

**BOARD OF THE METROPOLITAN SEWERAGE DISTRICT
FEBRUARY 15, 2006**

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, February 15, 2006. Chairman Aceto presided with the following members present: Ms. Bellamy, Mr. Bissette, Ms. Bryson, Mr. Creighton, Mr. Kelly, Mr. Newman, Mr. Pace, Mr. Sobol, Mr. VeHaun and Mr. Venable. Mr. Gantt was absent.

Others present were: Thomas E. Hartye, General Manager, William Clarke, General Counsel, Gary McGill with McGill Associates, Leah Karpen with the League of Women Voters, Joseph Martin with the Woodfin Sanitary Water & Sewer District, Luella Heetdirks, resident West End/Clingman area, Whit Rylee and Maria Wise with Urvana, LLC, Stan Boyd, Martha Zeigler, Ed Bradford, Ann LeMieux, John Kiviniemi, Angel Banks, Peter Weed and Sondra Honeycutt MSD.

Mr. Aceto welcomed Brownie Newman who was appointed to serve on the Board by the City of Asheville, replacing Cathy Ball, whose term had expired.

2. Approval of Minutes of the January 18, 2006 Meeting:

Mr. Bissette moved the Minutes of the January 18, 2006 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:

Mr. Aceto asked if there were any conflicts of interest or items that should be removed from the Consolidated Motion Agenda. There being none, the Chairman proceeded with the agenda as presented.

4. Informal Discussion and Public Comment:

Mr. Aceto welcomed Joseph Martin and Luella Heetdirks. He recognized Ms. Heetdirks who was present to make comments and ask questions of the Board regarding the sewer lines in her neighborhood.

Ms. Heetdirks presented pages from the City of Asheville 2010 Plan adopted in 1996. The Plan recognized the need to extend sanitary sewer mains and upgrade existing mains to provide improved sewer service along Green Street, Girdwood Street, the lower portion of West Haywood Street and Jefferson Drive. She also presented a timeline for implementation and background information regarding the sewer system in these areas. Ms. Heetdirks stated that this has become a big issue in the neighborhood since most of the houses have been or are currently being remodeled and there are several lots that are being looked at for development, but each developer that has come forward, is running up against the problem of extending sewer lines.

Mr. Venable asked if this is a capacity problem as opposed to sewer overflows. Ms. Heetdirks stated that to her knowledge the sewers are working, but in one private sewer area, an MSD manhole was found with no sewerage running through it and that since these are old terracotta lines, the sewerage, may be going into the ground instead of being treated by the MSD. Mr. Hartye presented a map showing the location of the public lines. Ms. Heetdirks stated that there is a public line just before her home and a public line going down Roberts Street, but it's not known whether there is sewer in the areas between these lines. She further stated that sometime in the future she and her husband would like to develop a couple of lots they own, but there is no sewer. However there is a line that crosses three properties that MSD recently said has been taken in as a

public line, which allows development on her property, but does not resolve what is happening in the whole neighborhood.

Ms. Bellamy stated there is another developer present who owns property on Roberts Street that would like to address the Board. Mr. Aceto recognized Mr. Whit Rylee with Urvana, LLC. Mr. Rylee reported that they own 24 building sites in this neighborhood they would like to develop with homes that are compatible with the area and are moderately priced. He further reported that while working to restore one of the cottages, a sewer line was found running under the foundation, which MSD said would have to be relocated to the back of the property line. He stated that they were told by the City and County to build in the urban core, since the infrastructure was in place. In order to do this, they would have to hire a utilities contractor to relocate the line, a civil engineer to engineer the line and obtain easements from two property owners at a total estimated cost of \$20,000. As a private developer, they are looking at having to fix the infrastructure for the surrounding 8 or 9 homes to build one home and restore another. He further stated that this infrastructure has been in place for 100 years and the residents assume they are part of the MSD sewer system. Mr. Kelly asked if they are requesting that MSD, at its expense, locate the private sewer lines and give a free connection to the system. Ms. Heetdirks said no, that she would like to see the Goals & Objectives outlined in the City's 2010 Plan implemented. Aside from the 2010 Plan, which MSD is not part of, Mr. Kelly asked what MSD can do for them even if the lines might be private. Ms. Heetdirks stated that they are asking MSD to map the sewer lines and maintain them and that she does not think the lines are private, but were neglected in the change over. Mr. Pace stated that if the lines were put in by the plant, they are private.

