

**BOARD OF THE METROPOLITAN SEWERAGE DISTRICT**  
**December 15, 1992**

**1. Call to Order and Roll Call:**

The regular monthly meeting of the Board of the Metropolitan Sewerage District was held in the Boardroom of MSD's Administration Building at 2:00 p.m. on Tuesday, December 15, 1992. Chairman Smith called the meeting to order at 2:00 p.m. with the following members present: Bryson, Dent, Edwards, Ivey, Penny, Post, Slosman and Wallace. Those members absent were: Frizzell and Maas

Others present were: W. H. Mull, Engineer-Manager, John Stevens, General Counsel, Bill Morris of Hendon Engineering Associates, Inc., Larry New of Vaughn & Melton, Bob Tinkler representing the League of Women Voters, Ann LaVeck, Stan Boyd and Angel Morris, MSD.

**2. Minutes of the November 24, 1992 Board Meeting:**

Mr. Slosman moved that the minutes of the November 24, 1992 meeting be adopted as written. Mr. Dent seconded the motion. Voice vote was unanimous in favor of the motion.

**3. Report of Engineer-Manager**

**a. Status Report on Construction Projects;**

**1. Montreat CIP Phase I**

Mr. Mull reported that 73% of the Montreat CIP Phase I project is complete with 84% of the contract time passed through December 14, 1992. Mr. Mull further reported that because of poor soil conditions, approximately 6,682 cubic yards of select backfill has been used to date and that the revised contract completion date is scheduled for February 1, 1993.

**2. Sweeten Creek Interceptor Sewer**

Mr. Mull reported that the Sweeten Creek Interceptor Sewer project is on schedule with construction to begin September, 1993 and completion expected September, 1994. Mr. Mull further reported that Hendon Engineering Associates, Inc. has worked closely with several Federal and State review agencies for comments on the project to be addressed in the Environmental Assessment Report.

**3. North Swannanoa Sanitary Sewer Interceptor**

Mr. Mull reported that three (3) plus easements are outstanding on the North Swannanoa Sanitary Sewer Interceptor with approval pending on the general permit application from the U.S. Army Corps of Engineers and encroachment agreement from the North Carolina Department of Transportation. Mr. Mull further reported that following approval of the encroachment agreement, a revised plan will be submitted to Norfolk-Southern Corporation with advertisement for bids scheduled for January, 1993. In addition, Mr. Mull reported that field staking and plan/profile surveying are complete on Phase II, Sections 1, 2 and 3 and plans/specifications on Phase II, Section 1, 70% complete with easement plats 50% complete. The environmental assessments on Phase II, Section 1 is 30% complete and Sections, 2 and 3, 20% complete. Mr. Mull further reported that completion of Phase II sections are expected as follows: Section 1 - January, 1997; Section 2 - February, 1998; Section 3 - March, 1999.

**4. Beaverdam Interceptor Improvements**

Mr. Mull reported that design on the Beaverdam Interceptor is 60% complete and easement surveying 75% complete with construction to begin in early 1993.

5. Asheville Streets and Sidewalk Sewer Rehabilitation

Mr. Mull reported that Contract 9 - Section II of the Asheville Streets and Sidewalks Sewer Rehabilitation project is complete with Contract 11, 49% complete and Contract 6, 21% complete.

6. Phase IV Sludge Handling Facilities

Mr. Mull presented a status report on the construction of Phase IV, Sludge Handling Facility and reported that as of November 25, 1992, 96% of Section I - General Contract is complete with 96% of the revised contract time passed. Mr. Mull further reported that 93% of Section 1A - Electrical is complete; 95% of Section IB - HVAC is complete and 80% of Section IC - Plumbing is complete. In addition, Mr. Mull reported that bids for the Alkaline Stabilization Facility were advertised December 12, 1992 and will be received on January 12, 1993.

**b. Schedule of 1993 MSD Board Meetings;**

Mr. Mull presented a schedule of 1993 MSD Board Meetings and reported that the November, 1993 meeting date is scheduled for the fourth Tuesday of the month due to the Annual NCAWWA/WPCA meeting. Mr. Penny moved that the Board adopt the schedule of 1993 MSD Board meetings. Mr. Dent seconded the motion. Voice vote was unanimous in favor of the motion.

