

**BUSINESS OFFICE, 4725 MOFFETT ROAD, MOBILE, ALABAMA
MAY 4, 2017**

The Board of Water and Sewer Commissioners of the City of Mobile met this Thursday for a joint discussion with the members of the Mobile City Council at 11 a.m. at MAWSS' Park Forest Plaza.

PRESENT for MAWSS:

Dr. James E. Laier, Chair
Ms. Barbara Drummond, Vice Chair
Ms. Sheri N. Weber, Commissioner
Mr. Maynard V. Odom, Commissioner
Mr. Walter E. Bell, Commissioner
Mr. Kenny Nichols, Commissioner

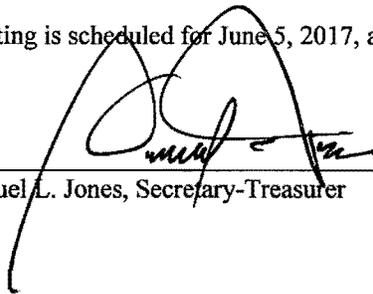
Mr. Charles E. Hyland, Jr., Director
Mr. Douglas L. Cote, Assistant Director
Mr. Bud McCrory, Assistant Director

MOBILE CITY COUNCIL MEMBERS:

Council President Gina Gregory, District 7
Councilmember Fred Richardson, District 1
Councilmember Levon Manzie, District 2
Councilmember C. J. Small, District 3
Councilmember John Williams, District 4
Councilmember Joel Daves, District 5
Councilmember Bess Rich, District 6

Mr. Hyland welcomed everyone and thanked the City Councilmembers for joining us today at MAWSS. He said we have a short agenda and presentation after which we have scheduled time to answer questions and discuss topics of mutual interest.

The meeting concluded at 1:05 p.m. The next regular meeting is scheduled for June 5, 2017, at 2 p.m.



Samuel L. Jones, Secretary-Treasurer

**BUSINESS OFFICE, 4725 MOFFETT ROAD, MOBILE, ALABAMA
JUNE 5, 2017**

The Board of Water and Sewer Commissioners of the City of Mobile met this Monday in their regular session at 2:00 p.m. at MAWSS' Park Forest Plaza.

PRESENT:

Dr. James E. Laier, Chair
Ms. Barbara Drummond, Vice Chair
Mr. Samuel L. Jones, Secretary-Treasurer
Ms. Sheri N. Weber, Commissioner
Mr. Maynard V. Odom, Commissioner
Mr. Walter E. Bell, Commissioner
Mr. Kenny Nichols, Commissioner

Ms. Jackie McConaha, Attorney for the Board
Mr. Charles E. Hyland, Jr., Director
Mr. Douglas L. Cote, Assistant Director
Mr. Bud McCrory, Assistant Director

Minutes of the meeting of the Board June 5, 2017, continued

Chair Laier called the meeting to order and Commissioner Jones gave the invocation. **Committee Reports** was next and Mr. Hyland said the Finance Committee met on May 31. During that meeting, several of the items on today's agenda were discussed including the CAFR, Liability Insurance Policy, and the Budget Amendment Policy that will come back to the Committee and then to the Board for adoption. The Committee also discussed in general other items like the Master Plan, Reinvestment of Funds that were called, and the Spanish Fort rate increase. The notes of that meeting will go out to the Committee and then the full Board within the next couple of days.

Visitors was next and Mr. Hyland said we have two visitors who have indicated they would like to speak. He asked **Mr. Tim Ayers, Executive Director of the Alabama Utility Contractors Association**, to come to the podium and address the Board.

Mr. Ayers thanked the Board for the opportunity to speak. His comments are entered here for the record:

AUCA is a non - profit professional trade association consisting of a diverse group of contractors and affiliate firms from throughout the state of Alabama. Our members represent the workforce that supplies, installs, and rehabilitates the infrastructure of water, sewer, natural gas, electrical, fiber optic, telecommunications, and other underground utility systems for both the public and private sector. AUCA works to ensure that a fair and level playing field exists for all companies. Therefore, whenever anything is introduced that changes policies or procedures, we look closely through the lens to determine the impact on our industry and our member companies. The reason I'm here today is to speak in regards to the MAWSS DBE Policy 16-01. We are in no way questioning the intent of the policy but rather the implementation of it. We feel there are some concerns that have come up that have been addressed by some of our members that we feel like we need to address now so that the policy, as we move forward in the implementation, that this can be successful.