Mr. Hartye showed the location of the public mains and the private line that was recently taken over as a public based line. He explained that the public mains were transferred to MSD during consolidation from Sanitary Sewer Evaluation Survey (SSES) maps. He stated that in the 70's engineers went out to locate the lines, which were put on SSES maps and utilized to transfer the systems to MSD in 1990. However, all of the lines were not recorded and about five years ago, MSD ran into problems in Weaverville with lines that were showing up that were meant to be public lines, but not on the SSES maps. As a result, a policy was developed whereby if a municipality notified the District by letter saying it recognize a particular line as public and previously maintained it, MSD would take it over and maintain it. Mr. Boyd stated that MSD continues to deal with unmapped sewers on a case by case basis and will be happy to look into this. Mr. Hartye stated that MSD does not run new lines to areas that are being developed, but will participate in a Cost Recovery Program. Also, there is a Private Sewer Rehab (PSR) Program whereby property owners would sign a commitment to convey to MSD the rights of way and easements necessary and pay a fee, after which, the MSD would design and build the line. He further stated that unless MSD received some collaboration from the City saying that it did operate and maintain a particular line and there is road access and manholes that can be uncovered, the PSR Program would be more appropriate. Mr. Sobol stated that the MSD has a Capital Improvement Program that addresses all rehabilitation projects and as previously mentioned, the PSR Program is an advantageous program for someone who wants to apply for it. He further stated that if the system is not up to standard, MSD will engineer and design the system and as funds are made available through this program, connection can be made. Mr. Pace questioned Mr. Rylee about his statement that the infrastructure was in place. Mr. Rylee stated that the point he was trying to get across is that the City and the County promote urban infill and one of their big arguments for it is that it does not encourage urban sprawl and the infrastructure is already in place in the urban environment, which is big selling point in the City for infill development.

Mr. Hartye stated that staff can look at this for further detail and explore some of the options with the City. He further stated that MSD's \$200,000 a year PSR Program will not support this type of urban renewal plan. Ms. Heetdriks suggested the possibility

of CDBG funds. Mr. Aceto asked if the MSD is in the position to determine if there are existing lines, where they are located and if they were ever part of the public system. Ms. Bellamy stated that she would happy to talk to the City Manager and Cathy Ball in the City's Engineering Department about this.

5. Report of General Manager:

Mr. Hartye presented a letter of appreciation from United Way for the most recent campaign and expressed his appreciation to Martha Zeigler and Stan Boyd for heading up the campaign for the District. Also, he presented a notice regarding the United Way's Human Race Event scheduled for April 1st, which is sponsored, in part, by Roberts & Stevens.

Mr. Hartye stated that a copy of the Metro Lite and a packet for the upcoming joint Planning and Finance Committee Meeting was included in the Board book. He further stated that a copy of the power point presentation given by Scott Shuford, Planning Director for the City of Asheville is attached to the minutes of the joint Planning/Finance Committee Minutes held February 8th.

Mr. Hartye reported that a joint Planning and Finance Committee meeting will immediately follow today's Board Meeting. The next Right of Way Committee is scheduled for February 22nd at 2PM and the next regular Board Meeting is scheduled for March 15th at 2PM.

6. Report of Committees:

Planning Committee

Mr. Bissette reported that a joint Planning/Finance Committee meeting was held February 8th with a Power Point presentation by Scott Shuford, Planning Director for the City of Asheville on the demographics of the City and the Planning Department's response to several questions asked by the MSD. Mr. Bissette stated that MSD is in the process of asking its member agencies to come and talk to the Committee about their respective planning issues. A discussion was held on ways MSD and the City can communicate better on several issues. Mr. Bissette further reported that the Committee reviewed the Additional Capacity Reimbursement Parameters, which applies where a larger size sewer line extension is required by the District for other future users, but where the growth is not there yet. The Planning Committee recommended adoption of the eight parameters presented and asked Staff and Counsel to develop wording for an amendment to the Sewer Extension Policy. Mr. Bissette stated that the remaining agenda items (Surcharge for Pumped Systems and discussion regarding "Extraordinary" Circumstances for the Provision of Sewer Service via a new Pumped System) will be considered by the Planning/Finance Committee following the Board Meeting.

7. Consolidated Motion Agenda:

a. Consideration of Additional Capacity Reimbursement Parameters:

Mr. Hartye reported that the Planning Committee agreed on the concept of the Additional Capacity Reimbursement Parameters, but will come back to the Board with specific wording changes to the Sewer Extension Policy. Mr. Venable requested that the word "painfully" be removed from number six of the recommended parameters.