**c. Consideration of Proposal for Engineering Services - US 74 Sewer Replacement - Vaughn & Melton;**

Mr. Mull presented a Proposal from Vaughn & Melton for providing professional engineering services for US 74 Sanitary Sewer Interceptor Improvements. Mr. Mull reported that the proposal was presented to the Sewer System Consolidation Committee December 7, 1992 and the Right-of-Way Committee December 8, 1992 and both Committees recommended entering into an agreement with Vaughn & Melton to proceed with the project. Mr. Mull stated that the project is a Priority One Interceptor and a part of Buncombe County's CIP request list and that Vaughn & Melton proposes to perform the engineering services associated with the project as follows: Final Engineering Design and Construction Documents for a lump sum fee of \$58,500.00; Construction Administration and Post Construction Services for a maximum not to exceed fee of \$106,000.00; Easement Plat Preparation for a fee of \$11,250.00 (based on approximately twenty-five (25) parcels at a unit cost of \$450.00) and Assistance during Easement Acquisition for a total fee of \$7,000.00. Mr. Dent explained that the MSD did not accept other proposals on this project because of Vaughn & Melton's work and particular expertise in this area with the Department of Transportation and North Carolina Environmental Management in connection with widening of Highway 74. Mr. Penny stated that because Vaughn & Melton had already prepared figures on this project and because the charges appeared consistent with similar charges for similar work, the Sewer System Consolidation Committee did not feel it was fair to ask for other proposals. There being no further discussion Mr. Dent moved that the Board approve the proposal as presented. Mr. Post seconded the motion. Roll call vote was as follows: 9 Ayes; 0 Nays.

**d. Consideration of Authorization to Advertise for Bids for Tandem Dump Truck - Chemical Sludge Stabilization Facility;**

Mr. Mull presented a Notice to Bidders for a Tandem Dump Truck for the Chemical Stabilization Facility and stated that the truck will be used to carry sludge from the Sludge Dewatering building to the Chemical Stabilization Facility. Mr. Mull reported that the advertisement for bids was presented to the Sewer System Consolidation Committee December 7, 1992 and the Committee recommended that the Board authorize staff to proceed with advertising for bids. Mr. Post moved on the recommendation of the Sewer System Consolidation Committee. Ms. Wallace seconded the motion. Voice vote was unanimous in favor of the motion.

**e. Consideration of Authorization of Engineering for Unanticipated Projects;**

Mr. Mull presented a list of six (6) unanticipated projects that the District is required to replace or relocate where a line is located under an existing structure and reported that following review by the Sewer System Consolidation Committee, December 7, 1992 the Committee recommended that the Board approve up to \$1,500.00 per project for surveying expense. Mr. Mull noted the cost of each project as follows: Kensington Drive, \$600.00; Rice Branch Road, \$375.00; Aston Park, \$710.00; Town and Country, \$700.00; Miller Beer, \$1,517.50 and Black Mountain Chevy Dealer with no proposal submitted to date. Following a brief discussion, Mr. Penny moved that the Board approve a total of \$6,000.00 for the projects as presented. Mr. Edwards seconded the motion. Roll call vote was as follows: 9 Ayes; 0 Nays.

**f. Consideration of Authorization of Engineering for Private Sewer Rehab Project - Hickory Tree Road;**

Mr. Mull reported that the Preliminary Engineering Report for the Hickory Tree Road Private Sewer Rehabilitation project was presented to the Sewer System Consolidation Committee December 7, 1992 and the Committee recommended approval to proceed with the project at a cost of up to \$1,500.00 for surveying work with engineering to be done in-house. Mr Mull further reported that a proposal was received from McAbee & Associates, P.A. Surveyors for a topographic survey at a cost of \$1,600.00 and four (4) easements at a cost of \$300.00 each for a total cost of \$2,800.00. Mr. Mull stated that the estimated construction cost for the project is between \$44,000.00 and \$48,000.00 and will come out of the District's \$200,000.00 annual maximum budget for private sewer rehab systems. Ms. Bryson moved that the Board approve the proposal from McAbee & Associates, P.A. for a total cost of \$2,800.00. Mr. Post seconded the motion. Roll call vote was as follows: 9 Ayes; 0 Nays. A discussion followed regarding the location of the project and the possibility of future projects of this type.

