

**BOARD OF THE METROPOLITAN SEWERAGE DISTRICT
FEBRUARY 18, 2009**

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 P.M., Wednesday, February 18, 2009. Mr. Aceto presided with the following members present: Bellamy, Bissette, Bryson, Creighton, Haner, Kelly, Russell, Sobol, Stanley and VeHaun. Mr. Metcaff was absent.

Others present were: Thomas E. Hartye, General Manager, Marjorie Mann, Attorney, Gary McGill with McGill Associates, Joseph Martin with Woodfin Sanitary Water & Sewer District, Leah Karpen with the League of Women Voters, Stan Boyd, Ed Bradford, Jim Hemphill, Peter Weed, John Kiviniemi, Scott Powell, Barry Cook, Ken Stines, Angel Banks, Julie Willingham and Sondra Honeycutt.

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 January 21, 2009 Board Minutes:

Mr. Aceto asked if there were any objections to approving the minutes of the January 21, 2009 Board meeting as presented. With no objections, the minutes were approved by acclamation.

4. Discussion and Adjustment of Agenda:

None

5. Informal Discussion and Public Comment:

Mr. Aceto welcomed Ms. Karpen and Mr. Martin. Mr. Aceto recognized Mr. Russell on his re-appointment to the Board, representing the City of Asheville. There was no public comment.

6. Report of General Manager:

Mr. Hartye reported that Mr. Rice of 51 Rex Drive called to express his appreciation for work done by Herman Shelton, an MSD First Responder. Mr. Rice was very happy with the clean-up and service that he received as well as the follow-up call. Also, a call was received from Charles Coxie of Harmony Lane expressing his appreciation to Bobby Arrowood, Clement Crowe, McKinley Hensley, Marcus Bynum and Lloyd Anders for the great work this crew completed around his house. Mr. VeHaun expressed his appreciation to Stan Boyd and Mike Butler for their quick response in arranging for the necessary paperwork, and to System Services for the temporary repair of a private sewer line that was damaged during a house fire in Woodfin.

Mr. Hartye presented a letter from Mayor Bellamy regarding property along Bent Creek that is referenced in the 1995 Agreement between the City of Asheville and Henderson County. He also attached a draft response. Mr. McGill reported that this property was purchased by the City of Asheville for a water treatment plant and became a part of the 1995 agreement with Henderson County. As part of the agreement, this property was conveyed to Henderson County to negotiate with MSD for sewer services and to facilitate the construction of a wastewater treatment plant on the property. He further reported that during the 2001 Master Plan process, this property was not included in the plan, because the property was not in a strategic location for a treatment plant, and the fact that the existing plant has sufficient capacity to treat projected wastewater flows from Buncombe County, North Henderson County and parts of Madison County well beyond the next 20 years. Mr. McGill stated that he does not see a time when this

location would be of interest to MSD. Mr. Hartye stated that the capacity at the plant is sufficient, however, in the next ten to fifteen years an interceptor upgrade may be needed in order to facilitate growth in South Buncombe and provide wastewater services to Henderson County and Cane Creek. Ms. Bellamy stated that since MSD does not plan to use the property for a wastewater treatment facility, it will come back to the City in 2012.

Mr. Hartye announced that Chairman Aceto would like to conduct a Board retreat prior to the May Board meeting from noon until 1:55 p.m., and asked the Board to check their availability. Mr. Aceto asked that discussion on the Board Retreat be moved to Old Business.

Mr. Hartye reported that the DVD Copy of Liquid Assets provided each Board member was forwarded by NACWA to each member of congress prior to deliberating over the stimulus package. He stated that this DVD has a great historical perspective for drinking water, storm water, and sanitary sewer collection and treatment. He further stated that this should serve as a primer for big picture financial discussions that will be the main subject of the Retreat.

Mr. Hartye presented a Legislative Bulletin from the North Carolina League of Municipalities and a NACWA Legislative Alert on the Stimulus and the \$6 billion slated for the Clean Water State Revolving Fund. He reported that approximately \$110 million will go to North Carolina for wastewater projects, with 50% in loans, from zero interest up to the 2.5%. Eighty percent of the remaining funds would be for projects to benefit municipalities that meet affordability criteria as determined by the Governor, and 20 percent for energy saving projects. He further reported that MSD has made an official submittal of four (4) rehabilitation projects and one (1) energy efficiency project that are applicable. He stated that the engineer overseeing this process has indicated that he will try to spread out the money for those first projects that are ready to go in the different areas of North Carolina. He further stated that the most any particular utility could hope to get would be \$1-3 million. Mr. Haner asked who the application was submitted to. Mr. Hartye said Dan Blaisdell with NCDENR-DWQ Construction, Grants & Loans. Mr. Haner asked if the Governor has control over these funds and if she has turned the distribution over to NCDENR. Mr. Hartye said yes, that MSD received a letter from Mr. Blaisdell regarding the criteria for submittal of projects. Mr. Haner asked if the projects submitted are from the CIP list. Mr. Hartye said yes. The four (4) rehab projects selected are high priority projects that are ready to go. A fifth project is the intermediate pump replacement at the treatment plant, which was submitted as an energy saving project. Mr. Haner asked if MSD took into consideration the area's unemployment rate when submitting these projects. Mr. McGill stated that unemployment is not a factor for water and wastewater projects. The stimulus projects will fit into the rules of the State Revolving Loan Fund and the primary focus of these projects will be "ready to go". He further stated that MSD submitted the projects it did because there were no environmental assessments in front of them, they did not have significant property acquisition, and they have been designed and permitted to the extent necessary. Mr. Sobol reported that of the original \$24 million in ready to go projects MSD planned to submit, \$2.5 million was going to Black Mountain for two (2) annexation projects, but these projects were pulled. However, Black Mountain is applying for another program that has \$6 billion dollars of wastewater funding that will flow through rural development.

Mr. Sobol reported that he attended the NACWA Winter Conference in Atlanta and was presented the Excellence in Management Award on behalf of MSD for the second time. He stated that the award is not only for Management and the Board, but for staff, who has done a great job.

7. Report of Committees:

Right of Way Committee

Mr. Kelly reported that the Right of Way Committee met January 28, 2009 to consider Compensation Budgets on the Rockdale Avenue PRP and Short Coxe @ Southside GSP Projects. The Committee also considered condemnations on the Charland Forest GSR and Nasty Branch Interceptor projects.

Finance Committee

Mr. Sobol reported that the Finance Committee met February 3, 2009 to consider the Budget Calendar and Revisions to the Purchasing Policy. The Committee also heard reports on the Second Quarter Budget to Actual Review and the Self-Insured Health Plan. Mr. Sobol called on Mr. Powell for highlights of the Self-Insured Health Plan. Mr. Powell reported that as of the second quarter of this year, plan expenses are higher than projected due to two (2) claims averaging over \$95,000. He stated that nearly 43% of claims paid were for participants over the age of 50, which comprises 19% of the insured pool. There was a 5% drop in acid reflux drugs, as a result of the pharmaceutical step therapy program, instituted by the Finance and Human Resource Divisions. He further stated that less than 19% of participants with chronic conditions such as diabetes, high cholesterol and high blood pressure incurred over 28% of total claims. Over the same period last fiscal year, 18% of participants with chronic conditions incurred over 56% of total claims. Staff believes that the implementation of a Disease Management Program, similar to the City of Asheville's "Asheville Project" is contributing to the reduced costs.

With regard to the Second Quarter City of Asheville Billing Report, Mr. Sobol stated that net billings are down nearly 1% from this time last year due to a reduction in residential consumption as well as signs of recessionary constraints on commercial usage.

Mr. Sobol further reported that he discussed the current US Economic Conditions and is asking the Board to consider a discussion on this issue in the near future, since it will not only affect the MSD as it moves forward in dealing with finances, but the ratepayers.

Mr. Aceto recognized staff for their efforts in the Disease Management Program.

8. Consolidated Motion Agency:

a. Consideration of Compensation Budgets for Rockdale Avenue PRP and Short Coxe @ Southside GSR Projects:

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

b. Consideration of Condemnations – Charland Forest GSR Project:

Mr. Hartye reported that despite several contacts and a meeting on site, the property owners are not willing to sign the easement based on the compensation (\$500.00) offered. The Committee recommends authority to obtain appraisals and proceed with condemnations.

c. Consideration of Condemnation – Nasty Branch Interceptor:

Mr. Hartye reported that in order to work with Norfolk Southern Railroad (NSRR), MSD has offered to pay a fee of \$4,000, but NSRR has been non-responsive to the offer. The Right of Way Committee recommends authority to obtain appraisal and proceed with condemnation to obtain an easement. Ms. Bellamy

noted that the name Nasty Branch has been changed to Town Branch. Mr. Haner asked if there has been any change in the fee amount since the Right of Way Meeting. Ms. Banks reported that in a conversation between MSD Counsel and the Right of Way Property Manager with Northfolk Southern, he has agreed to an easement agreement instead of a license agreement for the \$4,000 fee rather than the \$33,000 fee. She stated that, although there is a verbal agreement at this time, Mr. Clarke wants to proceed with the recommendation of the Right of Way Committee in the event the verbal agreement gets dropped at some point.

d. Consideration of Acceptance of Developer Constructed Sewer System – Lake Julian Trails:

Mr. Hartye reported that this project is located outside the District boundary off New Rockwood Road in Buncombe County. The project included the installation of approximately 2,265 linear feet of 8” gravity sewer extension and 291 linear feet of 10” gravity sewer extension to serve an 85 unit residential development. Staff recommends acceptance of the developer constructed sewer system. All MSD requirements have been met.

e. Consideration of Adoption of Budget Calendar:

Mr. Hartye reported that staff recommends approval of the proposed Budget Calendar with one change; the April 2nd CIP Committee Meeting has been changed to April 30th.

f. Consideration of Adoption of Revised Purchasing Policy:

Mr. Hartye reported that the Finance Committee recommends adoption of the revised purchasing policy. Mr. Hartye called on Mr. Powell for a report on those changes. Mr. Powell reported that the policy reflects NC General Statutes purchasing limits revised in 2007 as well as other operational and format changes. He stated that the plan addresses the increase in informal bid amounts for supplies and materials from \$5,000 to \$50,000 to the current statutory limit of \$30,000 to \$89,999, and an increase in the formal bid amount of \$50,000 to the current statutory limit of \$90,000. He further reported that the informal bid amounts for construction and repairs has increased from \$5,000 to \$100,000 to the statutory limit of \$30,000 to \$499,999, and an increase in the formal bid amount of \$100,000 to the statutory limit of \$500,000. He stated that a new section was added to the Policy on the requisition process, which establishes limits for the approval process, as well as a new section, which addresses disposal of surplus property. Mr. Aceto asked if there is a restriction on who can bid on surplus property. Mr. Powell said yes.

g. Second Quarter Budget to Actual Review:

Mr. Hartye reported that Industrial User Fees are slightly below 50% as a result of Springs Global cutting production, residential fees are slightly lower than normal, and Facility and Tap Fees are higher as a result of receiving unanticipated checks from two (2) new developments early this fiscal year.

h. Cash Commitment/Investment Report – Month Ended December 31, 2008:

Informational item – no action was taken.

Mr. Kelly moved that the Board approve the Consolidated Motion Agenda as presented. Mr. Vehaun seconded the motion. Mr. Aceto called for discussion. With no discussion, roll call vote was as follows: 10 Ayes; 0 Nays. Ms. Bryson was absent during the vote.

9. Old Business:

With regard to the Board Retreat, Mr. Haner stated that he is interested in changing the Retreat, allowing for a more informal atmosphere and the time to go through discussions to the level they need to go through. He further stated that this would be a perfect time to discuss economic issues and other issues Board Members may bring to the table. Mr. Aceto stated that the function of a Retreat is for Board Members and Staff to present issues as to what the Board should be focusing on, and to set goals & objectives for the coming year. He further stated that two of the items that should be at the top of the agenda include looking at MSD policies regarding construction and borrowing, to see how economic changes have affected them. Also, discuss accelerating some programs. After some discussion, it was the consensus of the Board that the Retreat not be held on the same day as the Board Meeting and that more time be given to deal with important issues. Ms. Bellamy asked what will be on the agenda. Mr. Aceto stated that other than the issues previously mentioned, Board Members should submit their concerns to staff to be placed on the agenda. A discussion was held regarding the timing and location of the retreat. Ms. Bellamy suggested that Mr. Haner Chair a Retreat Committee and report back to the Board.

10. New Business:

Regarding the private development (The Springs at Asheville Force Main) approved by the Board at the January Meeting, Mr. Haner asked for more discussion on MSD's policy of letting a private developer convince MSD to use its position as a public body to use highway rights of way to proceed with the development. He further questioned how MSD keeps from being used in this process, and whether the current policy includes the need to go before the City or County for approval on issues such as zoning and the size of a project. He stated that he does not want the Board to be in a position where it accepts developments that by-passes any of the procedures of the City or County that are already in place. Mr. Boyd stated that in years past MSD established a precedent where a private pump station is applicable to accommodate that in the public and DOT rights of way by accepting ownership of the force main. He further stated that this particular project is a large project and the developer has a good tract record of maintaining facilities. Mr. Hartye stated that developers meet the requirements of the City and County before they come to MSD. This would not only apply to pump systems, but gravity systems as well, which MSD would be responsible for, since private entities are not allowed to own, operate or maintain facilities in the public rights of way. Therefore, MSD would take over ownership and maintenance of the line in the public right of way, whether it's a gravity main or a force main. Mr. Haner stated that it seems like one of the criteria the City would use before giving its approval is the matter of handling waste, and in all likelihood, it would not give approval to the project until the easement was there. Ms. Bellamy stated that before the project comes to Council, it would go to the Technical Review Committee, and staff would say certain requirements have been met, but it is ultimately up to the MSD to decide if sewer is granted. She reported on a problem with a developer, who is telling Black Mountain that they will not come into the City, or adhere to their rules because the City of Asheville has the Sullivan Act and it must give them water.

Mr. Aceto appointed Mr. Stanley to serve on the Planning and Personnel Committees.

11. Adjournment:

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

MSD

Regular Board Meeting

Metropolitan Sewerage District
of Buncombe County, NC

AGENDA FOR 2/18/09

✓	Agenda Item	Presenter	Time
	Call to Order and Roll Call	Aceto	2:00
	01. Inquiry as to Conflict of Interest	Aceto	2:02
	02. Approval of Minutes of the January 21, 2009 Board Meeting.	Aceto	2:07
	03. Discussion and Adjustment of Agenda	Aceto	2:12
	04. Informal Discussion and Public Comment	Aceto	2:14
	05. Report of General Manager	Hartye	2:16
	06. Report of Committees: a. Right of Way Committee – 1/28/09 – Kelly b. Finance Committee – 2/03/09 - Kelly	Aceto	2:30
	07. Consolidated Motion Agenda		2:45
	a. Consideration of Compensation Budgets for Rockdale Avenue PRP and Short Coxe @ Southside GSR.	Hartye	
	b. Consideration of Condemnations at Charland Forest GSR.	Hartye	
	c. Consideration of Condemnation – Nasty Branch Interceptor.	Hartye	
	d. Consideration of Developer Constructed Sewer System: Lake Julian Trails.	Hartye	
	e. Consideration of Budget Calendar	Hartye	
	f. Consideration of Revisions to Purchasing Policy	Hartye	
	g. Second Quarter Budget to Actual Review	Hartye	
	h. Cash Commitment/Investment Report – Month Ended December 31, 2008.	Hartye	
	08. Old Business:	Aceto	3:00
	09. New Business:	Aceto	3:10
	10. Adjournment (Next Regular Meeting 3/18/09)	Aceto	3:20

APPROVAL OF MINUTES

**BOARD OF THE METROPOLITAN SEWERAGE DISTRICT
JANUARY 21, 2009**

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 P.M., Wednesday, January 21, 2009. Mr. Aceto presided with the following members present: Bellamy, Bryson, Creighton, Haner, Kelly, Russell, Sobol and Stanley. Mr. Metcalf and Mr. Vehaun were absent.

Others present were: Thomas E. Hartye, General Manager, William Clarke, General Counsel, Gary McGill with McGill Associates, Joseph Martin with Woodfin Sanitary Water & Sewer District, Stan Boyd, Barry Cook, Jim Hemphill, Peter Weed, Ed Bradford, John Kiviniemi, Scott Powell, Julie Willingham, Angel Banks, Teresa Gilbert and Sondra Honeycutt.

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 December 17, 2008 Board Minutes:

Mr. Aceto requested that the wording on page 5, paragraph 3, be changed to read "gold painted manhole puller." With no further corrections, the minutes were approved by acclamation.

4. Discussion and Adjustment of Agenda:

None

5. Informal Discussion and Public Comment:

Mr. Aceto welcomed Mr. Martin and recognized new Board Member, Mr. Bill Stanley, representing Buncombe County. Mr. Sobol presented Mr. Stanley with the traditional red painted manhole puller. Mr. Stanley expressed his appreciation and stated that he looks forward to serving on the MSD Board.

There was no public comment.

