

**BOARD OF THE METROPOLITAN SEWERAGE DISTRICT**  
**AUGUST 16, 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 on Wednesday, August 16, 2006. Chairman Aceto presided with the following members present: Bellamy, Bryson, Gantt, Kelly, Pace, Sobol, VeHaun and Venable. Mr. Bisette and Mr. Newman were absent.

Others present were: Thomas E. Hartye, General Manager, William Clarke, General Counsel, Gary McGill with McGill Associates, Joseph Martin with the Woodfin Sanitary Water & Sewer District, Dwayne Stutzman with DENR, Claudia Nix with Liberty Bikes, Don Nickell with The Cliffs Communities, Bob Long, Attorney for the Cliffs Communities, Ann Lemieux, George LeMieux, Richard Pier and Kate Dawson. Also, Martha Zeigler, Stan Boyd, Ed Bradford, John Kiviniemi, Peter Weed, Angel Banks, Barry Cook, Lisa Tolley, Marsha Kiser, Ken Stines and Sondra Honeycutt, MSD.

**2. Inquiry as to Conflict of Interest:**

Mr. Aceto asked if there were any conflicts of interest with the agenda items. None were reported.

**3. Approval of Minutes of the July 19, 2006 Board Meeting:**

Ms. Bellamy moved that the Minutes of the July 19, 2006 Board Meeting be approved as presented. Mr. Venable seconded the motion. Mr. Aceto called for discussion. With no discussion, Mr. Aceto called for the question. Voice vote in favor of the motion was unanimous.

**4. Discussion and Adjustment of Agenda:**

Mr. Venable requested that the report of the Personnel Committee be moved to the end of the agenda following the presentation on Conservation Easements.

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

Mr. Aceto welcomed Mr. Stutzman, Ms. Nix and Mr. Martin. He then recognized Ms. LeMieux and her guests, Mr. LeMieux, Mr. Pier and Ms. Dawson. Mr. Sobol recognized Ms. LeMieux and presented her with a silver plated manhole tool with plaque and a charm for 15 years of dedicated service and leadership to the District. Mr. Aceto presented Ms. LeMieux with a Resolution of appreciation for her years of service as Director of System Services.

**6. Report of General Manager:**

Mr. Hartye presented a letter from St Paul's United Methodist Church and a transcript of a call from Nellie Covington at 81 Sheridan Road for a job well done. Mr. Hartye recognized James Beaver, Anthony England, Rick Bradley, Wayne Rice, Eric Sams, Ricky Bates, Bobby Arrowood, Lloyd Anders, Mitch Hawes, Ed Wathen, Clement Crowe, Keith Gass, Furman Dean, Julio Miguel, McKinley Hensley of the System Services Division and Kay Farlow of Planning & Development.

Mr. Hartye noted a listing of some of the District's accomplishments by division for the fiscal year ending in July, 2006. Mr. Aceto expressed his appreciation to staff for providing such clear and quantifiable goals and accomplishments.

Mr. Hartye reported that the District was awarded (for the 11<sup>th</sup> time) the Certificate of Achievement for Excellence in Financial Reporting for FY 05. He expressed his appreciation to Martha Zeigler, Scott Powell and Teresa Gilbert.

Mr. Hartye reported that the next regular meeting of the Board will be held September 20<sup>th</sup> at 2PM. The Right of Way Committee meeting scheduled for August 23<sup>rd</sup> has been cancelled. He further reported that a meeting of the Finance Committee will be held in mid September to discuss flat rate information, audit services and other issues.

**7. Report of Committees:**

**Right of Way Committee**

Mr. Pace reported that the Right of Way Committee met July 26, 2006 to consider approval of Compensation Budgets for Merrimon Avenue @ Stratford Road and Rollingwood Road PSR. He further reported that the Committee reviewed status reports on active acquisition projects and condemnations. Also, the Committee considered construction of a modular unit over a public sewer line at Woodfin Elementary School and recommended conveyance of the two line segments to the Buncombe County Board of Education for them to own and maintain.

**Planning Committee**

In the absence of Mr. Bissette, Mr. Venable reported that the Planning Committee met August 15, 2006 to consider two items. Mr. Jon Creighton, Assistant County Manager, gave a Power Point presentation on Buncombe County's Comprehensive Land Use Plan Update. The plan asks that MSD reconsider its policy on line extensions and the expansion of MSD boundaries. Mr. Venable stated that the Committee asked that staff look into this and report back at a later date with its recommendations. Mr. Venable further reported that the Committee considered a pump station request from The Cliffs Communities. Mr. Don Nickell with The Cliffs gave a presentation on the development and requested that they be allowed to construct two gravity systems with a lift station that would pump back to the main gravity system. Mr. Venable stated that staff, along with the Engineer of Record looked at this option and made a recommendation to approve the request since it serves MSD's purposes and provides more customers, along with fees and revenues. However, the Committee voted 4-1 that the request be denied. Mr. Venable requested that he be excused from making a motion on behalf of the Committee since he voted against the recommendation. Mr. Gantt asked that the Board recognize Mr. Long, who represents The Cliffs. Mr. Aceto said he spoke with Mr. Long before the meeting and he indicated that The Cliffs would like an opportunity to address the Board's specific concerns before there is a vote on the issue. Mr. Aceto asked the Board whether it would like to entertain a motion to table this issue until the next meeting in order to give The Cliffs a chance to present their concerns. Mr. Aceto called for discussion.

