

BOARD OF THE METROPOLITAN SEWERAGE DISTRICT

DECEMBER 17, 2003

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 17, 2003. Chairman Blackburn presided with the following members present: Aceto, Ball, Bryson, Field, Gantt, Graham, Kelly, Pace and Venable. Mr. Sobol was absent.

Others present were: Thomas E. Hartye, General Manager, William Clarke, General Counsel, Leah Karpen with the League of Women Voters, Wayne Marshall and David Cabe of Gould Killian CPA Group, Gary McGill of McGill Associates, Ron Ballard, Marilyn Westphal and Richard Maas with the Environmental Quality Institute, Martha Zeigler, Stan Boyd, Ann LeMieux, Peter Weed, Blake Bridwell, Ed Bradford, John Kiviniemi, Mike Schraven, Gaynell Brigman and Sondra Honeycutt, MSD.

2. Discussion and Adjustment of Agenda:

Mr. Hartye stated that he will add a Cost Recovery item to the agenda following the Consolidated Motion Agenda.

Mr. Aceto requested that item e. (Consideration of VWIN Funding) be pulled from the Consolidated Motion Agenda.

3. Informal Discussion and Public Comment:

Mr. Blackburn welcomed guests and congratulated Leah Karpen on an article in the Asheville Citizen-Times regarding her and her husband's involvement in the community.

4. Approval of Minutes of the November 12, 2003 Meeting:

Mr. Kelly moved that the minutes of the November 12, 2003 meeting be approved as presented. Mr. Pace seconded the motion. Voice vote in favor of the motion was unanimous.

5. Report of General Manager:

Mr. Hartye presented information regarding United Way, Sewer Extension Policy, Reading, Asheville Economy Q&A, COA Affordable Housing, City of Atlanta update, Good Correspondence/Press and Board/Committee Meetings.

Regarding United Way, Mr. Hartye reported that contributions were up 20% over last year, primarily due to the efforts of Gaynell Brigman. Mr. Blackburn presented a Certificate of Appreciation to Gaynell for her outstanding work on this year's campaign.

Regarding the Sewer Extension Policy, Mr. Hartye reported the Planning Committee recommends staff contact local developers, realtors and related associations with regard to the proposed changes to the Policy. He further reported that a meeting will be held January 27th with developers and their engineers to go over the policy and other issues and how to access MSD maps on the internet. Staff will return to the Board in February to share comments and suggestions.

With regard to Reading, Mr. Hartye presented the District's brochure in English and Spanish which will be sent out as a bill stuffer and a "Can the

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Grease" top, which was provided to the Housing Authority new tenant meetings and will be distributed at other multi-family residential meetings.

In other Reading, Mr. Hartye presented a copy of the Asheville Economy Q & A regarding the Cost of Living from the Asheville Chamber; a copy of the City of Asheville Affordable Housing application with rebate information and an Update from the City of Atlanta regarding the proposed Water and Sewer rate adjustment.

Regarding Good Correspondence/Press, Mr. Hartye presented a letter received from the Johnson City Water and Sewer Services expressing appreciation to staff for their hospitality during a recent visit to MSD. He presented an article in the Asheville Citizen-Times regarding Angel Banks being elected President of the NC/SC Chapter of the International Right of Way Association. He stated that she was recognized at the December meeting of the Right of Way Committee. Also, he presented a copy of the Montford Newsletter regarding MSD's cooperation with the Asheville Parks & Recreation Department in coordinating construction of both the sewer that runs along Reed Creek and the Greenway.

Mr. Hartye reported that the next Right of Way Committee meeting will be held January 28th at 2PM and the next Board Meeting will be held January 21st at 2PM.

In other business, Mr. Hartye reported that the District received an award from AMSA for "Excellence in Management Program." He stated that he will share more written information next month. Mr. Blackburn commended Mr. Hartye and Staff for receiving this award.

6. Report of Committees:

Right of Way Committee

Mr. Pace reported that the Right of Way Committee met December 3, 2003 to consider the Compensation Budget for Broadway Avenue Rehabilitation Projects and to consider condemnations on the Lake Julian Rehabilitation Project.

