

# **BOARD OF THE METROPOLITAN SEWERAGE DISTRICT**

**OCTOBER 20, 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, October 20, 2004. Chairman Blackburn presided with the following members present: Aceto, Bellamy, Bryson, Gantt, Graham, Kelly, Pace, Sobol, VeHaun and Venable. Ms. Ball was absent.

Others present were: Thomas E. Hartye, General Manager, William Clarke, General Counsel, Joseph Martin with the Woodfin Sanitary Water & Sewer District, Leah Karpen with the League of Women Voters, Larry Frost with DEHNR, Bob DiFiore with Hazen & Sawyer, Martha Zeigler, Stan Boyd, Ed Bradford, Ann LeMieux, Jim Naber, Ken Stines, Jason Capizzi and Sondra Honeycutt, MSD.

## **2. Approval of Minutes of the September 15, 2004 Meeting:**

Mr. Pace moved that the Minutes of the September 15, 2004 Meeting be approved as presented. Ms. Graham seconded the motion. Voice vote in favor of the motion was unanimous.

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

Mr. Blackburn welcomed Ms. Leah Karpen with the League of Women Voters, Mr. Larry Frost with DEHNR and Mr. Bob DiFiore with Hazen & Sawyer.

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

Ms. Karpen asked what MSD's reaction was to discussions with regard to combining the MSD and the Asheville-Buncombe Water Authority. Mr. Blackburn stated there has been some discussion about combining the MSD and the Asheville-Buncombe Water Authority under one separate authority, but the Board has not discussed the possibility. Mr. Pace stated that MSD is independent and is not a political Board.

**5. Report of General Manager:**

Mr. Hartye presented information regarding Good Correspondence, Belt Press and Incinerator Upgrade, Bond Issue, Reading and Board/Committee Meetings:

Mr. Hartye reported that the MSD held its annual picnic October 13th, which was very successful. He stated that as part of the events, a check in the amount of \$15,000.00 was presented to Mr. Tom Sobol, Chairman of the United Way Drive for 2005. Mr. Hartye expressed his appreciation to Peter Weed and Art Mandler for their efforts and will formally recognize them at the next meeting of the Board. He also recognized Mary Alice Hunter for her portrayal of Vanna White who spun the United Way Wheel of the Fortunate for prizes. Ms. Bryson commended staff on their presentation of Service Awards. Mr. Hartye recognized Marsha Kiser and Pam Thomas for their work in preparation of the picnic. Mr. Gantt stated that he is serving on the United Way Cabinet this year and that he is proud of the many comments regarding MSD employees and their efforts on behalf of United Way.

Mr. Hartye presented a letter of appreciation from Asheville Christian Academy regarding Jason Capizzi and crew of Rick Banks, Robert Burnett, Mark

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Wooten, Jessie Hunter, Rick Bradley, Furman Dean, Shawn Meadows and Pat Carver.

Regarding the Belt Filter Press and Incinerator Upgrade, Mr. Hartye presented a memorandum from Bob DiFiore, the District's Engineering Consultant, Hazen & Sawyer regarding the solids handling project at the Plant. Mr. Hartye reported that the project is near completion with very little change orders for increased cost beyond the shell repair itself, but with a significant issue of time. He stated that the Belt Filter Presses are up and running and performing better than anticipated. Mr. DiFiore stated that the brick for the incinerator has left the factory and should arrive at the MSD this week and should take about 3 weeks to install. Mr. Venable asked if there were any incentives for early completion or penalties for finishing the project late in the contract. Mr. DiFiore stated yes there are and that it's the opinion of Hazen & Sawyer that all costs and delays associated with this problem are the responsibility of the contractor and their suppliers and will be addressed at final completion. Mr. Hartye stated that the details of this issue will be addressed at project close-out with the Construction Committee to reconcile liquidated damages versus time, etc. Ms. Karpen asked what happens to the solid waste while the incinerator is down. Mr. Hartye stated that the solids are being treated with lime at the Lime Stabilization Facility and hauled to the Landfill and combined with their waste.

