

**BOARD OF THE METROPOLITAN SEWERAGE DISTRICT
SEPTEMBER 21, 2005**

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 2:00PM, Wednesday, September 21, 2005. Chairman Aceto presided with the following members present: Ms. Ball, Ms. Bellamy, Ms. Bryson, Mr. Gantt, Ms. Graham, Mr. Kelly, Mr. Pace, Mr. Sobol, Mr. VeHaun and Mr. Venable. Mr. Bissette was absent.

Others present were: Thomas E. Hartye, General Manager, Marjorie Mann, Attorney, Gary McGill with McGill Associates, Joseph Martin with Woodfin Sanitary Water & Sewer District, Richard Tsang with CDM, Stan Boyd, Martha Zeigler, John Kiviniemi, Ed Bradford, Ann LeMieux, Peter Weed, Mike Butler and Sondra Honeycutt, MSD.

2. Approval of Minutes of the August 17, 2005 Meeting:

Mr. Gantt moved that the minutes of the August 17, 2005 meeting be approved as presented. Ms. Graham seconded the motion. Mr. Aceto called for comments. There being no comments, voice vote in favor of the motion was unanimous.

3. Discussion and Adjustment of Agenda:

None

4. Informal Discussion and Public Comment:

Mr. Aceto welcomed Mr. Martin and Mr. Tsang. Mr. Aceto called for Public Comment. None was received.

5. Report of General Manager:

Mr. Hartye presented information regarding Bio-diesel, Kudos, SPAR 2005 and Board/Committee Meetings.

Mr. Hartye reported that WLOS did a short piece on MSD's use of bio-diesel fuel. Also, Peter Weed will give a presentation on MSD's efforts at the upcoming Clean Vehicles for Clean Cities Workshop on September 22nd.

Mr. Hartye congratulated Julie Willingham, MSD's Purchasing Agent, for being awarded the Frayda Bluestein Scholarship for her continuing education by the Carolina Association of Governmental Purchasing. Ms. Zeigler reported that the Purchasing Scholarship is for agents in North and South Carolina and that Ms. Willingham will be attending these classes at Montreat College.

Regarding SPAR 2005, Mr. Hartye reported that this report is required by the State and is published in the Asheville Citizen Times and is sent out to MSD customers in the bill from the City of Asheville and directly sent to the other member agencies.

Mr. Hartye reported that the next Right of Way Committee will be held September 28th at 2PM and the Board Governance Committee will meet at 12PM on October 19th prior to the 2PM regular Board Meeting.

Mr. Hartye announced that the employee picnic will be held at MSD, October 6th at 11:30 AM.

6. Report of Committees:

Construction Committee

Mr. Sobol reported that the Construction Committee met September 1st to consider the contract time on the Merrimon Avenue/Reed Creek Interceptor Project, Reed Creek Wet-Weather Project and Larchmont Road Project. He further reported that Ed Bradford gave an overview of the projects and discussed some of the issues that arose during construction. Mr. Sobol stated that due to a new requirement by the NCDOT, which would have cost the District over \$200,000.00, the contractor was pulled off the job because of redesign of the line and rights of way issues. Mr. Sobol reported that the Committee also discussed the Facilities Plan for the Water Reclamation Facility. Mr. Tsang of CDM gave a presentation on the Facilities Plan, which is a more systematic way of planning and budgeting for future needs. The Plan will allow MSD to decide whether to continue repair and maintenance on the system or consider replacement.

Planning Committee

Ms. Graham reported that the Planning Committee met on Tuesday, September 15th to consider a reimbursement provision clarification to the Cost Recovery Policy and to consider issues associated with serving out-of-District customers. With regard to the reimbursement provision, Ms. Graham stated that the purpose of changing the wording of the original policy is to clarify how to address subsequent developers tying onto a line put in by the original developer. Ms. Graham reported that the Committee came up with a formula where some reimbursement will be made to the original developer for up to 5-years after the extension is completed and that to be eligible; the original extension must be at least 1000 feet. She stated that because there are only 2-3 of these projects a year, MSD will not charge an administrative fee, but will continue to review this annually. She further reported that the Committee also recommends a cap of \$40,000.00 per project for the Cost Recovery Program, which is based on the average of the cost recovery projects to date and serves to spread the incentive money to more developers. Ms. Ball asked if this recommendation is part of the Consolidated Motion Agenda. Mr. Hartye stated that the reimbursement provision is part of the agenda, but the recommendation regarding the cap is not.

With regard to the reimbursement recommendation, Ms. Ball asked if the check would be made out to the developer or MSD. Ms. Graham stated that the check would be made out to the MSD. Mr. Hartye stated that as a part of the cost recovery program, all of the fees are collected up front. Ms. Ball stated that she is not in favor of doing this because it's not the responsibility of MSD to make sure developers get their money back. A discussion was held on how the formula is set up. Ms. Ball stated that MSD is asking for a lot that shouldn't be at the expense of the ratepayer to make it happen. Ms. Graham stated that it's not a major expense for the ratepayer; it's to their benefit to get the other rate payers on line and is an incentive for the 2nd developer. Mr. Hartye stated that if the program becomes cumbersome, staff will bring this back to the Committee in six months for a discussion on an administrative fee to assist in staff time. Mr. Ball stated that she feels this is stepping over the line of where MSD needs to be serving the community and that it's not an issue necessarily of the cost to MSD, or an issue of principle, its the precedent MSD is setting by saying we should protect the interest of developers. She strongly urged the Board to think about the precedent its setting and whether or not this is a policy decision that should guide MSD on how it does business. With no further discussion, Mr. Aceto pulled item b. (Revisions to the Sewer Service Extension Policy) from the Consolidated Motion Agenda for a vote. Ms. Graham moved that the Policy be amended as proposed. The vote in favor of the motion was 10 to 1. Ms. Ball voted against the motion. After the vote, Ms. Ball excused herself to attend a meeting at North Fork.