Finance Committee

Mr. Kelly reported that the Finance Committee met December 9th to review the Audited Financial Statements for the fiscal year ending June 30, 2003 and proposed Revisions to the Investment Policy and Continuing Disclosure. Mr. Kelly called on Mr. Marshall for a report on the financial statements. Mr. Marshall reported that the District received a Certificate of Achievement for Excellence in Financial Reporting and a Distinguished Budget Presentation Award from the Government Finance Officers Association. He further reported that the Auditors issued an unqualified opinion on the basic financial statements and expressed his appreciation for the opportunity to work with the MSD. Mr. Aceto asked for an explanation of Cash Flows from Investing Activities and what significance should be given to the Statement of Cash Flows. Mr. Marshall stated that Investing Activities show how much was sold during the year, how much was reinvested and the interest earned. Ms. Zeigler explained that some of the sales and purchases of investments result from the required monthly prorated interest and principal on bonds remitted to the Bond Trustee who in turn invests these funds until liquidated to pay semi-annual debt service to bond holders.

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Planning Committee

Mr. Aceto reported that the Planning Committee met December 9, 2003 to consider funding for the 2004 VWIN Program, the proposed Policy and Procedures for the Extension of Sewer Service and Changes to the Sewer Service Policy.

Regarding the VWIN Program, Mr. Aceto stated that the Committee questioned whether it was appropriate for the MSD to pick-up funding of an item Buncombe County rejected by way of funding a non-profit organization. He also questioned whether this was a charitable contribution or if the data gathered was something the MSD could make use of. He further stated that the Committee recommended that MSD contract with VWIN for \$9,200 (1/2 of the requested amount).

Regarding the proposed Policy and Procedures for the Extension of Sewer Service, Mr. Aceto reported that the purpose of changes to the Policy is to simplify it and clarify that there is an appeal process, first to the Planning Committee then to the Board. The other significant change to the Policy is that the emphasis is on gravity sewers as opposed to pump stations. He stated that the Policy will come back to the Board in February after other stakeholder groups have had a chance to review it.

With regard to Changes to the Sewer Service Policy, Mr. Aceto reported that the big concern was a spike in claims for cleanups for sewer backups and that the Committee is recommending modifications to the policy to clarify that MSD

is not responsible for backups in service lines, but will continue to be responsible for backups in main lines. Mr. Hartye stated that MSD would not be responsible for damage in the home, but would continue to be responsible for lines in the public right of way. Mr. Venable asked if backflow valves come into play. Mr. Hartye stated they are recommended in certain circumstances where there are repeated backups, but they are not required.

7. Consolidated Motion Agenda:

Ms. Ball requested that Item a. be pulled from the Consolidated Motion Agenda and that she be excused from voting on the item since it involves the City of Asheville.

a. Consideration of City of Asheville Constructed Sewer System – Carter Cove – Beaverdam Annexation Area:

Pulled for further consideration.

b. Consideration of Compensation Budget – Broadway Avenue Rehabilitation Project:

Mr. Hartye reported that the Right of Way Committee recommends approval of the Compensation Budget for the Broadway Avenue Rehabilitation Project.

c. Consideration of Bids for Construction of Lower Ross Creek Interceptor:

Mr. Hartye reported that the project is located in the Kenilworth Lake/Tunnel Road area and is comprised of 5,300 LF of 8-inch thru 24-

inch ductile iron pipe. He stated that the following bids were received and opened on December 4, 2003: Midsouth Trenchless, Inc. with a total bid of \$1,847,628.00; Buncombe Constructed Co., Inc. with a corrected bid of \$1,576,975.00; Buckeye Construction Co., Inc. with a total bid of \$1,532,476.25 and Terry Brothers Construction Co., Inc. with a total bid of \$1,190,803.00. He further reported that staff recommends award of this contract to Terry Brothers Construction Co., Inc. in the amount of \$1,190,803.00, contingent upon review by District Counsel.

- d. **Consideration of Developer Constructed Sewer Systems: Biltmore Lake Block A, Phase 2, Biltmore Lake Block A, Phase 3, Crowell Farms Subdivision II, Ducker West at Biltmore Park, LAJI, Lake Julian Trails, Phase 1, McElrath Apartments, Red Lobster, Tunnel Road, Reem's Creek Village, Reynolds Mtn., Phase 1, Royal Pines Village, Smith Dray Line, Springside Meadows and Town Square East Phase III at Biltmore Park:**

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

- e. **Consideration of VWIN Funding:**

Pulled for further consideration.

