

**BOARD OF THE METROPOLITAN SEWERAGE DISTRICT
DECEMBER 20, 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, December 20, 2006. Chairman Aceto presided with the following members present: Bellamy, Bissette, Bryson, Creighton, Pace, Sobol, VeHaun and Venable. Mr. Gantt, Mr. Kelly and Mr. Newman were 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 Woodfin Sanitary Water & Sewer District, Ray Quintin, with Cherry, Bekaert & Holland, Stan Boyd, Martha Zeigler, Barry Cook, John Kiviniemi, Ed Bradford, Marsha Kiser, Angel Banks, Scott Powell, Kay Farlow, Mike Butler, Kevin Johnson, Susan Pressley, Tim Revis, Ken Stines and Sondra Honeycutt, MSD.

Mr. Aceto welcomed Mr. Martin and Mr. Quintin.

2. Inquiry 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 November 15, 2006 Meeting:

Mr. VeHaun moved that the Minutes of the November 15, 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.

4. Discussion and Adjustment of Agenda:

None

5. Informal Discussion and Public Comment:

None

6. Report of General Manager:

Mr. Hartye reported that a note was received from Allen Arcand expressing his appreciation to Kay Farlow and Ricky Bates for being helpful and professional. In addition, a call was received from Sidney Bach commending James Beaver, Robert Burnett, Miguel Miquel and Furman Dean for a good job and quick response to his flooded structure.

Mr. Hartye congratulated Julie Willingham for earning her Bachelor of Business Administration degree from Montreat College while working at MSD and availing herself of the District's tuition reimbursement program.

Mr. Hartye presented an article from the Asheville Citizen Times regarding Zoning in Buncombe County and an article regarding the Woodfin Town Center Plan. In addition he presented a copy of the North Carolina League of Municipalities League Letter regarding a federal lawsuit challenging the constitutionality of Amendment One.

Mr. Hartye reported that the next Regular Board Meeting will be held January 17, 2007 at 2PM.

7. Report of Committees:

Right of Way Committee

Mr. Pace reported that the Right of Way Committee met November 29, 2006 to consider condemnations on the Sweeten Creek @ RockHill Road Rehabilitation Project; the Long Shoals Road PRP; Northwood Road Rehabilitation Project and Fair Oaks Road PRP.

Planning Committee

Mr. Bissette reported that the Planning Committee met December 14, 2006 to discuss Special Assessment Authority and whether or not to recommend to the full Board to approach the General Assembly this year. He presented a memo from Mr. Clarke describing the special assessment process and how it is implemented. Mr. Bissette stated the Committee recommends that a delegation from the Planning Committee meet in early January with legislators to discuss legislation to authorize MSD to have special assessment authority to promote the orderly growth of the system.

Mr. Venable asked if there is a down-side to this authority. Mr. Clarke stated that special assessment authority is a complicated process and explained some of the steps that must be taken. He further stated that since MSD is funding these projects up front, it will need to keep track of a substantial amount of information in-house. Mr. Venable asked if MSD will need to hire additional staff to keep track of this information. Mr. Hartye stated that it may require additional effort on the part of staff, but just because MSD has the ability to special assess, does not mean this authority will be used on every project. He further stated that the next step in MSD's process with the Land Use Plan is to update its Master Plan, so when developers do come, it will be MSD lines they will be required to put in. Ms. Bellamy asked how special assessment authority works with municipalities. Mr. Clarke stated that currently, County Water and Sewer Districts have this authority, but in order to exercise this within the boundaries of a municipality, they must have the consent of that municipality. Ms. Bellamy asked how this would work in areas that have been annexed by the City over the last 20 to 25 years. Mr. Clarke stated that if the City wants MSD to extend sewers in these areas, it might extend the sewers and recover all or some of costs through a special assessment against the benefited properties served by the City. Mr. Hartye stated that the City has the authority to special assess right now. Therefore, MSD could construct the sewers and the City carry out the assessment. Ms. Bellamy stated that she wasn't sure if the City has this authority. Mr. Clarke stated that Cities, Counties and Regional Water Authorities have special assessment authority and there are different ways to assess i.e. front footage, value of property, size of the property or combination, up to 10 years.

