

**BOARD OF THE METROPOLITAN SEWERAGE DISTRICT
NOVEMBER 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 on Wednesday, November 15, 2006. Chairman Aceto presided with the following members present: Bisette, Bryson, Creighton, Gantt, Kelly, Newman, Pace, Sobol and Venable. Ms. Bellamy and Mr. VeHaun were absent.

Others present were: Thomas E. Hartye, General Manager, William Clarke, General Counsel, Gary McGill with McGill Associates, Stan Boyd, Martha Zeigler, Ed Bradford, John Kiviniemi, Ken Stines, Tim Revis and Sondra Honeycutt, MSD.

2. Inquire as to Conflict of Interest:

Mr. Aceto asked if there were any conflicts of interest with the agenda items. No conflicts were reported.

3. Approval of Minutes of the October 18, 2006 Meeting:

Mr. Venable moved that the Minutes of the October 18, 2006 meeting be approved as presented. Mr. Pace 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. Mr. Gantt was absent during the vote.

4. Discussion and Adjustment of Agenda:

Mr. Bisette asked that Item b. (developer constructed sewer systems) of the Consolidated Motion Agenda be pulled for separate consideration. Mr. Aceto pulled Item b. and excused Mr. Bisette from deliberation and vote on this item.

5. Informal Discussion and Public Comment:

None

6. Report of General Manager:

Mr. Hartye reported that a phone call was received from Mr. Bruce Kennedy of 15 Willowick Drive expressing appreciation for the efforts and quick response from MSD personnel Calvin Nolan, Herman Shelton and Denver Bradley. In addition, a call was received from Beverly Devereux, a City of Asheville resident, expressing appreciation for the SPAR information in her water bill and that she was delighted to read about MSD's environmental concern, which prompted it to use Biodiesel and hydroelectric power. Mr. Hartye expressed his appreciation to Peter Weed for compiling this information.

Mr. Hartye presented an article from the Asheville Area Chamber of Commerce Newsletter regarding housing trends; an article from the Asheville Citizen Times regarding the sale of landfill property, adjacent to the MSD Plant site for a proposed housing development, and an article from the Weaverville Tribune on MSD/Woodfin fire and rescue drill. Regarding the proposed development, Mr. Venable asked if MSD is protected against lawsuits because of odor issues. Mr. Clarke stated that although MSD was here first, this is an issue it needs to be aware of. He further stated that an adjacent property owner would have to prove MSD was a nuisance; that it substantially interfered with the use and enjoyment of the property being developed. However, MSD could be ordered by a court to "abate the nuisance". Mr. Hartye stated that MSD is being proactive with regard to this issue by minimizing use of the Lime Stabilization facility and looking at future improvements at the plant to reduce odors.

Mr. Hartye reported that the next ROW Committee will be held November 29th at 2PM and the next regular Board Meeting will be held December 20th at 2PM. He further reported that a Planning Committee Meeting will be scheduled for early December to consider the issue of special assessment.

Mr. Hartye reported that at the request of Asheville City Council, he attended the November 14th meeting to respond to a petition regarding an area off Rock Hill Road where 11 homes are still on septic tanks, one of which is failing. He stated that City staff presented a report on the cost of running public sewer to this area and identified other areas of Asheville that are dealing with the same issue. He stated that he explained the Consolidation Agreement and how MSD was committed to certain annexation sewers at the time and pointed out that once these commitments were met, there would be no further financial obligation, but that MSD could assist them. Mr. Venable asked what the City of Asheville's policy is, with regard to services, when an area is annexed. Mr. Newman reported that the general policy is if a home is located within 300 feet of a sewer they will be connected to the system. He stated that currently there are 100 homes that meet the criteria, but are not connected at this time. He further stated that the estimated cost on these connections is approximately \$70,000 per household; however, some of these homes are in areas where the topography will greatly increase that cost. Mr. Venable asked if the City is required to provide sewer when areas are annexed. Mr. Newman stated that this is not one of the services municipalities are required to do. Mr. Clarke stated that the policy is if a municipality is providing sewer service to other residents, it must provide substantially the same service to new areas being annexed. He further stated that the MSD Sewer Use Ordinance states that if a resident is within 300 feet of an MSD sewer line, MSD can require them to connect.

9. Report of Committees:

Right of Way Committee

Mr. Pace reported that the Right of Way Committee met October 25th to consider a compensation budget for the Reems Creek @ Ballcrank Rehabilitation project.

Planning Committee

Mr. Bissette reported that the Planning Committee met November 6th to review Buncombe County's Comprehensive Land Use Plan, and if adopted, what this would mean to MSD. He stated that a number of things were discussed such as, whether MSD should expand the District boundary; how MSD should be using its condemnation power; how the extension policy may change in the future and whether or not MSD should seek special assessment authority from the General Assembly. He further stated that the Planning Committee will meet in December to continue discussions on the issue of special assessment authority.

