

BOARD OF THE METROPOLITAN SEWERAGE DISTRICT

AUGUST 18, 2004

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 PM, Wednesday August 18, 2004. Chairman Blackburn presided with the following members present: Aceto, Ball, Bellamy, Bryson, Gantt, Kelly, Pace, Sobol, VeHaun and Venable. Ms. Graham was absent.

Other present were: Thomas E. Hartye, General Manager, William Clarke, General Counsel, Gary McGill of McGill Associates, Jason Young, with the Town of Woodfin, Leah Karpen with the League of Women Voters, Joseph Martin with the Woodfin Sanitary Water & Sewer District, Brenda Mills with Minority Affairs of Buncombe County, Mr. Gullotta a resident of Asheville, Martha Zeigler, Stan Boyd, Ed Bradford, Ann LeMieux, Peter Weed, Jim Naber, Monty Payne, Julie Willingham and Sondra Honeycutt, MSD.

Mr. Blackburn welcomed Mr. VeHaun representing the Town of Woodfin as a new Member of the Board.

2. Approval of Minutes of the July 21, 2004 Meeting:

Ms. Bryson moved that the Minutes of the July 21, 2004 Meeting be approved as presented. Mr. Pace seconded the motion. Voice vote in favor of the motion was unanimous.

3. Discussion and Adjustment of Agenda:

With regard to the Personnel Committee report, Mr. Blackburn stated that matters related to the evaluation of the General Manager will be addressed in closed session following the Consolidated Motion Agenda.

4. Information Discussion and Public Comment:

Mr. Blackburn welcomed Ms. Brenda Mills with Minority Affairs of Buncombe County, Leah Karpen with the League of Women Voters and Mr. Gullotta, a resident of Asheville.

Mr. Blackburn recognized Mr. Gullotta who was present to address the Board about water/sewer charges. Mr. Gullotta suggested that the Board consider changing the method of charging for water and sewer by charging a flat rate for all residents based on the District's budget needs. He reported that due to damage to his lawn during construction, it was necessary to water daily after paying to have it reseeded, which resulted in a bill of \$185.00. In addition, he stated that he has a garden that requires watering. Mr. Aceto asked if there is a way to meter this type of water usage. Mr. Hartye stated that an extra meter can be purchased from the City of Asheville. Ms. Ball suggested that Mr. Gullotta contact her regarding an additional meter. Mr. Venable stated that an additional meter is not inconsequential in that it's costly. Mr. Hartye stated that the cost is \$1,600.00. Mr. Gullotta again suggested a flat rate. Mr. Aceto stated that the Board has considered a flat rate, but it would be some time before this would happen because of issues that had to do with fairness and obligations. He suggested that Mr. Gullotta speak with the City of Asheville about an additional meter and expressed the Board's appreciation for taking the time to share his concerns.

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5. Report of General Manager:

Mr. Hartye presented information regarding the United Way Golf Tournament; Good Correspondence; Bond Issue; Technical Conferences; Reading and Board/Committee Meetings.

Regarding the United Way Golf Tournament, Mr. Hartye reported that the tournament, to be hosted by MSD, will be held September 16, 2004 with a rain date of September 23rd. He further reported that the tournament will be held at the Buncombe County Golf Course.

With regard to Good Correspondence, Mr. Hartye presented a letter of appreciation to MSD's System Services Crew, Alan Knighten, Robert Burnett, Pete Cole, Furman Dean, Roy Lytle, Grady Brooks, Toby Roberts, Tommy Brooks and Mitch Hawes for prompt and efficient service. He also presented a letter from Governor Easley reappointing Roger Watson, MSD Project Engineer, to the NC Sedimentation Control Commission and a Collection System Permit Inspection Summary from NCDENR.

Mr. Hartye reported that following adoption of the Preliminary Resolution to file with the Local Government Commission (LGC), District representatives and Bond Counsel will meet August 19th with the LGC in Raleigh for a Document Review Session. He further reported that in late September they will meet with the Rating Agencies, and at the October Meeting, the Board will adopt the Series Resolution. He stated that the Bond closing is currently scheduled for November 17th.

Regarding Technical Conferences, Mr. Hartye reported that the Water Environment Federation Conference will be held October 2nd through 6th in New Orleans and the NCAWWA/WEA Conference is scheduled for November 14th through 17th in Charlotte.