6. Report of General Manager:

Mr. Hartye reported that the District received the Government Finance Officers Association (GFOA) Distinguished Budget Presentation Award for the 10th consecutive year. He expressed his appreciation to Teresa Gilbert and Scott Powell for their efforts.

Mr. Hartye presented a listing of accomplishments for fiscal year 2008 by division.

Regarding plant tours, Mr. Hartye encouraged Board members who are interested in a tour of the MSD treatment plant to contact him or John Kiviniemi to make arrangements.

Mr. Hartye expressed his appreciation to Jim Hemphill, Human Resources Director for representing MSD at the "Homecoming Job Fair" at Biltmore Square Mall. He stated that due to the economy, nearly 2000 people attended. A couple of comments received at the booth were as follows: A Reems Creek resident commended Angel Banks and her staff for professionalism in dealing with a recent right-of-way issue and were

described as very polite, thorough and easy to work with. A Black Mountain resident expressed his appreciation for work done by MSD's System Services division in fixing a problem for his 82 year old mother. The words used were professional, respectful, thorough, a cohesive team and significantly better in quality than other similar type companies he had dealt with in the past.

Mr. Hartye reported that the next Right of Way Committee meeting will be held January 28th at 9 a.m. The next regular Board Meeting will be held February 18th at 2 p.m. A Finance Committee meeting will be scheduled for sometime in February.

Regarding the Stimulus Package, Mr. Hartye reported that he, Mike Sobol, Gary McGill and Ed Bradford met earlier this month to develop a "shovel ready" list of projects to be presented to the State within the next few days. He stated that the list represents \$24 million in projects. Mr. McGill reported that \$6 billion for wastewater projects is currently in the House version of the Stimulus Bill and the Senate version, which could be slightly different, is expected in early February. He stated, now that the agency this money will be funded through has been identified, MSD can position itself to be funded or at least in the mix. He further stated that funding will likely be in the form of no-interest loans. Mr. Kelly asked if Congressman Shuler is aware of the MSD list. Mr. Hartye stated that he will be made aware of the list as soon as it is finalized. Mr. Sobol expressed his appreciation to Ed Bradford for making sure these projects have the necessary permits, rights-of-ways, etc. prior to submittal.

Mr. Aceto asked Mr. Hartye to touch on the list of accomplishments for 2008. Mr. Hartye reported that the Finance Division participated in the re-funding of \$55 million in debt to reduce exposure to tainted bond insurance, which saved the District an estimated \$1.5 million in annual debt service. The Capital Improvement Program Division rehabilitated 69,249 linear feet (LF) of collection system during FY08; 36,626 LF through contract construction, 28,048 LF in-house rehabilitated by System Services, and 4,575 LF by developers. Also, staff sought and obtained change to the new NCDENR Collection System Permit, whereby the rehabilitation requirement was modified to 250,000 LF over 5 years, rather than 50,000 LF each year. Under the Administrative Services Division (Environmental, Health and Safety) there were zero (0) OSHA violations for the calendar year and the lowest recorded worker compensation claim activity (5) for the calendar year. With regard to Information Technologies (IT), Mr. Hartye reported that a lot of the systems have been upgraded during the last year, which has also helped the GIS System as far as back-ups, etc. The System Services Division rehabilitated 5,715 LF of pipeline through dig and replace, cleaned 866,962 LF of pipeline; with in-house crews, and assisted McGill & Associates with completion of the Master Plan. The Wastewater Treatment Division received the "Peak Performance Award" from NACWA for the 8th consecutive year, completed in-house installation of the new de-chlorination system for WRF effluent and completed joint in-house/contract rehab of the Schreiber grit/grease removal system. Mr. Hartye stated that plant personnel have the ability to repair the refractory within the incinerator, and components beyond the incinerator; saving the District money for outside contractors. With regard to Human Resources, 14 training seminars & workshops were held including 401 (K), 457, State of the Economy, Planning for College, Credit Reports and Retirement Planning, etc. Mr. Hartye reported that the Planning and Development Division were busy throughout FY08 with allocations issued and sewer service applications approved.

7. Consolidated Motion Agenda:

a. Consideration of 2009 Annual Meeting Dates:

Mr. Hartye presented a list of the 2009 Annual Board Meeting dates, normally held on the third Wednesday of each month, with the exception of the June meeting,

which will be held on the second Wednesday in order to adopt the final budget prior to the June 15th deadline.

b. Consideration of Bids for the Merrimon Avenue at Ottari Road GSR:

Mr. Hartye reported that rehabilitation of this line is necessary due to repeated maintenance calls associated with an aged and structurally deficient clay line, with three buildings constructed over the line. The project is comprised of 1,164 LF of 8-inch and 12-inch DIP. He further reported that the contract was advertised and the following bids were received on January 6, 2009: Pipeline Utilities, Inc. with a total bid of \$641,742.46; Mendon Pipeline Construction Co., with a total bid of \$519,155.00; Buckeye Construction Co., with a total bid of \$487,512.65; Carolina Specialties, with a total bid of \$426,511.77; Wolfpen Associates, with a total bid of \$419,802.50; Patton Construction Group, with a total bid of \$378,700.00; Bryant Land & Development, with a total bid of \$343,146.37; Terry Brothers Construction Co., with a total bid of \$342,450.00; Blythe Co. Construction, with a total bid of \$315,410.50; Bolar Construction Co., with a total bid of \$294,317.00, and T&K Utilities with a total bid of \$283,910.00. Mr. Hartye further reported that staff recommends award of this contract to T&K Utilities, Inc. in the amount of \$283,910.00, subject to review and approval by District Counsel.

c. Consideration of Bids for Venturi Scrubber Rehabilitation at Incinerator:

Mr. Hartye reported that the Venturi Scrubber is located within the last stage of the incineration process. He further reported that the contract was advertised and the following bids were received on January 7, 2009: Hickory Construction Co., with a total bid of \$379,000.00; K-M Machine Co., with a total bid of \$284,000.00 and Laughlin-Sutton Construction Co., with a total bid of \$263,000.00. Mr. Hartye stated that staff recommends award of this contract to Laughlin-Sutton Construction Co., Inc., in the amount of \$263,000.00, subject to review and approval by District Counsel. He further stated that Hazen & Sawyer (the consulting engineer for this project) has extensive experience with Laughlin-Sutton and states they have an excellent performance history.

Mr. Sobol asked what the longevity of the Venturi Scrubber is once it's replaced. Mr. Kiviniemi said approximately 15-20 years.

d. Consideration of Developer Constructed Sewer Systems: Weirbridge Village, Madison Properties Apartments, Davenport Park, Springs at Asheville and Moore Street Sewer Extension:

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

e. Cash Commitment/Investment Report-Month Ended November 30, 2008:

Presented as information only.

Regarding the Springs at Asheville Force Main, Mr. Haner asked if MSD will be pressured to take over the private pump station located on the property. Mr. Hartye stated that since it is one property, they are eligible for building their own private pump station, and that MSD will own and operate the force main on the public right of way. The developer approached the adjacent property owner about tying onto their pump station, but could not get an easement. Mr. Hartye further stated that the MSD Master Plan calls for this area to eventually be served by gravity to the French Broad, where it will cross the river north of the plant, but in the interim, a regional pump station will likely be built in the future downstream of the site. Once it is built, the private pump stations will be

eliminated.

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

8. Old Business:

Following some discussion on the best date for the Finance Committee meeting, it was decided that the meeting would be held February 3, 2009 at 9AM.

9. New Business:

Mr. Aceto asked Mr. Hartye to address the comparison between the failed Ash Lagoon in Tennessee and MSD's Ash Lagoon. Mr. Hartye reported that MSD's Ash Lagoon sits on 13 acres and was used as a sludge lagoon until 1992, and is now permitted as an ash lagoon under the NPDES permit. He stated that monitoring wells were placed both upstream and downstream of the lagoon and are tested bi-annually. Also, the lagoon is inspected annually by the Dam Safety Section of DEHNR. He further reported that the most recent activity regarding the lagoon was in 2001, when the emergency spillway was repaired due to some cracks. Mr. McGill reported that there are very few similarities between the two lagoons. The Tennessee lagoon is a coal ash lagoon, which is built on a flat piece of ground along the Clinch River and failed because inspection reports were not given the necessary attention and because of an overnight 4-inch rain event. He stated the difference between the two lagoons is the construction and they do not hold the same type of material. Mr. Clarke added that it's very important that the MSD's Ash Lagoon is a permitted facility.

Ms. Bellamy asked what is being done locally about the issue of pharmaceuticals in the system. Mr. Hartye stated that this issue is largely related to the water system, but the Asheville area is fortunate in that this is not a problem as far as a source for drinking water. He further stated that a lot of research is being done as to what the impacts are. Further out in the future would be investigations as to the type of treatment that will be needed, if any. Mr. McGill stated that EPA has authorized several studies to learn about the problem, but the focus is on water supplies; wastewater is secondary. Ms. Bellamy stated that as a result of a study in New Jersey, a campaign will be initiated to educate the community about flushing medications instead of disposing of them in the proper way.

Regarding the Stimulus Package and sewer upgrades, Ms. Bellamy asked if MSD has developed a list of projects. Mr. Hartye stated that a list of \$24 million in "shovel ready" projects has been put together to be presented to the State. Ms. Bellamy asked Mr. Hartye if he would forward the list to her when complete.

Ms. Bellamy announced that the Board will receive a letter from Mr. Robert Oast, City Attorney, asking the Board to take a formal position on whether MSD has a desire to build a sewer treatment plant on the Bent Creek property as part of the Water Agreement between the City of Asheville and Hendersonville.

10. Adjournment:

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

Jackie W. Bryson, Secretary/Treasurer

REPORT OF GENERAL MANAGER

MEMORANDUM

TO: MSD Board
FROM: Thomas E. Hartye, P.E., General Manager
DATE: February 12, 2009
SUBJECT: Report from the General Manager

- Kudos

- Mr. Rice of 51 Rex Drive called on 1/22 to express his appreciation for the work done by Herman Shelton, an MSD First Responder. Mr. Rice was very happy with the clean-up and service that he received as well as the follow-up call from Herman who he described as very professional. He reiterated his appreciation fro Herman and MSD for the quality of work that we do.
- Charles Coxie of Harmony Lane called to praise MSD for the great work that the crew completed around his house. Thanks to Bobby Arrowood, Clement Crowe, McKinley Hensley, Marcus Bynum, and Lloyd Anders.

- Letter from Asheville regarding Bent Creek property

Attached is a letter from Mayor Bellamy regarding property along Bent Creek that is referenced in the 1995 Agreement between the City of Asheville and Henderson County. Also attached is a draft response. Gary McGill will be available to give some background and answer any questions from the Board.

- Board Retreat

Chairman Aceto would like to conduct a Board retreat prior to the Regular May Board Meeting from noon till 1:55 pm. Lunch will be served. Please check your availability.

- Liquid Assets

We have provided each Board member with a DVD copy of Liquid Assets. This was forwarded by NACWA to each member of congress prior to deliberating over the stimulus package. This DVD has a great historical perspective for drinking water, storm water, and sanitary sewer collection and treatment. Attached to the back I have listed the chapters that touch on wastewater collection and treatment. This should serve as a primer for big picture financial discussions that will be the main subject of the Retreat in May.

- Reading

- Legislative Bulletin from the NCLM Jan. 30, 2009
- NACWA Legislative Alert Jan. 26, 2009

- Board/Committee Meetings

The next Right of Way Committee meeting will be February 25th at 9am. The next Regular Board Meeting will be held March 18th at 2pm. The annual CIP Committee is to be changed to April 30th at 8:30 AM.



City of Asheville, NC

Office of the Mayor

January 30, 2009

Mr. Tom Hartye
Executive Director, MSD
2028 Riverside Drive
Asheville, NC 28804

RE: Real property at Bent Creek

Dear Mr. Hartye:

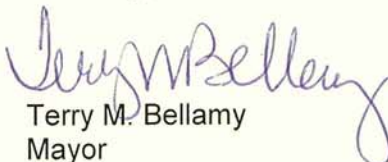
The City of Asheville and Henderson County are parties to a 1995 Agreement regarding the Mills River Water Treatment Plant and the provision of water to northern Henderson County. This Agreement included the Water Authority prior to the termination of the Water Agreement in 2005. One of the provisions of that agreement called for the City of Asheville to convey certain property that it owned to Henderson County. The property consists of 137 acres located on Brevard Road in the Bent Creek area (herein "Bent Creek Property"). A copy of a plat showing the configuration and approximate location of the property is enclosed (Attachment A).

One purpose of this conveyance was to enable Henderson County to negotiate with MSD for sewer services and to facilitate the construction of a wastewater treatment plant on the property. The pertinent provision from the 1995 Agreement is included as Attachment B. As you can see, the Agreement contemplates that the property will be re-conveyed to the City if the conditions of the transfer cannot be met. The City conveyed the Bent Creek Property to Henderson County in 2002. A copy of that deed is enclosed (Attachment C).

The purpose of this letter is to inquire whether MSD has an interest in the Bent Creek Property that would meet the purpose of the transfer of that property to Henderson County. As you may know, the City of Asheville and Henderson County are currently engaged in negotiations that could result in changes to the 1995 Agreement. Those negotiations include the status and disposition of the Bent Creek Property. With this in mind, we would appreciate MSD's consideration of this issue, with a response to the City in the near future. As always, we will be glad to provide you with any additional information you may need, or to respond to questions from you, MSD board members, or MSD staff.

Thank you for your consideration of this matter.

Sincerely,



Terry M. Bellamy
Mayor

TMB:lm

Attachment

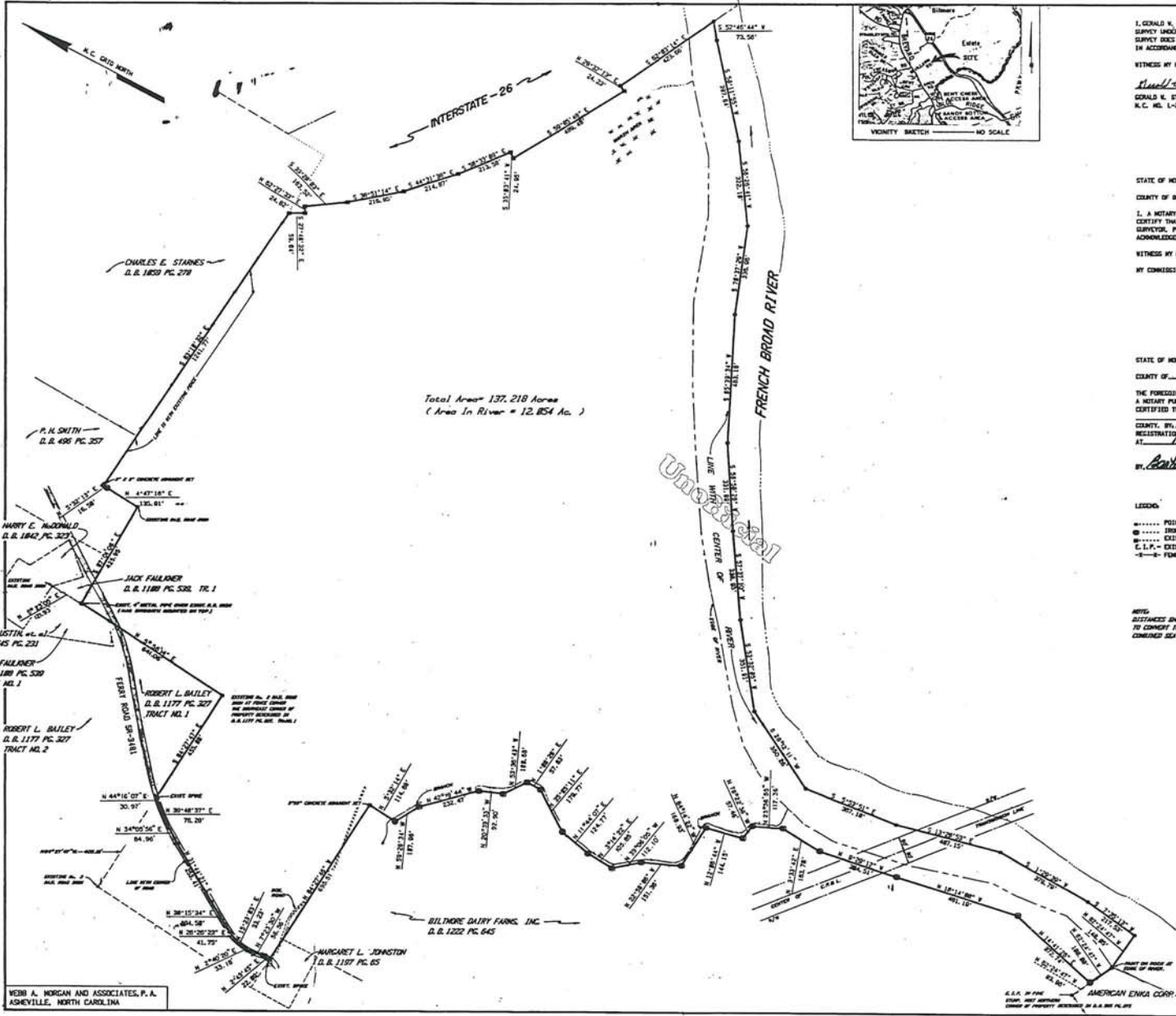
Cc: Gary W. Jackson, City Manager
Robert W. Oast, Jr., City Attorney
Billy Clarke, Roberts & Stevens, PA

P.O. Box 7148 • Asheville, N.C. 28802 • 828-259-5600 • Fax: 828-259-5499 • www.ashevillenc.gov

The City of Asheville is committed to delivering an excellent quality of service to enhance your quality of life.