One of the first concerns we have on the policy is just the amount of burden and responsibility that is shouldered strictly on the prime general contractors. Obviously, you are probably aware of your own policy, but if you look at the bullet points that are shown on the 4th page of this policy and everything that falls under the responsibility of the contractor. We feel this should be a collaborative approach and should be a team effort in which MAWSS as well as the DBE contractor should all be involved in sharing the responsibility. What we would like to see is MAWSS do a better job, almost as a business incubator model, doing what they can to serve as I guess kind of a clearinghouse if you will, to make sure everyone comes together to do this. This could be done by holding symposiums to raise awareness of opportunities for upcoming construction projects, using more mass media, social media efforts, and things to get the word out in the community with the DBEs so they know what projects and what opportunities are out there. The website currently has a list of the DBE companies on there that the contractors are supposed to use as part of this program. I've got a copy of the list here that is on the DBE list on the MAWSS website. Additional lists are available through either ALDOT, ADECA, or BCIA but it's just a list. The companies are not categorized by trade or work or what they do. Again, we would like to think that maybe MAWSS could figure out a way to help the contractors understand and qualify who does what to help them understand who is qualified and who is not qualified so that when soliciting bids they know they're not just wasting time and effort pursuing bids from people that aren't interested in the project or not qualified to do the scopes of work that are done. As far as the DBEs go, we want to see this successful but we also believe in, not in hand-out programs, but hand-up. We want to train and do this in the right way so that these companies have the opportunity to earn the business the right way and then earn future business. At the same time, we need to make sure that all of the companies on this list, has MAWSS vetted this company list to know that are these property licensed with all the contractor's licenses that are required, are they insurable, are they bondable, can they do the certified payroll requirements? Right now, all these requirements fall on the shoulders of the contractors to verify. We'd like for MAWSS to have a role in that. Again, AUCA does not in any way object to the attempts to reach the 15% DBE goal but understand too that sometimes based on the nature of the MAWSS projects, it's not always realistic because again, as I look at this list, if we're talking about replacing a water line and I see a list that's got janitorial services or drywall contractors, or trades of work that aren't applicable to your projects, there's going to be times

Minutes of the meeting of the Board June 5, 2017, continued

when it's difficult to meet that and so, in that it does say that if you cannot do it, you have to put forth a good faith effort.

We're all for that but we'd like to have a better understanding, a better definition, of what constitutes a good faith effort. I've talked to several people that say they haven't been able to get an answer to that and I guess the question comes back that if we can't establish what is a good faith effort, how can we establish what is not a good faith effort. So, when I look at the policy there's a lot of verbiage in here that seems to be subjective, it seems to be opened ended—where it talks about a reasonable number need to be invited or things like that. What is the definition of reasonable number? We would like some clarity, some way, some benchmarks to know are these efforts being made to be able to measure. If the 15% goal is not met, bids may be rejected and some recently apparently have been. The question then comes if you rebid the project, there's obviously expense involved but who gains from it because there's no guarantee that on the rebid, the results are going to be any different. So if you rebid a project, and it costs MAWSS money, it costs the taxpayers money and it costs everyone else involved, the DBEs bidding the project, the prime contractors bidding it, and you may end up with the same result or even a lower result than what you had on the original bid as far as minority participation or DBE participation.

There's also a concern with, again, as mentioned earlier, limited scopes. Some of the nature of what your projects entail, a lot of companies self-perform the work and there are not many trades. If you're talking about replacing a water line, there may not be a lot of trades work to even subcontract so sometimes you're limited. I know of one specific instance where a company that was a DBE bid the project, was the low bidder, planned to self-perform the work but is not going to be awarded the project apparently because they didn't get enough subcontractor bids. They were going to self-perform the work. There wasn't anything to be subcontracted out and so, my question is, if they are a DBE and they are going to do 100% of the work with their own forces, I think you've reached almost the 100% goal, not 15% of the goal. But if you throw the bid out and rebid it, you may get a different bidder and may not even reach the 15% goal. It's something to consider for future. Again, when you do subcontract work, as a former contractor myself, any time there was work that we could self-perform, we would do so because you could better control the cost and you could better control the schedule. When you subcontract work, you lose some of that control but at the same time, you also put additional mark-up because now you're getting a bid from a subcontractor who has their markup and their overhead but you still have to manage it so you're putting your fee on top of their fee, so now you've compounded it. You've taken a project that would have cost X and now it's costing more, with the same result. There's also a little bit of conflict of interest that can arise because when you look at the list you will see certain companies that are on the list that might be bidding as a prime contractor but also might solicit bids from one another as subcontractors in order to meet the requirement. This creates at least the appearance that you might have collusion, where you have Company A bidding against Company B for the prime contractor scope of work but in order to get some of the other subcontracting requirements to meet the DBE requirements, they would have to get prices from one another as subcontractors. But again, the way the policy is written, that's in fact the case of what you're going to see happen.

Again, some of the other logistics that are asked for as far as the bid day and the paperwork to be submitted with the bid is unrealistic to expect. A lot of times bids, I don't know what time customarily your bids go in but if the bids go in at 2 p.m., a lot of times the bids don't come in until 1:45-1:50 but if in the proposal form you've got to include all of the contractors, the information and who you received bids from. If you didn't receive bids, there's also the affidavit of contractor's good faith effort to meet the goals, but you weren't able to. You have to have explanations of who you solicited bids from, why you didn't use their price, or why you didn't get a price from them to meet the 15% goal. There are just some questions about how to do that. Would there be a way that the low bidder could have at least 24 hours to submit all the documentation after the fact as opposed to during the time of the bid. That last crunch time of trying to prepare the bid and trying to get all this other back-up documentation put together is next to impossible. I think sometimes what's going to happen is people are going to focus more on that than they are actually on the pricing, and the pricing of the projects may suffer.

Minutes of the meeting of the Board June 5, 2017, continued

In closing, I just want to thank you for the opportunity to discuss this issue. We just want to make sure we're on the front end of this. We are in no way questioning the program. We think it's great and we applaud it but we want to see it done the right way. We'd like to maybe see again some sort of mentor protégé type format, something put together that's more of a collaborative effort, more of a teamwork approach, that could be more successful. If there are any questions, I'll be glad to answer any questions might have of me. If not, I thank you for your time.

