

BOARD OF THE METROPOLITAN SEWERAGE DISTRICT
JULY 18, 2007

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, July 18, 2007. Chairman Aceto presided with the following members present: Bellamy, Bryson, Creighton, Gantt, Kelly, Sobol, VeHaun and Venable. Mr. Bisette, Mr. Haner and Mr. Newman were absent.

Others present were Thomas E. Hartye, General Manager, William Clarke, General Counsel, Doyle Freeman with Cane Creek Water & Sewer District, Marcus Jones with Henderson County, Leah Karpen with the League of Women Voters, Gary McGill with McGill Associates, Stan Boyd, Ed Bradford, Peter Weed, Ken Stines, John Kiviniemi, and Sondra Honeycutt, MSD.

2. Election of Officers:

Mr. Aceto asked Mr. Clarke to preside over the election of officers. Mr. Kelly moved that Chairman Aceto and Vice Chairman Sobol be re-elected Chair and Vice Chair by acclamation for another one-year term. Mr. Gantt seconded the motion. Mr. Clarke called for discussion. With no discussion, the motion was approved unanimously by a show of hands.

Mr. Aceto appointed Ms. Bryson to serve as Secretary/Treasurer of the Board. Mr. Aceto called for a motion to ratify the appointment by the Chair. Mr. Kelly moved and Mr. Sobol seconded the motion. Voice vote in favor of the motion was unanimous.

3. Inquiry as to Conflict of Interest:

No conflicts were reported.

4. Approval of Minutes of June 13, 2007 Board Meeting:

Mr. Hartye noted that the amount of \$50,000 on page 4, paragraph 2, line 2, should read \$40,000. Mr. Aceto asked if there were any objections to approving the Minutes of the June 13, 2007 meeting as amended. With no objections, the minutes were approved as amended.

5. Discussion and Adjustment of Agenda:

None

6. Information Discussion and Public Comment:

Mr. Aceto welcomed Ms. Karpen, Mr. Freeman and Mr. Jones.

7. Report of General Manager:

Mr. Hartye reported that an Employee Appreciation picnic was held yesterday along the river. Also, the first Health Care meeting with the City of Asheville will be held tomorrow.

Mr. Hartye presented a graph showing the annual number of Sanitary Sewer Overflows (SSO's) since 1999, which has been reduced significantly as a result of both the Districts' aggressive Capital Improvement Program and preventative maintenance performed by System Services. He reported that there was a recent SSO on the Weaverville Reems Creek Line, resulting from vandalism. Mr. Venable asked if DENR makes a distinction as to the reason for an SSO. Mr. Hartye stated that no distinction is made for the purpose of the violation itself, but they do consider the circumstances when

taking enforcement for the violation. He further stated that a local representative from DENR will visit the Board in the near future to go over its new internal enforcement initiative and how it will affect the MSD.

Mr. Hartye presented copies of the North Carolina League of Municipalities Legislative Bulletin.

Mr. Hartye reported that the Personnel Committee will meet, July 23rd at 8:30 AM. Mr. Venable stated that the Committee will be looking at a new contract for the General Manager and invited the entire Board to attend this meeting. Mr. Hartye further reported that the Right of Way Committee will meet July 25th at 9AM and the next regular Board Meeting will be held August 15th at 2PM. The Finance and Planning committees will meet in August.

8. Report of Committees:

Right of Way Committee

Mr. Kelly reported that the Right of Way Committee met June 27, 2007 to consider compensation budgets for Grindstaff Road PRP and Merrimon Avenue @ Ottari Road GSR projects, both of which are consistent with the compensation policy previously adopted by the Board. Mr. Kelly stated that the recommendation of the Committee will be considered under the Consolidated Motion Agenda.

9. Consolidated Motion Agenda:

a. Consideration of Compensation Budgets – Grindstaff Road PRP and Merrimon Avenue at Ottari Road.

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

b. Consideration of Developer Constructed Sewer Systems: Lonestar Steakhouse, Town Village Homes, KSS Homes and Asheville Fire Station 6 Haywood Road:

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

c. Consideration of Sodium Hypochlorite Contract:

Mr. Hartye reported that the District's contract for sodium hypochlorite is with Univar USA. In May, 2007, Univar offered a new price to the District for FY 2008 of \$0.64/gallon. He stated that this represents a savings from the previous year of \$0.05/gallon and an annual savings of approximately \$9,000 based on usage. He further stated that the current contract allows MSD Procurement to extend the contract for additional periods of time if found to be beneficial to the financial well-being of the District. Staff recommends that the contract with Univar USA be extended for FY 08.

d. Consideration of Pipe Rating Contract No. V – Lining, MSD Project Number 2006045:

