

**BOARD OF THE METROPOLITAN SEWERAGE DISTRICT
AUGUST 15, 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, August 15, 2007. Chairman Aceto presided with the following members present: Bryson, Bissette, Creighton, Gantt, Haner, Kelly, Newman, Sobol, VeHaun and Venable. Ms. Bellamy was absent.

Others present were: Thomas E. Hartye, General Manager, William Clarke, General Counsel, Gary McGill with McGill Associates, Marcus Jones with Henderson County, Leah Karpen with the League of Women Voters, Joseph Martin with Woodfin Sanitary Water & Sewer District, Paul Saylor, Developer, John Isgrig with RJH Development, Ben Pace, former Board Member, Stan Boyd, Martha Zeigler, Ed Bradford, John Kiviniemi, Angel Banks, Peter Weed, Jim Naber, Julie Willingham, 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. Mr. Aceto reported that he has a conflict with Item. d. (Cherry Blossom Townhomes) and Mr. Bissette reported he has a conflict with Item d. (Cliffs @ Walnut Cove).

3. Approval of Minutes of the July 18, 2007 Board Meeting:

Mr. Aceto asked if there were any objections to approving the Minutes of the July 18, 2007 meeting as presented. With no objections, the minutes were approved by acclamation.

4. Discussion and Adjustment of Agenda:

Mr. Aceto called for adjustments to the agenda. Mr. Venable requested that the report of the Personnel Committee be moved to New Business. Mr. Aceto asked if there were any objections. There were no objections.

5. Informal Discussion and Public Comment:

Mr. Aceto welcomed Mr. Jones, Mr. Saylor, Mr. Isgrig, Mr. Pace, Mr. Martin and Ms. Karpen. Mr. Aceto called for public comment. He recognized Mr. Pace. Mr. Pace addressed the issue of pump stations in relation to the Cliffs at High Carolina in Fairview. He reminded the Board of its policy on pump stations, should they feel pressure to approve a pump station for the Fairview side of this particular development. Mr. Aceto thanked Mr. Pace for his input.

6. Report of General Manager:

Mr. Hartye presented a letter from John Farlow of Asheville complimenting the work of Eric Sams, Eric Dawson, Bobby Arrowood, McKinley Hensley and Shaun Buckner.

Mr. Hartye presented a listing, by department, of some of the District's accomplishments for fiscal year 2007.

Mr. Hartye presented an article in the Asheville Citizens Times about David Gantt receiving legal honors from the NC Bar Association and the NC Academy of Trial Lawyers.

Mr. Hartye reported that the Right of Way Committee meeting scheduled for August 29th has been cancelled. The next regular Board Meeting will be held September 19th at 2PM.

Mr. Aceto called the Board's attention to the list of accomplishments for FY 2007 and stated that he would like to go over some of the highlights at the next Board Meeting.

Mr. Hartye introduced Jim Naber, Environmental Health and Safety Director, for a presentation on the District's recycling and energy conservation efforts as requested by Mr. Gantt.

Mr. Naber reported that the District's ISO program started at the Water Reclamation Facility (WRF) in 2003, with an objective of recycling 100 pounds per month, which was met. In 2005, a decision was made to expand the recycling program throughout MSD with two waste streams identified; paper and non-paper products. He stated that recyclables are placed in 43 bins throughout the District and collected by the custodians and placed in clear plastic bags and deposited into a Curbside dumpster, which are picked up on a weekly basis. Also, employees are allowed to bring paper and non-paper recyclables from home. He further stated that MSD rents two GDS dumpsters specifically for cardboard that comes from the warehouse and other facilities throughout MSD. Mr. Naber further reported that another waste stream is waste iron. He stated that last year, 30,000 lbs of waste iron was recycled and, this year to date, 35,000 lbs has been recycled and that over the past two years, the District has received \$7,133.00 from its sale. Mr. Naber presented a list of specific operational wastes and the vendor relationship the District has for these wastes. He presented a graph showing recycled paper versus purchased paper. He stated that recycled paper has increased by 1,700 lbs in 2006-2007 and purchased paper has decreased as a result of utilizing double-sided copies and other paper conservation efforts such as scanning of documents. He further stated that non-paper recycling has increased from 430 lbs in 2005-2006 to 500 lbs in 2006-2007. He said this increase is mainly due to employees bringing recyclables from home. He went over a list of successes resulting from these efforts and presented a chart showing the percent of power produced and WRF flow. Ms. Karpen asked if there is any advantage to recycling white paper separately. Mr. Naber said Curbside takes all paper regardless of color. Mr. Newman asked if MSD has looked at energy management. Mr. Naber stated that one of the recent objectives and targets of the ISO Program is the use of energy. Engineers with Waste Reduction Partners of Land of Sky Regional Council were invited to come in and perform an energy audit on MSD's entire system. They came up with a list of recommendations that could save the District \$10 – 15,000 a year. Mr. Gantt asked if the District's recycling efforts are shared with other Water and Sewer Districts. Mr. Naber stated that he is sharing MSD's knowledge with ISO certified facilities in Shelby and Gastonia.

