

# **BOARD OF THE METROPOLITAN SEWERAGE DISTRICT**

**JUNE 13, 2001**

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

The regular monthly meeting of the Board of the Metropolitan Sewerage District and Public Hearing on the Budget and Sewer Rates was held in the Boardroom of MSD's Administration Building at 2:00 p.m., Wednesday, June 13, 2001. Vice Chairman Mike Sobol presided with the following members present: Aceto, Ball, Bryson, Field, Graham, Gantt, Kelly, Pace and Venable. Absent was Chairman Brady Blackburn.

Others present were: Thomas E. Hartye, General Manager, William Clarke, General Counsel, Gary McGill of McGill Associates, Jim Rogers of Cutler-Hammer, William Langdon of Langdon & Associates, Conway Dameron of The Architectural Practice, Mark Barrett of the Asheville Citizen-Times, Patti Beaver of CIBO, Jim Fatland, Ann LeMieux, Ed Bradford, Roger Watson, Stan Boyd, John Kiviniemi, Sharon Walk and Sondra Honeycutt, MSD.

## **2. Public Hearing - Consideration of Resolution Adopting Budgets and Sewer Use Rates for Fiscal Year 2001-2002:**

### **MINUTES OF PUBLIC HEARING**

At 2:05 p.m., Mr. Sobol opened the Public Hearing on the Budgets and Sewer Use Rates for Fiscal Year 2001-2002. Mr. Sobol asked for comments from the public on the proposed budget. There being no comment, Mr. Sobol declared the hearing closed at 2:06 p.m.

Mr. Sobol called for comments from the Board. Mr. Field asked if there was a final consensus from the manufacturing community on the 20-year rate plan, since Council members received calls from industry representatives regarding the 5 and 12-year plans. Mr. Hartye reported a meeting was held with industry, following the May 9<sup>th</sup> Board meeting, with only one (1) representative in attendance, but the 20-year plan was mailed to all industry. He further reported that the Manufacturer's Executive Association (MEA) mailed a letter to it's members expressing concern over the 5 and 12-year plans, which was sent after the meetings on the 20-year plan. He stated that in response to the MEA letter, he sent a letter explaining the 20-year plan and how it came about.

Mr. Aceto stated that, in recent conversations regarding rates, it occurred to him that people do not understand the domestic/industrial rate differential, in that commercial enterprises such as the Grove Park Inn and others pay domestic rates. He further stated by equalizing the rate, the District is helping out commercial users in a significant way. Mr. Pace stated that the word "retail" is the key, since these establishments are paying domestic rates. Ms. Field asked if there is a way this information could be conveyed to the community.

Mr. Gantt asked Mr. Hartye to comment on the rates for industry being unusually low. Mr. Hartye stated the comment was made that Gerber and other industry left the area because of high rates, but in fact, MSD had the second lowest rate in the state at the time Gerber left the area.

Mr. Venable asked if the rate equalization is included in this budget. Mr. Hartye stated there is a 4% domestic class increase and an increase to industry, as a class of 6.9%. Therefore, the margin being made up this year between the two classes is 2.9%. He explained that different industries within this class will fare better or worse depending on the nature of waste discharged. Mr. Sobol asked for further clarification on the retail class. Mr. Hartye stated that the domestic rate includes residential, commercial and some light industrial. The industrial class

Minutes

June 13, 2001

Page Two

includes permitted industries; those that have specific waste, or categorical users based on EPA criteria. Ms. Field asked what the 4% increase in dollars would mean per month. Mr. Hartye stated that domestic customers would pay an additional \$.81 per month, based on an average bill of 6ccf.

Mr. Venable stated that he would vote against the Budget Resolution for the same reason he voted against the Preliminary budget. He further stated that he has nothing against equalization between the classes, but has a problem with this year's 4% increase, since the District has had substantial unexpected revenue this year from various sources. Also, given current fiscal problems with the state, county and city, he feels the District could have used the additional income to hold the line and not increase rates this year.