Commissioner Jones said Mr. Ayers suggested a protégé approach to contractors and he asked if their organization would be willing to work in that protégé approach. Mr. Ayers asked in what respect and said certainly they would be glad to promote, etc. Commissioner Jones said in order for them to have someone lead them as a protégé, it has to be someone experienced in that area and your members obviously have that experience. Mr. Ayers said they have several members that have in the past worked and done things to do that, even when it wasn't required, so yes. He said he can speak confidently and say in this area and other parts of the state where that's gone on so yes, they would be willing to do that.

Commissioner Bell said he's been around this area probably since the 60's and every time it comes up to try and do something in this area and he's sure that, as Mr. Ayers said, the intent is good, it's the implementation of it. But they've been trying to implement these kinds of things for 50 years that he's been around almost and it always comes back to the same situations, the implementation of it. How can we do this? How can we not do this? How much additional cost is it going to put on us? He said he's just confounded in terms of the positions that trade associations take for their members or their members take and have the trade associations go out and speak to it, as opposed to, you know this is not a new area and he's sure they've worked in other areas. Some of the things are policy. ADEM has said that's the way contractors have to go in terms of the DBE winning the contract and not getting the subcontractors in for the percentage. We added that because of ADEM because it wasn't a part of the policy at first. You are bringing this to us, he said, and he can appreciate the stand that the trade association takes for the members. That's what they get paid to do and they're doing it well. But at the same time, we are also on the side that we are trying to get this program going in the City of Mobile, with MAWSS, and he would like to see Mr. Ayers sit down with MAWSS, as the representative of his association, and meet on a meaningful basis to implement this as opposed to coming and making your statement at a public meeting. There's nothing wrong with making it at a public meeting but you can probably get more done by sitting down with Mr. McCrory and his staff and saying these are the things that aren't working for us and how can we come together to do that.

Commissioner Drummond said she will piggyback on what Commissioner Bell said. These are not new programs and she knows Mr. Ayer's trade organization is well aware of them, especially as he mentioned with ADEM, also SBA, and other federal agencies have similar programs. It would behoove you and she wants to piggyback on, he kept making reference to what is good faith and what is not good faith, would he say it is fair to not only the taxpayers, but more importantly the customers of this system, which serves our community, which is diverse. Would he not say that it's fair that we should spend dollars in all those areas to make sure that all of our folks are served fairly, especially those and she's sure some of his members are DBEs as well. She asked if that's correct. Mr. Ayers said it is correct. Kind of what he alluded to earlier is if you take this list, would a good faith effort constitute if a contractor was bidding on a project and, say there's 100 people on the list and they call all 100 to do it but knowing that 90 of them fall under trades of work that aren't even applicable to the job. Would that be considered good faith or would it be better to only call one or two that again may be in some type of mentor/protégé program you can work with. Commissioner Drummond said staff can speak to this but the list is just a list of those we have certified so far. We're hoping this program will also expose us to other DBEs out there that we're not even aware of and your organization certainly could help us. She piggybacks on what Commissioner Bell said, she hopes that he will sit down with the MAWSS staff because this DBE Policy is something that we feel is fair and it's an area in which we are going into. Fifteen percent is not a lot of those dollars that MAWSS spends on an annual basis so she hopes his trade organization will sit down with us. She does appreciate him coming and she took notes on what he said. We want this policy to be right and to be implemented correctly so she encourages him to do it. Mr. Ayers said they would welcome that opportunity as well. As he said from the outset, that's what they want. They aren't questioning the intent of the program. They just want to make sure the implementation goes smoothly so they don't find themselves in a situation where bids are being thrown out because people are not complying with what they need to do.

Minutes of the meeting of the Board June 5, 2017, continued

Mr. Hyland said the 2nd Visitor who would like to speak is **Mr. Shawn Alves**, the attorney for **Spanish Fort Water System**. He would like to address the public notice regarding the change in policy and addressing the Spanish Fort rate increase. Mr. Alves' comments are entered here for the record:

Good afternoon, Shawn Alves, together with my partner George Irvine of Stone Crosby, P.C. I've got a few of the guys from the Spanish Fort Water System – Mr. Ashcraft, President; Mr. McPhail, Vice President, and Mr. Evans, employee. We obviously oppose this proposed rate increase that only applies to Spanish Fort Water System because we believe it shifts the cost of the line repair through a discriminatory rate increase and breaches the contractual relationships between MAWSS and Spanish Fort Water System. MAWSS has always published rates based on volumes that apply to anybody purchasing water from them, including Spanish Fort Water System. This new rate increase singles out solely Spanish Fort Water System and even awkwardly does so. It has the traditional rates that you have that we've been paying and kind of shoves us in underneath and creates a new rate only for Spanish Fort Water System. It doesn't apply to any other customer of MAWSS, at all. We believe that's an unreasonable discrimination and believe that it will invalidate the rate increase. But also, we believe that it goes against the contractual relationships and obligations between the parties. We've had a long, good contractual relationship. It started back in 2000 and we've had four agreements – 2000, 2001, 2008, and 2011. The first three agreements were MAWSS agreements that MAWSS put together. The 2011 agreement is a United States Department of Agriculture or USDA agreement. Pursuant to the agreements, MAWSS agreed to and because Spanish Fort Water needed the water, MAWSS had a lot of extra water and they wanted another customer, they wanted a beachhead in Baldwin County, so they agreed to build the line themselves to Spanish Fort and hook it up. As part of the agreement, MAWSS was going to do everything. They were going to design it, means and methods, specifications, select the contractor, all that. Spanish Fort Water System didn't have anything to do with the materials selected, how it was built, anything. But they did pay for part of it. Through an availability fee and other fees, they paid well over \$1 million for construction of that line, paid it back to MAWSS. MAWSS fronted it and we paid you back. We were going to pay your published rates, which we always have. We were going to pay based on volume taken. You all have a graduated sort of schedule so when you get to a higher rate, you get a break in your cost. MAWSS agreed that it was going to own the line. It owned the line. It was going to maintain and repair the line and it was going to do so at its own cost.

