

BOARD OF THE METROPOLITAN SEWERAGE DISTRICT

May 8, 2002

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, May 8, 2002. Chairman Blackburn presided with the following members present: Aceto, Ball, Bryson, Gantt, Graham, Kelly, Pace, Sobol and Venable. Ms. Field was absent.

Others present were: Thomas E. Hartye, General Manager, William Clarke, General Counsel, Gary McGill and Danny Bridges of McGill Associates, Mike Butler, Angel Banks, Peter Weed and Sondra Honeycutt, MSD.

2. Approval of Minutes of the April 17, 2002 Meeting:

Mr. Kelly moved that the Board approve the minutes of the April 17, 2002 meeting as presented. Mr. Gantt seconded the motion. Voice vote in favor of the motion was unanimous. Ms. Graham was absent during the vote.

3. Discussion and Adjustment of Agenda:

None

4. Informal Discussion and Public Comment:

None

5. Report of General Manager:

Mr. Hartye presented information regarding the City of Asheville Comprehensive Plan 2025, Kenilworth Lake Project, Meeting with Legislators, BASF, Coldbond, and Enka Village, Safety Grant from League of Municipalities and Article from CWFNC Publication.

Regarding the City of Asheville Comprehensive Plan 2025, Mr. Hartye reported that Mr. Westbrook has asked a member of the Board and/or Staff to attend a meeting of the Intergovernmental Focus Group scheduled for May 13, 2002. He stated that he or Stan Boyd plan to attend representing the MSD.

Regarding the Kenilworth Lake Project, Mr. Hartye reported the Upper Ross Creek lining project is substantially complete. He further reported that access on the lower portion has been obtained and the District is moving ahead with construction. He stated the remainder of the Ross Creek Interceptor is in the design phase.

Mr. Hartye reported a meeting was held with Representative Wilma Sherrill on Monday, May 6, 2002, which went very well. He further reported a meeting with Senator Carter is scheduled for May 16, 2002. Mr. Venable asked what the District hopes to accomplish by meeting with the Legislators. Mr. Hartye stated the purpose is to educate legislators on what the District is doing and to get their input on the issues. Ms. Bryson stated Representative Sherrill was very impressed with the presentation.

Mr. Hartye reported that BASF and Coldbond have paid fees to tie onto the system and BASF is in the process of completing the Sand Hill Road line. He stated staff is in the process of signing up Enka Village residents for new service, which will be available once the Sand Hill Road line is complete. He expressed

his appreciation to Mike Butler and his staff for meeting with residents and working out a payment plan and stated a second meeting would be held this

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evening. Mr. Pace asked if the line along Sardis Road has enough capacity to handle new residential development in that area. Mr. Hartye stated the new development would tie into the Enka Lake line, which is a 12" line, and that the developer would be required to line and redo the manholes.

Mr. Hartye reported the District won a \$1,000.00 grant from the NC League of Municipalities to be used for safety items.

6. Report of Committee Chairs:

Right of Way Committee

Mr. Pace reported the Right of Way Committee met April 24, 2002 to consider revised Compensation Budgets for Tomahawk Branch, Heywood Road and Lakey Gap and Condemnations on Tomahawk Branch and Grassy Branch. In other business, the Committee considered revisions to the Compensation Policy and recommends beginning July 1, 2002, to compensate owners for *net new* Permanent Easement areas at 50% of current tax value and for *total* Temporary Construction Easement area at a 10% annual rate of return for the duration of the project. Mr. Hartye stated the reason for the policy change is consistency in compensation to homeowners, either in negotiations or condemnations. Ms. Banks stated this change would bring the District in line with its

existing easement policy. Mr. Aceto asked for clarification as to whether existing easement areas would be included in the written description of the grant. Ms. Banks indicated existing areas would be included. Ms. Graham stated the amount being paid is not 50% of the current tax value of the entire property, but the tax value of a portion of the property. Ms. Ball stated the Committee discussed the possibility of a Signing Fee.

Mr. Aceto stated that even at a discounted rate, the compensation formula should take into account the District is getting something of value when a written agreement is obtained where the District currently believes it has a prescriptive easement, and there should be some consistent way to put a value on that. He further stated that he feels the Committee is on the right track in wanting to be consistent about that value, but is not comfortable with the idea of assuming there is no value in going from a prescriptive easement to a written agreement and hoping for a test case. Mr. Hartye stated the District may be setting a precedent by paying for prescriptive easements, when it believes it has a prescriptive right to the sewer main to line it or maintain it in the same trench. Mr. Pace stated he has evaluated the risk, and in his opinion the risk of a lawsuit is worth taking. Mr. Kelly stated he is concerned that the District may have to prove it has a prescriptive easement, which may result in a lawsuit if it can't be proved. Mr. Clarke stated that this policy would give the District a basis for evaluating what it would pay for an easement.

