

# BOARD OF THE METROPOLITAN SEWERAGE DISTRICT

NOVEMBER 8, 2000

## 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., Wednesday, November 8, 2000. Chairman Blackburn presided with the following members present: Aceto, Bryson, Field, Gantt, Graham, Kelly, Pace, Sobol, Spell and Venable.

Others present were: William H. Mull, General Manager, William Clarke, General Counsel, Danny Bridges of McGill Associates, Tom Hartye, Jim Fatland, Stan Boyd, Ann LeMieux, John Kiviniemi, Ed Bradford, Blake Bridwell and Sondra Honeycutt, MSD.

## 2. Approval of Minutes of 10/11/00 & 10/25/00 meetings:

Mr. Spell moved that the minutes of the October 11, and October 25, 2000 meetings be approved as presented. Mr. Venable seconded the motion. Voice vote was unanimous in favor of the motion.

## 3. Public Comment:

None

## 4. Discussion and Adjustment of Agenda:

Mr. Aceto requested that items b. and c. be pulled from the Consolidated Motion Agenda for further consideration and Mr. Sobol requested that item d. be pulled.

## 5. Report of General Manager:

### Consolidated Motion Agenda:

#### a. Consideration of Acceptance of Developer Constructed Sewer Systems, Twin Springs Subdivision and Bullman/Lanning Sewer Extension:

Staff recommends acceptance of the developer constructed sewer systems. All MSD requirements have been met.

#### b. Consideration of Bids for Five (5) Projects:

Staff recommends the Board award the contract to Buckeye Construction Company, in the following amounts:

Shiloh Road MSR \$117,154.50

Woodlawn Rd MSR \$123,111.25

Fairfax Ave. MSR \$291,781.95

Middlemnt. Ave. AMP \$209,276.75

Vernell Street MSR \$197,587.05

for a total bid amount of \$938,911.50, then evaluate Vernell Street for possible deletion from the Contract, contingent upon attorney review and approval.

**c. Consideration of Revised By-laws:**

The By-laws Committee recommends approval of the By-laws as presented.

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**d. Consideration of Bids for Tomahawk Branch Rehabilitation, Phase 1:**

The following bids were received November 7, 2000 for Tomahawk Branch Rehabilitation, Phase 1: Contract 1 - Fold and Formed PVC, Jones Brothers, Inc. with a total base bid of \$382,285.00 and Atlantic Coast Contractors with a total base bid of \$424,225.00. Contract 2 - Cured in Place Pipe, Reynolds, Inc. with a total base bid of \$497,182.50 and Insituform Technologies with a total base bid of \$541,780.00. Staff recommends the District award Contract 1 to Jones Brothers, Inc. in the amount of \$382,285.00 contingent upon attorney review and approval. Also, that the District award Contract 2 to Reynolds, Inc. in the amount of \$497,182.50 contingent upon attorney review and approval.

**e. Investment Report for Period Ended 9/30/00:**

Presented as information only.

Mr. Spell moved that the Board approve items a. and e. of the Consolidated Motion Agenda. Mr. Pace seconded the motion. Roll call vote was as follows: 11 Ayes; 0 Nays.

Regarding item b. (Bids for Five Projects), Mr. Sobol asked if these projects are Asheville Master Plan projects (AMP). Mr. Mull stated that Fairfax Avenue and Middlemont Avenue are AMP projects and that Shiloh Road, Woodland Rd and Vernell Street are Miscellaneous Sewer Rehabilitation (MSR) projects. Mr. Hartye explained why the Middlemont Avenue and Vernell Street projects are so high. He stated that in general the prices are higher because previous year's estimates were used and because of an inflated market. He further stated that in order to handle previous budgeting problems, staff would proceed with surveying and getting projects to the preliminary design stage prior to making estimates and going out for bid. He noted that the District has the ability under the contract to withdraw any portion of the work.