Mr. Aceto voiced his support of the Budget and particularly the Construction Budget, since it reflects the District's priority of repairing the system and reducing the possibility of sanctions from EPA and State authorities for sewer system overflows.

With no further discussion, Mr. Pace moved that the Board approve the Resolution adopting the Budgets and Sewer Use Rates for Fiscal Year 2001-2002. Mr. Aceto seconded the motion. Roll call was followed: 9 Ayes; 1 Nay (Mr. Venable).

**3. Approval of Minutes of the May 9, 2001 Meeting:**

Mr. Kelly moved that the Minutes of the May 9, 2001 meeting be approved as presented. Ms. Bryson seconded the motion. Voice vote was unanimous in favor of the motion.

**4. Discussion and Adjustment of Agenda:**

Mr. Hartye noted an additional item for consideration following the Consolidated Motion Agenda.

**5. Informal Discussion and Public Comment:**

None

**6. Report of General Manager:**

Mr. Hartye presented information regarding the Consolidated Office Building, Plumbers Meeting, Buncombe County Planning Board, Letters in Support of the Water Infrastructure Network's (WIN) Funding Proposal, Swannanoa Interceptor, Environmental Management Systems Training, WEFTEC 2001, and Good Mail.

He reported that staff held a meeting with local plumbing contractors on May 22<sup>nd</sup> to go over new and old District programs and policies. Ms. Graham asked what came out of these discussions that would lead people to believe the District is in the line cleaning business and charging for it. Mr. Hartye stated this resulted from a miscommunication of a directive given by him to the System Services Division; not to walk away from sewer backups in those instances where the cleanout is more than five feet off the edge of the pavement and well away from the house, but instead be more customer oriented and clean it out if it's late at night and there is sewerage in the home. However, if the line is clogged or collapsed on the property advise the owner to get a plumber, since the MSD is not allowed to work on private property.

Minutes

June 13, 2001

Page Three

Regarding the WIN Funding Proposal, Mr. Hartye reported that he sent a letter to Senator Edwards advocating recommendations to provide federal funding of water and wastewater infrastructure needs of \$57 billion over five years for grants and loans.

Regarding the Swannanoa Interceptor, Mr. Hartye reported the contractor has finished the entire mainline replacement of approximately 38,000 feet and is working to complete the lateral line connections. He stated approximately 20,000 feet of new main (including the tunnel) is now online and the remainder would be online in July.

Mr. Hartye expressed his appreciation to Mr. Fatland for his effort in collecting approximately \$50,000 from the Regional Water Authority for interest owed on approximately \$700,000 in District funds held by the Water Authority.

With regard to the North Swannanoa Interceptor, Mr. Sobol asked if the difference in the amount of flow could be determined following connection of the new main. Mr. Hartye stated the before and after flow has not been metered, but in time, a temporary flow meter would be installed.

In the absence of Mr. Blackburn, Mr. Aceto suggested that Mr. Hartye express in a letter the Board's appreciation to Steven Briggs for providing information and follow-up support in a project being done by Market Center Holding, Inc.

## **7. Report of Committee Chairs:**

### **Right of Way Committee:**

Mr. Pace reported a meeting commemorating ten years of right of way acquisition for the District was held May 23, 2001. He stated Ms. Banks gave a presentation on the history of the Right-of-Way Section from its beginning in March of 1991 to present day. He further stated the Committee considered two condemnations on the Glenn Bridge Road project and approved staff's recommendations.

### **Planning Committee:**

Mr. Aceto reported the Planning Committee met May 30, 2001 to consider changes to the Procedure for MSD/Developer Cost Share Sewer Rehabilitation Projects and Private vs. Public Pump Stations. He stated the District has a formula used to participate in the cost with developers for those projects that are in bad shape and are scheduled for repair. He further stated that in order for MSD to get the appropriate share of actual expenditures, the Committee recommends amending the policy whereby the District would receive a deposit up-front for projects that the District will construct from the developer and settle at the end of the project based upon actual cost. For projects the developer will construct, the District will participate (after construction is complete) on a "not to exceed" basis. The developer will provide evidence of actual cost.

