

MSD NOTIFIED NOT TO CONSTRUCT SEWER LINE ON SOUTHERN RAILROAD PROPERTY.

A special called meeting of the Metropolitan Sewerage District Board was held Friday, August 11, 1967, at 2:00 p. m. in the District Office, City Hall, Asheville, North Carolina.

Chairman Peterson called the meeting to order and Mrs. Swicegood, Secretary, called the roll with the following members present: Mr. Peterson, Mr. Garrison, Mr. Dawson, Mrs. Swicegood, Mr. Tandy, Mr. Warlick, and Mr. Williams. All members present signed a waiver of written notice of the meeting.

Mr. Johnson, Engineer-Manager, read a certified letter from the Southern Railway System notifying the Metropolitan Sewerage District not to construct any sewer line on their property. Mr. Johnson stated the meeting had been called to decide what action should be taken as the contractor was now shut down. He pointed out on a map exactly where the work was at present, and stated the only place the line could be moved to is in the middle of Lyman Street and that the railroad claims the street as their property also. It was pointed out that Lyman Street has been used as a city street as shown on City of Asheville official maps. Mr. Jowers concurred with Mr. Johnson and recommended the revision of this line at this point. Mr. Jowers further recommended that the matter be pursued relating to right of way on the proposed Swannanoa Interceptor Sewer line.

Mr. Redmond, Attorney, read the Statute to the Board pointing out the rights of the Metropolitan Sewerage District in the matter of securing necessary right of way.

The following Resolution was introduced by George E. Dawson and seconded by M. Leon Williams:

RESOLUTION

WHEREAS, Southern Railway Company has refused permission to the District to locate its interceptor sewer line extending across property claimed to be owned by the Railroad as described in Deed Book 145, page 217, and as shown on the City of Asheville - County of Buncombe Tax Maps as Lot 4, Sheet 15, Ward 4, as the same was to be located in accordance with the original engineering design therefor prepared by Harry Hendon and Associates, Inc., Birmingham; and

WHEREAS, the only alternative left to the District for the location of said right of way is for the same to be constructed within the City Street known as Lyman Street, sometimes called Riverside Drive, which street lies a short distance south-westwardly from the original location for said interceptor line; and

WHEREAS, Article 25 of Chapter 153 of the General Statutes of the State of North Carolina, as amended, and particularly Section 153-318 thereof provides as follows:

"A right of way or easement in, along, or across any State Highway system road, or street, and along or across any city or town street within a district is hereby granted to a district in case such right of way is found by the district board to be necessary or convenient for carrying out any of the work of the district. Any work done in, along, or across any State highway system, road, street, or property shall be done in accordance with the rules and regulations and any reasonable requirements of the State Highway Commission, and any work done in, or along, or across any municipal street or property shall be done in accordance with any reasonable requirements of the municipal governing body."

NOW, THEREFORE, BE IT RESOLVED by the District Board of the Metropolitan Sewerage District of Buncombe County, North Carolina, that a right of way or easement along the City Street in the City of Asheville known as Lyman Street, sometimes called Riverside Drive, as the same is shown on page 25 of Section 1 & 2 of the ~~map~~ or maps of Plans for Metropolitan Sewage Disposal Facilities of the Metropolitan Sewerage District of Buncombe County, North Carolina, Project No. 378, prepared by Harry Hendon and Associates, Inc., Engineers, Birmingham, Alabama, which map or maps are on file in the office of the Metropolitan Sewerage District Board, Room 609, City Building, Asheville, N. C., is hereby found by the District Board to be necessary for carrying out the work of the District and particularly with respect to the construction therein of the said interceptor line as shown on said map as hereinabove referred to.

BE IT FURTHER RESOLVED that the Engineer-Manager of said District be, and he is hereby authorized and directed to take any and all steps necessary to provide for andy changes in plans, specifications or design with respect to the said interceptor line and issue such orders and directives as may be required on behalf of the District and District Board to Consulting Engineers and/or contractors involved.

The Resolution was passed by the following vote:

Ayes: Mr. Peterson, Mr. Garrison, Mr. Dawson, Mrs. Swicegood, Mr. Tandy, Mr. Warlick, Mr. Williams.

Noes: None.

Minutes

August 11, 1967

Continued

After the passing of the Resolution Mr. Johnson stated he would issue instructions to the Consulting Engineer to revise the plans and issue instructions to the contractor to resume work immediately. Mr. Johnson asked for a point of clarification relating to communication with the Southern Railroad. Chairman Peterson ruled that we will be within the tax payers" authority to construct in the city street and that the only permission required is from the City of Asheville. Mr. Johnson and Mr. Redmond both affirmed that the City Manager had already approved this action.

There being no further business, the meeting adjourned at 3:15 p. m.

August 11, 1967

Lewis H. Swicegood
Secretary

WAIVER OF NOTICE

We, the undersigned, being all of the members of the Metropolitan Sewerage District of Buncombe County, North Carolina, do hereby waive notice of the time, place and purpose of a special meeting of the District Board and agree that the same may be held in the office of the Board on the 6th Floor of the City Building in the City of Asheville, N. C. at 2:00 P.M. on Friday, August 11th, 1967, for the purpose of making a determination with respect to a change in the sewerage disposal facilities interceptor line as the same traverses property along the French Broad River, which is claimed by the Southern Railway Company and we hereby waive all of the requirements of the laws of the State of North Carolina, and particularly of Article 25 of Chapter 153 of the General Statutes of North Carolina known as the North Carolina Metropolitan Sewerage Districts' Act, as amended, and we do hereby further waive all requirements of any by-laws or administrative policy of the Board with respect to notice of said meeting and do hereby agree that in addition to the specific purpose above set forth there may be transacted at such meeting any and all business that may come before said meeting.

J. E. Davidson

George E. Dawson

M. L. Williams

G. J. Fandy

Paul H. Harlock

Lewis H. Luriegord

Mr. L. L. Luriegord

C. L. Robinson

H. L. Baker

This is to certify that the above are true signatures of members of the Metropolitan Sewerage District Board.

Signed by: Lewis H. Luriegord
Secretary

August 11, 1967

Date:

8-11-67