50-107

Attachment A



I, GERALD W. STEVENSON, CERTIFY THAT THIS MAP WAS DRAWN FROM AN ACTUAL FIELD SURVEY UNDER MY SUPERVISION, THAT THE DATE OF PRECESSION OF THE CONTROL SURVEY DOES NOT EXCEED 1/16, 1888, THAT THIS MAP WAS PREPARED IN ACCORDANCE WITH GS 47-59 AS AMENDED.

WITNESS MY HAND AND SEAL THIS 21 DAY OF JUNE, 1984.

Gerald W. Stevenson
GERALD W. STEVENSON R.L.E.
M.C. NO. L-2689



STATE OF NORTH CAROLINA
COUNTY OF BRANCHES TO WIT:

I, A NOTARY PUBLIC OF THE COUNTY AND STATE AFORESAID, CERTIFY THAT GERALD W. STEVENSON, A REGISTERED LAND SURVEYOR, PERSONALLY APPEARED BEFORE ME THIS DAY AND ACKNOWLEDGED THE EXECUTION OF THE FOREGOING INSTRUMENT.

WITNESS MY HAND AND SEAL, THIS 21 DAY OF JUNE, 1984.

MY COMMISSION EXPIRES AUGUST 11, 1988.

Brenda C. George
BRENDA C. GEORGE
NOTARY PUBLIC



STATE OF NORTH CAROLINA
COUNTY OF BRANCHES

THE FOREGOING CERTIFICATE OF BRENDA C. GEORGE, A NOTARY PUBLIC OF THE STATE AND COUNTY AFORESAID, IS CERTIFIED TO BE CORRECT THIS 23 DAY OF JUNE, 1984. COUNTY BY *Central Roberts* DEPUTY, FILED FOR REGISTRATION ON THE 25 DAY OF JUNE, 1984, AT 1:50 O'CLOCK P.M.

BY *Central Roberts* DEPUTY.

- LEGEND
- POINT NOT SET
 - ⊙..... IRON PIPE OR PIN SET
 - ⊙..... EXISTING CONCRETE R/W MONUMENT
 - ⊙..... EXISTING IRON PIPE OR PIN
 - FENCE LINE

NOTE: DISTANCES SHOWN ON THIS MAP ARE GRID LENGTHS. TO CONVERT TO GROUND LENGTHS DIVIDE BY A CORRECTED SEA LEVEL & GRID FACTOR OF 0.99996.

PROPOSED PROPERTY OF
ASHEVILLE-BUNCOMBE WATER AUTHORITY

AVERY CREEK TOWNSHIP
BUNCOMBE COUNTY, NORTH CAROLINA

RECORD REFERENCES AND NOTATIONS
A PORTION OF D.B. 1222 PG. 645

SECTION	FILED DATE	INITIALS, DATE	BY WHOM FILED



A.S. BY FINE
DRAWN BY
CHECKED BY
DATE OF PREPARED INSTRUMENT IN A.S. AND PLATS
AMERICAN ENGRA CO. INC.
1101 W. BROAD ST., ASHEVILLE, N.C. 28801

contract dispute and consequently, the provisions herein shall not be construed more strictly against any party.

SECTION XXI: REGIONAL WATER AND/OR SEWER AUTHORITY

21.0 It is the intention of the parties to this Agreement to establish herein the basis for the formation of a Regional Water and/or Sewer Authority, which would, at a minimum, include as members Henderson and Buncombe Counties, the Authority and Asheville. Pursuant to that intent, the parties herein shall in good faith work towards the creation of a regional authority and the promotion of said authority to other units of local government in the western part of North Carolina. At the time that the Regional Authority is created, all assets and improvements accumulated pursuant to this Agreement shall be transferred to such Regional Authority upon such terms and conditions as are then mutually acceptable.

→ **SECTION XXII: CONVEYANCE OF BREVARD ROAD SITE**

22.0 Asheville shall convey the Brevard Road Site to Henderson County to permit Henderson County to negotiate with MSD for sewer services. Henderson County shall either 1) convey the Brevard Road Site to MSD in fee simple upon condition subsequent that a wastewater treatment plant be constructed on the Brevard Road Site within ten (10) years of the date of such conveyance, or else title shall revert automatically to Asheville; or 2) convey said property to a regional water and sewer authority of which Henderson County, the Authority, and Asheville are a part. In the event that Henderson County shall not perform numbers 1) or 2) above within ten years from the date of conveyance of the Brevard Road Site to Henderson County, Henderson County shall convey the Brevard Road Site back to Asheville in fee simple absolute.

IN WITNESS WHEREOF, the undersigned officers have executed this Agreement under proper authority given at a duly called meeting of its respective Boards, this the day and year first above written.

STATE OF NORTH CAROLINA

SPECIAL WARRANTY DEED

COUNTY OF BUNCOMBE

Henderson County
Legal Department
100 North King Street
Hendersonville, NC 28792

THIS DEED made and entered into this 11th day of June, 2002, by and between **CITY OF ASHEVILLE**, a municipal corporation organized and existing under the laws of the State of North Carolina, having an address of Post Office Box 7148, Asheville, North Carolina, 28802-7148, of Buncombe County and State of North Carolina (hereinafter "Grantor"), and **COUNTY OF HENDERSON**, a North Carolina body politic and corporate, having an address of 100 North King Street, Hendersonville, North Carolina, 28792, of Henderson County and State of North Carolina (hereinafter "Grantee");

WITNESSETH:

That the Grantor and Grantee herein, together with other parties, entered into a First Amended and Restated Regional Water Supply and Water Service Agreement dated November 11, 1995, which provided, among other things, for the conveyance of property known as the Brevard Road Site; and

That the Grantor, for an in consideration of \$10.00 and other good and valuable considerations to it in hand paid by the Grantee, the receipt of which is hereby acknowledged, has given, granted, bargained, sold and conveyed, and by these presents does give, grant, bargain, sell, convey and confirm unto the Grantee, its successors and assigns, premises in Avery Creek Township, Buncombe County, North Carolina, described as follows:

CONTAINING 137.21 acres and being more particularly shown on that plat prepared by Webb A Morgan and Associates, P.A., dated June 21, 1994, and recorded in Plat Book 50 at Page 107 in the Office of the Register of Deeds for Buncombe County, North Carolina, reference to which is hereby made for a more particular description; the above-described land being conveyed to Grantor by that deed described in Book 1358 at Page 613 in the Office of the Register of Deeds for Buncombe County;

SUBJECT, HOWEVER, to the provisions of that First Amended and Restated Regional Water Supply and Water Service Agreement (hereinafter "the Regional Water Agreement") dated November 11, 1995 between COUNTY OF HENDERSON, a body politic and corporate, THE CANE CREEK WATER AND SEWER DISTRICT, a municipal body created pursuant to Chapter 162A-86 et seq. of the North Carolina General Statutes, THE ASHEVILLE/BUNCOMBE WATER AUTHORITY (AKA THE REGIONAL WATER AUTHORITY OF ASHEVILLE, BUNCOMBE, AND HENDERSON), a joint agency created pursuant to Chapter 160A-460 et seq. of the North Carolina General Statutes, the CITY OF ASHEVILLE, a municipal corporation, and the COUNTY

Return To:

BOOK 2852
PAGES 775 - 777

Buncombe County, NC
Recorded 07/15/2002 02:19:34pm
No 9999-00127060 1 of 3 pages
Otto W. DeBruhl, Register of Deeds

2

BUNCOMBE, a body politic and corporate, in particular Paragraph 22.0 which states:

Asheville shall convey the Brevard Road Site to Henderson County to permit Henderson County to negotiate with MSD for sewer services. Henderson County shall either 1) convey the Brevard Road Site to MSD in fee simple upon condition subsequent that a wastewater treatment plant be constructed on the Brevard Road Site within ten (10) years of the date of such conveyance, or else title shall revert automatically to Asheville; or 2) convey said property to a regional water and sewer authority of which Henderson County, the Authority, and Asheville are a part. In the event that Henderson County shall not perform numbers 1) or 2) above with ten years from the date of conveyance of the Brevard Road Site to Henderson County, Henderson County shall convey the Brevard Road Site back to Asheville in fee simple absolute.

("MSD" refers to the Metropolitan Sewerage District of Buncombe County; a copy of the Regional Water Agreement may be found in Part V, Chapter 503, of the Henderson County Code.)

TO HAVE AND TO HOLD the above-described premises, with all privileges and appurtenances thereunto belonging, or in any wise appertaining, unto the Grantee, its successors and assigns forever, in fee simple.

And the said Grantor covenants that it has not placed or suffered to be placed any presently existing lien or encumbrance on said premises and that it will warrant and defend the title to the same against the lawful claims of all persons claiming by, through, under or on account of it, but not further. Title to the property hereinabove described is subject to the following exceptions:

- (1) Zoning and land use restrictions;
- (2) Matters a survey would reveal;
- (3) Matters of record.

IN WITNESS WHEREOF, the Grantor has caused this deed to be signed in its corporate name by its Mayor and attested by its City Clerk, and sealed with its corporate seal, on the day and year first above written.

Attest:

CITY OF ASHEVILLE

Magdalen Burleson
Magdalen Burleson, City Clerk
(official seal)

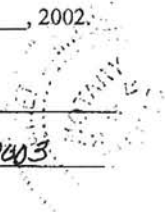
By: Charles R. Worley
Charles R. Worley, Mayor

STATE OF NORTH CAROLINA
COUNTY OF BUNCOMBE

I, Notary Public of the County and State aforesaid certify that Magdalen Burleson, personally came before me this day and acknowledged that she is the City Clerk of the City of Asheville, a municipal corporation, and that by authority duly given and as the act of the corporation the foregoing instrument was signed in its name by its Mayor and attested by herself as its City Clerk.

Witness my hand and notarial seal this 11th day of June, 2002.

Janet M. Rhodes
Notary Public
My Commission Expires: 10-3-2003



Umo Official

State of North Carolina, County of Buncombe
Each of the foregoing certificates of Janet M. Rhodes
is hereby certified to be correct. Filed for registration on this the 11th day of June, 2002
Otto W. DeBruhl Register of Deeds By: Deputy William L. Boynton

DRAFT

February __, 2009

Terry M. Bellamy
Mayor
City of Asheville
Post Office Box 7148
Asheville, N.C. 28802

Re: Real Property at Bent Creek

Dear Mayor Bellamy:

Thank you for your letter of January 30, 2009. Your letter makes inquiry as whether MSD has an interest in the Bent Creek Property described in Plat Book 50 at Page 107 of the Buncombe County Registry for a wastewater treatment plant.

As you may be aware, MSD prepared a Master Plan for its system in 2001, which included our wastewater treatment needs for a 20-year planning period. The 2001 Master Plan projected future wastewater flows from Buncombe County, North Henderson County and parts of Madison County. MSD currently has 40 million gallons per day ("MGD") of capacity in its Water Reclamation Facility (wastewater treatment plant) in Woodfin on the French Broad River. For the past few years, the daily flows have averaged less than half the treatment capacity, including an average of 16 MGD in 2008. Assuming full build out of all areas addressed in the 2001 Master Plan, it appears the existing plant has sufficient capacity to treat projected wastewater flows from Buncombe County, North Henderson County and parts of Madison County well beyond the next 20 years.

MSD looks forward to continued cooperation with the City of Asheville, Henderson County and other local governments to address wastewater treatment and collection issues in the region.

Sincerely,

Thomas E. Hartye
General Manager



Legislative Bulletin

NCLM.ORG NORTH CAROLINA LEAGUE OF MUNICIPALITIES

P.O. BOX 3069 • RALEIGH, NC 27602-3069 • (919) 715-4000 • FAX (919) 733-9519

No. 1

www.nclm.org

Jan. 30, 2009

General Assembly convenes for what will likely be a difficult session

- As General Assembly convenes, **state budget shortfall** for current year expected to **exceed \$2 billion**...
- Gov. Bev Perdue seeking **additional spending cutbacks** from state agencies to balance this year's budget. Leadership of General Assembly says **major tax increases not the way to balance the budget** for next year...
- Legislative Leadership Elected:

House Speaker : Rep. Joe Hackney	Senate President Pro Tem: Sen. Marc Basnight
House Speaker Pro Tem: Rep. William Wainwright	Senate Deputy President Pro Tem: Sen. Charlie Dannelly
House Majority Leader: Rep. Hugh Holliman	Senate Majority Leader: Sen. Tony Rand
House Minority Leader: Rep. Paul Stam	Senate Minority Leader: Sen. Phil Berger
- Annexation law changes are coming. **Individual bills expected soon** from Commission members' concepts. League continues to recommend 20-point proposal as legislative solution. See action items for details. ...
- A bill was introduced this week to **disapprove Jordan Lake rules**. See action items for details...
-

N.C. GENERAL ASSEMBLY INFORMATION

Main Number
919-733-4111

Printed Bills Office
919-733-5648

Bill Status Desk
919-733-7779

Legislative Bldg.
Fax 919-733-2599
Raleigh, NC 27601-1096

Legislative Office Bldg.
Fax 919-733-3113
Raleigh, NC 27603-5925

General Assembly website
www.ncleg.net

NCLM website
www.nclm.org

Action Items

BILL/ISSUE: ANNEXATION LAW CHANGES

What it would do: Majority of members on the Joint Senate and House Municipal Annexation Commission voted out 13 separate concepts on Jan. 22. Many are opposed by the League. See **League Legislative Action Center** at <http://www.nclm.org/lachomepage.htm> for details.

Status: Significant issue. League will continue to offer reasonable changes to address genuine concerns through 20-point proposal.

ACTION NEEDED: Communicate broadly in your communities about need for fairness between in-town and near-town residents. Ask residents to contact

legislators about need for all citizens to support the heart of their community. If North Carolina is to have a healthy economic future, annexation authority must be retained.

OVER

GO TO WWW.NCLM.ORG. CLICK ON THE ACTION CENTER ICON FOR INFO



BILL/ISSUE: JORDAN LAKE RULES

What it would do: HB 3 (Reps. Allred and McCormick) would disapprove rules adopted by the Environmental Management Commission that impose nutrient management strategy on Jordan Lake. Precedent-setting possibility: In addition to affecting local governments in the Jordan Lake area, rules could set precedent for future rules in other watersheds.

Status: HB 3 assigned to House Rules. Stakeholders' negotiation process likely. League will focus on major areas of concern identified in our comments during rulemaking, including costly stormwater

retrofit of existing development.

ACTION NEEDED: Affected local governments continue to work cooperatively with each other and the League. Contact legislators to explain the issue and impact.

BILL/ISSUE: BILL DEADLINES

House and Senate have set deadlines for bill introductions

House – local bills to Bill Drafting	March 18
Senate – local bills to Bill Drafting	March 3
Crossover Deadline	May 14

Bill Summaries

GENERAL GOVERNMENT

HB 2 - Prohibit Smoking in Public & Work Places

Sponsors: Holliman, Weiss, Glazier, Barnhart
Status: House Rules

Prohibits smoking in public places (enclosed areas to which public is invited or permitted) and in public and private places of employment. Exempts private residences, tobacco shops, and designated smoking hotel rooms. Authorizes local governments to adopt smoking regulations that are more restrictive than state law and that apply in public places or in public buildings, on grounds, or in publicly owned, leased or operated vehicles.

INSURANCE

SB 6 – Beach Plan and Ins. Rate and Deductible Stay

Sponsors: Boseman
Status: Senate Commerce

Imposes a stay until May 1, 2011 on increased surcharges and deductibles for certain property insurance under the Beach Plan and on property insurance rate increases for certain homeowner's policies across the state.

PERSONNEL

SB 14 – Create Employment Safety and Security Comm.

Sponsors: D. Berger

Status: Senate Commerce

Creates the Employment Safety and Security Commission. Retains functions of existing Employment Security Commission, and has transferred to it the functions of the OSHA Division of the Department of Labor and certain other powers and duties of the Commissioner of Labor relating to employee safety. Effective January 1, 2010.

S. Ellis Hankins
Executive Director

Kelli H. Kukura
Director of Governmental Affairs



A Clear Commitment to America's Waters

LEGISLATIVE ALERT

To: Members & Affiliates
 Legislative Policy Committee
 Clean Water Funding Task Force

From: National Office

Date: January 26, 2009

Subject: ANALYSIS OF FUNDING OPPORTUNITIES IN HOUSE RECOVERY BILL

Reference: LA 09-02

On Jan. 21, the House Appropriations Committee, chaired by Congressman David Obey (D-Wis.), approved the \$358 billion federal spending portion of the *American Recovery and Reinvestment Act of 2009*. The infrastructure sections of the bill contain \$63.5 billion in overall infrastructure spending with nearly 20%, or approximately \$11.8 billion, targeted for community water and wastewater infrastructure projects.

