

# **BOARD OF THE METROPOLITAN SEWERAGE DISTRICT**

**DECEMBER 19, 2001**

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

The regular monthly meeting of the Metropolitan Sewerage District Board was held in the Boardroom of MSD's Administration Building at 2:00 p.m., Wednesday, December 19, 2001. Chairman Blackburn presided with the following members present: Aceto, Ball, Bryson, Field, Gantt, Graham, Kelly, Pace, Sobol and Venable.

Others present were: Thomas E. Hartye, General Manager, William Clarke, General Counsel, Gary McGill and Danny Bridges of McGill Associates, Jim Fatland, Stan Boyd, Ann LeMieux, John Kiviniemi, Angel Banks, Ed Bradford, Lisa Jones, Art Mandler and Sondra Honeycutt, MSD.

## **2. Approval of Minutes of November 15, 2001 Meeting:**

Mr. Venable moved that the Minutes of the November 15, 2001 meeting be approved as presented. Mr. Kelly seconded the motion. Voice vote was unanimous in favor of the motion.

## **3. Discussion and Adjustment of Agenda:**

Mr. Gantt, presented an article which appeared in the Lawyer's Weekly featuring Mr. Clarke. Mr. Gantt recognized Mr. Clarke for winning a significant case.

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

None

**5. Report of General Manager:**

Mr. Hartye presented information regarding the United Way Campaign, Kenilworth Lake Project, Board of Directors Retreat, Dam at Lagoon, Minority Inclusion Committee, AB Regional Water Authority Meter Reading, Press, Bond Issue, Grease Information Program and Good Mail.

Mr. Hartye reported this year's United Way Campaign was an outstanding success with \$11,664 raised (up from \$6,721 last year) with the number of givers up from 27 to 59. He expressed his appreciation to Lisa Jones, who chaired this year's campaign with diligence and enthusiasm. Mr. Blackburn presented Ms. Jones with a plaque of appreciation.

Regarding the Kenilworth Lake Project, Mr. Hartye expressed his appreciation to Mr. Sobol for his help in answering questions and providing an historical perspective at the Public Meeting held December 18<sup>th</sup>. Mr. Hartye reported the meeting was very informative with a good transfer of information between Kenilworth residents and the MSD. He stated he would give a detailed report at

the next meeting of the Board. Ms. Field reported that she heard a lot of negative comments from Kenilworth residents at a recent Land of Sky Regional Council Meeting and requested that Mr. Hartye give a report on discussions held at the Public Meeting. Mr. Hartye stated discussions included concerns regarding problems with sediment, testing, signage and notification. He further stated that the purpose of the meeting was to inform residents of the upcoming project and the procedures that will take place prior to construction. Mr. Sobol stated the timely manner of the meeting showed MSD is on top of the problem. Also, a very positive aspect of the meeting was a discussion regarding the possibility of putting a settling pond at the head of the dam to catch sediment.

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Mr. Hartye reported the Board Retreat is scheduled for Saturday, February 16, 2002 at the North Carolina Arboretum. He requested that Board Members provide him with topics they would like to discuss at the Retreat.

Regarding the Dam at the Lagoon, Mr. Hartye reported that staff noticed extensive cracking in the concrete dam and hired a structural consultant to evaluate. The consultant indicated the dam was experiencing structural failure and should be repaired immediately. Bids were obtained to repair the dam/spillway. He stated the low bid was Buckeye Construction in the amount of \$70,893.00 and that he authorized Buckeye to proceed with repair before winter weather set in. He explained the work being done (which is progressing well) and MSD's future plans to eliminate all input into

the lagoon. Mr. Venable asked if the General Manager has the authority to approve a contract of this size without Board approval. Mr. Hartye stated he can approve contracts up to \$100,000.00.

Regarding the Minority Inclusion Committee, Mr. Hartye reported that at the suggestion of Mr. Gantt, an ad-hoc Committee was formed to review the District's policies and procedures with regard to minority inclusion for areas such as purchasing, construction, and personnel. He further reported the Committee has met twice and would advise the Board of its findings and make recommendations regarding any changes or additions.

