

MINUTES OF MEETING
of
BOARD OF LIGHT, GAS AND WATER COMMISSIONERS
CITY OF MEMPHIS
held
March 1, 2007

A regular meeting of the Board of Light, Gas and Water Commissioners, City of Memphis, was held at Memphis Light, Gas & Water Division, 220 S. Main, Thursday, March 1, 2007 at 1:30 p.m. The following were in attendance: Rick Masson, Chairman; V. Lynn Evans, Vice Chairman; Nick Clark, Commissioner; William L. Taylor, Commissioner; Phillip R. Bowden, Commissioner; Joseph Lee, III, President and CEO; John McCullough, Vice President, CFO and Secretary-Treasurer; Odell Horton, Jr., Vice President and General Counsel; Diana Veazey, Vice President, Construction and Maintenance; Alonzo Weaver, Vice President, Customer Operations; Armstead Ward, Vice President, Human Resources; Linda Peppers, Vice President and Chief Technology Officer; Carol Chumney, City Councilwoman; and Madeleine Cooper Taylor, City Councilwoman. Christopher Bieber, Vice President, Engineering, was not in attendance.

Commissioner Taylor moved that after personally reading and reviewing the typed minutes of the Memphis Light, Gas and Water Board meeting held February 15, 2007, that they be recorded as the official record, seconded by Commissioner Bowden, and unanimously carried.

The Secretary-Treasurer acknowledged receipt of certified copy of City Council document dated February 6, 2007, approving the appointment of Phillip R. Bowden, M.D. to the Memphis Light, Gas and Water Board of Commissioners, with a term expiring October 30, 2007 (see Minute File No. 1290); receipt of certified copies of City Council resolutions dated February 20, 2007, Items 7, 8, 10, 12 and 13, approving items approved by the MLGW Board at its meeting held February 1, 2007 (see Minute File No. 1290); and Item 32 (as amended), approving contract between MLGW and United Healthcare, approved by the MLGW Board at its meeting held November 2, 2006 (see Minute File No. 1287).

The Secretary-Treasurer updated the Board on pending City Council matters.

1. The Manager, Procurement and Contracts recommended to the Board of Light, Gas and Water Commissioners approval of Change No. 6 to Contract No. 9850, Management Support Cartridge Tape System, with Storage Technology Corporation, with no increase in contract amount.

The project scope has changed to assign Contract No. 9850 to Sun Microsystems, Inc. to continue maintenance service. Sun Microsystems, Inc. completed the acquisition of Storage Technology Corporation on August 31, 2005. As of January 1, 2007, Storage Technology will be merged with and into Sun Microsystems, Inc. and Storage Technology will cease to exist as a separate legal entity. All terms and conditions of the contract will remain valid.

It was moved by Commissioner Clark, seconded by Commissioner Taylor and unanimously carried:

THAT, Change No. 6 to Contract No. 9850 with Sun Microsystems, Inc., as outlined in the foregoing preamble, is approved; and further,

THAT, The President or his designated representative is authorized to execute the change.

2. The Manager, Procurement and Contracts recommended to the Board of Light, Gas and Water Commissioners approval of Change No. 16 to Contract No. 10780, Electric Construction and Maintenance, with Allied Electrical Contractors, Inc., with no increase in contract amount.

The project scope has changed to extend the contract not to exceed 90 days for the period May 1, 2007 until July 31, 2007. This change is necessary to allow time to prepare and solicit bids. There will be no change in the current contract rates. The contract amount will remain unchanged.

It was moved by Commissioner Clark, seconded by Commissioner Taylor and unanimously carried:

THAT, Change No. 16 to Contract No. 10780 with Allied Electrical Contractors, Inc., with no increase in contract amount, as outlined in the foregoing preamble, is approved; and further,

THAT, The President or his designated representative is authorized to execute the change.

3. The Manager, Procurement and Contracts recommended to the Board of Light, Gas and Water Commissioners approval of Change No. 4 to Contract No. 10870,

Provider Organization Coverage, with Health Choice, LLC, to extend the contract for the period February 1, 2007 to December 31, 2009.