The Senate Appropriations Committee released a summary of its \$365 billion spending proposal on Friday, Jan. 23. The draft spending package includes \$6 billion for wastewater and drinking water systems through the Environmental Protection Agency's Clean Water and Drinking Water State Revolving Funds, but does not provide any additional detail. President Obama also released details of his economic recovery plan this week, which includes funding for 1,300 wastewater projects, 380 drinking water projects, and 1,000 rural water and sewer projects. Congress hopes to finish its bill by the February President's Week recess, in line with Obama's request for the legislation to be on his desk no later than Feb. 16. It remains to be seen if that deadline will be met as differences between the two bills may necessitate a House-Senate conference negotiation. Once a Senate bill with more detail is introduced, NACWA will send a similar *Alert* to this one to the membership.

Below is an analysis of the proposed legislation's requirements for utilization of the recovery package funds. It is followed by a summary of major infrastructure funding provisions of interest to NACWA members.

General Requirements for the House Recovery Funding Package

Use It or Lose It: The proposal is structured to ensure both a quick infusion of resources and that funds are available to sustain these activities over the next two years. The measure would require Clean Water State Revolving Fund (CWSRF) dollars to be apportioned to the states no later than 30 days after enactment. States must then have contracts or other binding commitments awarded to communities for half of the funds not later than 1 year after enactment, or not later than 9 months after states actually receive the money if later. States are required to enter into binding commitments for the remainder of the money within two years of enactment, or not later than 21 months after they actually receive the money. Funds not committed in accordance with these requirements are returned to the federal government for redistribution to other states that are able to achieve binding commitments within 120 days after the reallocation. There is an additional provision that encourages States to distribute half of the first year funding to communities that can initiate projects within 120 days of enactment.

Maintenance of Efforts: For the infrastructure sections of the recovery package, governors would be required to certify within 30 days of enactment that a state will maintain its effort regarding state funding for specified activities. The states would be required to submit a statement identifying the amount of funds the state had planned to invest on each covered activity from non-federal sources from the measure's date of enactment

through FY 2010. The state would also be required to submit reports within 30 days, 60 days, 120 days, 180 days, 1 year, and three years detailing how the new funds are spent and the results of the investment.

Accountability and Transparency: For all activities funded under the recovery package, federal, state, and local agencies are required to post details of how funds are being utilized on a new web site, www.recovery.gov. The agencies would be required to explain the project being undertaken, why it is needed, its cost, and the name of an individual to contact with questions. In the case of State or local governments, a certification from the Governor, mayor, or other chief executive that the infrastructure investment has received "the full review and vetting required by law and that the chief executive accepts responsibility that the infrastructure investment is an appropriate use of taxpayer dollars," is required before funds are made available.

The measure will establish a new Accountability and Transparency Board made up of several federal agency inspector generals and the newly created position of chief performance office. The board and its staff will monitor, audit and report on the expenditure of recovery package funds.

Breakdown of Funding Opportunities in the Recovery Package

U.S. Environmental Protection Agency (EPA): \$8 billion total

The measure would provide \$8 billion for community water and wastewater infrastructure projects through EPA State and Tribal Assistance Grants. Of the total, \$6 billion is dedicated for wastewater projects funded through the CWSRF and \$2 billion for drinking water projects funded through the Drinking Water SRF. There is no state matching requirement.

- **Clean Water State Revolving Fund: \$6 billion**

The recovery package provides grants, distributed through the existing CWSRF formula, to states and territories to capitalize their revolving loan funds. Half of the funding is to be disbursed by the states as loans. States are required to use the additional 50 percent (\$3 billion) to provide assistance in the form of "additional subsidization, including forgiveness of principal, negative interest loans, and grants" to municipalities for projects that are included on the State's existing priority list. Eighty percent of the grant money (\$2.4 billion) would be for projects "to benefit municipalities that meet affordability criteria as determined by the Governor of the State," and 20 percent (\$600 million) for projects "to address water-efficiency goals, address energy-efficiency goals, mitigate stormwater runoff, or encourage environmentally sensitive project planning, design, and construction, to the extent that there are sufficient project applications eligible for such assistance."

- **Drinking Water State Revolving Fund: \$2 billion**

The Drinking Water SRF provides grants, also distributed by the existing formula, to states to capitalize their revolving loan funds which then finance drinking water infrastructure improvements. States are required to disburse 50 percent (\$3 billion) as loans and the remaining 50 percent to provide assistance in the form of "additional subsidization, including forgiveness of principal, negative interest loans, and grants" to municipalities for projects that are included on the State's existing priority list.

U.S. Department of Agriculture (USDA): \$4.236 billion total

The measure would provide \$4.236 billion for natural resource conservation and rural development programs. Of the total, \$3.836 billion is dedicated to rural water and waste projects through the Rural Utility Service grant

and loan programs, and \$400 million is provided for watershed rehabilitation and flood prevention programs through the National Resources and Conservation Service. There is no state matching requirement.

- **Rural Water and Waste Disposal Program: \$3.836 billion**

The measure would provide \$3.836 billion for the rural water and waste grant and loan programs. This (USDA) program serves rural areas with populations of 10,000 or less and funds drinking water and wastewater treatment infrastructure, with priority given to smaller and poorer communities. Of this total, States are required to distribute \$2.736 billion in the form of loans and \$1.1 billion as grants. Priority is given to those projects that “can commence promptly following enactment of this Act.”

- **Watershed Rehabilitation and Flood Prevention Operations: \$400 million**

The measure provides \$400 million for the Natural Resources Conservation Service's (NRCS) watershed rehabilitation and flood prevention programs. These programs help local project sponsors to design and build flood prevention and water quality improvement projects. Significantly, infrastructure projects to clean polluted waterways are eligible.

U.S. Army Corps of Engineers: \$4.5 billion total

The measure provides \$4.5 billion to the Corps of Engineers for construction, operation and maintenance of the nation's flood control and navigation infrastructure, as well as the construction and maintenance of environmental restoration projects. The funding will be used to accelerate the completion of ongoing capital improvement projects and preference will be given to initiate new elements of existing projects that can be built within the next year.

U.S. Department of the Interior: \$500 million total

The measure provides \$500 million to “manage, develop and protect water resources in the western portion of the United States.” The funding would be disbursed in the form of loans, and would provide for capital improvement projects under the jurisdiction of Bureau of Reclamation. At least \$126 million is of these funds would be used for water reuse and recycling projects, and not less than \$80 million would be used on water intake projects and treatment facilities.

U.S. Department of Housing and Urban Development (HUD): \$1 billion total

The measure provides \$1 billion in funding for HUD's Community Development Block Grants (CDBG) program. While much of this money would be targeted for local government housing programs to stem the number of foreclosures, it could also be used by local governments for critical services and infrastructure needs. The funding provided in this legislation will be distributed through the existing formula and is required to adhere to an accelerated timeframe. Again, these dollars could potentially provide significant infrastructure dollars for local governments.

U.S. Department of Energy (DOE): \$3.5 billion total

The measure would provide \$3.5 billion for energy efficiency and renewable energy block grants through DOE. Modeled after the Community Development Block Grant program, the Energy Efficiency and Conservation Block Grant program would provide grants to cities, counties and states for innovative practices to achieve greater energy efficiency and lower energy usage. These grants fund local initiatives that many wastewater utilities can, or in many cases already have, undertaken, including building and home energy conservation programs, energy audits, fuel conservation programs, building retrofits to increase energy efficiency, and

alternative energy programs. Cities with a population of at least 35,000 or one of the 10 most populous cities in the state would be eligible for the block grant.

NACWA Works to Increase Grant Funding, Address Affordability Issues in the Senate

NACWA's priorities for the recovery bill fared well in the draft House legislation. However, there is still significant work to be done in the Senate:

- NACWA believes that the economic recovery package could go much further in providing funding for infrastructure in general with a concomitant increase in funding for water and wastewater infrastructure projects. While the package's \$6 billion targeted to wastewater projects within the CWSRF program is significant, NACWA members have over \$17 billion worth of wastewater projects ready-to-go that can have shovels in the ground within 120 days of receiving the go ahead from their State agencies. A minimum of \$10 billion and as much as \$20 billion should be included for wastewater projects in the economic recovery package.
- NACWA believes that significantly more than fifty percent of the CWSRF funds should be distributed as grants or grant equivalents. The Association is asking for 100% of the funds to be available as grants, and believes that this type of financing will generate the greatest stimulative effect. Communities are hesitant right now to incur debt obligations because they cannot pass on the cost of repayment to their ratepayers. If communities do not accept a loan, it would reduce the overall effectiveness and impact of the recovery package.
- NACWA believes that all communities should have access to grant financing and that these dollars not be targeted to any particular communities based on affordability. Alternatively, NACWA is asking Congress to include language providing guidance to States on how affordability should be determined for distributing grant financing received through this stimulus package that does not use a single indicator tied to median household income. This formula is too simple and focuses on the individual ratepayer rather than on the overall financial capability of a community.
- NACWA also is addressing new concerns raised by the Congressional Budget Office (CBO) and senior senators from both parties about the length of time it will take for federal dollars dedicated to infrastructure to create new jobs. NACWA is working to refute these claims and would like to see more stringent use it or lose it language with shorter timeframes included in the legislation to provide states with an additional incentive to enter into binding commitments in a timely fashion.

Public Agency Members Urged to Make the Case for Grants

The release of the House draft bill is only the beginning of the vital process of getting stimulus legislation passed. NACWA will continue to advocate for ensuring that funding for wastewater infrastructure projects remain a significant part of the overall stimulus package as it progresses through the House and Senate, and member agencies are strongly encouraged to talk to their members of Congress about their funding needs and the importance of ensuring the stimulus bill contains grants that can be quickly accessed to enable critical infrastructure projects to move forward.

REPORT OF COMMITTEES

**RIGHT OF WAY
COMMITTEE RECOMMENDATIONS
AND MINUTES
January 28, 2009**

I. Call To Order

The regular monthly meeting of the Right of Way Committee was held in the Boardroom of the William H. Mull Building and called to order at approximately 9:00 a.m. on Wednesday, January 28, 2009. The following Right of Way Committee members were present: Glenn Kelly, Jackie Bryson, Jon Creighton, Mike Sobol and Jerry VeHaun.

Others present were: Billy Clarke, General Counsel; Steven Aceto, Chairman of the Board; Max Haner, Board member; Tom Hartye, Ed Bradford, Angel Banks, Mike Stamey, Scott Powell, Wesley Banner and Pam Nolan, M.S.D.

II. Inquiry as to Conflict of Interest

Mr. Kelly inquired if anyone had a conflict of interest with Agenda items. There was none.

III. Consideration of Compensation Budgets –

**Rockdale Avenue PRP, Project No. 2006312
Short Coxe @ Southside GSR, Project No. 2004025**

The attached Compensation Budgets are based on current ad valorem tax values and follow the MSD approved formula.

STAFF RECOMMENDATION: Approval of Compensation Budgets.

Ms. Banks explained the location of the Rockdale Avenue Project, off of Old US 70, and that it consists of approximately 3,900 lf of 6" and 8" VCP to be replaced with 16", 12" and 8" DIP. This project was identified through our pipe rating program.

Ms. Banks explained the location of the Short Coxe @ Southside Project and that it consists of approximately 700 lf of 15" VCP to be replaced with 16" DIP. The existing line is broken in several places and buildings have been built over the line blocking MSD's access.

There was no discussion. Mr. VeHaun made the motion to accept Staff's recommendation. Mrs. Bryson seconded the motion. Voice vote was unanimous.

COMMITTEE RECOMMENDATION: Approval of Compensation Budgets.

IV. Consideration of Condemnations–Charland Forest GSR, Project No. 2006130

PIN No. 9667.10-35-1977–The property owners' major concern pertaining to the project is regarding the offered compensation in the amount of \$420.00. The property owners were requesting that the compensation be increased to \$1500.00. MSD did offer to round the compensation up to an even \$500.00. The proposed alignment of the sewer is slightly out of the alignment of the existing sewer which carries a recorded 20' permanent easement which overlaps into the new proposed 20' permanent easement.

Despite several contacts and a meeting on site, the property owners are not willing to sign based on the compensation (\$500.00) that is being offered.

Total Contacts: 7

PIN 9667.14-34-6930-The property owners' concerns pertaining to the project are in regard to tree/shrub loss which MSD has made provisions for. The property owners have not voiced any concerns pertaining to the compensation in the amount of \$2,063 that is being offered. Despite several contacts and a meeting on site the property owners have not agreed to sign.

Total Contacts: 10

STAFF RECOMMENDATION: Authority to obtain appraisals and proceed with condemnations.

Ms. Banks explained the situation with PIN No. 1977 and further stated that it has a very small permanent easement area of 768 sf, just off the road shoulder of US 74 and is in the set back areas of the parcel. The proposed alignment lies within 4' of existing and deletes the manhole of the old line.

Ms. Banks explained the situation with PIN No. 6930 and further stated that MSD has provided for the replacement of affected trees as well as some azaleas that will be destroyed. The home is built so close to the existing line that MSD could not replace in the existing trench.

There was some discussion regarding these parcels. Mr. VeHaun made the motion to accept staff's recommendation. Mr. Kelly seconded the motion. Voice vote was unanimous.

COMMITTEE RECOMMENDATION: Authority to obtain appraisals and proceed with condemnations.

V. Consideration of Condemnation--Nasty Branch Interceptor, Project No. 2004230

PIN No. 9648.00-04-0966-This project involves replacement of an existing public sewerline across property owned by Norfolk Southern Railroad (NSRR) located along Depot Street. MSD applied for a License Agreement from NSRR May 25, 2007. NSRR required a \$33,000 fee for this crossing, disregarding a 2003 agreement that they would charge a \$2,500 fee for MSD replacements crossing under railroad rights of way. NSRR's position is that this crossing of 660 feet is longer than typical replacement crossings (approximately 200 feet), so they feel an increased fee is warranted. While MSD believes it holds an easement for the existing line by virtue of prescription and long use, MSD is willing to sign a License Agreement for this replacement line, provided fees are reasonable. In order to work with NSRR, MSD has offered to pay a fee of \$4,000 and NSRR has been non responsive to that offer. See attached letter from General Counsel.

Total Contacts: 11 plus

STAFF RECOMMENDATION: Authority to obtain appraisal and proceed with condemnation.

Ms. Banks explained that several years ago MSD involved Mr. Clarke in conversations with Norfolk Southern due to the exorbitant license fees that Norfolk Southern was attempting to charge MSD. There was an informal agreement reached in 2003 that Norfolk Southern would accept \$2500.00 for a license agreement plus a \$1000.00 insurance fee for replacement projects by MSD. Ms. Banks further noted that there is another project in progress where a license agreement has been requested and Norfolk Southern has requested a \$27,000.00 fee plus \$1000.00 insurance fee. That project is just beginning negotiation and staff anticipates the same situation. Mr. VeHaun stated that he felt it was time to condemn. Mr. Clarke further stated that MSD has not paid any of the high fees to date, that he has spoken with Norfolk Southern representatives and sent them copies of their e-mails regarding the informal agreement. He feels that if MSD files the condemnation there will be a response. He also states that the law is quite clear that Norfolk Southern can acquire easements for railroad right of ways and that MSD can condemn property of another private condemner. Ms. Banks added that the difference between an easement and a license agreement is that Norfolk Southern has the right to revoke a license at any time for any reason and an easement runs in perpetuity with future ownership of the land. There was some further discussion between Mr. Aceto and Mr. Clarke regarding easements vs. license agreements. Mr. Clarke stated that MSD does not prefer a license agreement but license agreements are what Norfolk Southern has been willing to grant. Mr. Aceto asked if we would condemn for a license agreement or an easement. Mr. Clarke stated that we would condemn for an easement. There was some further discussion regarding how an easement would be valued vs. a license agreement. Mr. Haner asked if they were aware that a condemnation was the next step. Mr. Clarke and Ms. Banks stated that the Norfolk Southern representative was well aware. Mr. Sobol made the motion to accept staff's recommendation to obtain an appraisal and proceed with condemnation to obtain an easement. Mr. Vahaun seconded the motion. Voice vote in favor of the motion was unanimous.

COMMITTEE RECOMMENDATION: Authority to obtain appraisal and proceed with condemnation to obtain an Easement.

VI. Quarterly Report – Second Quarter

Attached you will find a Project Status Summary for all active acquisition projects. This report provides information on percentage of easements complete, percentage of compensation expended and comments on condemnations. This information is provided for your review.

STAFF RECOMMENDATION: For information only. No action required.

VII. Other business – 2009 Right of Way Meeting Schedule handed out.

There being no further business the meeting adjourned at approximately 9:23 am.

MINUTES

Finance Committee Meeting February 3, 2009

The Finance Committee of the Metropolitan Sewerage District of Buncombe County met in the Boardroom of the WH Mull Building located at 2028 Riverside Drive, Asheville, North Carolina, February 3, 2009. In the absence of Chairman Kelly, Mr. Sobol called the meeting to order at 9:15 a.m.