Mr. Bissette moved that the Board adopt the recommendation of the Planning Committee. He stated that the idea is to sit down with the local delegation and explain the process and get some feedback as to whether they are for or against MSD having special assessment authority. Mr. Hartye stated that the Planning Committee recommended that Board members approach their respective member agencies to get input, reaction and support for acquiring this authority. Regarding regionalization, Mr. Sobol asked if MSD has to get with other counties delegation to supplement this, or just get an okay from those governing entities such as Henderson, Transylvania, Madison counties. Mr. Clarke stated that if a regional authority were created with other counties, that authority could have special assessment power. With no further discussion, Mr. Aceto called for the question. Voice vote in favor of the motion was unanimous. Mr. Venable asked what the time frame is for presenting this to the Weaverville Town Board.

Mr. Clarke stated that it's not necessary to get this to the Legislators in final form by January 23rd; as long as they receive it before the cutoff date for new legislation.

8. Consolidated Motion Agenda:

a. Consideration of Developer Constructed Sewer Systems: Reynolds Mountain Phase 3, Bilberry Lane Subdivision, Ramble Biltmore Forest Block C1, Biltmore Lake Block G2, Elain Eden/Amber Sunset, Ramble Way and Village Park:

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

Mr. Hartye stated that, in light of the many developer constructed sewer systems that come before the Board each month, the Planning & Development Division will give a Power Point presentation on the private development process. He recognized Mr. Boyd for opening remarks and introduction of Kevin Johnson, Plan Reviewer for MSD.

Mr. Johnson expressed his appreciation to Mike Butler, Susan Pressley and Tim Revis for putting the presentation together. Mr. Johnson reported that the first step in the process is application for allocation approval. Flow for a project is estimated and the receiving line is field checked for condition and remaining capacity. The total amount of flow approved by MSD is reported quarterly to NCDENR and is added to the average daily flow at the treatment plant to estimate remaining plant capacity. He stated that from January 2006 to present, a total of 303 allocations were issued. Mr. Johnson further reported that if a project requires a sewer extension, the following documents must be submitted to get the process started: two sets of initial plans, in accordance with the plan sheet checklist; the Owner's Agreement and the application for a Non-Discharge Permit. Mr. Johnson stated that following review of these documents, a comment letter is issued, telling the developer what needs to be revised in order to meet MSD standards. The developer will then submit a revised set of plans for review. If approved, MSD will issue a Non-Discharge Permit and instruct the developer that a pre-construction meeting is necessary and a reminder of what is required prior to the Certificate of Occupancy Release. He further stated that once the Permit is issued, the developer must submit a Sewer Service Application before a Building Permit can be issued. Mr. Aceto asked what the difference is between a Sewer Service Application and an Allocation Letter. Mr. Johnson stated that the Allocation Letter informs the developer that MSD has approved the added flow to the system and what its next step is. Mr. Hartye stated that if it's a single building service no further process is necessary, whereas, if an extension is required, approval of engineering plans and construction is necessary prior to the sewer service application.

Mr. Aceto asked where special conditions, such as a request for a pump station, would appear. Mr. Boyd stated that the pump station issue would normally come up during the allocation process, but pump stations are automatically denied. Mr. Hartye stated that, if a developer has an issue with this decision, they would be referred directly to Mr. Boyd. Ms. Karpen asked if developers complain about the amount of paper work required and if this is a statutory requirement or an MSD requirement. Mr. Johnson stated that there are complaints from time to time, but MSD is required to administer this program under its delegation from the state. Mr. Hartye stated that historically all permits for construction of extensions went to DENR in Raleigh, which would take up to six weeks to get back, whereas, now MSD's P&D Department has the ability to issue these permits in-house, based on Mr. Johnson's review and Mr. Boyd's authority to issue permits under state requirements. Ms. Bellamy asked if a developer can cross over vacant property without the property owner's permission. Mr. Johnson said no; the developer would have to obtain an easement. Mr. Johnson reported that the next step in the process is a pre-construction