The project scope has changed to allow MLGW direct access to inpatient and outpatient services performed at Methodist LeBonheur Healthcare, which includes six owned and operated hospitals in the Memphis area. This contract will be based on the rates that were submitted on December 29, 2006 and will be renewable annually with fixed reimbursement increases of 5% on January 1, 2008 and January 1, 2009. Further, claims will be adjudicated and funded by United Healthcare, a third party administrator, under MLGW Contract No. 11202.

It was moved by Commissioner Clark, seconded by Commissioner Taylor and unanimously carried:

THAT, Change No. 4 to Contract No. 10870 with Heath Choice, LLC, as outlined in the foregoing preamble, is approved; and further,

THAT, The President or his designated representative is authorized to execute the change.

4. The Manager, Procurement and Contracts recommended to the Board of Light, Gas and Water Commissioners approval of Expedited Procurement Request for Change No. 6 to Contract No. 10877, Wireless Telephone Services, with Nextel Communications, in an estimated funded amount of \$17,000.

This change is necessary to add funds to the contract to cover payment of outstanding invoices for the period May through October, 2006. This contract was terminated on September 7, 2006. The new contract amount is \$455,595.42.

It was moved by Commissioner Clark, seconded by Commissioner Taylor and unanimously carried:

THAT, Change No. 6 to Contract No. 10877 with Nextel Communications in an estimated funded amount of \$17,000, as outlined in the foregoing preamble, is approved; and further,

THAT, The President or his designated representative is authorized to execute the change.

5. The Manager, Procurement and Contracts recommended to the Board of Light, Gas and Water Commissioners approval of Expedited Procurement Request for Change No. 5 to Contract No. 10918, Out-of-State Auto Insurance, with Pete Mitchell & Associates, Inc., in the funded amount of \$88,257.

The project scope has changed to renew the contract for a fourth and final term to allow Pete Mitchell to continue to provide out-of-state auto insurance for the period March 15, 2007 to March 14, 2008. The insurance coverage allows 58 MLGW vehicles to go out of state and onto interstate connecting bridges to perform work. The new contract amount is \$389,003.

It was moved by Commissioner Clark, seconded by Commissioner Taylor and unanimously carried:

THAT, Subject to ratification by the Council of the City of Memphis, Change No. 5 to Contract No. 10918 with Pete Mitchell & Associates, Inc. in the funded amount of \$88,257, as outlined in the foregoing preamble, is approved; and further,

THAT, The President or his designated representative is authorized to execute the change.

6. The Manager, Procurement and Contracts recommended to the Board of Light, Gas and Water Commissioners approval of Change No. 2 to Contract No. 11000, Proactive Dialer Solution, with Televox Software, Inc., with no increase in contract amount.

The project scope is to allow Televox to continue to provide automated collection calls, pilot light-up calls, and planned outage calls for Customer Service and Account Services for a second term of four renewal terms covering the period retroactive to January 1, 2007 through December 31, 2008. This renewal includes no increase in the current rates. The existing contract value will remain \$200,000.

It was moved by Commissioner Clark, seconded by Commissioner Taylor and unanimously carried:

THAT, Change No. 2 to Contract No. 11000 with Televox Software, Inc., with no increase in contract amount, as outlined in the foregoing preamble, is approved; and further,

THAT, The President or his designated representative is authorized to execute the change.

7. The Manager, Procurement and Contracts recommended to the Board of Light, Gas and Water Commissioners approval of Change No. 2 to Contract No. 11013, Line Clearance, with Blume Tree Services, Inc., to renew the contract for a second term covering the period May 1, 2007 to April 31, 2008, in the funded amount of \$980,912.01. The new contract amount is \$33,682,033.01, which is a 3% increase from 2006.

The project scope is to trim and/or remove all trees and brush, to perform other utility forestry services, including chemical spraying, right-of-way clearing, cleaning up and disposing of material, and to provide clearance for the wires of MLGW.

It was moved by Commissioner Clark, seconded by Commissioner Taylor and unanimously carried:

THAT, Subject to the consent and approval of the Council of the City of Memphis, Change No. 2 to Contract No. 11013 with Blume Tree Services, Inc. in the funded amount of \$980,912.01, as outlined in the foregoing preamble, is approved; and further,

THAT, The President or his designated representative is authorized to execute the change.

8. The Manager, Procurement and Contracts recommended to the Board of Light, Gas and Water Commissioners approval of Expedited Procurement Request for Change No. 2 to Contract No. 11110, Courier Services, with Express Courier, Inc. in the funded amount of \$1,113.75.