- f. **Consideration of Changes to the Sewer Service Policy:**

Mr. Hartye reported that the Planning Committee recommends changes in the Sewer Service Policy.

g. Consideration of Comprehensive Annual Financial Report for FY ending June 30, 2003:

Mr. Hartye reported that the Finance Committee recommends the Board accept the Audited Financial Statements for the year ending June 30, 2003 and instructed staff to give an update on issues stipulated in the management letter in three (3) months.

h. Continuing Disclosure:

Presented as information only.

i. Cash Commitment/Investment Report for Period Ended 10/31/03:

Presented as information only.

Regarding Item d. (developer Constructed Sewer Systems), Ms. Ball asked if these systems are currently within the District. Mr. Boyd reported that all of the systems are within the District except Biltmore Lake. Mr. Aceto asked how these systems can be accepted if they are not in the District. Mr. Clarke stated that MSD can own sewer systems outside the District. Ms. Ball asked if there are any other requirements when taking over a sewer system other than charging an additional one cent per ccf. Mr. Clarke stated no. Mr. Gantt asked how many sewer systems MSD owns that are outside the District. Mr. Clarke stated that less than five percent of the wastewater MSD is treating currently comes from outside the District. He further stated that in discussions that he and Mr. Hartye have had with Bond Counsel, Bond Counsel has indicated he has no problem with

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accepting systems outside the District as long as accepting waste from outside the District does not interfere with the District's ability to treat waste inside the District. Ms. Bryson asked if the Reynolds Mountain Phase I project is in the City. Ms. Field stated that stated it was. Ms. Karpen asked if this item involves MSD contributing to these systems. Mr. Hartye stated no, that cost recovery participation is considered separately, for example under Item 8.

Mr. Pace moved that the Board approve Items b. c. d. f. g. h. and i. of the Consolidated Motion Agenda. Ms. Graham seconded the motion. Roll call vote was as follows: 11 Ayes; 0 Nays.

Regarding Item a. (City of Asheville Sewer System), Mr. Blackburn excused Ms. Ball from voting. Ms. Field moved that the Board approve item a. of the Consolidated Motion Agenda. Mr. Pace seconded the motion. Roll call vote was as follows: 10 Ayes; 0 Nays.

Regarding Item e. (VWIN Funding), Mr. Aceto asked Dr. Maas to speak about the value MSD would receive from funding the Volunteer Water Information Program. Dr. Maas stated that as a result of MSD contracting with VWIN last year, the Environmental Quality Institute was able to remobilize forty (40) VWIN volunteers to continue the program and as a result, they had close to 100% data collection for the year. He further stated that the last of the data was collected this month and the report would be ready in April. He stated that the program is a very cost effective value for MSD and enables MSD to understand the dynamics of the quality of resources upstream. He stated it is particularly helpful for MSD in that if there is a leak or break in a sewer line, it will be picked up in the 50 monitoring sites throughout the County very quickly. Dr. Maas pointed out that 2/3 of the cost of the program is being born by the volunteers

themselves who devote their time and travel expenses, while the Environmental Quality Institute conducts the chemical analysis and prepares educational reports for about 1/3 of the cost of a private laboratory. In addition, UNCA waives over \$6,000 per year in indirect costs as a contribution to the effort. Dr. Maas stressed the importance of maintaining upstream watershed control sites and stated that without these sites there would be no baseline of water quality to make comparisons. He stated that although the Institute appreciates any help it receives, the half money option is probably not a very good optimization since it would have no idea how to decide which half of the sites it would continue to monitor and would have to come back with an incomplete report next year. He encouraged the Board to contract the full amount and stated that the Institute would continue to seek other funding sources.

Ms. Field asked for a clarification on paragraph one, page two of Ms. Westphal's letter to the MSD Board. Ms. Westphal stated that when the Regional Water Authority was approached about sharing in funding, the Henderson County representatives were not in favor since Henderson County already picks up 2/3 of the cost of the VWIN program in that County. Ms. Graham asked who funds the remainder. Ms. Westphal stated it used to be funded by the Cross Creek Foundation. Mr. Pace suggested that the Institute approach the City and County and request that they partner with MSD in a 1/3 share each Contract for Services. Ms. Ball moved that the Board fund the full amount of \$18,400 this year and look at possibilities for other funding next year. Ms. Field seconded the motion. Mr. Pace called for an amendment to the motion stating the Board fund the full amount of \$18,400 this year provided VWIN seeks 2/3 of the funding for next year with the MSD paying 1/3 for services. Ms. Graham suggested that the motion be amended to read "the Board contract with VWIN for services for a fee of \$18,400". Voice vote in favor of the amendment was unanimous.