Regarding the Bond Issue, Mr. Hartye reported that on September 20<sup>th</sup> and 21<sup>st</sup> staff met with the Rating Agencies and Moody's confirmed the District's A1 rating and Standard & Poor's upgraded its rating from AA- to AA. He further reported that the Board will adopt the Series Resolution at today's meeting and that the closing is currently scheduled for November 9<sup>th</sup> and 10<sup>th</sup>.

Mr. Hartye presented a copy of the Association of Metropolitan Sewerage Agencies (AMSA) Regulatory Update regarding an EPA report to Congress on Sewer Overflows.

Mr. Hartye reported that the next regular meeting of the Board is scheduled for November 10<sup>th</sup> due to the AWWA/WEA Conference.

**6. Report of Committees:**

**Right of Way Committee**

Mr. Pace reported that the Right of Way Committee met September 29, 2004 to consider condemnations on the Lower Smith Mill Creek and Waters Road Rehabilitation Projects.

**Finance Committee**

Mr. Kelly reported that the Finance Committee met October 19, 2004 with the District's Bond Underwriters, Banc of America Securities to consider refunding \$17million of outstanding bonds. The District is currently paying a little over 5%, but the proposal from Banc of America would allow the District to pay 3.45%. He stated that there is a possibility that the District could be paying more if interest rates rise, however, the District can buy its way out if necessary. He further stated that the Banc of America representative stated that by taking advantage of this opportunity, the District could save up to \$56,000 annually in interest charges. Based on this information, the Finance Committee recommends the District proceed with the "Synthetic Fixed Rate Refunding". Mr. Pace pointed

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out that Banc of America has been doing this type of refinancing, not only in North Carolina, but other states since the 1980's. Ms. Zeigler stated there is a real disparity in the relationship between tax exempt interest and taxable interest, because variable rate bonds will pay out interest based on a municipal bond index and the Banc of America will be paying the District on money they borrow based on LIBOR, which is taxable. She further stated that the worst case scenario is if there were to be a flat tax, so there would be no benefit to tax exempt bonds. Mr. Hartye stated that the Finance Committee is looking for approval to proceed with refinancing and if the market is still favorable the District would make application to the Local Government Commission (LGC) for approval followed by a Series Resolution. On the recommendation of the Finance Committee, Mr. Aceto moved that the Board defease the existing \$17 million 5% debt, refund it with \$19 million of variable rate bonds, coupled with a synthetic interest rate swap with the District's underwriters.

Mr. Venable stated that he feels it would not be in the best interest of MSD to vote for this motion because the Banc of America said the MSD could not save any money by using fixed rate bonds to defease existing bonds. They also said MSD could not save any money by using variable rate bonds to defease existing bonds. However, they did say they found a methodology, which is called "Synthetic Fixed Rate Refunding" that would work on \$17 million of bonds that were issued in 2001. He further stated that there is three (3) parts to this methodology. The first part is MSD would issue \$19 million worth of variable rate bonds to defease \$17 million bonds at 5%. The \$2million dollar difference is the cost of paying off the fixed rate bonds and issuing the variable rate bonds. The second part is that MSD would enter into a contract with Banc of America which would say that MSD would pay Banc of America a rate of 3.45%. In turn, Banc of America would pay back to MSD monies they refer to as a "floating index", which is a variable rate. Ms. Zeigler stated that the first statement that the District would not save money with a variable rate refunding is a misunderstanding; it would save money. She further stated that the reason the MSD is proposing to use a swap is that in MSD's debt portfolio, the LGC and rating agencies do not look favorably on more than 25% of variable debt, but when you throw in the swap contract this turns the debt into a fixed debt in the eyes of the rating agencies and the LGC. Mr. Venable stated that he is looking at this as three parts, two of which are variable and one fixed. Ms. Zeigler stated