The project scope has changed to add and cover the cost for pick up and delivery of one new mail stop, three times per week, at MLGW Building Services and Grounds, located at 1182 Tupelo. The new contract amount is \$144,755.26.

It was moved by Commissioner Clark, seconded by Commissioner Taylor and unanimously carried:

THAT, Change No. 2 to Contract No. 11110 with Express Courier, Inc. in the funded amount of \$1,113.75, as outlined in the foregoing preamble, is approved; and further,

THAT, The President or his designated representative is authorized to execute the change.

9. The Manager, Procurement and Contracts recommended to the Board of Light, Gas and Water Commissioners award of contract for furnishing voltage and current transformers for new construction at Substation 86 and spares for industrial customers at Substation 51.

Bids were opened on January 31, 2007. Ten bids were solicited and two bidders responded. The lowest and best complying bidder of two bidders was the firm of Areva T&D, Inc./Ritz HV IT, Inc. c/o Vincent Sales, Inc., in the amount of \$120,000.

It was moved by Commissioner Clark, seconded by Commissioner Taylor and unanimously carried:

THAT, Subject to the consent and approval of the Council of the City of Memphis, award of contract to Areva T&D, Inc./Ritz HV IT, Inc. c/o Vincent Sales, Inc. is approved for furnishing:

3 – 161 KV current transformers, high-accuracy, extended-range, in complete accordance with MLGW specifications dated December 1, 2006, at \$11,500 each

9 – 161 KV voltage transformers, high-accuracy, extended-range, in complete accordance with MLGW specifications dated December 1, 2006, at \$9,500 each

totaling \$120,000, f.o.b. Memphis, Tennessee, transportation prepaid; said prices being firm; delivery 31-41 weeks after receipt of order.

10. The President and CEO submitted for approval of the Board the following position numbers, per the attached documents (see Minute File No. 1291):

Position No. 00530, Clerical Support II
 Position No. 00588, Machine Operator – Gas
 Position No. 02341, Machine Operator – Gas
 Position No. 02543, Associate Engineer
 Position No. 03230, Water Technology Assistant Manager
 Position No. 05003, Distribution Design Engineer I
 Position No. 05292, Computer Software Specialist II

It was moved by Commissioner Clark, seconded by Commissioner Taylor and unanimously carried:

THAT, Position Numbers 00530, 00588, 02341, 02543, 03230, 05003, and 05292, as listed in the foregoing preamble, are approved.

11. WHEREAS, appropriate departments of the Engineering Division and the Vice President, Engineering approved the release of the utility easement as follows:

AN 8-ft.-wide electric distribution utility easement by deed of record as described in Book 4285, Page 327 in the Register's Office of Shelby County, Tennessee across a parcel of land described under Instrument No. 05169160 in the Register's Office of Shelby County, Tennessee to John P. Sheahan d/b/a S & S Investment Company or their successors in title for the sum of \$1.00.

Property located on the west side of Clarke Road, approximately 2,302 feet north of the centerline of Capleville-Whitehaven Road.

It was moved by Commissioner Clark, seconded by Commissioner Taylor and unanimously carried:

THAT, Release of said easement across the above described property is approved; and further,

THAT, The Board of Light, Gas and Water Commissioners recommends to the Mayor of the City of Memphis that the appropriate release deed be executed releasing said easement to the current property owner for a consideration of \$1.00.

12. The Manager, Procurement and Contracts recommended to the Board of Light, Gas and Water Commissioners approval of Change No. 10 to Contract No. 10839, Temporary Personnel Services, with neMarc Professional Services, Inc., in an estimated funded amount of \$280,000. The new contract amount is \$2,630,000.

The project scope has changed to cover an increase in the contract amount to cover the projected cost of services until the end of the contract term. This is the first increase in the contract amount since July 1, 2004.

It was moved by Commissioner Clark, seconded by Commissioner Taylor and unanimously carried:

THAT, Subject to the consent and approval of the Council of the City of Memphis, Change No. 10 to Contract No. 10839 with neMarc Professional Services, Inc. in an estimated funded amount of \$280,000, as outlined in the foregoing preamble, is approved; and further,

THAT, The President or his designated representative is authorized to execute the change.