With regard to the Asheville/Buncombe Regional Water Authority's Meter Reading, Mr. Hartye presented a memorandum from Mr. Westbrook to City Council regarding a meter purchase/reading error. Also, he presented a letter from City Finance to some 200 customers notifying them of the situation. Mr. Hartye explained that Water Resources staff recently discovered that a number of one-inch water meters were not reading consumption properly and upon further investigation, it was determined the meters were programmed incorrectly at the factory, which led to a reading of 10% of the actual value. He stated this error resulted in an estimated under billing for the District of \$80,000 - \$90,000 over the last 12 to 24 months.

Regarding the Bond Issue, Mr. Hartye reported the Bond Closing was held December 13<sup>th</sup> in Asheville. He stated the Bond Issue was in the amount of \$21,000,020,000 at an interest rate of 5.19% and that a large withdrawal of \$7million would be made in January. He expressed his appreciation to Mr. Clarke and Mr. Fatland for their work in setting up the closing.

Regarding Good Mail, Mr. Hartye presented several letters commending the following staff for their excellent work on the job and participation in the Water Festival at Claxton Elementary School. Staff recognized were: RL Haynes, Bill Connor, Ken Stines and his staff at System Services, John Kiviniemi, Tom Peters and Steven Briggs. Mr. Aceto recommended that letters of commendation from the Board, under the signature of the Chairman, be drafted and copied to their respective personnel files. Mr. Blackburn requested that Mr. Hartye relay to staff that being "User Friendly" is being done more then ever and is paying off in the community.

Regarding Meter Reading errors, Ms. Field requested after MSD receives information from the City that Mr. Clarke draft a letter supporting the City of Asheville if they should sue the manufacturer of the meters in order to recover funds due to under billing.

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

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### **Right of Way Committee**

Mr. Pace reported the Right of Way Committee met November 28, 2001 to consider Compensation Budgets on four (4) projects;

proposals for acquisition services for the Grassy Branch Rehabilitation project and condemnations on Clingman Avenue and North Swannanoa Phase II, Section 2 projects.

### **Capital Improvement Program Committee**

Mr. Sobol reported the CIP Committee met December 6, 2001 to discuss lines not on SSES Maps; the Cost Recovery/Extension Policy and Master Plan Update. Regarding the Cost Recovery/Extension Policy, Mr. Sobol suggested that following the issuance of the Collection System Permit, the Board should establish a plan to go to the State and/or Federal Government to seek additional funding to meet requirements mandated by the State and Federal Governments.

### **Finance Committee**

Mr. Kelly reported the Finance Committee met December 10, 2001 to consider the District's Comprehensive Annual Financial Report for Year Ended June 30, 2001 and to discuss the issues of Continuing Disclosure and new Financial Software. Mr. Kelly announced the meeting scheduled for January 9, 2002 is cancelled and would be rescheduled for a later date.

### **Personnel Committee**

Mr. Venable reported the Personnel Committee met today to evaluate the General Manager and to discuss his contract.

At 2:40 p.m., Mr. Venable moved that the Board go into Closed Session to discuss the General Manager Contract. Mr. Sobol seconded the motion. Voice vote was unanimous in favor of the motion.

At 2:59 p.m., the Board went back into Open Session.

Mr. Venable moved that the Board modify the General Manager's Contract by increasing his salary from \$91,000.00 to \$96,000.00 a year; by changing the contract to be a three-year contract, as opposed to a one-year contract, with salary to be reviewed annually, and to increase vacation days from 15 to 17 days annually. Mr. Sobol seconded the motion. Roll call was as follows: 11 Ayes; 0 Nays.

Mr. Hartye expressed his appreciation for the vote of confidence and thanked the Board and Staff for their support throughout the year.

**7. Consolidated Motion Agenda:**

**a. Consideration of Compensation Budget for Inglewood Road:**

The Right of Way Committee recommends approval of the Compensation Budget.