**g. Status Report on Nasty Branch Sewer Evaluation;**

Mr. Mull presented a status report on the Nasty Branch Interceptor, located along Lyman and Depot streets, and stated that the report was presented to the Sewer System Consolidation Committee December 7, 1992 and the Committee recommended approval to proceed with the project. Mr. Mull further reported that a proposal was received from McAbee & Associates, P.A., Surveyors for a topographic survey at a cost of \$3,400.00 and two (2) easements at a cost of \$350.00 each for a total cost of \$4,100.00. Mr. Dent moved that the Board approve the proposal from McAbee & Associates, P.A. for a total cost of \$4,100.00. Mr. Penny seconded the motion. Following a brief discussion with regard to the purpose of topographic maps, roll call vote was as follows: 9 Ayes; 0 Nays.

**h. Consideration of Award of Bids for Biltmore Forest CIP Sewer Construction;**

Mr. Mull reported that discussion on Award of Bids for Biltmore Forest CIP Sewer Construction has been postponed until the next Board meeting or called Board meeting due to a substantial cost overrun.

**i. Consideration of a Resolution Correcting an Error in the date of the \$5,930,000 Term Bonds constituting a part of the District's Sewerage System Revenue Refunding Bonds, Series 1992A from July 1, 2012 to July 1, 2016;**

Mr. Mull presented a Resolution correcting an error in the date of the \$5,930,000 Term Bonds constituting a part of the District's Sewerage System Revenue Refunding Bonds, Series 1992A from July 1, 2012 to July 1, 2016. Mr. Mull reported that the Bonding Attorney's, staff and facility engineers recommended that the Board adopt the Resolution. Mr. Edwards moved that the Board adopt the Resolution as presented. Mr. Post seconded the motion. Roll call vote was as follows: 8 Ayes; 0 Nays, 1 Abstention (Mr. Ivey).

**4. Report of Officers**

None

**5. Report of Committees:**

**a. Insurance Committee - 11/30/92 - Mr. Edwards**

Mr. Edwards reported that the Insurance Committee met November 30, 1992 to discuss the District's current insurance coverage. Mr. Frank Patterson of McLean Insurance Company stated that since 1968 there were few liability claims until the District took over the collector sewer systems and that the local claims person at Travelers and Ann LaVeck had worked closely together to minimize claims. Mr. Bill McLean, Jr. reported that McLean Insurance had reviewed the coverage requirements in the District's Bond Order and that Becky Etheridge at Wachovia indicated the District's present levels of insurance satisfy the requirements under the Bond Order. Mr. McLean then presented an overview of the District's existing coverage. Mr. Edwards stated that the Insurance Committee determined that the District would ask the City of Asheville's Risk Manager, John Miall, to look at the coverage and once the District determines whether or not it has adequate coverage, the District would then consider putting out a request for proposals. Mr. Mull reported that a draft recommendation from Mr. Miall was received and will be reviewed for any changes.

**b. Sewer System Consolidation Committee - 12/7/92 and 12/15/92 - Mr. Dent**

Mr. Dent reported that the Sewer System Consolidation met December 7, 1992 and December 15, 1992 to consider several items previously discussed in the Engineer-Manager's report. Mr. Dent further reported that the Committee listened to a presentation from Mr. Mike Goforth, Construction Coordinator with R. L. Coleman & Company and stated that Mr. Goforth's Company is converting the West Terrace Apartments on Patton Avenue into commercial office spaces which will require individual meters for each office. Mr. Dent further stated that Mr. Goforth's company is concerned about having to pay capacity depletion fees on each individual space and pointed out that prospective tenants would be producing less flow and using less capacity therefore a capacity depletion fee should not be required. Mr. Dent reported that since Mr. Goforth did not have adequate information for the Committee to make a recommendation, the Committee ask Mr. Goforth to obtain additional information to be presented at the next Sewer System Consolidation Committee.

**c. Right-of-Way Committee - 12/8/92 - Mr. Edwards**

Mr. Edwards reported that the Right-of-Way Committee met December 8, 1992 to discuss the following items:

**1. Biltmore Forest Sewer Improvements**

Mr. Edwards reported that the Biltmore Forest Sewer Improvements project is 70% complete with 7 easements outstanding and no cash compensation issued to date.