7. Report of Committees:

Personnel Committee

Report to be made under New Business.

Right of Way Committee

Mr. Kelly reported that the Right of Way Committee met July 25th to consider condemnations on the following projects: Old Home Road @ Weaverville Hwy. PRP, Merrimon Avenue @ Stratford Road, Evergreen Avenue 4" Main and Reems Creek @ Balcrank Rehabilitation. He stated that recommendations regarding these projects will be considered under the Consolidated Motion Agenda.

Planning Committee

Mr. Bisette reported that the Planning Committee met August 8th to consider a request for reimbursement for an affordable housing project located in the Starnes Cove area. He stated that the developers, Mr. Isgrig and Mr. Hubbard, are proposing to build 260 to 300 units, which would require approximately 7,500 linear feet of sewer to serve the property and the acquisition of 24 easements from property owners. He further stated that the construction cost is estimated at \$1,302,000.00, which does not include the right of way acquisition cost of approximately \$170,000.00. Mr. Bisette further reported that Mr. Boyd looked at the project and came up with approximately \$473,000.00 of estimated reimbursements and discounts that would be afforded the developer under MSD's existing policies. He stated that Buncombe County has indicated a willingness to participate in the amount of \$350,000.00; however, the amount needed is still short of the project total. He further stated that the Committee recommends not approving any funding beyond existing policy parameters for this project and that discussion continue on potential changes to the policy regarding this issue. There was some suggestion that the developer increase the cost of each unit in order to pay for the infrastructure, but the developer felt that adding on to the cost, would defeat the purpose of building affordable housing.

Mr. Hartye stated that Mr. Clarke was asked to prepare a memo regarding the constraints surrounding MSD's participation on private development projects and incentives and how they apply to different classes such as affordable housing. Mr. Sobol stated that he suggested revisiting the issue of caps to see if this can be changed for affordable housing. Mr. Hartye stated that once the Master Plan is complete, this will give MSD a tool whereby it may change the way it approaches some of these incentives and developments and how it gets involved in them. Mr. Gantt said he would like MSD to tackle this issue sooner rather than later. He asked Mr. Isgrig if this is a now or never scenario. Mr. Isgrig said no, that what they are looking for is a partnership between MSD, the County and the City. He further stated that the development does not have to be located on this particular property; it could be closer in, but zoning has eliminated a number of multi-family sites in the county, which has driven the cost of affordable housing up and out of reach of those who can afford it. He said they can only develop affordable housing if they can drive the cost of land, construction and labor down. Mr. Gantt stated that because it will take some time to develop a policy, he moved that the Board table the recommendation of the Planning Committee. Mr. Isgrig stated that a dialogue between the City, County and MSD would be a start, but thought there some question of legality on MSD's part. Mr. Clarke stated the issue is that MSD is not like the City and County in that its purpose is to collect and treat wastewater for the benefit of the citizens in the District. MSD cannot discriminate against certain ratepayers to subsidize other ratepayers. Mr. Gantt asked if this is what MSD is doing by offering \$473,000.00 for this project. Mr. Clarke stated that cost recovery is available for any development and the reduced facility fee for affordable housing is justified because affordable housing is smaller and theoretically should use less capacity. Following a discussion and restatement of Mr. Gantt's motion to table the Committee's recommendation, Mr. Aceto called for a second to the motion. Mr. Sobol seconded the motion. With no further discussion, the motion was defeated by a show of hands with a vote of 5 to 6.

Mr. Aceto called for discussion regarding the Planning Committee's recommendation. Mr. Bisette stated that MSD is not in the position to do more than what is recommended by the Committee. However, if the policy changes, or the City or County offer additional funding, or Mr. Isgrig increases the price per unit, the Committee can look at this again. With no further discussion, Mr. Aceto called for the question. By a show of hands the motion carried with a vote of 9 to 2. Mr. Newman asked for a clarification on what government entities can do compared to MSD. Mr. Clarke stated

that MSD is concerned with sewer only, but the City of Asheville and Buncombe County are concerned with the general welfare, which can include affordable housing, parks, charity, etc.