13. The President and CEO submitted for approval of the Board the following position numbers, per the attached documents (see Minute File No. 1291):

Position No. 00639, Substation Electrician Apprentice
Position No. 01032, Helper
Position No. 01118, Training & Development Specialist III
Position No. 01197, Safety & Training Specialist
Position No. 01913, Safety & Training Specialist
Position No. 02320, Transformer Repairer Apprentice
Position No. 04553, Systems Operator II
Position No. 05057, Payment Adjustment Processor
Position No. 05639, General Foreman – Electric

It was moved by Commissioner Clark, seconded by Commissioner Taylor and unanimously carried:

THAT, Position numbers 00639, 01032, 01118, 01197, 01913, 02320, 04553, 05057 and 05639, as listed in the foregoing preamble, are approved.

14. Item No. 14 was not added to the agenda.

15. The Manager, Procurement and Contracts recommended to the Board of Light, Gas and Water Commissioners approval of Expedited Change No. 1 to Contract No. 11158, PCB Assessment of Transformer Fire, with Shaw Environmental and Infrastructure, Inc. in an estimated funded amount not to exceed \$100,000. The new contract amount is \$155,842.

The project scope has changed to extend the current scope of work to include cleanup of PCB contamination at 1629 Thomas Street. This increase is to cover the cleanup of PCB contamination to the immediate surroundings at 1629 Thomas Street in Memphis and Shelby County, Tennessee.

It was moved by Commissioner Clark, seconded by Commissioner Taylor and unanimously carried:

THAT, Subject to ratification by the Council of the City of Memphis, Change No. 1 to Contract No. 11158 with Shaw Environmental and Infrastructure, Inc. in an estimated funded amount not to exceed \$100,000, as outlined in the foregoing preamble, is approved; and further,

THAT, The President or his designated representative is authorized to execute the change.

16. The Board entertained discussion at the request of Commissioner Nick Clark of MLGW's notice and cutoff procedures.

It was moved by Vice Chairman Evans, seconded by Commissioner Bowden and unanimously carried, as amended:

THAT, MLGW management is instructed to remove from its Third Party Notification List the names of any current or former elected, appointed officials and VIPs whose notification was an MLGW office or set up outside of the normal process for requesting a third party notification prior to disconnection of utility services. MLGW requires appropriate documentation and approval by both parties.

17. By unanimous consent, Item No. 17, resolution requiring written notice to the Board of Commissioners of any request for personal preferential treatment by or on behalf of any elected or appointed official and written notice to the Board of Commissioners and the City Council's MLGW Standing Committee of any request by an employee of MLGW for personal preferential treatment of any elected or appointed official, was tabled.

18. The Board entertained discussion at the request of Commissioner Nick Clark regarding public officials, their utility accounts and Tennessee open records laws.

It was moved by Vice Chairman Evans, seconded by Commissioner Clark and unanimously carried:

THAT, in the course of public service, elected and appointed officials within the City of Memphis and MLGW acknowledge that their personal and business utility bills, usage records, payment histories, delinquencies and cutoffs are public records, and that MLGW may be required to disclose same upon proper request pursuant to Tennessee law.

19. By unanimous consent, Item No. 19, resolution requesting that the City Council not grant preferential access or treatment for MLGW's Bargaining Union at Committee Meetings or Council Sessions, was tabled until Chairman Masson meets with the Chairman of the Memphis City Council and reports his findings back to the Board.

20. **WHEREAS**, the Board of Light, Gas and Water Commissioners (the "Board") believes that it is important to acknowledge that there is now a crisis of confidence in the public perception of MLGW and in the way MLGW and the City Council deal with each other; and further,

WHEREAS, crisis can create opportunities for improvement and ultimately our citizens want to be able to trust that our utility and political system can operate in an improved manner; and further,

WHEREAS, the Board believes that, regardless of the results of the "independent investigations", there is such a deep loss of public confidence in MLGW that, in spite of any realities to the contrary in President Lee's ability to effectively lead the organization, the public confidence is not there right now; and further,

WHEREAS, it is very important that President Lee realize this is not an issue of executive or managerial performance or any suspicion that he personally gained anything from how Councilman Ford's utility bill was handled. It is an issue that given where we are now, what Mr. Lee's effectiveness will be in continuing to serve as the appointed president of MLGW. Unfortunately, it is an issue of the power of perception and emotions regardless of overall executive performance; and further,

WHEREAS, the Board serves as the representative of the rate payers and they are to whom we are responsible. The Board speaks in one voice by way of majority agreement through its Chairman, Rick Masson; and further,

WHEREAS, President Lee was appointed to a five-year term and the City Charter provides a check and balance for the benefit of protecting the President's office from political influence. That benefits the rate payers. Furthermore, it requires that the Mayor and City Council be of one mind in regard to ever removing the President of MLGW. That benefits the rate payers. Nonetheless, the Board finds itself in the unfortunate position of having to address the state of public confidence at this moment.