**a. Satterfield Parcel:**

Mr. Edwards reported that there is an easement by reservation in a 1925 out conveyance providing for construction, repairs or replacement of Mr. Satterfield's line but stipulating no widths for such construction, repair or replacement. In addition, the Town of Biltmore Forest, in an effort to resolve the issue of tree replacement, has suggested that the slip lining procedure be used instead of replacement of the line. Mr. Edwards further reported that Mr. Satterfield has demanded that MSD present him with a

receipt in the amount of \$15,000.00 to use as a deduction on his taxes. Mr. Edwards stated that following a discussion on placing a value on the easement area via a receipt, legalities involved and use of the slip lining process, the Committee felt that the MSD was not in a position to place values on easement areas and it was recommended that if an agreement could not be reached using the slip lining procedure in the existing easement, without the requested receipt to the property owner, that staff proceed with obtaining an appraisal and condemnation of the Satterfield parcel. Mr. Edwards further stated that the Committee further expressed that slip lining may be practical in this particular case and could possibly be used in connection with other parcels in the future. Following a discussion Mr. Edwards moved that the Board approve proceeding with condemnation of the Satterfield property. Mr. Dent seconded the motion. Voice vote was unanimous in favor of the motion.

2. North Swannanoa Sanitary Sewer Interceptor

Mr. Edwards reported that the North Swannanoa Sanitary Sewer Interceptor project is 94% complete with \$130,077.00 in cash compensation paid to property owners for easements to date.

a. **Young Parcel:**

Mr. Edwards reported that negotiations are continuing with Mr. Young and his attorney, Albert Sneed. Mr. Young has requested \$25,000.00 to sign the easement but in recent conversations between MSD Attorney, Sheryl Williams and Albert Sneed, Mr. Sneed requested a counter offer be made by the District. Mr. Edwards further reported that Mr. Doug Thrash is preparing an appraisal to calculate damages to the property and although not complete, his research indicates damages in the range of \$9,400.00 for the proposed alignment and \$6,600 for the alternate. Following a brief discussion, Mr. Edwards moved that the Board approve a counter offer in the amount of \$9,400.00 or proceed with condemnation. Mr. Penny seconded the motion. Roll call vote was as follows: 8 Ayes; 0 Nays.

b. **Norfolk/Southern Railroad Encroachment:**

Mr. Edwards reported that it has taken one year to receive an encroachment agreement from Norfolk/Southern which contains very oppressive language. Mr. Edwards further reported that staff and counsel have discussed and have approached Norfolk/Southern to make some changes in the language but have been told that review of any changes will take an untold amount of time and possibly may not be granted upon review. Therefore, the Committee recommended signing the agreement citing that the risks involved in executing the document with the existing language are not worth delaying the project. Mr. Edwards moved on the recommendation of the Right-of-Way Committee. Ms. Wallace seconded the motion. A discussion followed regarding the time delay in dealing with Norfolk/Southern in rewriting the agreement. Mr. Stevens stated that the problem is with asking for consideration of an easement since Norfolk/Southern owns 100 feet of right-of-way either side of centerline and are reluctant to give it up except under the its terms. There being no further discussion, Roll call vote was as follows: 8 Ayes; 0 Nays.

3. Beaverdam Creek Interceptor - North Fork

Mr. Edwards reported that the Beaverdam Creek Interceptor project is 80% complete with \$4,463.74 paid as cash compensation to date.

a. **Whitt Parcel:**

Mr. Edwards reported that several attempts have been made to meet with Mr. Whitt, but to date, Mr. Whitt has failed to appear at any meetings. Mr. Edwards further reported that since the current project schedule calls for easements to be obtained by the end of January, the Committee recommended authorization to obtain an appraisal to determine an offer of damages and condemnation if an agreement cannot be reached. Mr. Edwards moved on the recommendation of the Right-of-Way Committee. Mr. Slosman seconded the motion. Voice vote was unanimous in favor of the motion.

4. Montreat Sewer Improvements Project:

Mr. Edwards reported that the Montreat Sewer Improvements project is 64% complete with \$250.00 issued as cash compensation to date.

a. **Pratt Parcel:**

Mr. Edwards reported that the parcel owners have requested a realignment to the eastern side of the property in order to increase the saleable area of the lot. Mr. Edwards further reported that the realignment will cost an additional \$4,450.00 and the Committee recommended approval of the realignment provided no further conditions are required by the owners. Mr. Edwards moved on the recommendation of the Right-of-Way Committee. Mr. Post seconded the motion. Roll call vote was as follows: 8 Ayes; 0 Nays.

b. **Biddle Parcel:**

Mr. Edwards reported the Biddles are lessees of the vacant property under a 99 year lease from the owner, Mountain Retreat Association who has signed the easement agreement, but it did so after the lease. However, the Biddles refuse to sign the agreement stating that they have plans to build on the property. Ms. Morris presented a map showing the location of the property and stated that since the lease is of record, it is necessary to have the tenants signature on the easement agreement. Mr. Edwards further reported that the Committee recommended approval of an appraisal to determine an offer of damages and condemnation if an agreement cannot be reached. Following a brief discussion, Mr. Slosman moved on the recommendation of the Right-of-Way Committee. Mr. Post seconded the motion. Voice vote was unanimous in favor of the motion.