Regarding Private vs. Public Pump Stations, Mr. Aceto stated the Committee considered whether to allow private developers to construct and maintain sewerage pump stations or require that they be constructed to District standards, which would be turned over and maintained by the MSD. He further stated the Committee discussed the difference between MSD and State standards. As a result of these discussions, staff was asked to perform a cost benefit analysis

Minutes

June 13, 2001

Page Four

based on allowing a less expensive standard in any or all instances for MSD ownership and maintenance.

In other business, Mr. Aceto reported a discussion was held regarding developers turning over lines and rights of way to MSD once a development is complete. Mr. Venable noted an incident where a homeowner could not obtain a Certificate of Occupancy (C.O.) because the developer failed to turn over rights of way and paperwork to MSD. He asked if there is some way the District could hold developers responsible rather than the homeowner. The Committee directed staff to investigate options pertaining to this issue.

### **Citizens Participation Committee:**

Mr. Hartye reported the Citizens Participation Committee met June 1, 2001 to hear a report on the Master Plan presented by Camp Dresser & McKee. He stated an update on hot spots, dry vs. wet weather flow was given, emphasizing that from a financial standpoint, the District would be dealing largely with the wet weather aspect over the next 20-years. Also, a discussion was held concerning inflation rates. Mr. Hartye further stated since estimated costs were in today's dollars, it was recommended they be adjusted to compensate for inflation in future years. Mr. Sobol asked when the Master Plan would be complete. Mr. Hartye stated a draft would be complete within 60-days followed by workshops with the Board prior to completion of the final draft.

**Construction Committee:**

Mr. Venable reported the Construction Committee met June 4, 2001 to discuss liquidated damages on the consolidated office facility, which was well attended by contractors/architects who worked on the building. He further reported a discussion was held regarding a letter written to staff from the architects, which was intended as a starting point in determining the distribution of liquidated damages. He stated that since there were so many disagreements, it was suggested that the architects, contractors and attorneys get together and come up with a determination. As a result, staff met with the parties involved and recommended the total amount be assessed equally among the four contractors or \$1,187.50 each. The Committee's recommendation was to assess \$4,750.00 by reducing retainage on percentages of contract value as follows:

Payne General 71% \$3,372.50

Hayes & Lunsford Electrical 12% 570.00

Haynes Mechanical HVAC 12% 570.00

Haynes Plumbing Plumbing 5% 237.50

Mr. Venable reported that it cost the District approximately \$1,197.00 in time to resolve the issue of liquidated damages. Mr. Pace stated the purpose of this recommendation is to let contractors know the District can expect to pay for time delays on future projects. With no further discussion, Mr. Venable moved that the Board approve the recommendation of the Construction Committee. Mr. Pace seconded the motion. Roll call vote was as follows: 10 Ayes; 0 Nays.

**8. Consolidated Motion Agenda:**

**a. Consideration of Bids for Grove Park Inn:**

Mr. Hartye reported that because only two (2) bids for the Grove Park Inn Rehabilitation project were received on May 2, 2001, the project was re-advertised and the following bid was received and opened on May 11, 2001:

Minutes

June 13, 2001

Page Five

Terry Brothers Construction Company, Inc. with a total base bid of \$294,995.00. He further reported that due to a recent sewer system overflow, staff has worked closely with the Grove Park Inn to fast track this project to coincide with the golf course project scheduled for this summer. He stated that staff recommends award of the contract to Terry Brothers Construction Co., Inc. in the amount of \$294,995.00 in accordance with changes recommended by District Counsel and that sufficient funds are available in the proposed budget for FY 01-02. Ms. Ball asked why Hobson Construction Company did not re-bid the project. Mr. Watson stated there was a misunderstanding on the date of the bid.