A discussion was held regarding the various types of technology being used (trenchless, dig and replace and lining) and the length and cost per lineal foot of the Vernell Street project. Mr. Bradford reported that the estimated cost of the Vernell Street project is \$175,000.00. Ms. Field moved that the Board approve the contract with Buckeye Construction Company, Inc. in the amount of \$938,911.50 and evaluate the cost of the Vernell Street and Middlemont Avenue projects, with a report to the Board on the results of the evaluations. Mr. Pace seconded the motion. Following a brief discussion, roll call vote was 11 Ayes; 0 Nays.

Ms. Field asked if all MSD's projects are coming in over budget and if there is a report available on the amount of contingencies. Mr. Hartye stated that the contingencies are approximately \$2 million in the CIP.

Regarding item d. (Tomahawk Branch Rehab) Mr. Sobol asked what the lineal feet is for Contract 2 and why Cured-In-Place Lining was being used instead of Fold and Formed. Mr. Hartye stated that the pre-design scope of the project was estimated at approximately at 5,400 lineal feet, but after review of video information, it was determined that approximately 11,000 lineal feet of the existing mains could be lined using trenchless technology, which will save a significant amount of money. He further stated that Cured-In-Place Lining is being used for Contract 2 because of major offsets in pipe joints, making it difficult to use Fold and Formed. Following a discussion regarding the total lineal feet and cost to rehabilitate this pilot basin, Mr. Sobol moved that the Board

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approve the recommendation of staff. Mr. Pace seconded the motion. Roll call vote was as follows: 11 Ayes; 0 Nays.

Regarding item c. (Revised By-laws), Mr. Clarke went over the various changes made by the Committee to the existing By-laws. Mr. Venable noted that the change in Section 3.02, (Special Meetings) with regard to a forty-eight (48) hour notice, should also be changed in Section 3.05 (Agenda). Mr. Clarke stated the Board can call an emergency meeting in matters requiring due consideration without notice, but the law does require a written 48-hour notice for a Special Meeting. He further stated that any governmental board is required, at the beginning of the fiscal year, to provide a list of meetings to the media and others, and that any other meeting held that are not listed, would be considered a Special Meeting.

Regarding Section 3.05, Mr. Aceto expressed a concern about the statement "the agenda requirement shall be waived for any Special Meeting of the Board called upon twenty-four hours' notice or less." Following a discussion, Mr. Clarke deleted the statement. With regard to Section 3.08 (Public Comment to the Board), Mr. Aceto asked if the public is required to make a request to be on the agenda seven days in advance. Mr. Clarke suggested that the first sentence of this section be changed to read "Any individual or group wishing to address the Board shall make a request to the General Manager at, or prior to the meeting." Mr. Aceto stated that a seven-day notice to be on the agenda should be addressed in the District's Public Comment Policy.

Regarding amendment of the By-laws, Mr. Clarke stated that he would add language to Article IX (Amendments) to say "Any amendments must be proposed and distributed to Board Members at a regularly scheduled Board Meeting prior to their consideration at the next regularly scheduled Board Meeting".

Regarding Section 4.09 (Duty to Vote), Mr. Aceto questioned the statements "No member shall be excused from voting except on matters involving his or her own financial interests or official conduct." Also, "The chair, in his or her own absolute discretion, shall determine whether or not the member shall be excused." in that no mention is made with regard to professional conflicts of interest. Mr. Clarke stated that the wording "official conduct" means doing your job as an officer of the District, which should include professional conflicts of interest. A discussion was held regarding the first and last sentence of the Section,

which gives the remaining members the right to excuse a member from voting. Mr. Clarke stated that he would change these sentences to read "excused by the chair". A lengthy discussion followed regarding the right of The Chair to excuse or not to excuse a member from voting. Ms. Field requested that before The Chair makes a decision on excusing a member from voting that he or she consult with the Board's Counsel first. Mr. Clarke stated that he would change the sentence to reflect this request.

Regarding Section 3.01 (Regular Meetings), Mr. Venable questioned whether the last sentence "All meetings of the Board (including notices thereof) shall be in compliance with the North Carolina Statutes regulating the meetings of governmental bodies" includes Special Meeting. Mr. Clarke stated that he would add this statement to Section 3.02 (Special Meetings).