Mr. Hartye reported that the project is located in West Asheville within the Smith Mill Creek and Sulphur Springs sub-basins and consist of lining 12,323 LF of lines. He further reported that the following bids were received on June 28, 2007: Reynolds, Inc. with a base bid of \$1,533,706.00, Add Alt. A of \$58,260.00 and Add

Alt. B of \$310,800.00; Southeast Pipe Survey, Inc. with a base bid of \$1,106,158.00, no Add Alt. bid; Global Construction Co., Inc. with a base bid of \$984,516.00, Add Alt. A of \$42,858.00 and Add Alt. B of \$109,176.00; Terry Brothers Construction Co., Inc. with a base bid of \$866,585.00, Add Alt. A of \$36,100.00 and Add Alt. B of \$60,450.00. Mr. Hartye stated that staff recommends award of the contract to Terry Brothers Construction Co., Inc. in the amount of \$927,035.00 subject to review and approval by District Counsel.

Mr. Venable asked how many contracts Terry Brothers has bid on that they did not have the low bid. Mr. Bradford stated that typically, Terry Brothers has been the low bidder on all of the District's contracts for the past two years. Mr. Venable expressed a concern that other bidders would be discouraged from bidding on MSD projects if Terry Brothers is always the low bidder. Mr. Hartye stated that there is plenty of private development work for these types of utility contractors and feels this dynamic will change when the City of Asheville's water line jobs come on the market. Mr. Venable questioned how Terry Brothers is able to continually come in with low bids. Mr. Bradford stated that Terry Brothers is familiar with MSD work, has a lower overhead and is a local company. Mr. Hartye asked if Buckeye Construction is still active in the area. Mr. Bradford said yes, but is doing work outside the area as well. Mr. Sobol asked if there are specifications as to how land is left in the right of way when MSD puts in a line. Mr. Hartye stated that there are areas within in the District that are a concern and that MSD is working on them. Mr. Stines stated that the Right of Way Department is working with System Services to gain better access in these areas.

e. Consideration of Proposal to Update the District's Master Plan:

Mr. Hartye reported that in 2001 the District completed a Comprehensive Wastewater System Master Plan, which was done by CDM and involved both comprehensive and strategic elements along with modeling. He stated that the Master Plan Update will focus only on the comprehensive element (growth). The strategic elements for the plant and the collection system were dealt with in more detail with the Facilities Plan and Pipe Rating Programs. He further reported that staff advertised this project and sent out notices to local consulting firms. Five firms were interviewed and careful consideration was given to the strengths of each with an emphasis on experience with long range planning, familiarity with local governmental policies, GIS capabilities and staff experience. He stated that all firms did well during the interviews, but as far as overall ratings, staff recommends award of this contract to McGill Associates in the amount of \$178,065.00 subject to review and approval by District Counsel.

Ms. Bellamy asked if the areas of study will be those areas zoned for higher density. Mr. Hartye stated that the areas of study will be the District's current boundary, the primary, secondary and tertiary areas. He further stated that they will determine the flow projected from these basins over a 20-year period. In the primary areas, they will be receiving maps that outline where the collector lines should be expanded. For the secondary and tertiary areas, the maps will show just the interceptors. Ms. Bellamy asked if the update will take into consideration the agreement the City of Asheville and Town of Woodfin has on expansion of its boundaries. Mr. Hartye stated that MSD will meet with each of the entities planning departments to determine what their initiatives are, what their current zoning is and what they expect to happen. Ms. Bellamy stated that there has been a lot of concern from residents in Weaverville and Fairview about how growth will be dispersed and they have been asking about waterline and sewerline extensions. She asked if most of the growth is targeted in the center of the county; Asheville as well as the east and southern part of the county line. Mr. Hartye said yes, but the whole plan is centered

on the existing sewer system and orderly expansion of that system. Mr. Venable asked if recommendations will be made as to where sewer lines should be. He noted the Reems Creek line, which is located in the right of way. He asked who would obtain the necessary easements if a recommendation is made to move this line along the creek. Mr. Hartye stated that in this particular situation, staff already looked at the location in detail, but this type of information is not available for the entire District. He further stated that prior to implementation of the Master Plan, policy discussions will be held. The member agencies, through the Master Plan effort, will indicate where they believe growth should happen that would require public sewer. The MSD Board may decide to obtain the necessary easements required for the orderly growth of sewer in those areas. Mr. Aceto asked where Henderson County and Cane Creek fit into this effort. Mr. Hartye stated that MSD will also meet with them and build upon their planning documents done a few years ago. Ms. Bellamy asked if Henderson County would have a seat on the Board if the District extends sewer further into the county. Mr. Hartye stated that currently the District has a contract with Henderson County for 1.035 mgd and future expansion depends on how long this allocation will last. Ms. Bellamy stated that as growth occurs, both in Henderson and Madison counties, the Board should have a plan in place for representation on the Board. Mr. Clarke stated that MSD can extend its boundary into other counties, but this would require additional representation on the Board. Mr. Aceto said this is an issue the Planning Committee can look at in the coming year.