With regard to reading, Mr. Hartye presented articles on the Town of Woodfin's representation on the MSD Board; Asheville Economy Q&A from the Chamber of Commerce and an article from the Chamber Report on Jacob Holm Industries.

Mr. Hartye reported that the Right of Way Committee will meet August 25th at 2PM and the next Board meeting will be held September 15th at 2PM.

Mr. Pace recommended that Mr. Blackburn and Mr. Hartye write Joy Franklin, Editor with the Asheville Citizen Times regarding a misconception of the facts about notification to Woodfin and the CIP Committee procedure in a recent article.

6. Report of Committees:

Personnel Committee

Mr. Venable reported that the Personnel Committee met July 26, 2004 to consider the Evaluation of the General Manager. The Committee also considered MSD/Employee Contributions to 401k and 457 and the Holiday Schedule.

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With regard to contributions to 401k and 457, Mr. Venable stated that currently if an employee does not participate in either the 401k or 457, MSD still contributes 2%, which was approved by the Board in lieu of longevity pay. Since that time, several members of the Board asked that this incentive be reviewed. Mr. Venable reported that the Personnel Committee recommends that the Board approve the following graduated contribution percentage plan: 1% employee – 2% employer; 2% employee – 4% employer and 3% employee – 5% employer with an effective date of October 1. If an employee chooses not to contribute, the MSD will not contribute. He stated that if all employees contribute 3%, MSD would contribute an additional \$21,000 per year.

Ms. Bellamy asked why the Board decided to reconsider this program. Mr. Venable stated that it was because of the 2% MSD contribution for employees who do not participate in either the 401k or 457. Ms. Bellamy asked if the Committee looked at the pay grades of the employees who do not participate. Mr. Venable stated that the Committee generally looked at this and it was one of the reasons why it chose to recommend the graduated contribution percentage. Ms. Zeigler stated that there is no pattern as far as pay grades. Ms. Bellamy expressed a concern that some employees do not contribute because they may need their entire check to pay bills and may not have other options for a good retirement and for this reason she is not supportive of the recommendation. Ms. Ball asked if there was a contribution requirement on the part of the employee to receive longevity. Mr. Venable stated that the longevity was a graduated program based on years of service up to 2%. Ms. Ball asked if there is any way to consider grandfathering those employees who are currently in the system. Mr. Venable stated that the Committee discussed several different alternatives and felt that the graduated contribution percentage plan is the best solution.

Ms. Ball stated that City employees can get up to 5% without contributing anything. Ms. Bellamy stated that if there was a budget crisis and MSD was

looking to cut costs, she might understand, but MSD has the money and to just take it away is not right. Mr. Pace stated that the reason this was done is because several Members felt this was a giveaway program, not an incentive program and it encourages employees to contribute more toward retirement. Mr. Venable stated that the Committee felt that rather than just giving away 2%, this type of benefit should be given as a part of an employee's salary. Ms. Ball stated that in her opinion the 2% incentive is a way organizations take care of long-term employees; recognizing the fact that if they contribute to the organization for many years, they can enjoy a decent income when they retire. Ms. Bellamy stated that the goal of MSD should be to hire, train and keep good employees. With regard to salary, Mr. Hartye stated that the Merit Program is a component of salary increases, which is an incentive in itself.

Regarding the Holiday Schedule, Mr. Venable reported that the Employee Advisory Committee suggested the District have an additional holiday to observe Veterans Day. He stated that two employees, Mr. Triplett and Mr. Gammon, who are Veterans, addressed the Personnel Committee about employee's thoughts on observing Veterans Day as a new holiday. Mr. Venable reported that the Personnel Committee recommends the Board approve a floating holiday which involves having the option to take Veterans Day or a 3rd day at Christmas; keeping the total holidays at 11 for each year. The Committee also suggests the policy start this year and that staff look at other ways to recognize Veterans on Veterans Day. Ms. Bryson stated that the Committee also suggested that recognition of Veterans could be done at

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the company picnic and that both Mr. Triplett and Mr. Gammon were appreciative that the Committee allowed them to speak and for the decision that was made. Mr. Venable asked for a clarification on the cost. Ms. Zeigler stated that the recommendation will have no affect on the budget.