In 2011, Spanish Fort borrowed money from USDA to alter its system in a way to take more water from MAWSS, a booster station and other improvements. All along, MAWSS had always encouraged Spanish Fort to take more water. Back in 2009, Sally Berry even sent us a letter that said basically that Spanish Fort is only supposed to get its water from MAWSS unless it has previous contractual relationships or it needs more water because of more demand. If we got to a certain point level that MAWSS would even increase its line from the current size of 10 inches to 16 inches. All along, MAWSS always put Spanish Fort Water in a position of providing more water, and you've lived up to your contractual obligations during this, providing more water and charging us at your rates. Any time there's been a rate increase since we've been in this system with you, or at least since 2010, the rates applied to the published rate. In 2011, when we got a letter that said in 2012-2016, there will be a 5% rate increase every year, that went on your published rate schedule. Not anymore for us. Now, we have our own rate schedule despite the fact that we've always been paying your published rate schedule.

In 2011, you went into an agreement with us pursuant to our arrangement with USDA. USDA wanted to make sure we had water contracts in place to cover the term of the loan with USDA. A 40 year loan and we entered into a 40 year agreement with MAWSS that put a limitation on your ability to increase our rate. It says specifically any increase or decrease in rates shall be based on a demonstrable increase or decrease in the cost of performance hereunder but such costs shall not include capitalization of the seller's system. So we've got agreements where MAWSS owns the line and MAWSS agrees to repair and maintain. And we've got an agreement that says any increase is going to be demonstrable and since March, I've asked for these numbers. I've asked for the financial numbers to show what the increase in cost was.

Minutes of the meeting of the Board June 5, 2017, continued

We had a nice meeting last week on Thursday. We met with your Director, Assistant Director, and Legal counsel. They presented us on Thursday afternoon, for the first time, a Cost of Service Study. So the first time we've seen the numbers that were being used to justify the rate increase. Now these are rough numbers. These are totals. They aren't the back-up numbers so I don't have those. I asked for those during the meeting and I understand they can be presented to us. But the agreement says increase or decrease. You've got to have two sets of numbers to determine increase or decrease because you've got to do the math. So, I need the numbers that back up the Cost of Service Study that they presented to us. First of all, the line items, what are they, where did they come from. Then I've got to get the same numbers for 2016 to do the math. I've been asking for that since March. Last week, I was presented with a summary on Thursday afternoon. Comments were due on Friday, by the way. Now, we had a very nice meeting with your two employees and your attorney and there was some discussion about tabling this so that we could talk further and so that we could get the numbers. I don't know where we are on that. I didn't see anything in the agenda saying it was tabled and the premeeting didn't sound like it was tabled. I would ask that, first and foremost I would ask you, to reject the rate increase. It only applies to Spanish Fort Water System and I think that's an unreasonable discrimination but it also breaches the contractual obligations and my water system is going to have to fight that. They have no choice. In lieu of that, I would ask that you table it so we can continue to discuss this with your employees, your Director and Assistant Director, and give us time to get this financial information. I assume it's going to be it's going to be somewhat voluminous. I mean I imagine it's not going to fit on an index card and it's going to have to be the numbers that they used to come up with this 2017 Cost of Service study and it's going to have to be, I'm assuming since the last rate increase was 2016, I'm going to need the numbers from 2016 so I can subtract to come up with the increased difference. So, again, I did have a really nice meeting with those guys. It was nice of them to come over. I'm asking you to reject it or to table it and allow us to get that information that I think we need to make sure we're meeting the contractual obligations. Thank you.

Next was **Resolution for Retiree - Michael E. Washam** and Mr. Hyland read the following into record:

RESOLUTION

WHEREAS, MR. MICHAEL E. WASHAM, Equipment Operator III, began his employment with the Board of Water and Sewer Commissioners on March 16, 1996 as a classified employee, and has worked continuously since; and

WHEREAS, he served the System faithfully for over 21 years, performing his duties with the highest quality, working in a cooperative spirit with his fellow employees,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF WATER AND SEWER COMMISSIONERS OF THE CITY OF MOBILE that **MR. MICHAEL E. WASHAM**, whose retirement was effective June 1, 2017, be recognized and commended for his years of service to the Board of Water and Sewer Commissioners of the City of Mobile and to the citizens of Mobile.

ADOPTED this 5th Day of June 2017.

Mr. Hyland said Mr. Washam isn't present today but we certainly appreciate his many years of service to MAWSS and we wish him a long, happy, and healthy retirement. We will make sure he gets the Resolution recognizing him.

The **May 1, 2017 Minutes** were presented for approval and Commissioner Drummond moved for approval. Commissioner Odom seconded and the motion carried with the unanimous vote of the Board.