**b. Consideration of Compensation Budget for Heywood Road:**

The Right of Way Committee recommends approval of the Compensation Budget.

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**c. Consideration of Compensation Budget for Lackey Gap:**

The Right of Way Committee recommends approval of the Compensation Budget.

**d. Consideration of Proposals for Acquisition Services for Grassy Branch Rehabilitation Project:**

Mr. Hartye reported the Right of Way Committee recommends approval of staff's recommendation to contract with Martin/McGill, Inc.

**e. Consideration of Resolution Adopting the Sewer Master Plan:**



Staff recommends approval of the Resolution adopting the Sewer Master Plan.

**f. Capital Improvement Program Expenditures:**

Presented as information only.

**g. Lines not on SSES Maps at Consolidation:**

Mr. Hartye reported the Policy on publicly maintained sewer lines not identified on SSES Maps went to the Planning Committee on August 29, 2001 and to the full Board on September 19, 2001. He stated several changes were made with regard to the Policy, which was then brought to the CIP Committee December 6, 2001 for comments. With no other changes, the CIP Committee recommends the Board adopt the Policy as amended.

**h. Consideration of Developer Constructed Sewer Systems: WNC Riverview, Regent Park Retail Center, Airport Centre and City of Asheville Project 19 (Ridge Housing):**

Mr. Hartye reported staff recommends acceptance of developer constructed sewer systems and all MSD requirements have been met.

**i. Approval of Comprehensive Annual Financial Report (CAFR):**

The Finance Committee recommends acceptance of the Comprehensive Annual Financial Report for the year ended June 30, 2001.

**j. Cash Commitment/Investment Report for Period Ended 10/31/01:**

Presented as information only.

Ms. Graham moved that the Board approve the Consolidated Motion Agenda. Mr. Pace seconded the motion. Regarding Item d., Mr. Venable questioned the reasoning behind the low proposal of Terrell, Hundley & Carroll and why it was rejected. Ms. Banks stated the main concern was there was not enough money in the contract to cover the cost of the services requested and not enough staff to do what would be left undone. Also, the references given were not very good. Mr. Hartye stated that finding competitive firms was the reason for the Request For Proposals, but there is a local firm which is seeking certification and will likely bid on future projects. With no further discussion, roll call vote was as follows: 11 Ayes; 0 Nays.

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**8. Consideration of Pace Analytical, Inc. Proposal:**

Mr. Hartye stated that in answer to several questions posed by the Board at the November meeting, Mr. Kiviniemi prepared a response and talked to Pace Analytical on the following issues:

**1. Evaluate the value of the subject space in an attempt to insure MSD is getting the best price:**

Mr. Kiviniemi presented a schematic of the subject space, which includes space to be utilized by Pace, MSD and shared space. He reported Pace has offered MSD \$3,750/month (\$45,000 annually) for the identified space, which is the maximum amount they can afford to pay because of the cost of relocation and the cost of renovation.

**2. Whether other laboratories could offer MSD a similar or more attractive proposal:**

Mr. Kiviniemi stated that in surveying other laboratories in the area, it was found that no other reputable labs exist that possess the capabilities to manage analytical demands identified by MSD. He further stated that he contacted labs as far east as Greensboro and all labs contacted indicated they could not compete with Pace.

**3. What type of analytical testing Pace would be conducting at the MSD, specifically concerning liability of potential site**

**contamination related to hazardous, biological and/or toxic waste:**

Mr. Kiviniemi reported Pace performs testing on water, wastewater and soil matrices, and as a company policy, does not perform testing on radioactive, biological or medical wastes. He stated standard insurance coverage and/or bond requirements will be included in the lease agreement.

**4. Security - employee and public access:**

Mr. Kiviniemi reported the main facility access would be managed as it currently is and internal security gates are being installed as an added level of security. He further reported that most of Pace's business is UPS/Fed-Express deliveries or samples collected by Pace and that the lease agreement will not compromise facility or employee security.