Mr. Sobol stated that he feels the Board should vote on the recommendation of the Committee. Mr. Pace expressed his appreciation to The Cliffs for approaching the MSD before they bought the property, since this is not often the case. He went over several concerns he had regarding this issue and why he voted against it. Mr. Kelly asked how many pump stations MSD has throughout the District. Mr. Hartye said approximately 30. Mr. VeHaun asked Mr. Long if The Cliffs has substantial information to present at a later date. Mr. Long stated that when the question arose about this property, he advised the developer to get with MSD staff and look at the alternatives. He further stated that since there is so much rock involved, MSD staff and Mr. McGill felt the pump station was the best solution, with half of the lots to be served by gravity sewer and the other half to be served by a pump station. Mr. Long asked the Board for additional time to look at the alternatives and to make a short presentation at the next meeting to answer questions raised by the Planning Committee. Mr. Kelly moved that this issue be tabled until the next meeting of the Board. Mr. Gantt seconded the motion. Mr. Aceto called for discussion. Mr. Sobol stated that this is not good planning on the part of a developer since a design could have been done a few years ago that would have

brought a gravity system up to the edge of the property in anticipation of developing at a later date. Also, there are only 29 lots that would be served by gravity and the other 70 would be served by a pump station. With no further discussion, Mr. Aceto called for the question. Voice vote was 9 Ayes; 1 Nay (Mr. Sobol).

**8. Consolidated Motion Agenda:**

**a. Consideration of Compensation Budgets – Merrimon Avenue @ Stratford Road and Rollingwood Road PSR:**

Mr. Hartye reported that the Right of Way Committee recommends approval of the Compensation Budgets.

**b. Consideration of Construction Over Public Sewer Line – Woodfin Elementary School:**

Mr. Hartye reported that the Right of Way Committee recommends conveyance of the two line segments from system manholes #38732 through #38735 to the Buncombe County Board of Education for its private ownership and future maintenance.

**c. Consideration of Developer Constructed Sewer Systems – The Ramble Biltmore Forest, Block A2; Enka Hills Subdivision (a/k/a Enka Land Subdivision) and Reems Creek Golf Community:**

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

**d. Consideration of Bids for Construction – Nesbitt Drive and Sweeten Creek @ Rock Hill Road, Phase 1:**

Mr. Hartye reported that the Nesbitt Drive project located in South Asheville is comprised of 1,720 LF of 8-inch DIP. The Sweeten Creek @ Rock Hill Road (Phase 1) project is comprised of 720 LF of 12-inch DIP. He further reported that two bids were received on July 27, 2006 and was therefore re-advertised and the following three bids were received and opened on August 3, 2006: H&M Constructors, Inc. with a total bid of \$513,090.50; Buckeye Construction Company, Inc. with a total bid of \$449,617.25 and Terry Brothers Construction Company, Inc. with a total bid of \$330,403.00. Mr. Hartye stated that staff recommends award of this contract to Terry Brothers Construction Co., Inc. in the amount of \$330,403.00, contingent upon review and approval by District Counsel.

**e. FY06 Budget to Actual Review:**

Mr. Hartye reported that the facility and tap fees, which are traditionally budgeted very conservatively, illustrate the continued robust growth in the District. He stated that in the past the District has been conservative in budgeting for these fees with budgets of \$750,000, \$900,000 and this last year at \$1,078,923, while actually receiving \$2.2 million. He stated that because of the District's tight budget and revenue loss from industry during the last budget year, over \$2million in facility and tap fees was budgeted for the current year.

**f. Fourth Quarter City of Asheville Billing Report:**

Mr. Hartye reported that there has been no significant change for the Fourth Quarter Billing Report. Ms. Bellamy asked if there was any impact on consumption

revenue due to the announced closing of Anvil Knitwear, Inc. Mr. Weed reported that there was a sharp dip of approximately 40% during one month, but the revenues went back up.

**g. Annual Report on Liability Insurance Plan Performance:**

Mr. Hartye reported that claims continue to be down and lower than the previous year. Mr. Pace asked what the average age of MSD employees is. Ms. Kiser said 43.

**h. Cash Commitment/Investment Report – Month Ended June 30, 2006:**

Presented as information only.

Mr. Aceto called for comments on the Consolidated Motion Agenda. Mr. VeHaun moved that the Consolidated Motion Agenda be approved as presented. Mr. Pace seconded the motion. Mr. Aceto called for discussion. With no discussion, roll call vote was as follows: 10 Ayes; 0 Nays.