Mr. Sobol stated that this new policy could possibly assist Urvana, LLC with getting lines put in and suggested that Mr. Boyd make the developer aware of this

policy. Mr. Hartye stated that first, it needs to be determined whether the lines are private or public.

b. Second Quarter City of Asheville Billing Report:

Presented as information only.

c. Report on First Six Months Revenues and Expenditures:

Mr. Sobol asked if MSD is still over budget on Facility Fees. Mr. Hartye stated that staff conservatively projects on these as a non-refundable revenue source. Mr. Venable asked if the increase in Facility and Tap Fees indicate new customers. Mr. Hartye said yes. Mr. Venable stated that since these fees are so high, it would seem that the flow based User charges would also go up. Mr. Hartye stated when this is budgeted at the beginning of the year, a rate increase and 1% growth are incorporated in the projections, but the Facility Fees are kept at a relative level since they can vary quite a bit.

d. Report on First Six Months Liability Insurance Plan Performance:

Mr. Hartye reported that the amount of property and liability claims indicates that FY 2006 results may be lower than the previous year, but not as low as FY 2004. He stated that the downward trend is continuing, especially in sewer backup claims.

e. Self-Insured Health Plan Report for the first six months of FY 2006:

Presented as information only.

f. Cash Commitment/Investment Report-Month Ended December 31, 2005:

Presented as information only.

With regard to Item a. (Additional Capacity Reimbursement Parameters) Mr. Aceto called for the question on the recommendation of the Planning Committee to adopt the eight parameters as outlined and have Staff and Counsel develop wording for amendment to the Sewer Extension Policy. With no discussion, voice vote in favor of the recommendation was unanimous.

8. Old Business:

a. Consideration of Resolutions for Cathy Ball, Elizabeth Graham and Dr. Richard Maas:

Ms. Bellamy moved that the Board adopt the resolutions honoring Cathy Ball, Elizabeth Graham and Dr. Richard Maas for service on the MSD Board. Ms. Bryson seconded the motion. Mr. Aceto called for discussion. With no discussion, voice vote in favor of the motion was unanimous.

b. Consideration of Ethics, Conduct and Attendance Policy:

Mr. Venable moved that the Board adopt the Ethics, Conduct and Attendance Policy as presented. Mr. Vehaun seconded the motion. Mr. Aceto called for discussion. Ms. Bellamy stated that she does not support Section 4.10 of the By-laws, "requiring members to be physically present to participate and vote at a regular meeting of the Board unless the Chair, in his or her discretion, allows participation by telephone at a Special or Emergency Meeting". Ms. Bellamy

stated that Members should be allowed to attend by phone at regularly scheduled Board meetings. Mr. Clarke pointed out that the change she is referring to is to the By-laws not the Policy. Mr. Aceto stated that this vote is in respect only to the Ethics, Conduct and Attendance Policy. With no discussion, Mr. Aceto called for the question. Voice vote in favor of the motion was unanimous.

c. Consideration of Amendments to MSD By-laws:

Mr. Kelly moved that the Board adopt the amendments to the By-laws as presented. Mr. Vehaun seconded the motion. Mr. Aceto called for discussion. Mr. Newman asked for a summary of previous discussions with regard to the issue of members being required to be present to vote. Mr. Clarke stated that those in favor of requiring physical presence at regular Board meetings felt it was important that members were present to participate in discussion and vote. Those members who wanted an exception for some type of emergency or physical disability, felt members should be able to participate by phone in extraordinary circumstances. Mr. Venable stated that he thought a member should be allowed to attend a meeting by telephone if they were needed for a quorum. Mr. Bissette stated that there was some discussion that the Chair be allowed to decide if a member could participate by phone. Mr. Sobol stated that not allowing members to attend by phone encourages them to attend meetings. He further stated that to his knowledge, having a quorum has never been a problem. Ms. Bellamy stated that her concern is for those who are not physically able to be present. With no further discussion, Mr. Aceto called for the question. By a show of hands, the motion was approved with a vote of 9 Ayes; 2 Nays (Ms. Bellamy & Mr. Newman)

9. Adjournment:

Mr. Kelly moved for adjournment at 2:58 PM. Ms. Bellamy seconded the motion. Voice vote in favor of the motion was unanimous.

Jackie W. Bryson, Secretary/Treasurer