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Mr. Gantt stated the Buncombe County Board of Commissioners has cut funding for teachers and all non-profits and has nothing against this group, but feels MSD's job is being good stewards of the water and that it is very appropriate

that it contract with VWIN for the program. Ms. Graham stated that she feels this group is an asset to the community and therefore a service to MSD and would be willing to contract with VWIN in the future. She further stated that she would like to see a financial statement from VWIN showing their funding and expenses. Ms. Ball stated that there is a possibility this program will need to be expanded in the future with additional monitoring and testing, therefore, the 1/3 cost of \$6,000 could be more. Mr. Venable stated that his question has always been, not whether the program is good or not, but simply whether MSD should be funding the program. He further stated it's his personal opinion that this is a County program, and in spite of the fact the County has said it's an outstanding program, the County chose not to fund it and place the burden on the backs of the tax payers. However, it's apparent the MSD Board feels the program is good and will put the cost on the backs of the rate payers. Mr. Venable stated that as a Board Member he cannot say he is being responsible to the rate payers by agreeing to fund this program. Mr. Kelly stated he would vote for the program this time, but since the program benefits the County as much as it does, why can't the County pay for it. Mr. Gantt stated that he has supported this program every time it came before the Board and that no one on the Board of Commissioners has said anything negative about this program, but instead, it's a policy of the current Board to cut programs. Ms. Field stated that the VWIN Program is very important and is pleased to see the Board understands that. Ms. Bryson stated that she agrees with Mr. Venable and would have supported one half of the cost, but when it comes time for the budget, the Board will have to answer to the rate payers, therefore, will vote against the funding the full amount. With no further discussion, roll call vote was as follows: 8 Ayes; 2 Nays (Ms. Bryson and Mr. Venable).

Dr. Maas expressed his appreciation to the Board and stated that they will make every effort to find other sources of funding for this program.

8. Consideration of Cost Recovery Request for Biltmore Lake and Lake Julian Trails:

Biltmore Lake

Mr. Hartye reported that the Biltmore Lake project is located off Enka Lake Road and when completed will be a 333-unit project. Staff recommends authority for the General Manager to reimburse Biltmore Farms, Inc. the amount

of \$142,639.00 upon Board acceptance for ownership of the sewer system and receipt of the Letter of Credit.

Lake Julian Trails

Mr. Hartye reported that the Lake Julian Trails project is located off Bradley Branch Road in Arden and will consist of 141 townhouses. Staff recommends authority for the General Manager to Reimburse David Day of Lake Julian Trails, LLC the amount of \$82,606.00 upon Board acceptance for ownership of the sewer system and receipt of the Letter of Credit.

Ms. Graham moved that the Board approve the Cost Recovery Request for Biltmore Lake in the amount of \$142,639.00 and Lake Julian Trails in the amount of \$82,606.00. Mr. Pace seconded the motion. Roll call vote was as follows: 10 Ayes; 0 Nays.

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9. Old Business:

Mr. Venable requested that staff investigate what it would cost MSD to equalize the cost of billing between the entities and bring this information to the proper committee.

Mr. Blackburn presented a letter to Mr. Hartye from Mr. Sobol on behalf of New Salem Park LLC and Valley Realty Construction Company requesting a variance of MSD policy. The letter requested a hearing before an Ad Hoc Committee selected by the Chairman to present a request regarding service to a private development. Mr. Blackburn appointed Ms. Graham, as a Developer and Ms. Ball, as an Engineer to serve on this Committee.

10. New Business:

Mr. Blackburn reported that Barbara Field would be leaving the Board in January and expressed his appreciation for her six years of service on the Board. He stated Mr. Kelly and Mr. Aceto were re-appointed to the Board and that he would announce other appointments as they are made.

Mr. Hartye expressed appreciation to Staff for preparing the Christmas stockings and food for today's meeting.

Mr. Blackburn expressed his appreciation to Staff and Board for a good year.

11. Adjournment:

At 3:19 p.m., Ms. Graham moved for adjournment. Mr. Pace seconded the motion. Voice vote in favor of the motion was unanimous.

Jackie W. Bryson, Secretary/Treasurer