Bids & Purchasing was next and Mr. McCrory reviewed the following items:

- A. **IFB 17-012, Safety Shoes** (3 bids) Est. Annual Value - \$27,000
Low responsive bidder: Cintas

Minutes of the meeting of the Board June 5, 2017, continued

Commissioner Drummond moved for approval. Commissioner Odom seconded and the motion carried with the unanimous vote of the Board.

- B. IFB 17-016, Purchase Two (2) Trailer Mounted Backup Pumps**
 (8 bids) Value - \$87,635.25
 Low responsive bidder: Hydra Service

Commissioner Odom moved for approval. Commissioner Drummond seconded and the motion carried with the unanimous vote of the Board.

- C. Co-op Purchase of Twelve (12) Ford F-150 Fleet Vehicles** Value - \$323,988
 Co-op Provider: National Auto Fleet Group (NAFG)

Commissioner Bell moved for approval. Commissioner Drummond seconded and the motion carried with the unanimous vote of the Board.

- D. Co-op Purchase of a Kubota M5-111HDC Tractor** Value - \$49,983.11
 Co-op Provider: Kubota Tractor (NJPA)

Commissioner Odom moved for approval. Commissioner Nichols seconded and the motion carried with the unanimous vote of the Board.

- E. Purchase of AMR Sensus Software and Setup** Value - \$85,806
 Software Provider: Sensus Analytic

Commissioner Drummond moved for approval. Commissioner Nichols seconded and the motion carried with the unanimous vote of the Board.

- F. IFB 17-013 Manufacture Laboratory Cabinets** Value - \$65,900
 Low responsive bidder: Deas Construction

Commissioner Odom moved for approval. Commissioner Weber seconded and the motion carried with the unanimous vote of the Board.

Commissioner Odom said we had one bid opening at 12:30 today on the **Emergency Cimarron Ridge Apartments Sewer Replacement**. The apparent low bidder was Ballcon, Inc., at \$136,000 and staff has asked for a Director's award following review by the engineers. Commissioner Weber moved for approval and Commissioner Nichols seconded. The motion then carried with the unanimous vote of the Board. The bid opening results are entered here for the record:

AL 17038, Emergency Cimarron Ridge Apartments Sewer Replacement

ORIGINAL ESTIMATES:

A. Construction	\$131,000.00
B. Engineering	\$ 19,000.00
Total Original Estimate	\$150,000.00

CURRENT ESTIMATES:

A. Construction	\$140,000.00
B. Engineering	\$ 20,720.00
Total Original Estimate	\$160,720.00

<u>Bidders</u>	<u>Total Base Bid Amount</u>
Ballcon, Inc.	\$136,000.00
Construction Labor Services, Inc.	\$153,853.62
W. R. Mitchell Contractor, Inc.	\$148,790.00

Minutes of the meeting of the Board June 5, 2017, continued

Legal was next and Attorney McConaha said an **Executive Session** is needed on a matter involving threatened litigation. She expects it to take 15 minutes. Mr. Hyland said there is no **Unfinished Business**.

New Business was next with **AL17011, Snow Road Water & Sewer Relocation**, with Change Order #2, in the amount of \$7,212.37 (7.31% of original \$98,665.50 contract) resulting in a revised \$136,743.57 contract. Change covers overruns to revised estimated quantities as presented in Change Order #1. Mr. Joe Asarisi, Asarisi & Associates, said this change order brings the contract quantities to as-built quantities. Based on the engineers' recommendation, Commissioner Drummond moved for approval and Commissioner Odom seconded. The motion then carried with the unanimous vote of the Board.

Item B was **HMR M0042/4215, MAWSS Mainline Sewer Replacement Virginia St./Everett St./Cottage Dr.**, with Change Order #6, in the amount of \$22,374.72 (2.56% of original \$875,377.40 contract) resulting in a revised \$1,132,072.77 contract. Change covers additional work required to replace the existing storm drain and reroute it around the sewer manhole at the intersection of Virginia Street and Flint Street. Based on the engineers' recommendation, Commissioner Odom moved for approval and Commissioner Drummond seconded. Commissioner Drummond said if it's determined that the completion date of the project is going to be prolonged, she would appreciate being notified. Mr. Robbie Strom, HMR, agreed to do so.

Item C was **M5712-2577, Eslava Creek Pump Station By-Pass Improvements**, with tabulation of the May 1, 2017 bids and recommendation to reject all bids and rebid the project. Mr. Billy Wilkerson said we had three bidders on this project and, after reviewing the bids, it was determined that none of the bidders were able to satisfy the DBE requirements, so they recommend that all the bids be rejected and the project rebid. Based on the engineers' recommendation, Commissioner Bell moved for approval and Commissioner Odom seconded. Commissioner Nichols asked Mr. Wilkerson, for clarification, that this vote will be to reject the bid for which W. R. Mitchell is the low bidder and they are a MAWSS certified DBE. Mr. Wilkerson said yes, that's correct. Commissioner Nichols said and they would perform 100% of the work themselves. Mr. Wilkerson said yes, that is correct. Commissioner Drummond said that is one of the clarifications that we're trying to make on the policy now and if we decide that's a clarification that will stand, can this bid be reinstated? Is there a time period? Attorney McConaha said once it's rejected, it's rejected. She said she thinks the Board could postpone the decision on the bid but once you reject it, you have to stay with that. Mr. McCrory said it's whatever policy is in place at the time. Commissioner Drummond said since we are going to hold off making that change today, that policy is not in place yet. Mr. Cote said the policy was in place at the time the project was bid and those requirements that a prime DBE pursue 15% DBE subcontractor participation, which was the requirement at the time of the bid so the contractor did not meet that requirement. The purpose of rejecting the bid and rebidding it is once the Board clarifies how to go forward with that issue, we can rebid it with that clarification. Commissioner Odom asked Commissioner Bell if we would rescind his motion and we could move to postpone it.