**5. Potential future impact to MSD should this lease arrangement desolve:**

Mr. Kiviniemi reported the proposed lease is for 5 years, with two 2-year extension options and would not modify the facilities to preclude MSD from re-starting lab operations with existing staff should the need arise.

Mr. Kiviniemi stated that as a result of the above inquiries, staff recommends the Board authorize the General Manager and Legal Counsel to negotiated a lease agreement with Pace

Analytical, Inc., for \$3,750/month (\$45,000 annually) for direct exchange of in-kind laboratory services itemized by MSD. The lease will be for 5 years and incorporates two 2-year extension options to be mutually agreed upon by MSD and Pace. Mr. Pace moved that the Board

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approve the recommendation of staff. Ms. Graham seconded the motion. Mr. Sobol asked several questions regarding whether utilities are included in the lease price, the value of exchanged laboratory services and space. Regarding the security issue, Mr. Venable asked about the possibility of using badges as a form of identification. Mr. Kiviniemi stated using badges is a possibility, but well over 90% of the business done with Pace is from delivery, therefore he does not feel the arrangement poses any threat to the MSD facility or employees. With no further discussion, roll call vote was as follows: 10 Ayes; 1 Nay, Mr. Sobol.

### **9. Consideration of New Radio System:**

At the request of the Board, Mr. Mandler reported he spoke with Mr. Gorman, Training Officer for Buncombe County Emergency Services who informed him that the existing Buncombe County radio systems do not have room for any new connections, but two projects were in the works. First, is the Simulcast system that will be used for the first responder/emergency services. According to Mr. Gorman, he

does not feel this is the system for MSD because of the cost. Second is the Trunked UHF system, which is identical to the system MSD is currently considering, but will not be ready for other users for approximately two years. In conclusion, Mr. Mandler stated by purchasing the UHF equipment currently being considered, the District would not only be guaranteeing quality radio communications for the next two years with dependable local service, but would be "tooling up" with the right field equipment to participate in the County's new system in the future. He encouraged the Board to approve the radio equipment purchase as originally proposed, which will save the District \$7,000 if the purchase is made by December 20<sup>th</sup>. Ms. Graham moved that the Board approve the purchase of radios from Asheville Communications in the amount of \$79,570.23. Mr. Pace seconded the motion. Roll call vote was as follows: 11 Ayes; 0 Nays.

#### **10. Old Business:**

Mr. Venable asked for a report on the Sodium Hypochlorite facility. Mr. Hartye stated this issue would eventually come to the Construction Committee to evaluate liquidated damages, etc. since the contract time has been exceeded. He reported that hydrostatic testing was done on tanks 1 and 2, and the tanks were rejected because of leaks. However, these tanks passed the test for hardness and thickness. Tanks 3 and 4 passed the performance test, and after additional curing, passed the test for hardness and thickness. The District will keep these tanks provided the contractor includes an extended warrant. Tanks 1 and 2 will be replaced with a different type of tank. A discussion was held with regard to whether hypochlorite has been purchased; if Bryant Electric is the contractor and the reason for the time delay. Mr. Hartye stated the hypochlorite has not been purchased and the time delay is caused by several reasons, but the main reason was the problem with the tanks. Regarding the tank issue, the fault lies with the manufacturer, not Bryant Electric.

Mr. Venable asked why the Notice to Proceed on the North Swannanoa, Phase II project is pending. Mr. Hartye stated at the time the Status Report was prepared, details of the project were still being worked out. He further stated that once Beers Construction completes the required documentation with the EPA, the Notice to Proceed would be given, which is tentatively scheduled for January 3<sup>rd</sup> or 4<sup>th</sup> at the pre-construction conference.

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**11. New Business:**

Mr. Kelly expressed his appreciation to Mr. Hartye, Mr. Kiviniemi and Mr. Mandler for their outstanding presentations.

**12. Adjournment:**

With no further business, Mr. Pace moved for adjournment at 3:15 p.m. Mr. Graham seconded the motion. Voice vote was unanimous in favor of the motion.

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Jackie W. Bryson, Secretary/Treasurer