meeting with himself, the MSD inspector, utility contractor, engineer of record and the developer followed by construction and inspection of the project to insure MSD standards are met. He stated that when construction is complete, final inspection approval is given by MSD and Certificates of Completion are issued by the contractors and project engineer. Other final documents include As Built drawings, Easement/Conveyance documents and Easement Plat. He further stated that the final part of the process is the Certificate of Occupancy release, Board approval of the Resolution of Acceptance and input of the project into the GIS Mapping System. Mr. Venable asked who is responsible to fix the system should a problem arise; MSD or the developer. Mr. Johnson stated that MSD is responsible after the one-year contractor warranty.

b. Cash Commitment/Investment Report – Month ended October 31, 2006:

Presented as information only.

Mr. Aceto called for a motion regarding the Consolidated Motion Agenda. Ms. Bellamy moved that the Board approve the Consolidated Motion Agenda as presented. Mr. Pace seconded the motion. Mr. Aceto called for discussion. With no discussion, Mr. Aceto called for the question. Roll call vote was as follows: 9 Ayes; 0 Nays.

9. Presentation of 2006 Audit and CAFR:

Ms. Zeigler introduced Mr. Raymond Quintin, the Cherry, Bekaert & Holland partner in charge of the District's audit, for an overview of the 2006 Audit and CAFR.

Mr. Quintin expressed his appreciation to the Board for allowing his firm the opportunity to perform the audit and to MSD staff for its assistance. Mr. Quintin presented the Independent Auditors Report and stated that the financial statement have a clean audit opinion. He reviewed the CAFR with the Board and pointed out the financial highlights. Mr. Venable asked if implementation of GASB Statement No. 45 will begin next fiscal year. Mr. Quintin stated that implementation will be required no later than the fiscal year ending June 30, 2009. He further stated that the District has contacted an actuarial firm to prepare preliminary estimates of the financial impact. Management will use the intervening time to review the nature of the commitment to current and future retirees, the potential magnitude of the liability and expense, and to evaluate alternatives for managing this liability and expense upon the required implementation date.

Regarding Bonds and Swaps, Mr. Sobol asked if some of the money the District is dealing with through Bank of America is finding its way into hedge funds or equity funds. Mr. Quintin stated that once Bank of America receives the money, there is no way to know where they choose to put it. Mr. Sobol asked how the District can guard against this. Mr. Clarke stated that by entering into the Interest Rate Exchange Agreement, the District has already eliminated a significant portion of risk associated with variable rate debt by entering into the swap, which provides a synthetic fixed interest rate to manage the risk of fluctuating variable interest rates. Mr. Aceto stated that the worst case scenario is that MSD would have an uncovered variable interest rate; therefore, the risk is that the interest rate would rise above the swap rate. With regard to the Treatment Plant Operating Indicators in the Statistical section of the CAFR, Mr. Sobol asked why the cost of treatment has increased over 2005. Mr. Kiviniemi stated that there has been a significant increase in the cost of energy, along with an increase in the cost of chlorine and polymer. Mr. Aceto stated that this underscores the benefit of adding more customers to the system to mitigate the impact of cost increases to individual ratepayers. Mr. Aceto expressed his appreciation to Mr. Quintin for his presentation. Mr. Hartye expressed his

appreciation to Martha Zeigler, Scott Powell and Teresa Gilbert for their work on the CAFR.

10. Resolution of Appreciation of Ben Pace:

Mr. Aceto asked that presentation of the Resolution of Appreciation of Ben Pace be tabled until the luncheon prior to the January meeting of the Board. Mr. Aceto expressed his appreciation to Mr. Pace for his many years of service on the District Board

11. Old Business:

None

12. New Business:

Ms. Bryson expressed her appreciation to staff for participation in the Woodfin Christmas Parade.

13. Adjournment:

With no further business, Mr. Aceto called for adjournment at 3:40PM.

Jackie W. Bryson, Secretary/Treasurer