In other business, Mr. Edwards presented a copy of a Resolution authorizing the exchange of real property owned by MSD for a permanent easement and temporary construction easement for water lines and accessories over and upon that property of R.B.R. & S.T., which was approved at the November 24, 1992 meeting of the Board. Mr. Edwards moved that the Board adopt the Resolution as presented. Ms. Bryson seconded the motion. Voice vote was unanimous in favor of the motion.

Mr. Edwards reported that in order to cut down on the number of matters being submitted to the Board, staff has requested that the Right-of-Way Committee be allowed a \$5,000.00 to \$10,000.00 dollar limit in which to act on realignments, appraisals, etc. without further Board approval. Following a brief discussion and clarification of the motion, Mr. Edwards moved that the Board approve the Right-of-Way Committee be allowed a \$5,000.00 to \$10,000.00 dollar limit in which to act on realignments, appraisals, etc. subject, however to further review and approval by Counsel. Mr. Post seconded the motion. Roll call vote was as follows: 8 Ayes; 0 Nays.

**6. Unfinished Business:**

None

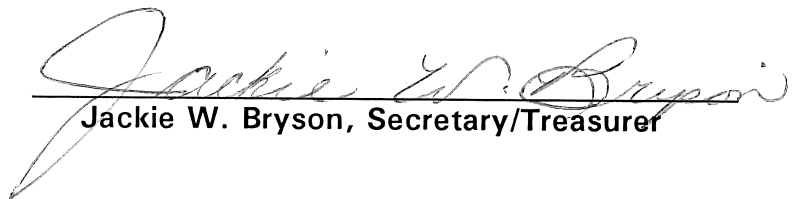
**7. New Business:**

None

**8. Date of Next Regular Meeting: January 19, 1993**

**9. Adjournment:**

There being no further business the meeting was adjourned at 2:55 p.m.

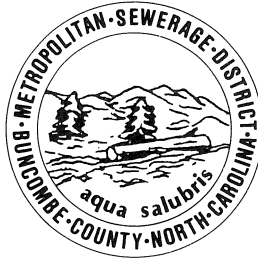
  
Jackie W. Bryson, Secretary/Treasurer

# MSD Metropolitan Sewerage District of Buncombe County, North Carolina

W. H. Mull, P.E., Engineer-Manager  
P.O. Box 8969, Asheville, N.C. 28814  
Telephone: Area Code 704-254-9646

Telecopier (704) 254-3299

John S. Stevens, General Counsel



Frank S. Smith III, Chairman  
George E. Ivey, Vice-Chairman  
Jackie W. Bryson  
Charles M. Dent  
M. Wayne Edwards  
Kenneth E. Frizsell  
Richard P. Maas  
Charles W. Penny  
O.R. Post  
E. Benson Slosman  
Carolyn R. Wallace

## RESOLUTION

RESOLUTION CORRECTING THE RESOLUTION OF THE DISTRICT BOARD OF THE METROPOLITAN SEWERAGE DISTRICT OF BUNCOMBE COUNTY, NORTH CAROLINA PASSED ON APRIL 21, 1992 RELATING TO SEWERAGE SYSTEM REVENUE REFUNDING BONDS, SERIES 1992A OF SAID DISTRICT.

WHEREAS, the District Board of the Metropolitan Sewerage District of Buncombe County (the "District Board") passed on April 21, 1992 a resolution changing from \$5,940,000 to \$5,930,000 the aggregate principal amount of the Term Bonds maturing on July 1, 2012 and constituting a part of the Sewerage System Revenue Refunding Bonds, Series 1992A of said District to be issued; and

WHEREAS, the reference to July 1, 2012 in said resolution should have been to July 1, 2016, which error was discussed on or before April 28, 1992 with all members of the District Board, except for Chairman Frank Smith and member Benson Slosman, neither of whom was available; and

WHEREAS, the members of the District Board with whom such error was discussed were in favor of correcting such error, except for member George Ivey, who abstained, and the District Board desires to confirm such correction;

NOW, THEREFORE, BE IT RESOLVED BY THE DISTRICT BOARD OF THE METROPOLITAN SEWERAGE DISTRICT OF BUNCOMBE COUNTY, as follows:


Section 1. Said resolution passed on April 21, 1992 is corrected by changing "July 1, 2012" to July 1, 2016".