7. Consolidated Motion Agenda:

Ms. Ball and Ms. Bellamy requested that Item b. (employee contributions to 401k and 457) of the Consolidated Motion Agenda be pulled.

Mr. Pace moved that the Board approve Items a.c.d.e.f.g.h.i.j.k.l. of the Consolidated Motion Agenda. Mr. Gantt seconded the motion.

Mr. Hartye went over the following items:

a. Consideration of Developer Constructed Sewer Systems: Hunter's Ridge Phase 2, Village Creek West, Craggy View Cottages and East Oakview:

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

b. Consideration of MSD/Employee Contributions to 401(k) and 457:

Pulled for further consideration.

c. Consideration of Holiday Schedule:

Mr. Hartye reported that the Personnel Committee recommends a floating holiday which involves having the option to take Veterans Day or a 3rd day at Christmas. The Committee also suggested staff look at other ways of recognizing Veterans and that the policy start this year.

d. Consideration of Bids for Hi-Alta Avenue, Weaverville Main Street, Roberts Street and Glenview Rd:

Mr. Hartye reported that the following bids for Hi-Alta Avenue, Weaverville Main Street, Roberts Street and Glenview Rd. rehabilitation projects were received July 29, 2004: Buckeye Construction Company with a total bid of \$799,716.21; L-J, Inc. with a total bid of \$799,346.00; Buncombe Construction Company with a total bid of \$695,801.00; H&M Constructors, Inc. with a total bid of \$692,319.00 and Terry Brothers Construction Company with a total bid of \$632,385.00. He further reported that staff recommends award of this contract to Terry Brothers Construction Co., Inc. in the amount of \$632,385.00, contingent upon review by District Counsel.

e. Consideration of Adoption of Records Retention Policy:

Mr. Hartye reported that staff recommends adoption of the Records Retention and Disposition Schedule for Water & Sewer Authorities and Sanitary Districts.

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f. Consideration of Sodium Hypochlorite Contract:

Mr. Hartye reported that Univar USA is offering MSD the same price as in its previously bid contract with the Water & Sewer Authority of Cabarrus County which is three and one-half cents per gallon less than the renewal cost quoted by Jones Chemical upon the currently expiring contract with MSD. He further reported that staff recommends award of the “piggyback” contract with Univar USA.

g. Consideration of Revised Minority Business Enterprise Report:

Mr. Hartye reported that the revised Minority Business Enterprise Report includes purchasing and employment practices. He presented a spreadsheet that shows minority purchases and contracts and personnel figures over the last three years. Ms. Ball asked whether the minority businesses shown are enrolled in the County Minority Business Program or just minorities. Ms. Zeigler stated that the businesses are certified by the Asheville-Buncombe Office of Minority Affairs. With regard to employees, Ms. Bellamy asked how minorities are determined. Ms. Zeigler stated that minorities are considered to be women and people of color.

h. Consideration of Resolution Authorizing Filing of Application to the Local Government Commission to Issue Bonds:

Mr. Hartye stated that staff recommends approval of the Resolution authorizing filing of application to the Local Government Commission (LGC) to issue bonds. Mr. Sobol asked why the District is including money from this Bond to reimburse itself for projects already done. Mr. Hartye stated that in the past the District could go to the LGC with bids in hand or a program to be done in three years, but since that time, the LGC has changed its rules and regulations; requiring bids in hand or completion of projects before you go out for a bond. For this reason, the District reimburses itself and uses this money for projects going forward.

i. Report on Billings and Collections from the City of Asheville:

Presented as information only.

j. Update on Liability Insurance Premiums and Claims:

Mr. Hartye reported that during the last few years insurance premiums have increased primarily due to sewer backups, but because of proactive line cleaning, first responder protocol and rehabilitation of problem sewer lines, claims for FY 04 show a dramatic decrease and FY 05 claims will hopefully continue the downward trend. He presented a chart showing MSD liability claims history from FY 01 to FY 04 and what has been paid out in premiums. He also presented a chart showing annual claims paid by MSD and the North Carolina League of Municipalities (NCLM) and a line graph showing the net claims paid by the NCLM and MSD's premiums and deductibles since FY 99. Mr. Hartye stated that he's hopeful the decrease in claims is a continuing trend and if it is, MSD will be looking for some more competitive quotes next year for insurance. If not, the Planning or Finance Committee will consider self-insurance. Mr. Sobol asked if the increase in claims for FY 03 was due to wet weather.