that in theory, the variable rates offset each other. Mr. Venable stated that his objection is that there are risks involved and if the Board votes for this motion the rate payers would be put at some risk. Ms. Zeigler stated that there are some risks, but if the District does not take action, the Board is risking the possibility of not saving the rate payers \$800,000.00. Mr. Venable argued that of MSD's total debt of \$109 million, approximately 40% would be at a variable rate, which in his opinion is not acceptable. Mr. Pace stated that as far as ratings go this will not affect the District's ratings and if there was no way out, he would not vote for it. Mr. Gantt asked for an explanation on the variable rate ceiling. Mr. Clarke stated there is a 12% cap on the variable rate and if for some reason the bonds could not be bought back at a weekly interest rate or other short term interest rate, the bonds are redeemable at the end of the interest rate period. He explained what would happen if the bonds do not sell, but stated there has always been a market for the bonds. A discussion was held regarding what the current rate is, if the District is putting the rate payer at risk and whether the LGC will consider the risks before giving approval. With no further discussion, roll call vote was as follows: 9 Ayes; 2 Nays (Mr. Sobol and Mr. Venable)

Mr. Sobol asked when this issue would come back up. Mr. Hartye stated approval to make application to the LGC will be addressed at the November

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meeting of the Board and approval of the Series Resolution will take place in December.

**7. Consolidated Motion Agenda:**

Ms. Bellamy moved that the Board approve the Consolidated Motion Agenda. Mr. Kelly seconded the motion. Mr. Hartye went over the following items:

**a. Consideration of Chemical Root Control Contract:**

Mr. Hartye reported that the District entered into a contract with Duke's Root Control, Inc. for chemical root control at various locations of the collection system. The contract allowed for a one year extension if both parties agreed. He stated that staff has negotiated an extension of the contract with Duke's Root Control, Inc. in an amount not to exceed \$65,000.00.

**b. Consideration of Series Resolution Authorizing the Issuance of Bonds:**

Mr. Hartye reported that staff recommends approval of the Series Resolution.

Mr. Clarke stated that the Series Resolution is a formal document authorizing the issuance of up to \$24 million of variable rate bonds. The Board authorizes the General Manager, Chairman, Chief Financial Officer and Secretary/Treasurer to do everything necessary to close the transaction. He presented a revision to the Resolution on page 47, first paragraph. Ms. Bellamy requested periodic updates and asked if a specific rate can be locked in if the Board does not feel comfortable with the market or rates. Mr. Clarke stated that converting to a fixed rate is like issuing new bonds. It's not an instantaneous process, but the Board can make that decision at any time. MSD can do weekly interest rates, a bond interest term rate or can purchase a rate cap.

**c. Consideration of Developer Constructed Sewer Systems: Two Town Square, Trane Facility and White Insurance:**

Mr. Hartye reported that staff recommends acceptance of the following developer constructed sewer systems and that all MSD requirements have been met: Two Town Square, Trane Facility and White Insurance.

**d. Report on Worker's Compensation Claims:**

Mr. Hartye presented charts and graphs summarizing recent workers' compensation claims frequency and costs. He reported that the data from the North Carolina League of Municipalities lists the total claim amount in the year incurred, although actual payment may be paid in subsequent year(s). He stated that fiscal year 2000-01 contains a single claim in excess of \$250,000. He further reported that severity of claims appears to be decreasing and has consistently been below the average reported for similar industries within North Carolina. He further stated that the District's improving performance will allow more competitive quotes from commercial insurance carriers or the possibility of self-insuring next budget year.

Mr. Venable asked how long the 2001-2002 claims will have an affect on the rates. Mr. Naber, presented a Workers' Compensation Claim and Premium

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Summary which shows the number of claims incurred, who paid the claims, factors impacting premiums. He explained how the Experience Modified Rate (Emod) works. He reported that he did some research comparing MSD's (Emod) with other water and sewer districts and gave an example of a comparison between MSD and Orange County's Emod Rates beginning FY 2000-01. Mr. Naber stated that overall, severity of claims has decreased.



**e. Cash Commitment/Investment Report – Month Ended August 31, 2004:**

Presented as information only.

With no discussion, roll call vote was as follows: 11 Ayes; 0 Nays.

**7. Old Business:**

None

**8. New Business:**

None

**9. Adjournment:**

With no further business, Mr. Kelly moved for adjournment at 2:52 PM. Mr. Pace seconded the motion. Voice vote in favor of the motion was unanimous.

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Jackie W. Bryson, Secretary/Treasurer