President Lee is quite aware of the ebbs and flow of public confidence and that the barometer of public confidence is typically no way to run a business; and further,

WHEREAS, the Board regrets that the greatest awareness for the Memphis public is how President Lee handled Councilman Ford's utility account, an item that consumed just a fraction of his time. While ultimately that is President Lee's responsibility, it is not what he should be judged for. What is not uppermost in the public eye, but what we as the Board can applaud President Lee for, are items such as:

- The development of MLGW's 2006–2011 Strategic Plan – what an excellent document. It has been said “that where there is no vision, the people perish.” In our situation, President Lee's vision for a defined objective strategic plan protects our rate payers.
- MLGW's involvement in two long-term natural gas discount purchases which will save our rate payers approximately \$6,000,000 annually in their cost of natural gas.
- The creation of a Cost Containment Team to respond to the analysis performed by outside consultants on how we benchmark ourselves to peer organizations and improve our operation compared to our benchmarks. Without being willing to compare ourselves, how do we know we are doing the best we can? We need external objective standards of performance. This process has already resulted in approximately \$13,000,000 in savings in the 2007 Budget.
- Support and leadership for a new health insurance plan which will save MLGW \$6,700,000 a year plus savings in the costs for those covered and an additional \$1,600,000 savings for City of Memphis.
- The creation of the Corporate Balanced Scorecard to provide objective internal standards of measurement so that we can execute improvements in our performance on a monthly basis.
- Investigation of the Automated Metering Infrastructure so that we can understand the balance between the cost of labor, the cost of technology, and the value of customer service. We should never be afraid to ask ourselves the tough questions; we must be responsible for what we do with the answers.
- Leadership in generating operating results which has allowed the company to continue to enjoy the benefits of excellent bond ratings and to keep from needing to raise its utility rates; and further,

WHEREAS, we, the Board, want to thank you for your leadership role at MLGW.

NOW THEREFORE BE IT RESOLVED by the Board of Light, Gas and Water Commissioners, **THAT**:

1. There has been a deep loss of public confidence in MLGW. In spite of any realities to the contrary in President Lee's ability to effectively lead the organization, the public confidence for today is not there right now.
2. It is very important that President Lee realize this is not an issue of executive or managerial performance on his part or any suspicion that President Lee personally gained anything from how Councilman Ford's utility bill was handled.

3. It is an issue that given where MLGW is today, President Lee's effectiveness in serving as the president of MLGW and his desire to do so will ultimately be in whether public confidence can be restored in MLGW.

It was moved by Commissioner Clark, seconded by Commissioner Bowden and carried, that Commissioner Clark's letter dated March 1, 2007 (see Minute File No. 1291) is approved, as amended and as outlined above, with Commissioners Clark, Evans, Bowden and Masson voting yes, and Commissioner Taylor voting no.

21. Authorization for the Chairman and General Counsel of MLGW to engage the services of an independent counsel to represent MLGW in conjunction with the City Council's independent investigation to carry out items/bullets 1, 2, 3 and 5, on pages 3 and 4, of Commissioner Clark's memo dated February 28, 2007 (See Minute File No. 1291), failed, with Commissioners Taylor and Clark voting yes, and Commissioners Evans, Bowden and Masson voting no.

22. Ms. Georgia King, 741 Adams Avenue #101, appeared before the Board to discuss various issues.

23. Mr. Kavin Carter, 6894 Rockbrook, appeared before the Board to discuss various issues.

24. Ms. Catherine Anderson, 3630 Hillbrook #3, appeared before the Board to discuss various issues.

There being no further business presented, the meeting was adjourned.

SEE MINUTE FILE NO. 1291.

Secretary-Treasurer