**9. Presentation on Conservation Easements:**

Mr. Aceto recognized Ms. Claudia Nix, owner of Liberty Bikes; facilitator for the Bicycle/Pedestrian Task Force of Asheville; Committee Member of NC Trails and NC DOT Bicycle Program. He also recognized Mr. Dwayne Stutzman, Regional Trails Specialists with the North Carolina Division of Parks & Recreation.

Ms. Nix presented a copy of an Economic Impact Study done in 2003 showing the value of public investment in bicycle facilities for the northern Outer Banks region. She reported that over the past 10 years the NC Department of Transportation has funded off-road bike trails and wide paved shoulders, which have increased retail sales to restaurants, lodging establishments and retail stores in the affected areas. She further reported that following extensive interviews with bikers, it was found that tourists were staying four days longer due to the quality of bicycling and that these facilities were an important factor in returning to an area. Ms. Nix stated that bicycle trails are an economic generator and because of the growth in Western North Carolina, she would like to see more trails in this area. She stated that as facilitator for the Bicycle/Pedestrian Task Force, they are always looking for land that is accessible and since the MSD buys easements for sewers, why not buy enough easements that would allow for bicycle/hiking trails and greenways. Mr. Gantt asked if these easements can be used for this purpose. Mr. Clarke stated that MSD has the authority to condemn for sewers, but does not have the authority to allow these easements to be used for other purposes, however, the property owner can always agree to do that.

Mr. Stutzman stated that he is not a trails planner, but an economic development person who utilizes trails and greenways, alternative transportation and recreational amenities as a way to increase the viability of areas and has utilized sewer rights of ways in a number of other areas in the state. He presented an article regarding the Haw River Trail, which is a major hiking and paddling attraction stretching across five North Carolina counties. Mr. Aceto stated that although the MSD does not have the authority to convey easements for other purposes, it is interested in the opportunity to partner with those that do have authority and with private land owners. He asked Mr. Stutzman how MSD can advance its beneficial use programs for existing rights of way and those acquired in the future and if the State offers any incentives or assistance. Mr. Stutzman said the State offers a number of grant opportunities and has the ability to purchase land from willing sellers. He stated that sewer easements are a perfect vehicle for trails since these easements are usually flat and not topographically challenging. Mr. Pace stated

that MSD only acquires easements for sewers and has an obligation to protect the system. Mr. Stutzman stated that these issues have come up in other areas, but there are ways to address them. He reported that they are in the process of coming to the Land of Sky Regional Council and Haywood County and offering to do a comprehensive trails plan for the five-county area, and in the process, they are asking MSD to help in making this possible. Mr. Pace stated that the best approach is to let each municipality come up with its own individual plan and funding. Mr. Gantt stated that he recommends sending this issue to committee to start a dialogue and come together with the entities. Mr. Gantt moved that the Board direct staff to enter into a discussion with the various entities on the feasibility of greenways, hiking/bicycle trails and conservation easements on properties and easements owned by the MSD and report back to the Board. Ms. Bellamy seconded the motion. Ms. Bellamy noted that one thing MSD brings to table is the clearing of rights-of ways, which saved the City money in its Greenway Master Plan. Also, MSD can identify who owns the land and can make this information available. Mr. Aceto called for discussion. Mr. Sobol asked if there is some way MSD can utilize some of its services, especially through the Right of Way Department, while obtaining sewer easements. Mr. Clarke stated that the District also obtains easements for sewer extensions. Mr. Pace stated that as Chairman of the Right of Way Committee he would rather this go through the Committee first before putting additional work on staff. Mr. Gantt amended his motion to direct this report to the Right of Way Committee first. With no further discussion, Mr. Aceto called for the question. Voice vote in favor of the motion as amended was unanimous.

**10. Report of the Personnel Committee:**

At 3:10 PM, Mr. Venable moved that the Board go into closed session to discuss the evaluation of the General Manager and possible modification to his compensation. Ms. Bellamy seconded the motion. Voice vote in favor of the motion was unanimous.

At 3:22 PM, the Board went back into regular session. Mr. Venable stated that the Committee recommends that the General Manager's salary be increased from \$117,500 to \$125,000 a year retroactive to July 1, 2006. Mr. Aceto called for discussion. With no discussion, Mr. Aceto called for the question. Roll call vote was as follows: 9 Ayes; 0 Nays. Mr. Kelly was absent during the vote.

On behalf of the Board, Mr. Aceto expressed his appreciation to Mr. Hartye for his continued fine service to the District.

**11. Old Business:**

None

**12. New Business:**

None

**13. Adjournment:**

At 3:25 PM, Mr. Venable moved for adjournment. Mr. VeHaun seconded the motion. Voice vote in favor of the motion was unanimous.

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Jackie W. Bryson, Secretary/Treasurer