Commissioner Bell said he doesn't know why we would rescind the motion. It was clearly explained by Mr. Cote in terms of the policy was in place at the time, and that's the only thing we can go by. That's the fact of the matter. It's not something that we wish didn't happen, or that it wouldn't happen but that is the policy. Commissioner Jones said nor do we know what the discussion will bring. Commissioner Nichols said this is the topic that Mr. Ayers was touching on. While we all believe that the policy as it is written now is very good, there is some further refinement that he thinks needs to take place. From the contractor's standpoint, he thinks that's what they are looking for us to do. This is one of those situations where, unfortunately, if this vote goes to reject this bid, there is a chance that when it's rebid as far as dollars are concerned, there could be a significant reduction in the amount of DBE participation on this contract. We just know that and go based upon the policy that we have.

Commissioner Drummond said to further clarify, one of the things Mr. Ayer's also said that we wanted to clarify our policy and that's why we're going to postpone until we can discuss it to make sure we're not caught between a rock and hard place in the future. We are going to clarify. For right now, we'll live with what we've got. Commissioner Bell asked what is the criticality of the Eslava Creek Pump Station. Mr. Cote said it's not going to hurt to delay it. The motion then carried with the unanimous vote of the Board.

Minutes of the meeting of the Board June 5, 2017, continued

Item D was **V335323 Surge Tank Installation for Eslava Lift Station**, with tabulation of the April 10, 2017 bids and recommendation to award to the lowest responsive bidder, S. C. Stagner Contracting, Inc., for \$543,000. Mr. Tim Patton said we had 8 bidders on this and all bids were in order. Per the Board's policy, the staff reviewed the DBE submittals. The apparent low bidder, Creel Company, it was determined did not comply with Policy 16-01. The next lowest bidder, S. C. Stagner, it was determined that DBE submittals were in compliance with the policy and, if the Board elects to accept that, S. C. Stagner would be the lowest responsive bidder. Commissioner Nichols asked Mr. Patton to confirm that his estimate on this project was \$600,000. Mr. Patton said that's correct. Based on the engineers' recommendation, Commissioner Odom moved for approval and Commissioner Bell seconded. Commissioner Nichols said we're still going to come in under budget as per Volkert's estimate by accepted Stagner's bid for \$543,000 and Mr. Patton said that's correct. The motion then carried with the unanimous vote of the Board.

Item E was **V044417, Springhill 30" Water Main Abandonment**, with tabulation of the May 1, 2017 bids and recommendation to consider all bids as non-responsive and reissue project for bid. Mr. Patton said there were 3 bidders with no mathematical errors. Again, the DBE compliance items were submitted for staff review and it was determined that all 3 bidders did not comply with the Policy. Should the Board concur, all 3 bidders would be considered non-responsive and we will need to rebid. Based on the engineers' recommendation, Commissioner Odom moved for approval and Commissioner Drummond seconded. Commissioner Nichols asked when these 3 projects would potentially be rebid. Mr. Cote said it could be at the next Board meeting but it depends on the further discussion of the DBE Policy and changes that may or may not occur to that Policy. Commissioner Nichols said correct and, of these 3 projects, there's no immediate issue by putting them off? Obviously, one has some litigation attached to it but that's the only issue we would run into, correct? The only thing we would do is put off the possible resolution to that project. Mr. Cote said that's correct. The motion then carried with the unanimous vote of the Board.

Item F was **MAWSS Policy 16-01, Disadvantaged Business Enterprise Policy for Public Works Act Contracts**. Mr. Hyland said this will be postponed.

Item G was **Revision to Policy & Procedure Handbook – Appendix B, Section 11-C, Intra-Development Service Account Fee**. Mr. McCrory said in April, we introduced to the Board a change in our fee schedule on our meter costs for a new development. We advertised for 30 days and the comment period wasn't up for the May meeting. We're asking for the fee to be increased to \$350 as advertised. Based on staff's recommendation, Commissioner Drummond moved for approval and Commissioner Odom seconded. The motion then carried with the unanimous vote of the Board.

Item H is **Revision to Policy & Procedure Handbook - Section 4.15, Wholesale Water Service**. Mr. Hyland said this is establishing the wholesale water rate for Spanish Fort Water System. We heard the representatives from Spanish Fort speak and ask that we consider holding that over for a period of time. Our recommendation last month was to move forward with that but staff doesn't have a problem with holding that over but that's up to the wishes of the Board. Commissioner Bell said if we hold it over, it's going to push it back another month. Mr. Hyland said that's correct; if we push it to the July meeting, we'll talk about an implementation of November 1 rather than October 1. Commissioner Nichols said if we make a decision today, let's say to move forward with the rate increase, is there anything that says we can't put the brakes on that in the next 90 days. Attorney McConaha said we could amend it; she doesn't think that would be a problem. Commissioner Nichols asked Commissioner Bell to correct him if he's wrong but he thinks we want to get this issue resolved and if we delay, it will just drag it out, so if we can initiate some action that speeds the process up, that will be the best course of action for both parties involved. Commissioner Jones asked if staff was making a recommendation and, if so, what was that recommendation? Mr. Hyland said his recommendation would be to postpone it until July but he knows the Board has been interested in us trying to reach a resolution on this. Commissioner Weber said the way she reads the policy, it says wholesale water service, it doesn't say specific to Spanish Fort, and we do sell water to other entities. Wouldn't this apply to any wholesale customer? Mr. Hyland said the way the Public Notice was written, it says "the wholesale water rate for the Spanish Fort Water System is as follows... That was based on the fact that in the past, we've never had a Cost of Service study that looked individually at what it cost to supply individually to wholesale customers. This Cost of Service study is doing that. There will be separate rates depending on what wholesale