In attendance were the following Committee Members: Mike Sobol, Terry Bellamy, Jon Creighton, Max Haner, and Bill Russell. Also, present were William Clarke of Roberts & Stevens and MSD staff Thomas E. Hartye, General Manager, Scott Powell, Peter Weed, Stan Boyd, Jim Hemphill, Ken Stines, Ed Bradford, John Kiviniemi, Cheryl Rice, Amy Alexander, Jody Germaine, Julie Willingham, and Pam Thomas.

Absent were the following Committee Members: Chairman Kelly, Jackie Bryson, and Lou Bissette Jr.

Prior to the presentation of the agenda items, Finance Director Scott Powell introduced and gave recognition to his staff, Julie Willingham-Purchasing Coordinator, Jody Germaine-Billing & Collections Coordinator, Cheryl Rice-Accounting Manager, Amy Alexander-Accounts Payable, and Teresa Gilbert-Administrative/Budget Assistant for their hard work this past year and for making his first year as Director of Finance a smooth transition.

1. Budget Calendar

Mr. Powell presented the Proposed Budget Calendar, which takes into consideration the requirements of the Bond Order, whereby the budget must be approved by June 15, and the NC General Statutes requires a budget be reviewed by June 1 and adopted no later than July 1.

Mr. Powell reported that the projected Finance Committee meeting to discuss the 09-10 Budget is scheduled for Wednesday, May 6. This is due to Health Insurance renewal rates not being available until the end of April, and staff would like to ensure that information presented to the Committee is definitive. The preliminary budget will be presented to the Board May 20. The budget adoption is scheduled for June 10, which will meet the District's Bond Covenant.

Ms. Bellamy asked if there were any objections to changing the May 6 Finance Meeting to May 5, as she has prior commitments. No objections were voiced.

Recommendation:

Mr. Sobol asked Ms. Bellamy if her motion is to adopt the Budget Calendar with the requested change. Ms. Bellamy said yes. Mr. Russell seconded the motion. Voice vote in favor of motion was unanimous.

2. Second Quarter Budget to Actual Review

Mr. Powell reported that Industrial User Fees are slightly below 50% due to a particular industry cutting production. In addition, Facility and Tap Fees, which are budgeted conservatively, are higher than budget due to \$854,400 from two new developments early this fiscal year. He further reported that actual O&M expenditures are in-line with budgeted estimates. Bond principal and interest are below 50% due to principal payments being made on July 1, 2009. Capital equipment and projects typically fluctuated throughout the year and is down 36.6%, which can be attributed to the postponement of a \$5M project to future years.

Regarding facility fees, Mr. Sobol asked if the two (2) new development projects came online in the first or second quarter, and would there be a decline in the second quarter. Mr. Powell stated that the developments came in the first quarter, and although revenue is following what has been in the past, staff is starting to see softness in the market. Mr. Hartye stated that normally domestic user fees are at 52%, which will be discussed in detail later in the meeting. This is due to the fact that the first quarter revenue reflects usage that occurred in the summer months.

MINUTES

February 3, 2009

Page -2-

Ms. Bellamy asked what the rental income consists of. Mr. Powell stated this currently includes the cell tower rental income. However, in the past, it also included rental income for the Old Administration Building, which was vacated by the Buncombe County Solid Waste Department. Mr. Creighton inquired if staff was doing anything to market this property. Mr. Hartye stated there has been interest but nothing of significance. However, staff is looking into a joint effort with the City of Asheville on making the site a learning center. The facility would include wastewater, storm water, and drinking water, and would be open to schools, those wanting tours, etc. Unfortunately, with the present economic conditions, discussions have slowed down.

Mr. Sobol asked how the lab rental is reported. Mr. Powell stated that the lab revenue and expense are in-kind activities and are reflected in the District's Financials Statements at year-end.

Recommendation:

Since this was an informational item, no recommendation was necessary.

3. Self-Insured Health Plan Report for the First Six Months of FY 2009

Mr. Powell reported that *Schedule 1* compares budget-to-actual numbers as recorded in the general ledger. *Schedule 2* compares current year and last year at the same point in time. Plan expenses are higher than projected due to two claims averaging over \$95,000. In addition, items noteworthy are:

- a. 43% of claims paid were for participants over the age of 50, which comprises 19% of the insured pool. For reference, the Health Plan's median age is 45.
- b. Less than 19% of participants with chronic conditions incurred over 28% of total claims. Over the same period last fiscal year, 18% of participants with chronic conditions incurred over 56% of total claims. Staff believes that the implementation of a Disease Management program, similar to the City of Asheville's "Asheville Project" is contributing to the reduced costs.
- c. The District experienced a 5% drop in acid reflux drugs, a direct result of the pharmaceutical step therapy program instituted this fiscal year. Further, staff encourages participants to use generic drugs, where possible. In addition, provide information on using mail order through Express Scripts by offering incentives like \$0 co-pay on generic drugs.

In summary, Mr. Powell stated that, although year-to-date costs are greater than prior year, they are within the budget. Mr. Powell explained to the Finance Committee that preliminary cost estimates for FY 09-10 will be forthcoming at the end of the month. He turned over the discussion to Mr. Hemphill to explain the budgetary process for the self-funded medical insurance.

Mr. Hemphill stated that due to the District having a self-funded plan, staff reviews not only claims experience, but also the reinsurance points for stop-loss insurance. Currently the District's stop loss is \$40,000 for each individual plan participant. This means the District pays the first \$40,000 of a participant claims and the re-insurer will pay any claims exceeding \$40,000 in a calendar year for that particular participant. He further stated that staff requested the broker begin searching the market for potential TPA as well as stop-loss providers. Based on prior data of higher claims experience the first 6 months of every claim year, staff is expecting a higher renewal rate. He explained that May 1 would be the earliest date that staff will receive concrete cost numbers that can be factored into the budget for the upcoming fiscal year.

Recommendation:

Since this was an informational item, no recommendation was necessary.

MINUTES

February 3, 2009

Page -3-

4. Second Quarter City of Asheville Billing Report

Mr. Powell reported that the City of Asheville submits domestic sewer revenue data to the District on a quarterly basis, which in turn is analyzed/reviewed by staff for trends and anomalies that might affect the District's financial management decisions.

Mr. Powell further reported that based on the attached report, net billings are down nearly 1% from the previous time last year. Since the billing data includes the Board approved 3% rate increase for the current fiscal year, this corresponds to the consumption data, which shows a decrease of nearly 4%. Staff attributes this to a reduction in residential consumption as well as signs of recessionary constraints on commercial usage. He stated that the cash received during the first six months of the year is about the same as last fiscal year. The aging percentages do not currently indicate any significant changes.

Mr. Powell stated that funds are being collected from the City of Asheville and staff is diligently watching the numbers, so there are no budget effects. If adverse trends develop, they will be brought to the Board's attention in a timely manner.

Recommendation:

Since this was an informational item, no recommendation was necessary.

5. Adoption of Revised Purchasing Policy

Mr. Powell stated that the revised Purchasing Policy is an action item that will need to go to the Board for approval. He further stated that since the last revision in 2001, the State Statutes have changed twice with regard to statutory limits. Therefore, the revised policy contains the following changes:

- Increase informal bid amounts for supplies and materials from \$5,000 to \$50,000 to the current GS. 143-131 statutory limit of \$30,000 to \$89,999.99.
- Increase formal bid amounts for supplies and material from \$50,000 to the current GS. 143-129 statutory limit of \$90,000.
- Increase informal bid amounts for construction and repair from \$5,000 to \$100,000 to the current GS. 143-131 statutory limit of \$30,000 to \$499,999.99.
- Increase formal bid amounts for construction and repair from \$100,000 to the current GS. 143-129 statutory limit of \$500,000.
- The addition of a new section on the requisition process, which establishes limits for supervisors, division directors, Finance Director and General Manager.
- The addition of a new section that addresses the disposal of surplus property, which was not included in the original policy.

Mr. Powell stated the policy received input from the Division Directors as well as from Billy Clarke, legal counsel. In addition, staff referenced current General Statutes as well as the City of Asheville, Buncombe County, OWASA, and CMUD purchasing policies in the development of the revised Purchasing Policy.

Mr. Sobol asked if by moving these limits up going to take less staff time. Mr. Powell stated that the main effect Board Members would see only the construction projects \$500,000 or greater that need approval. However, the Board would be provided a monthly report listing all informal projects greater than \$100,000. Billy Clarke reported the only changes that the District has to comply for purchasing materials or bidding for construction and repair are using the informal bid process for projects costing from \$100,000 to \$500,000. Projects costing less than \$500,000 can be advertised if staff so

MINUTES

February 3, 2009

Page -4-

chooses. The change in the formal bid limits eliminates the scenario where the District had to receive (3) three bids and if not received, the project had to be re-advertised. In addition, with regard to material and supplies, items had to be advertised and were award to the lowest responsible bidder. With the revised policy up to \$90,000 can be purchased under the informal bid process. Further, in doing so, the process is simplified.

Recommendation:

Ms. Bellamy made a motion to adopt the Revised Purchasing Policy. Mr. Russell seconded the motion. Voice vote in favor of motion was unanimous.

New Business:

US Economic Conditions

Mr. Sobol brought forth an issue of importance wanting to discuss in this forum and possibly discuss at the next Board Meeting or the Board Retreat. This issue not only affects the District, but every single person present and the entire United States.

Mr. Sobol continued that the country is in a financial meltdown, with the economy headed south. The main issue is not the subprime, but all of the debt and derivatives that all the banks possess. Further, he requests that as a Board this be discussed. In addition, as individuals we should be writing to our County Commissioners, the City, Congressman, and Senators. He feels that the Board should come up with a policy of what we feel our government should be doing.

Mr. Sobol asked Mr. Hartye on what the plan was for a Board Retreat. Mr. Hartye reported the intent is to have a Board Retreat along with the May Board Meeting. During that time, items to be discussed are the general goals and what the Board should focus for the next year. Included in those discussions are the effect of the economy on the District and our business plan and our effect on the local economy. In addition, prior to these discussions, Mr. Hartye will be sending out a CD, "Liquid Assets", that was sent to all of Congress by NACWA, which goes over the history, infrastructure, funding (past, present & future) of wastewater, storm water, and drinking water.

There being no further discussions, the meeting adjourned at 9:55 am.

CONSOLIDATED MOTION AGENDA

Metropolitan Sewerage District of Buncombe County Board Action Item - Right-of-Way Committee

COMMITTEE MEETING DATE: 1/28/2009

BOARD MEETING DATE: 2/18/2009

SUBMITTED BY: Tom Hartye, PE, General Manager
PREPARED BY: Angel Banks, Right of Way Manager
REVIEWED BY: Ed Bradford, PE, Director of CIP

SUBJECT: Consideration of Compensation Budgets –

**Rockdale Avenue PRP, Project No. 2006312
Short Coxe @ Southside GSR, Project No. 2004025**

The attached Compensation Budgets are based on current ad valorem tax values and follow the MSD approved formula.

STAFF RECOMMENDATION: Approval of Compensation Budgets.

Ms. Banks explained the location of the Rockdale Avenue Project, off of Old US 70, and that it consists of approximately 3,900 lf of 6” and 8” VCP to be replaced with 16”, 12” and 8” DIP. This project was identified through our pipe rating program.

Ms. Banks explained the location of the Short Coxe @ Southside Project and that it consists of approximately 700 lf of 15” VCP to be replaced with 16” DIP. The existing line is broken in several places and buildings have been built over the line blocking MSD’s access.

There was no discussion. Mr. VeHaun made the motion to accept Staff’s recommendation. Mrs. Bryson seconded the motion. Voice vote was unanimous.

COMMITTEE RECOMMENDATION: Approval of Compensation Budgets.

COMMITTEE ACTION TAKEN	
Motion by: Jerry VeHaun	To: <input checked="" type="checkbox"/> Approve <input type="checkbox"/> Disapprove
Second by: Jackie Bryson	<input type="checkbox"/> Table <input type="checkbox"/> Send back to Staff
	<input type="checkbox"/> Other
BOARD ACTION TAKEN	
Motion by:	To: <input type="checkbox"/> Approve <input type="checkbox"/> Disapprove
Second by:	<input type="checkbox"/> Table <input type="checkbox"/> Send back to Staff
	<input type="checkbox"/> Other

Rockdale Ave PRP

Project Number 2006312

Compensation Budget

21-Jan-09

Pin Number and Name	Acres	Parcel SF	Land Value	LV/SF	PE	PE Assd. Value	50% PE Assd. Value	TCE SF	TCE Assd.	10% Annl Return	Proj Time (Months)	TCE Rent Value	Total Comp. (Rounded)
969913127842	0.14	6,098.40	\$8,537.75	\$1.40	0.00	\$0.00	\$0.00	0.00	\$0.00	\$0.00	7	\$0.00	\$0
969913126992	0.12	5,227.20	\$7,300.00	\$1.40	3.00	\$4.20	\$2.10	0.00	\$0.00	\$0.00	7	\$0.00	\$2
969913128818	0.22	9,583.20	\$30,400.00	\$3.17	388.00	\$1,229.96	\$614.98	0.00	\$0.00	\$0.00	7	\$0.00	\$615
969917117547	8.00	348,480.00	\$316,700.00	\$0.91	718.00	\$653.38	\$326.69	4,705.00	\$4,281.55	\$428.16	7	\$249.76	\$576
969917119901	1.12	48,787.20	\$67,000.00	\$1.37	1,414.00	\$1,937.18	\$968.59	6,416.00	\$8,789.92	\$878.99	7	\$512.75	\$1,481
969913137030	0.17	7,405.20	\$20,800.00	\$2.81	17.00	\$47.77	\$23.89	0.00	\$0.00	\$0.00	7	\$0.00	\$24
969913127921	0.15	6,534.00	\$24,000.00	\$3.67	41.00	\$150.47	\$75.24	0.00	\$0.00	\$0.00	7	\$0.00	\$75
969917123174	0.93	40,510.80	\$35,000.00	\$0.86	100.00	\$86.00	\$43.00	195.00	\$167.70	\$16.77	7	\$9.78	\$53
969917113889	5.00	217,800.00	\$165,200.00	\$0.76	0.00	\$0.00	\$0.00	13,482.00	\$10,246.32	\$1,024.63	7	\$597.70	\$598
969918227315	7.09	308,840.40	\$117,600.00	\$0.38	2,549.00	\$968.62	\$484.31	4,099.00	\$1,557.62	\$155.76	7	\$90.86	\$575

TOTALS:	\$4,000
Staff Contingency:	\$10,000
GM's Contingency	\$10,000
Amendment	
Total Budget:	\$24,000

Short Coxe @ Southside GSR

Project Number 2004025

Compensation Budget

21-Jan-09

Pin Number and Name	Acres	Parcel SF	Land Value	LV/SF	PE	PE Assd. Value	50% PE Assd. Value	TCE SF	TCE Assd. Value	10% Annl Return	Proj Time (Months)	TCE Rent Value	Total Comp. (Rounded)
964806379512	1.02	44,431.20	\$1,020,000.00	\$22.96	3,477.27	\$79,838.12	\$39,919.06	4,189.22	\$96,184.49	\$9,618.45	4	\$3,206.15	\$43,125
964810470493	0.26	11,325.60	\$260,000.00	\$22.96	2,058.75	\$47,268.90	\$23,634.45	1,902.24	\$43,675.43	\$4,367.54	4	\$1,455.85	\$25,090
964810470331	0.79	34,412.40	\$600,000.00	\$17.44	608.45	\$10,611.37	\$5,305.68	216.31	\$3,772.45	\$377.24	4	\$125.75	\$5,431
964810377371	0.31	13,503.60	\$310,000.00	\$22.96	1,395.20	\$32,033.79	\$16,016.90	2,049.62	\$47,059.28	\$4,705.93	4	\$1,568.64	\$17,586
964810379302	0.07	3,049.20	\$16,100.00	\$5.28	426.21	\$2,250.39	\$1,125.19	0.00	\$0.00	\$0.00	4	\$0.00	\$1,125
964810378362	0.25	10,890.00	\$250,000.00	\$22.96	513.81	\$11,797.08	\$5,898.54	890.39	\$20,443.35	\$2,044.34	4	\$681.45	\$6,580
964810377432	0.44	19,166.40	\$242,000.00	\$12.63	1,123.41	\$14,188.67	\$7,094.33	1,781.39	\$22,498.96	\$2,249.90	4	\$749.97	\$7,844
964810376334	0.12	5,227.20	\$88,800.00	\$16.99	1,870.31	\$31,776.57	\$15,888.28	2,181.74	\$37,067.76	\$3,706.78	4	\$1,235.59	\$17,124
TOTALS:												\$123,906	
Staff Contingency:												\$5,000	
GM's Contingency												\$5,000	
Amendment													
Total Budget:												\$133,906	

Metropolitan Sewerage District of Buncombe County

Board Action Item - Right-of-Way Committee

COMMITTEE MEETING DATE: 1/28/2009

BOARD MEETING DATE: 2/18/2009

SUBMITTED BY: Tom Hartye, PE, General Manager
 PREPARED BY: Angel Banks, Right of Way Manager
 REVIEWED BY: Ed Bradford, PE, Director of CIP

SUBJECT: Consideration of Condemnations—Charland Forest GSR, Project No. 2006130

PIN No. 9667.10-35-1977—The property owners' major concern pertaining to the project is regarding the offered compensation in the amount of \$420.00. The property owners were requesting that the compensation be increased to \$1500.00. MSD did offer to round the compensation up to an even \$500.00. The proposed alignment of the sewer is slightly out of the alignment of the existing sewer which carries a recorded 20' permanent easement which overlaps into the new proposed 20' permanent easement.