10. Consolidated Motion Agenda:

a. Consideration of Compensation Budget – Reems Creek @ Balcrank Rehabilitation Project:

Mr. Hartye reported that the Right of Way Committee recommends approval of the Compensation Budget for the Reems Creek @ Balcrank Rehabilitation Project.

b. Consideration of Developer Constructed Sewer Systems:

Mr. Hartye reported that staff recommends approval of the developer constructed sewer systems and that all MSD requirements have been met. This item was pulled for separate consideration.

c. Consideration of Acceptance of City of Asheville Constructed 2003-2004 Annexation Sewer – MSD Project # 2004166

Mr. Hartye reported that this project is located inside the District Boundary and included the installation of approximately 1,171 linear feet of 8-inch gravity sewer line extension. He stated that staff recommends acceptance of the City of Asheville constructed annexation sewer system and that all MSD requirements have been met.

d. Capital Improvement Program Quarterly Reports:

Mr. Hartye introduced Mr. Ed Bradford for in-depth presentation on the Collection System Rehabilitation Report and the Capital Improvement Program Status Report.

Mr. Bradford reported that one of the requirements of the Collection System Permit is to rehabilitate a minimum of 50,000 lineal feet of line per year, which is monitored quarterly and is comprised of the following three components: 1) Planning and Development – Developer Constructed; this is when a developer goes in and rehabilitates the existing sewer which he is connecting to. He explained that MSD does not drive this schedule, but the total number of feet is counted as part of MSD's rehabilitation, but is typically very little. He stated that the next two components, 2) System Services Constructed (IRS plus Dig & Replace Projects and 3) Contract Constructed are controlled by the MSD and that the current Estimated Total for FY07 is 51,106 feet. Mr. Bradford further reported that the Collection System Permit will be up for renewal in about a year and MSD is looking at a goal of 250,000 LF over five-years, which will allow MSD to carry over any additional footage to the next year, but will require approval of DENR. He pointed out that MSD's in-house rehabilitation is becoming more prominent. Over the past six fiscal years, this work has increased seven-fold and the current goal is about 20,000 feet per fiscal year. He stated that System Services has exceeded this amount during the past three fiscal years and during FY06, achieved approximately 23,000 feet, which reduces the amount MSD would pay a contractor to do.

Mr. Bradford went over the Ten Year CIP Status Report, which is updated quarterly. Mr. Aceto asked if there is one project that stands out as one of the most difficult. Mr. Bradford identified Lower Smith Mill Creek because of rock. Mr. Hartye stated that compared to the Merrimon Avenue project, this is worse because of the cost, depth of rock and proximity to buildings. Mr. Pace asked if MSD drills to see if there is rock prior to construction. Mr. Bradford said that sometimes spot drilling is done.

e. Consideration of Bids for Merrimon Avenue @ Beaverdam Creek:

Mr. Bradford presented a map showing the location of the Merrimon Avenue @ Beaverdam Creek project, which is comprised of 1,360 LF of 8-inch and 12-inch DIP. He stated that the FY07 construction budget for this project is \$304,400.00. He reported that since only two bids were received at the original bid opening, the project was re-advertised and the following two bids were received and opened on November 8, 2006: Wolfpen Associates, Inc. with a total bid of \$285,778.00 and Terry Brothers Construction Co., Inc. with a total bid of \$255,651.00. He stated that staff recommends award of this contract to Terry Brothers Construction Co., Inc. in the amount of \$255,651.00, contingent upon review by District counsel.

f. Report on First Quarter Revenues and Expenditures:

Mr. Hartye reported that the first quarter revenues and expenditures are relatively proportional except for industrial revenues due to a reduction from one of MSD's largest customers beginning in January.

g. Cash Commitment/Investment Report-Month Ended September 30, 2006:

Presented as information only.

Mr. Pace moved that the Board approve the Consolidated Motion Agenda as presented, with the exception of Item b. Mr. Kelly seconded the motion. Mr. Aceto called for discussion. With regard to Item c. (acceptance of COA constructed annexation sewers) Mr. Venable stated that if MSD decides to follow with the County's Land Use Plan, the chances are good that the MSD would be funding extensions prior to the City of Asheville annexations. Mr. Aceto stated that he is not aware of any plan that obligates the District to fund these projects. Mr. Venable stated that he thought that part of the County's Land Use Plan was that they would hope that MSD would change its policy so it would focus its energy and finances toward the primary "red areas" shown, which would be prime areas for annexation by the City of Asheville. Mr. Pace stated that there was a discussion and disagreement about the right to condemn for developers just because their development is in Buncombe County's "red areas". He further stated that he would never support condemning for a developer unless it's an MSD project and it has the right to assess. With no further discussion, Mr. Aceto called for the question. Roll call vote was as follows: 10 Ayes; 0 Nays.

Mr. Aceto called for a motion regarding Item b. (developer constructed sewer systems). Mr. Kelly moved that the Board approve item b. Mr. Pace seconded the motion. Mr. Aceto called for discussion. With regard to the Cliffs at Walnut Cove, Mr. Sobol asked if the line that ties into Brevard Road is gravity. Mr. Hartye stated that this is all gravity sewer. Regarding Cedar Hill Villas, Mr. Sobol asked if there is 3-phase power going to the pump station. Mr. Boyd said yes. Mr. Venable asked if the District could get into any problems with a developer by converting a pump station into gravity sewer before the 20-years is up. Mr. Clarke stated that the payment made by the developer is non-refundable. With no further discussion, Mr. Aceto called for the question. Roll call vote was as follows: 9 Ayes; 0 Nays. Mr. Bissette was excused from voting.

11. Old Business:

None

12. New Business:

None

13. Adjournment:

With no further business, Mr. Aceto called for adjournment at 2:44PM.

Jackie W. Bryson, Secretary/Treasurer