Minutes of the meeting of the Board June 5, 2017, continued

customer we are dealing with. Commissioner Odom said there's a wholesale rate for Prichard, a wholesale rate for Spanish Fort, and there will be a wholesale rate for any other entity that we have, based on what we have to do to serve those particular customers. Mr. Hyland said the reason there wasn't one in the past is that the Cost of Service studies that were done in the past were never asked to look at the individual wholesale customers to see what those costs were to actually provide that service to them. This cost started in 2016 actually was asked to look at that so we could determine what was a fair and equitable amount to charge each customer. Commissioner Odom moved for approval. Commissioner Nichols asked how long it would take to get Mr. Alves the information he requested. Mr. Hyland said he expects that we could provide information and have discussions with Spanish Fort and the USDA representative before the July Board meeting. Commissioner Nichols said as Mr. Alves alluded to that information is going to be substantial. He then asked Mr. Alves if he felt that would be enough time to adequately review the information. Mr. Alves said he would have to wait until he sees the information. Commissioner Nichols said he understands. Mr. Alves said he's been asking for it for quite some time but if they could get it this week, they could get working on it and that would give them a month. They'd work hard to do it. Commissioner Nichols asked staff if that's possible and Mr. Hyland said he thinks it's possible to supply the information. Mr. Alves said especially if it could be supplied to him in electronic format or an Excel spreadsheet, the numbers for 2017 and 2016, whatever can be done to make his job quicker and easier.

Commissioner Odom said we spent money on this study and this study has come back, but he doesn't think anything is going to change, or that anything on our part is going to change. Mr. Hyland said he doesn't see anything changing as far as the numbers and the facts in the Cost of Service study combined with recouping the cost of the repair of that line. They are what they are so he doesn't think those will change. He said he's interested in knowing the questions the USDA may have as far as the relationship of what's written in the 2011 contract and how that might apply to the rate increase. We have not had the opportunity to speak with that individual yet but he thinks when we do, that will clear up a lot of questions. As far as the rate itself, those costs are well defined. It's just the matter of the implementation of how quickly the rate increases are applied in order to recover costs. Commissioner Odom said he again moves for approval. Commissioner Drummond seconded.

Commissioner Bell asked what USDA would say to us based on the contract of 2011. We have 3 contracts and each time they change some aspect. Mr. Hyland said he thinks what was mentioned earlier is true. The first 3 contracts were contracts that basically were written by MAWSS, between MAWSS and Spanish Fort. The last one, in 2011, was actually a form contract by USDA that MAWSS did enter into with Spanish Fort. Commissioner Bell asked if that was about our debt or Spanish Fort's debt? Mr. Hyland said it was about Spanish Fort's debt and their ability to repay a USDA loan. In that, it referenced what Mr. Alves said about the increase in rates being looked at by USDA. Commissioner Nichols said tied to Commissioner Bell's point, we've had some discussion about whether that constitutes a separate contract or if it functions more as an addendum to the 2008 contract. Is that correct? Attorney McConaha said we're getting into things we need to discuss in Executive Session. Chair Laier then called for the question and the motion carried with the unanimous vote of the Board.

Item I was **Facilities for Acceptance**. Water & Sewer Engineering Manager Daryl Russell said staff requests the Board accept the following facilities:

Colleton Place (Phase 3) – Sewer Facilities Value - \$71,076.90

Mr. Russell said this is a 50 lot residential subdivision, west of Schillinger and south of Howell's Ferry Road. Based on staff's recommendation, Commissioner Drummond moved for approval and Commissioner Odom seconded. The motion then carried with the unanimous vote of the Board.

Item J was **Baykeeper Agreement**. Mr. Cote said staff requests that the Board accept the Baykeeper agreement as presented in the agenda package with the two changes presented to the Board in the premeeting. Commissioner Drummond moved for approval and Commissioner Bell seconded. Commissioner Bell asked if there's any period of time we will ever be out of the Consent Decree with Baykeeper? Mr. Cote said he thinks it's going to depend solely on our ability to reduce SSOs substantially. That's what's driving the whole thing. Some of the larger projects he's been talking about are to do that so he hopes in 5 years we are in a much better position on this issue than we are currently. The motion then carried with the unanimous vote of the Board.

Minutes of the meeting of the Board June 5, 2017, continued

Item K is the **Comprehensive Annual Financial Report**. Mr. Hyland said the report was reviewed at the Finance Committee meeting on May 31 and briefly summarized at the premeeting today. Staff requests that the Board accept the Report. Based on staff's recommendation, Commissioner Bell moved for acceptance and Commissioner Weber seconded. The motion then carried with the unanimous vote of the Board.