Despite several contacts and a meeting on site, the property owners are not willing to sign based on the compensation (\$500.00) that is being offered.

Total Contacts: 7

PIN 9667.14-34-6930—The property owners' concerns pertaining to the project are in regard to tree/shrub loss which MSD has made provisions for. The property owners have not voiced any concerns pertaining to the compensation in the amount of \$2,063 that is being offered. Despite several contacts and a meeting on site the property owners have not agreed to sign.

Total Contacts: 10

STAFF RECOMMENDATION: Authority to obtain appraisals and proceed with condemnations.

Ms. Banks explained the situation with PIN No. 1977 and further stated that it has a very small permanent easement area of 768 sf, just off the road shoulder of US 74 and is in the set back areas of the parcel. The proposed alignment lies within 4' of existing and deletes the manhole of the old line.

Ms. Banks explained the situation with PIN No. 6930 and further stated that MSD has provided for the replacement of affected trees as well as some azaleas that will be destroyed. The home is built so close to the existing line that MSD could not replace in the existing trench.

There was some discussion regarding these parcels. Mr. VeHaun made the motion to accept staff's recommendation. Mr. Kelly seconded the motion. Voice vote was unanimous.

COMMITTEE RECOMMENDATION: Authority to obtain appraisals and proceed with condemnations.

COMMITTEE ACTION TAKEN	
Motion by: Jerry VeHaun	To: XX Approve <input type="checkbox"/> Disapprove
Second by: Glenn Kelly	<input type="checkbox"/> Table <input type="checkbox"/> Send back to Staff
	<input type="checkbox"/> Other
BOARD ACTION TAKEN	
Motion by:	To: <input type="checkbox"/> Approve <input type="checkbox"/> Disapprove
Second by:	<input type="checkbox"/> Table <input type="checkbox"/> Send back to Staff

Metropolitan Sewerage District of Buncombe County Board Action Item - Right-of-Way Committee

COMMITTEE MEETING DATE: 1/28/2009 BOARD MEETING DATE: 2/18/2009

SUBMITTED BY: Tom Hartye, PE, General Manager
PREPARED BY: Angel Banks, Right of Way Manager
REVIEWED BY: Ed Bradford, PE, Director of CIP

SUBJECT: Consideration of Condemnation–Nasty Branch Interceptor, Project No. 2004230

PIN No. 9648.00-04-0966-This project involves replacement of an existing public sewerline across property owned by Norfolk Southern Railroad (NSRR) located along Depot Street. MSD applied for a License Agreement from NSRR May 25, 2007. NSRR required a \$33,000 fee for this crossing, disregarding a 2003 agreement that they would charge a \$2,500 fee for MSD replacements crossing under railroad rights of way. NSRR’s position is that this crossing of 660 feet is longer than typical replacement crossings (approximately 200 feet), so they feel an increased fee is warranted. While MSD believes it holds an easement for the existing line by virtue of prescription and long use, MSD is willing to sign a License Agreement for this replacement line, provided fees are reasonable. In order to work with NSRR, MSD has offered to pay a fee of \$4,000 and NSRR has been non responsive to that offer. See attached letter from General Counsel.

Total Contacts: 11 plus

STAFF RECOMMENDATION: Authority to obtain appraisal and proceed with condemnation.

Ms. Banks explained that several years ago MSD involved Mr. Clarke in conversations with Norfolk Southern due to the exorbitant license fees that Norfolk Southern was attempting to charge MSD. There was an informal agreement reached in 2003 that Norfolk Southern would accept \$2500.00 for a license agreement plus a \$1000.00 insurance fee for replacement projects by MSD. Ms. Banks further noted that there is another project in progress where a license agreement has been requested and Norfolk Southern has requested a \$27,000.00 fee plus \$1000.00 insurance fee. That project is just beginning negotiation and staff anticipates the same situation. Mr. VeHaun stated that he felt it was time to condemn. Mr. Clarke further stated that MSD has not paid any of the high fees to date, that he has spoken with Norfolk Southern representatives and sent them copies of their e-mails regarding the informal agreement. He feels that if MSD files the condemnation there will be a response. He also states that the law is quite clear that Norfolk Southern can acquire easements for railroad right of ways and that MSD can condemn property of another private condemner. Ms. Banks added that the difference between an easement and a license agreement is that Norfolk Southern has the right to revoke a license at any time for any reason and an easement runs in perpetuity with future ownership of the land. There was some further discussion between Mr. Aceto and Mr. Clarke regarding easements vs. license agreements. Mr. Clarke stated that MSD does not prefer a license agreement but license agreements are what Norfolk Southern has been willing to grant. Mr. Aceto asked if we would condemn for a license agreement or an easement. Mr. Clarke stated that we would condemn for an easement. There was some further discussion regarding how an easement would be valued vs. a license agreement. Mr. Haner asked if they were aware that a condemnation was the next step. Mr. Clarke and Ms. Banks stated that the Norfolk Southern representative was well aware. Mr. Sobol made the motion to accept staff’s recommendation to obtain an appraisal and proceed with condemnation to obtain an easement. Mr. Vahaun seconded the motion. Voice vote in favor of the motion was unanimous.

COMMITTEE RECOMMENDATION: Authority to obtain appraisal and proceed with condemnation to obtain an Easement.

COMMITTEE ACTION TAKEN	
Motion by: Mike Sobol	To: XX Approve <input type="checkbox"/> Disapprove
Second by: Jerry VeHaun	<input type="checkbox"/> Table <input type="checkbox"/> Send back to Staff
	<input type="checkbox"/> Other
BOARD ACTION TAKEN	
Motion by:	To: <input type="checkbox"/> Approve <input type="checkbox"/> Disapprove
Second by:	<input type="checkbox"/> Table <input type="checkbox"/> Send back to Staff
	<input type="checkbox"/> Other

**ROBERTS
&
STEVENS**

ATTORNEYS AT LAW

JOHN S. STEVENS
JAMES W. WILLIAMS
JOHN W. MASON
MARC RUDOW
SHERYL H. WILLIAMS
WILLIAM CLARKE
VINCENT D. CHILDRESS, JR.
MARJORIE ROWE MANN
GREGORY D. HUTCHINS
JACKSON D. HAMILTON
WYATT S. STEVENS
MARK C. KURDYS
JACQUELINE D. GRANT
CHRISTOPHER Z. CAMPBELL
PATSY BRISON

*DRC CERTIFIED MEDIATOR

BB&T BUILDING
ONE WEST PACE SQUARE, STE. 1100 28801
POST OFFICE BOX 7647
ASHEVILLE, NORTH CAROLINA 28802
TELEPHONE (828) 252-6600
FACSIMILE (828) 258-6955
www.roberts-stevens.com

Writer's Direct Phone No.: 828/258-6919
Writer's Direct Facsimile: 828/210-6526
Writer's E-mail: bclarke@roberts-stevens.com

DAVID L. ENGLISH
CYNTHIA S. GRADY
F. LACHICOTTE "LACH" ZEMP, JR.
KENNETH R. HUNT
DENNIS L. MARTIN, JR.
KEVIN P. KOPP
PETER B. MCGUIRE
M. FRANCES DURDEN
REBECCA JOHNSTON REINHARDT
K. DEAN SHATLEY, II
ANN-PATTON NELSON
CHAD RAY DONNAHOO

LANDON ROBERTS
(1921-2007)

November 12, 2008

Ms. Sheila Billingsley,
Property Manager, Real Estate
Norfolk Southern Corporation
1200 Peachtree Street, NE, 12th Floor
Atlanta, GA 30309

Re: *Metropolitan Sewerage District of Buncombe County, North Carolina / Nasty
Branch Sewer Replacement /NSRR Activity NO. 1090197*

Dear Ms. Billingsley:

This law firm represents the Metropolitan Sewerage District of Buncombe County, North Carolina ("MSD"). MSD is in the process of replacing the Nasty Branch Sewer Line which serves most of downtown Asheville and some buildings on the Norfolk Southern Railroad Property ("NSRR"). A portion of the existing line crosses the NSRR property. The replacement line will need to cross the NSRR property as well.

MSD needs NSRR's permission and agreement to locate the new line on another portion of the NSRR property for several reasons. On the east side of the project, NSRR recently sold property to Mountain Housing Opportunities ("MHO"). During NSRR's engineering review of the project, MSD was directed to coordinate the location of the new sewer line with MHO. MSD has done that, however, MHO's site plans will not accommodate replacement of the sewer line in its current location. NSRR, or its predecessors, have constructed concrete culvert boxes over Nasty Branch. The boxes also interfere with replacement of the sewer line in its current location. Contractors have expressed significant concern to MSD about the difficulties of open trench (bore pit) construction in the area due to the proximity of Nasty Branch and the nearby NSRR microwave tower. On the adjacent private property to the west, a building is located over the existing sewer. This building is too close to the NSRR property to allow the new sewer line to be placed in the same location as the existing line.

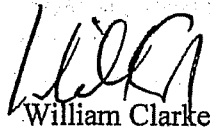
Angel Banks, the Right of Way Director for MSD, has been in touch with you regarding the proposed crossing. MSD assumed this crossing would be handled under the informal agreement reached some five years ago wherein MSD agreed it would pay Norfolk Southern \$2500 plus the \$1000 Risk Financing Fee, to replace an existing line crossing NSRR property. In fact, MSD has offered a fee of \$4,000 plus the Risk Financing Fee due to the length of this crossing. NSRR's has rejected that offer, noting that there is no license agreement for this crossing and has asked for a one-time fee of \$15,000 plus the \$1000 Risk Financing Fee.

The existing sewer line is more than fifty years old. MSD acquired it in 1990. Prior to that time, it was owned and operated by the City of Asheville. The line is in poor condition. MSD has had to repair it a number of times over the years. Replacing the line is an important public health concern. If there was no license agreement for the line, then MSD is the owner and holder of a prescriptive easement for the line in its current location. Since replacement of the line in its current location is not possible, due in part to structures located near the line by NSRR, MSD needs to put the line in a new location. If NSRR will not accept MSD's offer of \$4,000 plus the Risk Financing Fee, MSD will be forced to institute condemnation to acquire an easement for the new location.

The replacement of this sewer line stands to benefit the public and NSRR. MSD remains willing to pay \$4,000 plus the Risk Financing Fee for the crossing. Your cooperation and assistance in resolving this matter to the benefit of the public and the railroad are most appreciated. I look forward to hearing from you.

Sincerely,

ROBERTS & STEVENS, PA



William Clarke

WC/sh

cc: Ms. Angel Banks (via e-mail: abanks@msdbc.org)
Mr. Ed Bradford (via e-mail: bradford@msdbc.org)
Mr. Mike Stamey (via e-mail: mstamey@msdbc.org)
Ms. Marjorie Mann (via e-mail: mmann@roberts-stevens.com)

Metropolitan Sewerage District of Buncombe County

Board Action Item

BOARD MEETING DATE: February 18, 2009

SUBMITTED BY: Thomas Hartye, P.E., General Manager

PREPARED BY: Kevin Johnson, David Monteith

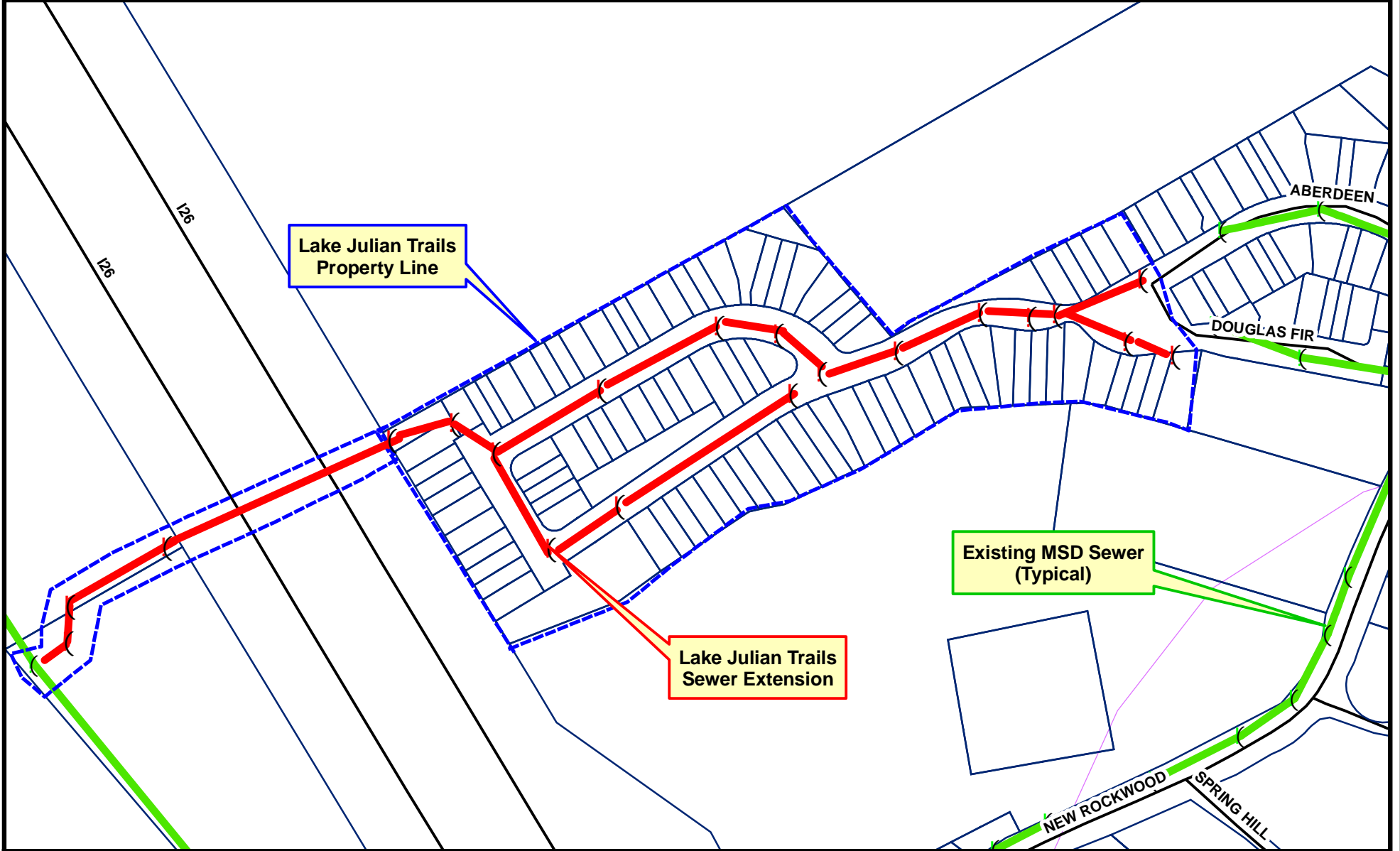
REVIEWED BY: Stan Boyd, PE, Engineering Director

SUBJECT: Acceptance of Developer Constructed Sewer System
Lake Julian Trails.

BACKGROUND: This project is located outside the District boundary off New Rockwood Road in Buncombe County, North Carolina. The developer of the project is Mr. David R. Day. The project included the installation of approximately 2,265 linear feet of 8" gravity sewer extension and 291 linear feet of 10" gravity sewer extension to serve an (85) unit residential development. A wastewater allocation was issued in the amount of 41,400 GPD for the project. The estimated cost of the sewer extension is \$ 430,000.00.

STAFF RECOMMENDATION: Acceptance of developer constructed sewer system.
(All MSD requirements have been met)

COMMITTEE ACTION TAKEN	
Motion by :	To: <input type="checkbox"/> Approve <input type="checkbox"/> Disapprove
Second by:	<input type="checkbox"/> Table <input type="checkbox"/> Send back to staff
<input type="checkbox"/> Other:	
BOARD ACTION TAKEN	
Motion by	To: <input type="checkbox"/> Approve <input type="checkbox"/> Disapprove
Second by:	<input type="checkbox"/> Table <input type="checkbox"/> Send back to staff
<input type="checkbox"/> Other:	



Lake Julian Trails
Property Line

Lake Julian Trails
Sewer Extension

Existing MSD Sewer
(Typical)

Project #2006223

Not To Scale



METROPOLITAN SEWERAGE DISTRICT
of
BUNCOMBE COUNTY, NORTH CAROLINA

Lake Julian Trails
Sewer Extension

Metropolitan Sewerage District of Buncombe County

BOARD ACTION ITEM

Meeting Date: February 18, 2009

Submitted By: Thomas E. Hartye, PE., General Manager

Prepared By: W. Scott Powell, Director of Finance

Subject: Adoption of Budget Calendar

Background

The District's budget process must satisfy requirements in the North Carolina General Statutes as well as the 1999 Amended and Restated Bond Order. NC statutes require an annual balanced budget ordinance based upon expected revenues, along with a budget message, to be presented to the governing board no later than June 1. Thereafter, the budget must be adopted not earlier than 10 days after the budget is first presented to the Board and not later than July 1. The Bond Order calls for the budget to be adopted by the Board on or before June 15.