Ms. Graham asked how often in the last few years had the District paid anything more for prescriptive easements it assumed it already owned. Ms. Banks stated only during talks on condemnation. Ms. Graham further asked what percentage has been settled without going to condemnation. Ms. Banks stated that as of April, the condemnation rate was 11%, and of these cases the District had settled 40% prior to trial. She discussed two projects as examples in applying the new policy and the resulting budget impact. Ms. Ball moved that the District compensate property owners for Prescriptive Easements in the amount of 10%, understanding that the purpose is the District has a document that makes it easier to defend its right to access the sewer lines. There was no second to the motion.

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Mr. Blackburn suggested this item be pulled from the Consolidated Motion Agenda and referred back to the Right of Way Committee for further consideration.

Finance Committee

Mr. Kelly reported the Finance Committee met April 24, 2002 to consider the following issues: Annual Audit Contract for June 30, 2002; O&M Budget and proposed Sewer Rates. He stated the Committee recommends approval of the Annual Audit Contract with Gould Killian CPA in the amount of \$28,900.00. With regard to the O&M Budget and Sewer Rates, the Committee recommends approval of the Preliminary O&M Budget in the amount of \$10,695,519, the Preliminary Construction Fund Budget in the amount of \$16,438,439 and a 2.5% rate increase for 2002-03.

Planning Committee

Mr. Aceto reported the Planning Committee met April 25, 2002 to consider participating in the Cost Recovery for the extension of sewer service to Christ School. The Committee recommends the Board authorize the General Manager to execute an agreement for Cost Recovery with Christ School in an amount not to exceed \$74,134.00 and disburse, after completion of the work and acceptance by the District Board for ownership, and receipt of appropriate letter of credit. He further reported the Committee considered a request from Buncombe County that the District enact Regulations to limit Extension of Sewers to elevations above 2,500 feet, with slopes in excess of 40 percent. The Committee directed staff to investigate this issue further, considering the possibility of a less rigid policy and come back to the Planning Committee at a later date. In other business, Mr. Aceto stated the Committee considered a proposal to prepare Conveyance of Sewer System documents in-house and revise the fee charged for Non-Discharge Permits to include a fee for this item. The Committee will re-visit this issue and the issues of adjustments to facility fees and connection fees in order to review all fees at once. Mr. Gantt asked if the land use issue would come back to the Committee. Mr. Aceto stated it would, and Mr. Jon Creighton will be present to participate in the discussion.

7. Consolidated Motion Agenda:

a. Consideration of Annual Audit Contract for Year Ending June 30, 2002:

The Finance Committee recommends approval of the Annual Audit Contract with Gould Killian CPA in the amount of \$28,900.

b. Consideration of Revised Compensation Budgets, Tomahawk Branch, Heywood Rd. & Lakey Gap:

The Right of Way Committee recommends approval of revised compensation budgets for Lakey Gap. With regard to the Tomahawk Branch and Heywood Road projects, the Committee recommends payment of compensation based on the tax value on the day signatures are obtained, using January 1, 2002 as the effective date for the new valuation.

c. Consideration of Compensation Policy Revision:

Referred back to the Right of Way Committee.

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d. Consideration of Quarterly Reports - First Quarter:

Presented as information only.

e. Consideration of Developer Construction Sewer Systems: Nettlewood Professional Park and Village East Subdivision:

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

f. Consideration of Bids for Hydro Switchgear:

The following bids for Hydro Plant Upgrades-Switchgear Replacement were received April 25, 2002: Haynes Electric Company with a total base bid of \$138,921.00; Brevard Electric Company with a total base bid of \$140,440.00; Emory Electric Company with a total base bid of \$143,000.00; Bryant Electric Company with a total base bid of \$147,217.00; Hayes & Lunsford Company with a total base bid of \$151,200.00; Robertson Controls with a total base bid of \$162,800.00 and Crowder Construction Company with a total base bid of \$199,700.00. Staff recommends award of this contract to Haynes Electric Construction Company in the amount of \$138,921.00.

g. Consideration of Participation in Cost Recovery for Extension of Sewer Service to Christ School:

The Planning Committee recommends the Board authorize the General Manager to execute an agreement for Cost Recovery with Christ School in an amount not to exceed \$74,134.00 and disburse after completion of the work, acceptance by the District Board for ownership, and receipt of appropriate letter of credit.

h. Cash Commitment/Investment Report for Period Ended 3/31/02:

Presented as information only.

Mr. Aceto moved the Board approve the Consolidated Motion Agenda, with the exception of item c. (Compensation Policy Revisions). Ms. Graham seconded the motion. Roll call vote was as follows: 10 Ayes; 0 Nays.