d. Cash Commitment/Investment Report – Month ended May 31, 2007:

Mr. Aceto asked where the \$27 million designated for Capital Outlay is going. Mr. Hartye stated that the first \$14 million is going toward the current CIP budget and the remaining \$13 million is going for the anticipated CIP budget for next year. With regard to Bond Restricted Funds, Mr. Venable asked if the Trustee holds back funds for the principal and interest due and for how long. Mr. Clarke said the principal and interest are due in June and December and are required to be deposited with the Trustee one month before they are due. Mr. Hartye explained how the report was set up in the past compared to the current report. He stated that this report only shows commitments for one year; not continuing commitments. Mr. Sobol stated that unfortunately the total indebtedness increases each year and hopefully, there will be a point where MSD is a true pay-as-you-go and the bonded indebtedness will level off. Mr. Venable stated there is a theory that says indebtedness is good because it moves the payments out so that people in the future share in the cost of the system rather than having people on the system now pay for all of it.

Mr. Gantt moved that the Board adopt the Consolidated Motion Agenda as presented. Ms. Bryson seconded the motion. Roll call vote was as follows: 9 Ayes; 0 Nays.

10. Old Business:

Mr. Clarke reported that at the April meeting of the Board, it approved an exchange of property from MSD to Altura Communities, LLC, subject to several conditions. Mr. Clarke presented a map showing the parcels in question and reported that an updated appraisal has been completed and the value of the MSD parcel to be exchanged is \$118,000 and the value of the property to be acquired by Altura Communities, LLC is \$119,000. He further reported that the Deed from MSD to Altura will include language limiting the use of the property to a two lane road with no structures, requiring the construction of a new fence along the boundary between Altura and MSD, and requiring language in the restrictive covenants for Altura development

acknowledging the existence and the proximity of the development to the MSD Water Reclamation Facility. Altura has agreed to all provisions.

Mr. Clarke reported that MSD has the authority to exchange land under the General Statutes and the Bond Order. He stated that in order to exchange property under the Bond Order, a Finding must be made that the proposed exchange would not materially adversely affect the operating efficiency of the Sewerage System and would not materially reduce Net Receipts. He presented an Opinion Letter from the Engineer of Record (McGill Associates) to that effect. He also presented an Opinion letter from MSD bond counsel (Sidley Austin) that the exchange will not affect the tax exempt status of interest on bonds and an Opinion letter from General Counsel to MSD stating that all requirements for the exchange have been met and based on the aforementioned documents, it is their opinion that MSD may proceed with the land exchange and recommends the Board adopt the resolution authorizing the transfer of property to Altura Communities, LLC. Mr. Gantt asked what the property will be used for. Mr. McGill presented a map showing the location of the properties owned by Altura, which will be used for residential development. He stated that from MSD's perspective, it's better to have all of the traffic going across the top of MSD's land, away from the plant, versus having all of the traffic go along Riverside Drive in front of the plant. In addition, the exchange would provide an improved buffer between the larger MSD site and adjoining residential properties, which can only be used for vehicular access to the development. Mr. Gantt asked how many houses will be on the right side of the property. Mr. McGill said 12. Mr. Venable moved that the Board adopt the resolution authorizing the exchange of property with Altura Communities, LLC. Ms. Bryson seconded the motion. Mr. Aceto called for discussion. With no discussion, roll call vote was as follows: 9 Ayes; 0 Nays.

11. New Business:

Mr. Aceto reported that he received a letter from the Buncombe County Commissioners informing him that during the next several months, Buncombe County TV Channel 2 will be visiting one of the MSD's Board meetings to film the Board in action. He stated that this footage will be used to promote volunteerism on County boards and commissions. He asked the Board if there was any objection to this filming. Mr. Gantt stated that this is an attempt to show there are a lot of ways to serve on boards and commissions without running for public office.

Mr. Sobol stated that he has read some articles about pharmaceuticals getting into wastewater and asked if MSD can check into this to see if there are restrictions or policies on this issue. Mr. Hartye stated that there are two angles to this; the point source and non-point source. He said an example of the point source is hospitals and that MSD's pretreatment staff are working with Mission/St. Joseph's on these types of issues and doing testing. The non-point sources are all others, such as homes, but that research on issue is in the very beginning stage. Mr. Hartye stated there are no regulatory limits or guidelines on this component yet. Mr. Sobol stated that he would like MSD to pursue this in the coming year.

Mr. Gantt asked Mr. Hartye if he could include MSD's recycling efforts in his report to the Board each month. Mr. Hartye said he would.

12. Adjournment:

With no further business, Mr. Aceto called for adjournment at 3:10PM.

Jackie W. Bryson, Secretary/Treasurer