Regarding the Cost Recovery Program Discussion, Ms. Graham reported that the Committee recommends that the Board approve amending the existing Cost Recovery Policy by placing a cap of \$40,000 on individual projects approved for Cost Recovery. Mr. Pace moved that the Policy be amended as proposed. Mr. Aceto called for discussion. With no discussion, voice vote in favor of the motion was unanimous.

Finance Committee

Mr. Kelly reported that the Finance Committee met August 20, 2005. He stated that at the direction of the Board, the Finance Committee considered the pros and cons of variable rate debt. He further reported that in November MSD issued \$24 million in variable rate debt and as of June 30, 2005 MSD realized a savings of approximately \$240,000.00 compared to what interest payments would have been if fixed rate debt had been issued. He stated that Martha Zeigler and Robert Hobson, with Bank of America, are on top of the situation as Mr. Hobson views variable interest rates daily and Ms. Zeigler receives weekly notifications of interest rates. He further stated that the Finance Committee recommends MSD not purchase a cap and continue with the variable rate financing. Mr. Sobol asked what the mechanism is to revisit this issue. Mr. Kelly stated that this had just been revisited at the Finance Committee meeting. He stated that Mr. Hobson pointed out that a year ago MSD was earning 1% investment interest, but is now earning 3%. He also pointed out that MSD can expect to earn approximately \$700,000 this year. Increases in investment income can provide a hedge against rising variable interest debt payments. Mr. Sobol stated that in April the Board received a summary of transactions on the interest rate exchange agreement (swap), but has not received any additional information since. Ms. Zeigler stated this was a summary of interest rate exchange agreement transactions, which is to be done on a quarterly basis. Because this is a 30-year agreement with a more volatile index, a short-range view of transactions could be misleading. She further stated that she receives a copy of these rates each week and if something unusual happens she will get in touch with Mr. Hobson and bring it to the attention of the Finance Committee. Mr. Kelly reported that Mr. Hobson presented a chart showing the difference between the BMA rate and fixed rate and the substantial excess of the fixed rate over the variable rate going back to 1985 indicating the potential of considerable savings from use of the variable rate. He further reported that Mr. Hobson works with ten other water and sewer agencies and said that during that period of time only three (3) agencies purchased a cap and none received any payments under the agreement. A discussion was held with regard to how often this issue should be revisited.

Board Governance Committee

Mr. Gantt reported that the Board Governance Committee met prior to the Board Meeting to discuss what the current rules of ethics are, what other agencies are doing and identifying any other issues to be considered at the next meeting. He further reported that the Committee discussed the possible development of a code of ethics manual and training for Board Members and a comparison of Board Member/Employee ethics. Mr. Gantt stated that following the 3rd or 4th meeting, the Committee will make a recommendation on this issue to the full Board.

7. Consolidated Motion Agenda:

a. Consideration of Developer Constructed Sewer Systems: Albemarle Reserve, Phase 1 and Cheshire Village Phase IV, Line D:

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

b. Consideration of Revisions to Sewer Service Extension Policy:

Pulled from agenda.

c. Consideration of Contract for Water Reclamation Facility – Facilities Plan:

Mr. Hartye reported that the Construction Committee recommends acceptance of staff's recommendation to approve Task Order No. 3 in the amount of \$155,160.00.

d. Consideration of Change Order for Contract Time on the Merrimon Avenue/Reed Creek Interceptor Project; Reed Creek Wet Weather Project and Larchmont Road Project:

Mr. Hartye reported that the Construction Committee recommends that the Board accept staff's recommendation to approve Change Order No. 3, which extends the contract completion date to December 18, 2005 and thereby waive the potential liquidated damages of \$11,400.

e. Cash Commitment/Investment Report – Month ended July 31, 2005:

Presented as information only.

Regarding Item c. Mr. Venable asked if the services contract for CDM is put out for bid. Mr. Hartye stated that MSD goes through a selection of engineer qualifications first then the price is negotiated on a task order basis. A continuing services contract with CDM was approved last year. With no further discussion, Mr. Pace moved that the Board approve items a. c. d. e. of the Consolidated Motion Agenda. Ms. Graham seconded the motion. Roll call vote was as follows: 10 Ayes; 0 Nays.

8. Old Business:

None

9. New Business:

None

10. Adjournment:

With no further business, Ms. Graham moved for adjournment at 2:45 PM. Mr. Pace seconded the motion. Voice vote in favor of the motion was unanimous.

Jackie W. Bryson, Secretary/Treasurer