Discussion

The attached budget calendar is designed to provide for input by all stakeholders into a systematic and deliberate process. Time between committee and board meetings has been scheduled to prepare and distribute agenda items, including preparation time for any revisions requested to be presented at a subsequent meeting.

The Finance Committee meeting to discuss the proposed budget is scheduled for May 06th with the expectation that fairly firm estimates of health and other insurance renewal care costs will be available by the middle of April.

This calendar is a guide and committee meetings may be added and/or rescheduled as necessary to accommodate the preliminary budget being presented on May 20th and the final budget being adopted on June 10th.

Fiscal Impact

None

Finance Committee Recommendation

Ms. Bellamy made the motion that the Committee approve the Budget Calendar with the requested Finance meeting date change of May 6th to May 5th. Mr. Russell seconded the motion. Voice vote was unanimous.

Staff Recommendation

Approval of the proposed Budget Calendar.

Action Taken

Motion by:	to	Approve	Disapprove
Second by:		Table	Send to Committee
Other:			
Follow-up required:			
Person responsible:			Deadline:

FY 2009-10 Budget Calendar

Date	Time	Meeting/Subject
April 02	8:30 a.m.	CIP Committee Meeting <ul style="list-style-type: none">• Update of Ten-Year Capital Improvement Program• Update of Construction Program Financing• 2009-2010 Construction Fund Budget
April 29	2:00 p.m.	Personnel Committee Meeting <ul style="list-style-type: none">• Cost of Living & Merit Pay• Amount Allocated to Benefits
May 05	2:00 p.m.	Finance Committee Meeting <ul style="list-style-type: none">• Nine month Revenue/Expenditure Report• Self-funded Medical/Dental Program• Proposed FY09-10 Construction Fund Budget• Proposed FY09-10 Budgets and Sewer Rates
May 20	2:00 p.m.	Board Meeting <ul style="list-style-type: none">• Self-funded Medical/Dental Program• Preliminary FY09-10 Budget and Sewer Rates
June 10	2:00 p.m.	Board Meeting <ul style="list-style-type: none">• Public Hearing• Adoption of FY09-10 Final Budget and Sewer Rates
July 1		Start of 2009-2010 Fiscal Year

Metropolitan Sewerage District of Buncombe County

BOARD ACTION ITEM

Meeting Date: February 18, 2009

Submitted By: Thomas E. Hartye, PE., General Manager

Prepared By: W. Scott Powell, Director of Finance

Reviewed By: Billy Clarke, District Counsel

Subject: Adoption of Revised Purchasing Policy

Background

On November 29, 1995, the board adopted a resolution establishing the District's Purchasing Policy and Procedures. The board amended the policy to reflect amended General Statutes dealing with purchasing limits on October 10, 2001. General Statutes 143-129 & 143-131 purchasing limits were subsequently revised in 2003 as well as in 2007. The attached policy reflects those changes as well as other operational and format changes.

Discussion

The District's Finance staff in conjunction with all divisions and legal counsel worked as a team to revise the District's Purchasing Policy. Staff referenced current General Statutes as well as the City of Asheville, Buncombe County, OWASA, and CMUD purchasing policies to formulate a new policy which meets the exacting standards of the District.

The significant recommended changes include:

- Increase informal bid amounts for supplies and materials from \$5,000 to \$50,000 to the current GS. 143-131 statutory limit of \$30,000 to \$89,999.99.
- Increase formal bid amounts for supplies and material from \$50,000 to the current GS. 143-129 statutory limit of \$90,000.
- Increase informal bid amounts for construction and repair from \$5,000 to \$100,000 to the current GS. 143-131 statutory limit of \$30,000 to \$499,999.99.
- Increase formal bid amounts for construction and repair from \$100,000 to the current GS. 143-129 statutory limit of \$500,000.
- Added a new section on the requisition process, which establishes limits for the approval process.
- Added a new section, which addresses disposal of surplus property.

The above changes are representative of limits and standards included in the aforementioned municipalities' purchasing policies. In addition, the board will be provided a monthly report on awarded informal bids.

Fiscal Impact

None

Finance Committee Recommendation

Ms. Bellamy made a motion to adopt the Revised Purchasing Policy. Mr. Russell seconded the motion. Voice vote in favor of motion was unanimous.

Staff Recommendation

Approval of the proposed Purchasing Policy.

Action Taken

Motion by:	to	Approve	Disapprove
Second by:		Table	Send to Committee
Other:			
Follow-up required:			
Person responsible:			Deadline:

**METROPOLITAN SEWERAGE DISTRICT OF
BUNCOMBE COUNTY, NORTH CAROLINA**

**Purchasing
Policy**



**Metropolitan Sewerage District of Buncombe County, North Carolina
2028 Riverside Drive
Asheville, North Carolina 28804
Phone: (828) 254-9646
Fax: (828) 232-5537
Website: www.msdbc.org**

February 18, 2009

Purchasing Policy

TABLE OF CONTENTS

I.	INTRODUCTION.....	1
II.	GENERAL GUIDELINES FOR PURCHASING SUPPLIES & MATERIAL.....	2
	2.1 Local Buying	
	2.2 Planning	
	2.3 Purchasing Appropriate Quality	
III.	REQUEST FOR PURCHASE PROCEDURES.....	2
	3.1 Request for Purchase	
IV.	VENDOR SELECTION.....	3
	4.1 Selection Policy	
	4.2 Selection Procedures	
V.	PURCHASE ORDERS.....	4
	5.1 The Purchase Order Process	
	5.2 Change Orders	
VI.	AVAILABILITY AND TRANSFER OF BUDGETARY FUNDS.....	5
	6.1 Policy	
	6.2 Responsibility	
VII.	SPECIAL PROCUREMENT PROCEDURES.....	5
	7.1 Blanket Purchase Orders	
	7.2 Emergency Purchases	
	7.3 Purchase Order Cut-Off Date - Fiscal Year End	
	7.4 Exemption for Sole Source of Supply	
	7.5 State of North Carolina Purchase Contract	
	7.6 Piggybacking	
	7.7 Professional Services	
	7.8 Selection of Engineers, Architects and Surveyors	
	7.9 Information Technology Related Items	
VIII.	PROCUREMENT CARDS.....	8
	8.1 Cardholder Privileges	
	8.2 Card Limitations	
	8.3 Cardholder Agreement	
	8.4 Declined Transactions	
	8.5 Transaction Records	
	8.6 Disputed Transactions	
	8.7 Lost or Stolen Cards	
IX.	FORMAL BIDS.....	9
	9.1 Requisitions	
	9.2 Specifications	

Purchasing Policy

TABLE OF CONTENTS

IX.	FORMAL BIDS (continued)	9
	9.3 Request for Bids	
	9.4 Advertisements	
	9.5 Pre-Bid Conference	
	9.6 Submitting Bids	
	9.7 Receipt and Acceptance of Bids	
	9.8 Opening of Bids	
	9.9 Evaluation of Bids	
X.	INFORMAL BIDS.....	13
	10.1 Requisitions	
	10.2 Specifications	
	10.3 Request for Bids	
	10.4 Advertisements	
	10.5 Pre-Bid Conference	
	10.6 Submitting Bids	
	10.7 Evaluation of Bids	
XI.	CONSTRUCTION AND REPAIR.....	15
XII.	ISO 14001 REQUIREMENTS.....	16
XIII.	MINORITY BUSINESS PARTICIPATION GUIDELINES.....	16
XIV.	SPECIFICATIONS.....	17
XV.	DELIVERY AND PERFORMANCE.....	17
	15.1 Delivery Schedule	
	15.2 Non-Performance	
XVI.	INSPECTION AND TESTING.....	18
	16.1 Inspection	
XVII.	VENDOR RELATIONS.....	18
XVIII.	BEST PRACTICES.....	18
	18.1 Gifts and Favors from Vendors	
XIX.	DISPOSAL OF SURPLUS PROPERTY.....	19
	19.1 Disposal Procedure	
	19.2 Auction Procedure	
	19.3 Payment for Sold Surplus	

I. INTRODUCTION

This Policy has been prepared to serve as a guide for all departments and divisions of The Metropolitan Sewerage District (hereinafter sometimes referred to as “the District”) in obtaining needed apparatus, supplies, materials, equipment, and services.

A special attempt has been made to design policies and procedures that will serve the District’s needs and provide for an effective, efficient, and economical buying process. For this reason, each directive is explained in detail giving the purpose, the policy, and the procedure for carrying it out.

To get the most value from this manual it is suggested that all District’s personnel be familiar with the details included.

The goals of the District’s Purchasing Department are:

1. To comply with the legal and ethical requirements of public purchasing and procurement in accordance with applicable law.
2. To assure suppliers who wish to do business with the District impartial and equal treatment, and establish mutually beneficial business relationships with those suppliers while maintaining strict ethical standards.
3. To receive maximum value for each dollar spent by awarding purchase orders to the lowest responsive, responsible bidders, taking into consideration quality, performance, delivery schedule, past performance and other relevant factors.
4. To provide the District’s departments with required goods, equipment and services in a timely fashion in order to best serve the ratepayers.
5. To effect maximum feasible standardization of products and vendors used in order to minimize stock levels and obtain competitive prices.
6. To encourage the participation of minority and women-owned businesses.

The Purchasing Department hopes this manual will be a working tool for your department. Any comments or suggestions for improving any of the contents are welcomed by the department. You can contact us at any time by calling (828) 225-8256 or cell number 768-1300.

Julie Willingham
Purchasing Coordinator

II. GENERAL GUIDELINES FOR PURCHASING SUPPLIES & MATERIAL

2.1 Local Buying:

The District encourages local vendors and suppliers to compete for all District services and contracts; however, the District is required by law to purchase supplies and material from the lowest responsible, responsive bidders.

2.2 Planning:

To the extent possible, District Departments and Divisions should plan purchases of material and supplies to realize economies of scale in staff time, paperwork, cost, and shipping charges.

2.3 Purchasing Appropriate Quality:

Quality, service, price, availability, and time of delivery are all factors that should be considered in the purchase of materials and supplies. District Departments and Divisions should consult the Purchasing Department for information regarding quality, service, price, availability, and time of delivery.

III. REQUEST FOR PURCHASE PROCEDURES

This section summarizes the District's requisition procedures. The section outlines the requisition requirements for apparatus, supplies, materials, and equipment.

3.1 Request for Purchase:

Requests for purchases and requisitions should be sent to the Purchasing Department in writing. These requests may be forwarded via paper requisition, email or electronic requisition in the District's procurement system. The request must include complete specifications, and the account number and department number to which the purchase should be charged. Upon receipt of the request with the required information and appropriate approvals, the Purchasing Department will issue a purchase order or proceed with the billing process. Verbal requests for purchases will be allowed. Purchasing staff taking verbal requests will make a written record of the request.

All requisitions must be approved prior to issuance of a purchase order or the start of the billing process. Required approvals are as follows:

Supervisors – up to \$5,000.00
Division Directors – up to \$10,000.00
Finance Director – up to \$20,000.00
General Manager – greater than \$20,000.00.

The Purchasing Staff has the authority to process requisitions at an expenditure level up to \$1,000.00.

The Supervisor or Division Director may designate someone in his or her department to approve all requisitions. The designation shall be in writing and a copy of the designation shall be provided to the Purchasing Department.

The Purchasing Staff may process legitimate emergency requisitions without prior approval, per the Emergency Purchase Procedure, Section VII. Non-emergency requisitions will be required to go through proper channels before processing.

A request to purchase equipment, which has been approved by the Equipment Review Committee, will not require a separate requisition approval prior to bidding. However, the final procurement action may require District Board approval, dependent on the expenditure level.

IV. VENDOR SELECTION

4.1 Selection Policy:

The Purchasing Department will maintain a list of possible vendors for use by the District. All vendors desiring to be on the District's Vendor List must complete and submit a Vendor Application Form. The District reserves the right to determine which vendors will be included on its Vendor List.

4.2 Selection Procedures:

- A. For the procurement of apparatus, supplies, materials, or equipment, and for construction or repair, the District will comply with applicable provisions of North Carolina General Statutes. In accordance with North Carolina General Statute 143-129, the District will advertise for bids for purchases of apparatus, supplies, materials, or equipment where the estimated cost of the materials or equipment is \$90,000 or more. For construction or repair work, where the estimated expenditure is in excess of \$500,000, the District will advertise for bids in accordance with NC GS 143-129. Advertisement for bids under this section may be by electronic means only. By adoption of this policy, the District Board hereby approves the advertisement by electronic means. Bids should be sealed and must be delivered to the District via U.S. mail, courier, or hand delivery. Bids may not be received via fax or email.
- B. In accordance with North Carolina General Statute 143-131, the District will obtain informal quotes for purchases of apparatus, supplies, materials, or equipment where the estimated expenditure is between \$30,000 and \$89,999; and for construction and repair projects where the estimated expenditure is between \$30,000 and \$499,999. Informal quotes may be obtained via telephone but should be confirmed in writing. Email, fax, hand delivery U.S. mail or courier service are acceptable. The District will exercise its best efforts to obtain at least three informal quotes for purchases under this section.

V. PURCHASE ORDERS

To be valid, a District Purchase Order must be completed by the Purchasing Coordinator or by a Purchasing Agent. The Purchasing Coordinator or Purchasing Agent's signature must be on any purchase order submitted to a vendor. Purchase orders will not be issued unless the requisition process is followed properly.

5.1 The Purchase Order Process:

The purchase order and the bid documents constitute a contract between the District and a vendor; however, the contract is not binding until the purchase order and bid documents are accepted by the vendor. A vendor may also establish a contract with the District by providing goods or services in response to a purchase order and bid documents. The issuance of purchase orders by unauthorized District employees or officials will not be recognized by the District and no payment will be made pursuant to an unauthorized purchase order. Purchases of apparatus, supplies, equipment, or services with a cost in excess of \$5000 must always be made via an authorized purchase order.

Purchase orders up to \$10,000.00 will require final approval from the Division Director; up to \$20,000.00 will require Finance Director approval; and over \$20,000.00 will require General Manager approval. The District Board must approve purchases of apparatus, supplies, materials, and equipment where the expenditure is \$90,000 or more, and contracts for construction or repair where the expenditure is \$500,000 or more in accordance with NC General Statute 143-129. The District Board hereby delegates to the General Manager of the District the authority to award and enter into contracts for apparatus, supplies, materials and equipment up to \$90,000, for service contracts up to \$90,000, and for construction and repair work up to \$500,000,

The Purchase order will clearly state what product or service is being purchased by the District, and, if applicable, any special terms and conditions, special delivery or performance requirements, reference to any District bid requests or vendor quotations, and contacts at the District.

5.2 Change Orders:

In order to change, modify, or cancel an existing purchase order, the original requester must contact the Purchasing Coordinator or a Purchasing Agent and request the change. Purchasing will be responsible for the distribution of information to the vendor. A record of the change request will be made in the procurement system.

Change orders will not be allowed:

- A. That would alter the procurement procedures that were used in the original process. (i.e., from informal to formal).
- B. If the shipment of materials has been made.
- C. After the scope of services have been rendered or materials have been received.

- D. If the Terms and Conditions set in a contract for cancellation have not been met.

VI. AVAILABILITY AND TRANSFER OF BUDGETARY FUNDS

6.1 Policy:

If a proposed purchase of apparatus, supplies, materials or equipment, alone or in combination with other purchases made in the fiscal year, exceeds the budgetary line item for the apparatus, supplies, materials or equipment for the fiscal year, additional funds must be transferred to the line item before a purchase order will be issued under this policy.

6.2 Responsibility:

It shall be the responsibility of the Division Head or his or her designee to satisfy the Purchasing Department that funds are available in the particular line item when requesting a Purchase Order.

VII. SPECIAL PROCUREMENT PROCEDURES

7.1 Blanket Purchase Orders:

The Purchasing Coordinator or Purchasing Agent will issue blanket purchase orders to selected vendors for the procurement of large volume items or recurring services such as fleet items, maintenance items, garbage collections, uniform rentals, cell phone service, pagers, radios, copier rental, etc.

Requests for blanket purchase orders must, in addition to the required account information, indicate the following: a general statement describing items covered by the blanket purchase order and a dollar amount to be encumbered. It is the responsibility of the individual(s) authorized to purchase under a blanket purchase order to insure that an unspent balance remains to cover all purchases for that fiscal year.

7.2 Emergency Purchases:

In cases of emergencies, the Department's Division Head, or his or her designee, may purchase directly from any vendor those supplies or services whose immediate procurement is essential to prevent delays in work which may threaten the public health and welfare, or the health and safety of District employees or users of the District Sewerage System.

The Division Head or designee shall exercise good judgment and, if possible, use established vendors when making emergency purchases. Every attempt should be made to obtain the best possible price and purchases should be limited to emergency-related items.

