. Patterson, IV