Regarding Article VI (Committees), Mr. Aceto asked if committees are subject to the same rules as Board Meetings in providing notices of meetings and keeping minutes. Mr. Clarke stated he would add the appropriate language to this Article regarding notices and minutes.

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Mr. Kelly asked if a member of the Public could raise a question under New Business. Mr. Blackburn suggested that Section 3.06 (Order of Business) number 10 be changed to read "New business raised by the General Manager or Member."

Mr. Spell questioned whether a member must be excused from leaving a meeting early. Mr. Clarke stated that he would check into the question.

Mr. Sobol asked if a "call for the question" ends the debate. Mr. Clarke stated that a motion can be made to end debate on a motion.

Mr. Aceto moved that the By-laws Committee be commended for its efforts, and ask that another draft be prepared with the concerns addressed and circulated to the Board for approval. Also, that the Chair make an appropriate committee assignment to consider a Public Comment Policy and Conflict of Interest Policy. Mr. Gantt seconded the motion. Voice vote was unanimous in favor of the motion. Mr. Blackburn instructed the previously appointed Committee to revise the By-laws with the additions

of Mr. Aceto and to develop policies on Public Comment and Conflict of Interest.

**1. Consideration of Contract with Buncombe County for Lease of Administration Building:**

Mr. Mull presented a copy of the Lease Agreement between the MSD and Buncombe County and stated that the Initial Term of the Lease is for a period of five (5) years, commencing on the first day of March, 2001. He further stated that during the Initial Term of the Lease the annual rental is \$42,035.52 per year, with a 5% increase should the Lease be extended.

Mr. Gantt asked to be excused from voting on this issue. Ms. Field moved that he be excused from voting. Mr. Pace seconded the motion. Voice vote was unanimous in favor of the motion.

Mr. Mull reported that the County Manager has reviewed the Lease and is in agreement in presenting it to the County Commission for approval. Regarding Section 202 (Right of Extension), Ms. Graham asked if the County was interested in a longer renewal term, perhaps two (2) five-year terms. Mr. Mull stated that an additional five-year term was not discussed. Mr. Venable asked why so much language is included in Section 204 (Rent During Extension Period) when a decision has not been made whether to extend or not. Mr. Clarke stated that it was a matter of one negotiation. If the County decides to renew the lease it will not be necessary to come back and renegotiate the terms. Ms. Graham moved that Board approve the Lease as presented. Mr. Pace seconded the motion. Mr. Venable questioned the reference to Exhibit A of the Lease. Mr. Clarke stated that Exhibit A refers to Personal Property, but a final decision has not been made as to what will be left. With no further discussion, roll call vote was as follows: 10 Ayes; 0 Nays.

**7. Committee Reports:**

None

**8. New Business:**

Mr. Aceto presented a memo from himself to the Board and Staff regarding what he learned while attending the WEFTEC 2000 Conference in Anaheim, California. Mr. Blackburn stated that he felt the programs were

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excellent and expressed his appreciation to staff for pointing out to Board Members some of the technology that is currently being used and the possible purchase of new technology for the future. Mr. Pace stated that staff's tour was very interesting.

Ms. Field announced that Mr. Spell is leaving his position as Assistant City Manager. She stated that he has accepted a position as City Manager in Monroe, North Carolina. Mr. Spell stated that he would continue to work through December 1, 2000 and assume his new position on December 4. He further stated that being a Member of the MSD Board has been a good experience during his five year tenure with the City of Asheville.

With regard to moving the December Board meeting from the 20<sup>th</sup> to the 13<sup>th</sup>, Mr. Blackburn called for a motion. Ms. Field moved to change the meeting date from December 20, to December 13, 2000. Ms. Graham seconded the motion. Voice vote was unanimous in favor of the motion.

**9. Old Business:**

None

**10. Adjournment:**

With no further business, Mr. Pace moved for adjournment at 3:20 p.m. Mr. Venable seconded the motion. Voice vote was unanimous in favor of the motion.

Jackie W. Bryson, Secretary/Treasurer