Finance Committee

Mr. Kelly reported that the Finance Committee met prior to the Board Meeting to consider several items. He called on Ms. Zeigler for a report. Ms. Zeigler reported that the Finance Committee reviewed the following items: 1) Amendment of Investment Policy. She stated that staff recommends amending the Investment Policy to allow the investment in any one issue of commercial paper to be the greater of 1% of the portfolio or \$500,000, which would allow the District to access more competitive markets to achieve greater rates of return. 2) Auditing Standards. She stated that due to Statement on Auditing Standards (SAS) 112, the Auditors will be taking a closer look at how internal controls are set up at MSD and there may be some changes in how they communicate their findings. 3) Changes in the Audit Services Contract for FY 2007. The contract with the Auditors called for a fixed price contract for the first three years with an option to continue at a negotiated fee thereafter. This is the fourth year and the auditors proposed an 11% increase in fees to cover both inflationary factors and new, more stringent auditing standards, raising fees from \$27,400 to \$30,500. This fee appears reasonable. 4) Review of MSD's Banking Relationship with First Citizens Bank. She stated that First Citizens Bank is working with staff to provide financial enhancements and benefits such as: waiver of any check-cashing fee for District checks; use of credit cards to pay fees and charges both on premises and over the web; using bank drafts and e-checks through the web; consideration of a special scanner, which can electronically deposit a paper check from a customer directly into the District's bank account the same day; and the release of an upgraded version of the electronic banking portal. 5) Managing GASB 45 Liability. She stated that in 1988 the Board authorized paying one-half of the health insurance premium for employees taking early retirement with 5 years of service and at least 55 years of age. However, because of changes in auditing standards, the cost of this benefit earned by employees during the year must be reported on financial statements. The amount to be recognized can't be determined until a decision is made as to whether or not to retain or modify this benefit. Ms. Zeigler reported that the Finance Committee approved staff's recommendations 3 & 4 as follows: The Committee defer placing any funds into an irrevocable trust to maintain maximum financial flexibility and liquidity of District assets. During the annual budget process the Board designate a certain amount of revenues to be put in a separate fund designated for provision of health claims for retired employees and that the Finance Director be given the discretion to invest these funds separately or to commingle with other District cash to secure the highest prudent rate of return.

Regarding amendment of the Investment Policy, Mr. Aceto called for discussion. Mr. Sobol asked if the following statement means the District is increasing its risks: "Staff believes that this change will be in the best interest of the District ratepayers by allowing access to more competitive rates of return without unduly compromising management of the risk of investing in any one company." Ms. Zeigler said only slightly. She stated that the District is able to invest up to \$450,000 in a single issue commercial paper under the current policy. She said the threshold point for getting a lot more competition on bids is \$500,000 and she does not feel putting an additional \$50,000 more in a single security will unduly increase the risk. Mr. Sobol asked if the District looks at the liabilities of the companies that hold individual paper. Ms. Zeigler stated that she does not have adequate staff to analyze the financial statements of underlying companies and that the District only invests in commercial paper with the highest ratings of A1/P1. Mr. Aceto stated that the District should stick to its principles as far as diversification is concerned and is not in favor of changing the policy. Mr. Clarke said the amendment

does not change the rating of the types of investment the District can make; it just allows the District to put more money into one company. With no further discussion, Mr. Aceto called for the question. Voice vote was as follows: 9 Ayes 2 Nays. (Mr. Aceto and Mr. Sobol)

Regarding GASB 45, Mr. Aceto called for the question on the recommendation of the Finance Committee. Mr. Bisette restated the motion as reported by Ms. Zeigler. With no discussion, voice vote in favor of the motion was unanimous. Mr. Kelly stated that the Finance Committee directed staff to look at specific recommendations for funding and/or plan changes and report back to the Committee.

8. Consolidated Motion Agenda:

a. Consideration of Condemnations: Old Home Rd. @ Weaverville Hwy PRP, Merrimon Avenue @ Stratford Road, Evergreen Avenue 4' Main and Reems Creek @ Balcrank Rehabilitation:

Mr. Hartye reported that the Right of Way Committee recommends authority to obtain appraisals and proceed with condemnations if necessary.

b. Consideration of Brucemont Place Phase 11 Contract:

Mr. Hartye reported that the following bids were received July 19, 2007: Terry Brothers Construction Co., Inc. with a total bid of \$446,428.00; Payne, McGinn & Cummins, Inc. with a total bid of \$389,428.00 and Carolina Specialties Construction, Inc. with a total bid of \$366,774.24. He stated that staff recommends award of this contract to Carolina Specialties Construction, Inc. in the amount of \$366,774.24, subject to review and approval by District Counsel.