8. Consideration of 2002-2003 Preliminary Budget:

Mr. Hartye presented a Resolution adopting the Preliminary Budget for FY03. Ms. Ball asked why the District is required to adopt a Preliminary Budget. Ms. Clarke stated the District is required, by its Bond Order, to adopt a preliminary budget by May 15 of each year. Mr. Venable asked how the Budget could be adopted without approving a rate increase, since its included in the Budget. Mr. Hartye stated the District could meet its obligations in the O&M Budget without a rate increase and when doing the Budget some assumptions must be made for revenue projections and expenses, and in that, you have to assume some rate increase. Mr. Kelly moved the Board adopt the Preliminary Budget for FY03. Ms. Graham seconded the motion. Roll call vote was as follows: 10Ayes; 0 Nays.

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9. Consideration of Sewer Use Charges:

Mr. Hartye reviewed the following three (3) financial forecast/cashflow spreadsheet options and assumptions:

- Option 1 is a constant 2.5% rate increase and is the recommended option to correspond with the philosophy of keeping rates small and consistent.
- Option 2 reflects a 0% for 2002-2003 but is back to 4% beyond that.
- Option 3 reflects the continuation of the 5 x 4% increase plan stipulated and endorsed by both the Board and the CIP Committee in 1999.

Mr. Hartye reported the Finance Committee recommends Option 1, a 2.5% rate increase for FY03. He stated the reason behind the recommendation is the philosophy of the Board and Industry last year to try and keep increases small and consistent. Ms. Ball requested that the vote be delayed until the next Board meeting in order to give her more time to research the issue. Ms. Graham stated she does not feel this Board or any Board who deals with utilities needs to presume there must be a rate increase. A discussion followed with regard to the State Collection System Permit and whether it commits the District to rate increases to cover the cost of construction over a period of time. Mr. Clarke stated the Permit would require the District to have a 10-year Capital Improvement Program (CIP) with the necessary funding in place to cover the program. Mr. McGill stated the District is not agreeing to raise rates, but to a level of commitment for the CIP. Mr. Sobol stated the Permit is not tied to a set dollar amount, but to a set lineal foot amount and feels the District should not pass the burden of the CIP onto the backs of the ratepayers through rate increases, but search for other sources of funding. He further stated he would not vote for a rate increase based on the issue of health and recommends the Board not vote for a rate increase. Ms. Ball moved the Board delay voting on a rate increase until the June meeting. Mr. Sobol seconded the motion. By a show of hands, the vote did not carry. Mr. Pace moved the Board adopt the recommendation of the Finance Committee and approve a 2.5% rate increase. Mr. Kelly seconded the motion. Mr. Venable stated that although he has been very vocal regarding rate increases, he expressed his appreciation to Mr. Hartye and Staff for their efforts in cutting costs and reducing the budget. With no further discussion, roll call vote was as follows: 8 Ayes; 2 Nays (Ms. Ball and Mr. Sobol)

With regard to comments by Mr. Sobol on charge backs to the CIP, Mr. Hartye stated the District has saved a lot of money by doing in-house engineering services, construction management, right-of-way and building trades, which are all capital costs charged back to CIP. A discussion followed regarding the increase in charge backs and the Internal Service Fund.

10. Consideration of Offer to Purchase 258 Swannanoa River Road:

Ms. Banks presented a map showing the location of 258 Swannanoa River Road and gave some background information on the property. A discussion followed regarding the size and use of the property and whether it is located in the flood plain. Ms. Graham moved that the Board adopt the Resolution approving the offer to sell the parcel for the appraised value of \$27,000 with no financing, reserving the 50-foot permanent easement for the operation and maintenance of the existing interceptor. Ms. Bryson seconded the motion. A discussion was held

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with regard to cash payment of the offer. With no further discussion, Roll call vote was as follows: 10 Ayes; 0 Nays.

11. Report & Recommendation from Minority Inclusion Committee:

Mr. Gantt reported the Minority Inclusion Committee met on five occasions to evaluate current levels of minority participation in contracting, purchasing and employment. He stated the Committee came up with some immediate ground rules such as no quotas and to give the department heads the right to continue the "promotion from within" idea and to make sure all minorities have a chance to be part of the team. He further reported the Committee recommends the District Board adopt, after Notice and Public Hearing, a verifiable percentage goal for minority participation in purchasing and contracting of 12%. With regard to Personnel, the Committee recommends that MSD increase the number of minority and women employees to better reflect the makeup of the District as a whole. Mr. Gantt expressed his appreciation to staff and Ms. Brenda Mills of the Asheville Buncombe Office of Minority Affairs for input in creating this policy. Mr. Venable moved that the Board adopt the recommendations of the Minority Inclusion Committee. Mr. Pace seconded the motion. Voice vote in favor of the motion was unanimous.

12. Old Business:

None

13. New Business:

None

14. Retreat Goal Setting:

Mr. Blackburn stated that in the interest of time, continuation of Retreat Goal Setting would be done at the next meeting of the Board.

15. Adjournment:

With no further business, Mr. Pace moved for adjournment at 3:57 p.m. Ms. Graham seconded the motion. Voice vote in favor of the motion was unanimous.

Jackie W. Bryson, Secretary/Treasurer