Item L was **Liability Insurance Proposal**. Mr. McCrory said at the premeeting, we discussed the Liability Insurance for our General Liability, Auto Liability, and Excess Liability with the total amount of \$218,284.00 annual expense with One Beacon. We reached out to multiple carriers and they were the one that fit our needs the most. This fits some of the needs we've identified over the past few months for the Liability insurance. Commissioner Nichols asked how this compares to our current premium and Mr. McCrory said we are self insured. Commissioner Drummond asked if a number of utilities now are purchasing terrorism insurance. Mr. McCrory said it's common and he confirmed this morning that it's also common for utilities that are self-insured to pick up this liability cap. He said he was told that Birmingham has a \$10 million coverage and we're pursuing a \$5 million. Commissioner Drummond asked if there are definitions of what is terrorism. Mr. McCrory said he did some research on that this morning and that is at the recommendation of the provider. They said for the expense, it's well worth it. Based on staff's recommendation Commissioner Drummond moved for approval and Commissioner Odom seconded. The motion then carried with the unanimous vote of the Board.

Item M was **Master Plan**. Mr. Cote said staff requests Board approval of the Master Plan to be performed by CH2M at a cost not to exceed \$3,667,984. Based on staff's recommendation, Commissioner Odom moved for approval and Commissioner Bell seconded. Commissioner Drummond said it looks really great on paper and it's going to help MAWSS move to the next level. She said she really encourages staff to make sure we're moving to the next level and this doesn't become a dust gatherer on someone's shelf. It's very comprehensive and she has all confidence that will happen. It's a great deal of money but she really hopes it will move us forward and reduce some of what we're going through now. Mr. Cote said as he mentioned in regard to the dewatering facility discussed this morning and the need for a dewatering device to help us with that facility, that sort of thing is repeated many times throughout the organization and the utility. This will definitely help us move forward and he has no intention of letting it sit on a shelf. The motion then carried with the unanimous vote of the Board.

Item N was **AL17038, Emergency Cimarron Ridge Apartments Sewer Replacement** was approved earlier in the meeting.

Items presented for **Information Only** are entered below and Mr. Hyland called the Board's attention to the Red Cross Blood Drive scheduled for Wednesday, June 7th.

- A. **Driven 16084, Macy Place Water & Sewer Services Replacement**, with Change Order #1 in the amount of \$2,396 (0.92% of original \$260,195 contract) resulting in a revised \$262,591 contract. Change covers additional work and materials to install new sanitary sewer lateral cleanouts and frame and cover assemblies on residential services that do not currently have cleanouts at the property lines and adds 8 days to the contract time.
- B. **HMR M0042/4215, MAWSS Mainline Sewer Replacement Virginia St./Everett St./Cottage Dr.**, with Change Order #5, in the amount of \$57,317.80 (6.54% of original \$875,377.40 contract) resulting in a revised \$1,109,698.05 contract. Change covers costs associated with replacing the existing 6" cast iron water line that runs along Virginia St. from Michigan Ave. to Dexter Ave. and providing the associated water main connections and residential services.
- C. **Ext. 2 Annual Contract MAWSS 15006 – Fire Hydrants**
 Contract Extension Period: 7/1/17 – 6/30/18 Est. Value - \$144,000
 Current Contract Holder: Ferguson Waterworks
- D. **Ext. 2 Annual Contract MAWSS 15008 for Aggregates – Various Size Limestone**
 Contract Extension Period: 7/1/17 – 6/30/18 Est. Value - \$410,000
 Current Contract Holder: Martin Marietta

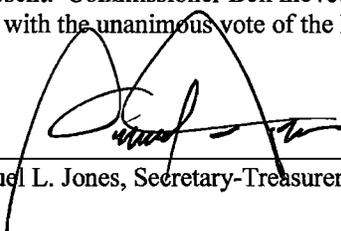
Minutes of the meeting of the Board June 5, 2017, continued

- E. **Ext. 1 Annual Contract MAWSS 16013 – MJ DI Pipe and Fittings**
 Contract Extension Period: 7/1/17 – 6/30/18 Est. Value - \$54,000
 Current Contract Holder: HD Supply
- F. **Ext. 1 Annual Contract MAWSS 16015 – Cam Lock Retainer Glands**
 Contract Extension Period: 8/1/17 – 7/31/18 Est. Value - \$20,000
 Current Contract Holder: HD Supply
- G. **Sensitive Positions**
- H. **McCrorry & Williams Project Status Report – April 28, 2017 and May 30, 2017**
- I. **Red Cross Blood Drive –June 7, 2017**
- J. **In-Kind & Contributions Requests**
 - 1. Africatown Bridge Challenge
 - 2. The Wave Transit System's 2017 Transit Awareness Day School Supplies Drive

Commissioner Bell asked how the annual contracts being renewed fit into the DBE Policy. Have we looked at how we will deal with this without having to rebid the contracts. Mr. McCrorry said Policy 16-01 relates to Public Works. Mr. Hyland said Policy 17-01 deals with most of our annual contracts and we're looking at it. It doesn't fall under the same requirements as Policy 16-01.

There being no further business to come before the Board, at 3:07 p.m., Commissioner Odom moved to adjourn and reconvene in **Executive Session**. Commissioner Weber seconded. The motion then carried with the unanimous vote of the Board.

At 3:27 p.m., the meeting reconvened with all members present. Commissioner Bell moved to adjourn and Commissioner Nichols seconded. The motion then carried with the unanimous vote of the Board. The next regular meeting is scheduled for July 10, 2017, at 2 p.m.



 Samuel L. Jones, Secretary-Treasurer