c. Consideration of Cost Recovery for Oakview Road Development:

Mr. Hartye reported that staff recommends that the General Manager be authorized to disburse \$4,656.00 to Mr. Paul Saylor for cost recovery for the Oakview Road Development upon receipt of satisfactory security.

d. Acceptance of Developer Constructed Sewer Systems: Cottage Park, Montford Residences, Estelle Park, Cherry Blossom Townhomes, Southcliff Onsite Phase 1, Southcliff Offsite, Minehole Gap, Cliffs @ Walnut Cove, Club Village, Cliffs @ Walnut Cove Phase 5 and State & Piercy Homes:

This Item was pulled for separate vote.

e. Preliminary Report on Budget-to-Actual Revenues and Expenditures for FY 06-07:

Presented as information only.

f. Annual Report on Property and General Liability Insurance Claims for FY 06-07:

Mr. Hartye reported that actual premiums paid on Property and General Liability Claims for FY 08 are 6.4% less than in FY 07, therefore, the trend of decreasing premiums, beginning in FY 05, is continuing.

g. Report of Workers' Compensation Claim Experience:

Mr. Hartye reported that the graph summarizes the past seven years of workers' compensation claims frequency and costs.

h. Annual Report on Self-Funded Health Insurance Plan for FY 2007:

Presented as information only.

i. Annual Report on Billing and Consumption Data from the City of Asheville for FY 06-07:

Mr. Hartye reported that consumption has increased by 2.5% after being flat for a few years.

j. Cash Commitment/Investment Report – Month ended June 30, 2007:

Presented as information only.

Mr. Aceto called for a motion to approve the Consolidated Motion Agenda as presented, with the exception of Item D. Mr. VeHaun moved and Mr. Creighton seconded the motion. Mr. Aceto called for discussion. Regarding Item a. (Evergreen Avenue), Mr. Newman asked if there is more information on this parcel since the owner expressed a concern that the proposed sewer will render the parcel un-buildable. Ms. Banks stated that the existing line is in the lower half of the property and the proposed line is within 5 or 6 feet of that line. Mr. Newman asked if the property is currently unusable. Ms. Banks stated that it depends on what the property is currently zoned and the set-backs for that zoning. Mr. Newman asked if the new line will change the area covered on the property by the easement MSD has. Ms. Banks said there will be no appreciable change. She stated that part of the issue is that the property owner has been non-responsive and the motion only authorizes staff to proceed with appraisal. Mr. Hartye stated that over 95% of the parcels brought to the Board never go to condemnation. With no further discussion, Mr. Aceto called for the question. Roll call vote was as follows: 11 Ayes; 0 Nays.

Mr. Aceto asked Mr. Sobol to preside over the vote for Item d. (developer constructed sewer systems). Regarding Southcliff Offsite, Mr. Sobol asked if the developer will be able to come back for developer assistance on this line since the part of the project consist of 3,670 linear feet of 8" force main with pump station to service a residential development. Mr. Hartye said no. With no further discussion, Mr. Sobol called for a motion. Mr. Venable moved that the Board approve Item d. as presented. Mr. Kelly seconded the motion. Roll call vote was as follows: 8 Ayes; 1 Nay (Mr. Sobol) Mr. Aceto and Mr. Bisette were excused from voting on this item.

9. Old Business:

None

10. New Business:

Mr. Aceto reported that staff was asked to look into the City of Asheville's Stream Buffer Ordinance and whether or not it would affect MSD. Mr. Hartye stated that a letter confirming MSD's exemption was sent to the City of Asheville.

Mr. Venable reported that the Personnel Committee met July 23, 2007 to discuss the General Manager's Goals and Objectives and to discuss his contract with the Board

beginning July 1, 2007. With regard to the General Manager's Goals & Objectives, Mr. Venable stated that the Board felt the General Manager and Staff did a superb job. Regarding the General Manager's contract, Mr. Hartye said another 3-year contract was fine and that he was satisfied with the contract as it was written. Mr. Venable further reported that the Committee discussed the General Manager's compensation and looked at similar positions as a guide in determining his compensation.

Mr. Aceto called for a motion to go into closed session to discuss the General Manager's contract and compensation. No motion was made. Mr. Aceto called for a vote on the Committee's recommendation to approve the General Manager's contract for another 3 years with a 5% increase in salary and an increase in his car allowance to \$300.00 per month. Roll call vote was as follows: 11 Ayes; 0 Nays.

11. Adjournment:

With no further business, Mr. Aceto called for adjournment at 3:20 PM.

Jackie W. Bryson, Secretary Treasurer