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Ms. LeMieux stated there may be some correlation, but there is no real pattern. Mr. Hartye stated that the biggest effect has to do with MSD's First Responder Program. Ms. Ball asked if any of the claims are personnel claims. Mr. Hartye stated that Bodily Injury/Property Damage, General Liability and Public Officials/Employment are included in the

total claims. Ms. Ball asked how the District compares to other sewer districts in the number of claims and whether the District has the ability to review the claims before they are paid by the NCLM. Ms. LeMieux stated that the District does not make recommendations to the NCLM, but provides them with information on each claim. Mr. Hartye stated that staff monitors what is being paid out and communicates with the NCLM when they think too much or too little has been paid. Ms. Ball asked if staff has done a comparison with other entities on the number and amount of claims paid. Ms. LeMieux stated that MSD is one of the highest in the State for number of claims because of the age of the system and the topography. Mr. Aceto stated he has heard excellent reports in the community about MSD's "First Responders" and feels this program will push the trend down. Mr. Blackburn requested that staff prepare a comparison of claims for the Board's review. Mr. Gantt asked if there is a report on Workers Comp claims. Mr. Hartye stated yes. Mr. Gantt requested a copy of the report showing the history; the number and types of claims. Mr. Blackburn asked for volunteers to work with staff on this issue. Mr. Gantt, Ms. Ball and Mr. Aceto offered to assist staff.

k. Consideration of Cost Recovery Request for East Oakview:

Mr. Hartye reported that East Oakview is a 14 lot subdivision located on East Oakview Road. The estimated cost to extend the sewer to the property is \$13,590 and the estimated 5-year net revenues will be \$4,859.00. He further reported that staff recommends the Board approve authority for the General Manager to reimburse Lewis Kraus of Asheville Area Habitat for Humanity the amount of \$4,859.00 upon Board acceptance for ownership of the sewer system and receipt of surety.

l. Cash Commitment/Investment Report:

Presented as information only.

Regarding Item k. (East Oakview), Mr. Sobol asked how the cost recovery is figured and if the amount shown is correct. Mr. Hartye stated that staff will check the amount and confirm whether it is correct. With no further

discussion, Mr. Pace moved that the Board approve Items a.c.d.e.f.g.h.i.j.k.l. of the Consolidated Motion Agenda. Mr. Gantt seconded the motion. Roll call vote was as follows: 10 Ayes; 0 Nays. Mr. Vahaun did not vote because he was not yet officially sworn in.

Regarding Item b. (Employee Contributions to 401k and 457), Mr. Venable moved that the Board accept the Personnel Committee recommendation for the revised MSD employee contributions to 401 k and 457. With no discussion, roll call vote was as follows: 8 Ayes; 2 Nays (Ms. Ball and Ms. Bellamy).

8. Old Business:

None

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9. New Business:

At 3:05 PM, Mr. Venable moved that the Board go into closed session to discuss the evaluation of the General Manager. Ms. Bryson seconded the motion. Voice vote in favor of the motion was unanimous.

At 3:26 PM, the Board went back into open session. With respect to the Personnel Committee evaluation of the General Manager and new contract, Mr. Venable moved that the Board initiate a contract with the General Manager to run from July 1, 2004 through June 30, 2007 and that the Board give three (3) additional vacation days and that his salary be increased 7% retroactive to July 1, 2004 and that this compensation run from July 1, 2004 to July 1, 2005. At that time, the Personnel Committee will meet to evaluate the General Manager and discuss possible changes to his compensation. Mr. Pace seconded the motion. Roll call vote was as follows: 9 Ayes; 0 Nays. Mr. Kelly was absent during the vote.

Mr. Blackburn announced that the Diversity Training for Board Members will be held September 15, 2004 at 1:00 PM prior to the regular Board Meeting.

10. Adjournment:

With no further business, Mr. Venable moved for adjournment at 3:30 PM. Mr. Pace seconded the motion. Voice vote in favor of the motion was unanimous.

Jackie W. Bryson, Secretary/Treasurer