**b. Consideration of Changes to Procedure for MSD/Developer Cost Share Sewer Rehabilitation Projects:**

Mr. Hartye reported the Planning Committee recommends acceptance of staff's recommendation to modify the procedure so the District and the Developer enter into a contract when the Board approves a project for participation. The Developer will post a deposit based on construction cost estimates from the Developer's engineer and the District. When the work is completed, the District and the Developer will share the exact cost of the construction. The District will either refund a portion of the deposit or collect additional funds. Ms. Ball asked if full payment would be due before the District accepts the line. Mr. Clarke stated the District could restrict connection until payment is made. Ms. Ball asked if this restriction should be written into the policy. Mr. Clarke stated language could be added to the contract.

**c. Consideration of Developer Constructed Sewer Systems: Rosscraggon Business Park, Edgewood Crossing, Ingles Store #34 - Swannanoa and Windridge Apartments:**

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

**d. Cash Commitment/Investment Report for Period Ended 4/30/01:**

Presented as information only.

With regard to item d., Mr. Aceto announced that Mr. Fatland is now serving on the Advisory Board of the North Carolina Capital Management Trust.

Regarding item c. Mr. Sobol stated that Windridge Apartments is a prime example of how the procedure for MSD/Developer Cost Share will work.

With no further discussion, Mr. Venable moved the Board approve the Consolidated Motion Agenda as presented. Ms. Graham seconded the motion. Roll call vote was as follows: 10 Ayes; 0 Nays.

**8. Consideration of Petition for Expansion of MSD to Include Enka Park:**

Mr. Hartye reported he recently received a letter from the Attorney representing Enka Park requesting the Board consider a petition for expansion of the MSD District to include Enka Park. He presented a slide showing the location of the lines that will connect into the MSD system. He stated the residents understand they would be paying a \$600.00 connection fee and the District would not operate and maintain the lines unless they were brought into the District. The

Minutes

June 13, 2001

Page Six

District boundary runs along Sand Hill Road. He further stated another issue is a large piece of property owned by BASF that has potential for future development.

Mr. Clarke stated that Statute 162A-68 reads, if 51% of the residents in an unincorporated area petition the Board for inclusion in the District, and the Board approves, the process for inclusion begins. He explained that the District would notify the County Commissioners and the Environmental Management Commission and file a report showing how the area would be served. A public hearing would be held and after a 30-day waiting period, with no objections, the area would become part of the District. He further stated the petition seems to meet all the requirements with eighty-one signatures, and although no formal action is required, he recommends a vote in favor of the inclusion if the District Board favors inclusion of this area in the District".

Mr. Venable asked if the lines would need immediate rehabilitation if taken over by the District. Mr. Hartye stated the District is currently assessing the condition



of the lines and if repairs are needed, they will be done as a requirement of the agreement to take them in. Mr. Venable asked if the District would accept the wastewater prior to completion of the process for inclusion. Mr. Hartye stated that it's a matter of whether they are in or out of the District. If they are out of the District, they would have an "Out of District Agreement" and they would operate and maintain the lines until they are brought in. Ms. Ball asked how the District would benefit from taking them in. Mr. Clarke stated the District would have better control over the lines and the people. He further stated that the reason they want to come in is because they haven't been paying for wastewater service for years and now must pay \$600.00 to hook on and pay a sewer service charge. Ms. Ball expressed her concern that the District is setting a precedent by bringing in an area without a set procedure for making this type of decision. Mr. Hartye stated this is a unique situation and will not happen very often. Mr. Clarke stated there are only two (2) ways to extend the District boundary. One is if an area ask to come in, and the other is if one of the constituent political subdivisions extends it's boundary by annexation or otherwise. Mr. Pace stated this is a prime example of adding customers without the expense of building a line. Ms. Ball stated she does not feel comfortable voting on this issue until information on the condition of the lines is available. Mr. Hartye stated this issue would be reconsidered when the assessment is complete. A discussion followed regarding the BASF treatment facility; the cost of connecting these lines to the line being built by BASF; whether a surcharge for inclusion is appropriate, and who would be responsible for maintaining the lines should the area be annexed into the City.

**9. Old Business:**

None

**10. New Business:**

None

**11. Adjournment:**

With no further business, Mr. Gantt 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