Section 2. This resolution shall take effect immediately upon its passage.

Adopted this 15th day of December, 1992.

  
Chairman

ATTEST:

  
Secretary



**RESOLUTION**

**WHEREAS**, Metropolitan Sewerage District of Buncombe County, North Carolina (hereinafter MSD) authorized the exchange of certain property owned by MSD as described in a Deed recorded in Deed Book 1698 at Page 300 for a permanent easement and temporary construction easement for water lines and accessories over and upon that property of R.B.R.&S.T., a North Carolina Limited Partnership (hereinafter R.B.R.&S.T.), located on N.C. Highway 81, Asheville Township, as shown on plats recorded in Plat Book 10 at Page 43 and Plat Book 25 at Page 7, said easements being shown on a plat prepared by Hutchison-Biggs and Associates, Inc., dated September 10, 1991 and last revised August 12, 1992; and

**WHEREAS**, said property shall be conveyed by MSD to R.B.R.&S.T. by Special Warranty Deed subject to a permanent easement and a temporary construction easement to MSD for sewer lines and accessories as shown on a plat prepared by Hutchison-Biggs and Associates, Inc., dated September 20, 1991; and

**WHEREAS**, a Public Notice concerning the exchange with R.B.R.&S.T. as set forth above was published in the Asheville Citizen-Times on December 4, 1992.

**NOW, THEREFORE, BE IT RESOLVED** by Metropolitan Sewerage District of Buncombe County, North Carolina, as follows:

1. That this Board authorize the exchange of property with R.B.R.&S.T. as set forth above.
2. That the Chairman and Secretary are authorized to execute and seal a Special Warranty Deed to R.B.R.&S.T. and to take any other steps necessary in connection with the exchange with R.B.R.&S.T.

This the 15th day of December, 1992.

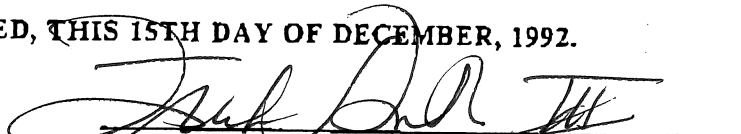
**I MOVE THE ADOPTION OF THE FOREGOING RESOLUTION:**

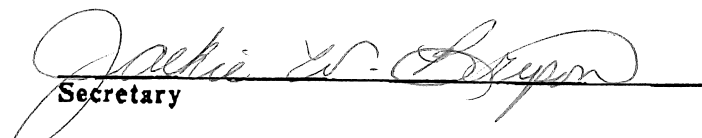
\_\_\_\_\_  
Board Member

**SECONDED BY:**

\_\_\_\_\_  
Board Member

**READ, APPROVED AND ADOPTED, THIS 15TH DAY OF DECEMBER, 1992.**

  
\_\_\_\_\_  
Chairman

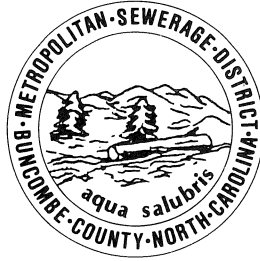
  
\_\_\_\_\_  
Secretary

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W. H. Mull, P.E., Engineer-Manager  
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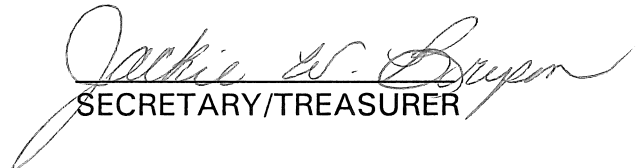
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## SCHEDULE OF ANNUAL MEETING DATES OF THE METROPOLITAN SEWERAGE DISTRICT BOARD

Meetings are held in the Boardroom of Metropolitan Sewerage District's Administration Building, N.C. Highway 251 North at Woodfin, N.C.

### 1993

January 19	2:00 p.m.
February 16	2.00 p.m.
March 16	2.00 p.m.
April 20	2.00 p.m.
May 18	2.00 p.m.
June 15	2.00 p.m.
July 20	2.00 p.m.
August 17	2.00 p.m.
September 21	2.00 p.m.
October 19	2.00 p.m.
November 23	2.00 p.m.
December 21 (If Necessary)	2.00 p.m.

  
SECRETARY/TREASURER