During normal working hours, an employee should contact the Purchasing Coordinator or a Purchasing Agent via telephone to handle emergency purchases. Procurement Cards may also be used.

For emergency purchases after working hours, an employee should first attempt to contact the Purchasing Coordinator via cell phone. If the Purchasing Coordinator is not available, the employee should proceed with the purchase via procurement card or verbal authorization. If an order is placed via verbal authorization, the employee must submit to the Purchasing Coordinator or Purchasing Agent any paperwork received from the vendor for the purchase, along with a complete description of the item(s) purchased, costs, documentation of the emergency, and department and account information, on the next business day.

For orders placed via procurement card, normal procurement card statement procedures should be followed.

The use of emergency procedures should be limited to actual emergency situations.

7.3 Purchase Order Cut-Off Date – Fiscal Year End:

Requisitions for materials, supplies, services and equipment (not included in blanket purchase orders or service contracts) for the current fiscal year must be submitted on or before a predetermined end-of-year date provided to departments by the Finance Director. Requisitions that are of a routine nature that could have been scheduled prior to the cut off date, and are not critical, will be returned to the requesting department for purchase in the new fiscal year. This procedure affords the Finance Department the opportunity to complete fiscal year end activities in a timely and proper manner.

7.4 Exceptions from Requirements of the Public Bid Laws:

The District may purchase apparatus, supplies, materials or equipment where the estimated expenditure is \$90,000 or more without advertising for bids when (i) performance or price competition for the product are not available; or (ii) a needed product is available from only one source of supply; or (iii) standardization or compatibility is the overriding consideration. A Department Head or Division Director seeking a requisition for a purchase of apparatus, materials, supplies, or equipment under this section must document, based on (i), (ii), or (iii) above, why the purchase should be made without advertising for bids. Any purchase made under this section must be approved by the District Board.

7.5 State of North Carolina Purchase Contract:

The Purchasing Department may utilize the State of North Carolina Department of Administration Division of Purchase and Contract as necessary for procurement of capital and non-capital items, so long as the vendor provides the material to the District at the same or more favorable terms, pricing and

conditions. This system expedites the purchase of goods, offers pricing compatible with quotes received from formal and informal bids, and satisfies North Carolina General Statutes. Contact the Purchasing Division with questions regarding goods and services available from the State Contract.

7.6 Piggybacking:

N. C. General Statute 143-129(g) allows the District to purchase without advertisement apparatus, supplies, materials, or equipment from a vendor who has, within the previous 12 months, sold apparatus, supplies, materials or equipment to another governmental entity after completing a formal bid process. The vendor must be willing to sell the apparatus, supplies, materials or equipment to the District at the same or lower price as sold to the other governmental entity. Notice of intent to purchase apparatus, materials, supplies, or equipment under this section must be published at least ten days prior to action by the District Board. Notice may be published by electronic means. By adoption of this policy, the District hereby approves the publication of such a notice by electronic means only. Approval of a purchase under this section must be done by the District Board no less than ten days after publication of the notice referred to herein. Prior to approving a purchase under this section, the District Board must determine that this purchasing method is in the best interest of the District.

7.7 Professional Services:

Service contracts other than those for construction or repair work are not covered by competitive bidding laws. If feasible, however, bids should be obtained for services whenever possible. It should be noted that normal competitive procedures cannot be utilized in securing professional services such as attorneys, planners, and other professional people who, in keeping with the standards of their discipline, will not enter into a competitive bidding process. When an agreement between a professional service company and the District is established, a purchase order amount shall be issued to satisfy accounting and statutory requirements. Where service contracts include the provision of apparatus, supplies, materials or equipment in an estimated amount of \$90,000 or more, the contract may be subject to NC GS 143-129.

7.8 Selection of Engineers, Architects, and Surveyors:

The District shall announce requirements for engineering, architectural, and surveying services and enter into contracts with such professionals in accordance with the requirements of NC GS 143-64.31 and 143-64.32.

7.9 Information Technology Related Items:

All requisitions for Information Technology related items, including, but not limited to, computer hardware and software, telephone systems, and some mobile communication devices, shall have prior approval from the District's Information Technology Department.

VIII. PROCUREMENT CARDS

The use of procurement cards has proven to be a cost effective method of obtaining supplies and service items for the District. The purpose of this procedure is to provide for the use of procurement cards for purchases in accordance with a cardholder's specified spending limits.

8.1 Cardholder Privileges:

The procurement card is issued to District employees only in order to facilitate the purchase of apparatus, supplies, materials, and services used in performing their department's function. The cardholder is responsible for all transactions and must account for them.

8.2 Card Limitations:

- A. The cardholder cannot charge more than his or her spending limit on a single transaction. Transactions are not to be split in order to avoid the single transaction limit. A lower limit may be assigned to the procurement card as directed by the cardholder's supervisor.
- B. A cardholder cannot make a purchase over his or her spending limit. For transactions over an individual's spending limit, the cardholder must contact the Purchasing Department for further assistance.
- C. Procurement cards may only be used to purchase apparatus, supplies, materials, equipment, and services for the operation and maintenance of the District Sewerage System. Limits have been placed on the card restricting certain types of purchases.

Ineligible items include, but are not limited to:

- bars and package stores
 - business entertainment vendors (movies, clubs, etc.)
 - cash advances and withdrawals from ATM's
 - selected government services
 - meals during travel for employee
- D. Under no circumstances is the cardholder permitted to use the card for personal use. If the cardholder does make a personal transaction on the card, he or she is required to repay the District for the total charge during the next billing cycle. Any card may be cancelled, at the discretion of the Finance Director.
 - E. A cardholder is not permitted to allow another person or employee to use the card.
 - F. Upon leaving District employment, the cardholder must turn his or her card in to his or her supervisor.

8.3 Cardholder Agreement:

When the Purchasing Coordinator receives a request for an employee to receive a procurement card, the employee must sign a District Cardholder's Agreement and fill out enrollment forms. This Agreement serves as a signed pledge by the employee to follow the District's procurement card policies and procedures and accept responsibility for any personal misuse of the card.

8.4 Declined Transactions:

If a cardholder believes a declined transaction should have been approved, he or she should contact the Purchasing Coordinator to determine if the transaction was declined because of merchant exclusion or for another reason. For example, a transaction may have been declined because the cardholder exceeded a daily or monthly limit on the total value of transactions.

8.5 Transaction Records:

- A. After completing a transaction, the cardholder shall retain the internet order receipt, invoice, cash register receipt and/or delivery document. Monthly, after completion of their electronic statement and supervisor approval, the cardholder will be required to submit his or her receipts along with his or her paper procurement card statement to the Purchasing Coordinator.
- B. If any item purchased with the card is returned, it is the responsibility of the cardholder to insure that the merchant credits the card account.

8.6 Disputed Transactions:

If a transaction is disputed, the cardholder shall contact the vendor and try to reconcile the matter. If the dispute cannot be reconciled with the vendor, the cardholder must contact the Purchasing Coordinator in order to file a dispute with the Card Issuer (currently Bank of America).

8.7 Lost or Stolen Cards:

- A. It is the responsibility of the cardholder to immediately report to the Card Issuer (currently Bank of America Customer Service 1-888-449-2273) when a card has been lost or stolen
- B. The cardholder must also notify the Purchasing Coordinator of a lost or stolen card by the next business day. The Purchasing Coordinator will follow up with Bank of America and obtain a new card for the cardholder.

IX. FORMAL BIDS – SUPPLIES AND MATERIALS ONLY (\$90,000 and Greater)

The Purchasing Division staff will perform the following as deemed necessary in accordance with District Policy and North Carolina General Statute 143-129 for

purchases of apparatus, supplies, materials or equipment with an estimated cost of \$90,000 or more.

9.1 Requisitions:

The requesting Department shall identify the goods or services to be procured. This shall be submitted to the Purchasing Coordinator by written or electronic requisition.

9.2 Specifications:

Detailed written specifications will be prepared by the requesting Department staff with the assistance of the Purchasing Coordinator or designee when needed.

9.3 Request for Bids:

A Request for Bids or Quotation will be issued and will contain at a minimum the following information:

- A. A brief description of the goods or services to be procured.
- B. The date and time of the bid opening.
- C. The date and time of the pre-bid conference, if applicable.
- D. The name of the Purchasing Coordinator or designee and, if applicable, the name of the technical and end user contacts.
- E. General Conditions applicable for a Formal Bid Proposal.
- F. Specific Requirements for the goods or services to be procured.

9.4 Advertisement of Bids:

North Carolina General Statute 143-129(b) requires that at least seven (7) full days must lapse between the date the advertisement appears and the date of the opening of formal bids. The District advertises bidding opportunities electronically using the District Website. By adoption of this policy, the District Board hereby approves advertisement of bids by electronic means only.

9.5 Pre-bid Conference:

A pre-bid conference is a meeting between the Purchasing Coordinator or designee, the requesting departmental staff and prospective vendors, during which the specifications will be reviewed and/or the site toured. The Purchasing Coordinator or designee will explain the scope and objectives and techniques of the procurement, emphasize critical elements of the bid documentation and encourage input from the vendors. A site visit allows the vendors to observe physical characteristics of the land or structures that are relevant to the procurement. A pre-bid conference and site visit are collectively referred to as a "Pre-Bid Conference."

A. When a pre-bid conference should be held:

Pre-bid conferences may be particularly advisable when the District seeks to procure goods or services that are highly technical or complex, or new to the operation of the District.

B. Notice of the pre-bid conference:

If a pre-bid conference is conducted, the Request for Bid Documents must provide the time, date, and location of the conference. The conference should be held as soon as possible after the Request for Bid is issued.

C. Attendance at the pre-bid conference:

Attendance of vendors at pre-bid conferences is encouraged but is not mandatory, unless otherwise specified in the bid package.

D. Verbal representations at the pre-bid conference:

The Purchasing Coordinator or designee, or requesting department representative shall make a written note of all inquiries and points of contention raised by the prospective bidders. Clarification may be provided at the pre-bid conference so long as the specifications or conditions are not altered. Verbal representations made at the pre-bid conference by the Purchasing Coordinator, designee or the requesting department shall not be binding upon the District. All material clarifications of any provision of the invitation for bids, or the amendment of a specification or condition of the Request for Bid, shall be made only in writing as an addendum.

E. Minimum requirements.

The Purchasing Coordinator may add any additional requirements to a pre-bid conference as is deemed appropriate by the Purchasing Coordinator and/or requesting departmental staff.

9.6 Submitting Bids:

Proposals for Formal Bids shall comply with the following:

A. Delivery Options:

All formal bids must be sealed and must be delivered to the District via U.S. Mail, courier, or hand delivery. All bidders shall use the bid forms included in the Request for Bid when submitting their bid packages, unless otherwise directed in bid specifications.

B. Verbal, telephone, or faxed bids not acceptable:

The Purchasing Coordinator or designated staff shall not accept verbal bids or bids received by telephone or fax, or any other type of un-sealed bid, for formal bids unless otherwise specified in the bid specifications.

C. Deviations: Bids containing conditions, omissions, erasures, alterations, or items not called for in the bid may be rejected by the District as being incomplete.

9.7 Receipt and Acceptance of Bids:

The Purchasing Coordinator shall receive and accept a bid only if provided as follows:

A. Bids must be received on time by the Purchasing Coordinator:

If bid specifications indicate bids are to be delivered by a certain date and time, bids must be delivered to the Purchasing Department no later than the date and time set forth in the bid specifications. The Purchasing Coordinator's clock shall be the sole clock used to determine whether a bid is timely received.

B. Bids must be kept in a secure location until opened:

All bids received will be kept in a secure location in the Purchasing Coordinator's office until the time and date set for the opening of bids.

C. Inadvertent opening of bid:

If a bid envelope does not contain the proper identification, and it is inadvertently opened in advance of the prescribed bid opening, the Purchasing Coordinator will write an explanation of the inadvertent opening on the envelope, with the bid number, time and date of opening. The envelope shall be resealed and deposited with the other bids.

D. Late Bids:

Late bids shall not be considered under any circumstances, and shall be returned unopened with a letter of explanation to the sender.

9.8 Opening of Bids:

The Purchasing Coordinator or designee shall open formal bids according to the following procedure:

A. Bids opened and read aloud:

All bids timely received in the Purchasing Department shall be opened and publicly read aloud at the time and date established for such opening in the Bid Specifications.

B. Information Recorded:

The Purchasing Coordinator or designee shall record the following information for each bid received and opened:

- i. Name of vendor.
- ii. Bid prices and delivery.
- iii. Acknowledgment of addenda, if applicable.
- iv. Bid Bond received, if applicable.
- v. Any exceptions taken by the vendor.
- vi. Any other information the Purchasing Coordinator or designee deems pertinent.

9.9 Evaluation of Bids

The bids shall be examined by the Purchasing Coordinator or designee for compliance with the requirements set forth in the Bid Specifications. Any bid containing exceptions to the specifications will be reviewed by the Purchasing Coordinator and the requesting department before being deemed non-responsive.

Contracts shall be awarded by the District Board to the lowest responsive, responsible bidder, taking into consideration quality, performance, and the time specified in the bid documents for the performance of the contract. The District reserves the right to reject any and all bids, including, without limitation, the right to reject any or all non-conforming, non-responsive, unbalanced or conditional bids, and to reject the bid of any bidder if the District believes that it would not be in the best interest of the District to make an award to that bidder. The District also reserves the right to waive informalities in the bidding.

X. INFORMAL BIDS – SUPPLIES AND MATERIALS ONLY (\$30,000 - \$89,999)

The Purchasing Department staff will perform the following as deemed necessary in accordance with local policy and North Carolina State General Statute 143-131 for the purchases of supplies and materials with an estimated cost between \$30,000 and \$89,999. The District Board hereby delegates to the General Manager the authority to enter into contracts for the purchase of apparatus, supplies, materials, and equipment where the estimated cost is between \$0 and \$89,999.

10.1 Requisitions:

The requesting department shall identify the goods or services to be procured. This information shall be submitted to the Purchasing Coordinator by written or electronic requisition.

10.2 Specifications:

Detailed written specifications will be prepared by the Requesting Department staff, with the assistance of the Purchasing Coordinator or designee when needed.

10.3 Request for Bids:

An informal Request for Bids or Quotation will be issued and will contain at a minimum the following information:

- A. A brief description of the goods or services to be procured.
- B. The date and time the bid is due.
- C. The date and time of the pre-bid conference, if applicable.
- D. The name of the Purchasing Coordinator or designee and, if applicable, the name of the technical/end user contact.

- E. General Conditions applicable to Informal Bid Proposals.
- F. Specific Requirements for the goods or services to be procured.

10.4 Advertisements:

No advertisement is required and no specified number of bids must be received for an informal bid. The Purchasing Department must maintain a written record of the bids received. The written record shall not be available for public inspection until after a contract is awarded.

10.5 Pre-bid Conference:

Although infrequent, a pre-bid conference may be held for an informal bid. The pre-bid conference is a meeting between the Purchasing Coordinator or designee, the requesting departmental staff and prospective vendors, during which the specifications will be reviewed and/or the site toured. The Purchasing Coordinator or designee will explain the scope and objectives and techniques of the procurement, emphasize critical elements of the bid documentation and encourage input from the vendors. A site visit allows the vendors to observe physical characteristics of the land or structures that are relevant to the procurement. A pre-bid conference and site visit are collectively referred to as a "Pre-Bid Conference."

A. When a pre-bid conference should be held:

Pre-bid conferences may be particularly advisable when the District seeks to procure goods or services that are highly technical or complex, or new to the operation of the District.

B. Notice of the pre-bid conference:

If a pre-bid conference is conducted, the Request for Bid must provide the time, date, and location of the conference. The conference should be held as soon as possible after the Request for Bid is issued.

C. Attendance at the pre-bid conference:

Attendance of vendors at pre-bid conferences is encouraged but is not mandatory, unless otherwise specified in the bid package.

D. Verbal representations at the pre-bid conference:

The Purchasing Coordinator or designee, or requesting department representative shall make a written note of all inquiries and points of contention raised by the prospective bidders. Clarification may be provided at the pre-bid conference so long as the specifications or conditions are not altered. Verbal representations made at the pre-bid conference by the Purchasing Coordinator, designee or the requesting department shall not be binding upon the District. All material clarifications of any provision of the invitation for bids, or the amendment of a specification or condition of the Request for Bid, shall be made only in writing as an addendum.

E. Minimum requirements.

The Purchasing Coordinator may add any additional requirements to a pre-bid conference as is deemed appropriate by the Purchasing Coordinator and/or requesting departmental staff.

10.6 Submitting Bids

Proposals for Informal Bids shall comply with the following:

A. Delivery Options:

Informal bids may be delivered via mail or other delivery services, including personal delivery; and via fax or verbally; unless otherwise specified in the bid package. Verbal quotations should be confirmed in writing. All bidders shall use the bid forms included in the Request for Bid when submitting their bid packages in writing, unless otherwise directed in bid specifications.

B. Deviations:

Bids containing conditions, omissions, erasures, alterations, or items not called for in the bid may be rejected by the District as being incomplete.

Informal bids must be received by the date and time specified in the bid documents. All other documents required as part of the bid shall be enclosed with the bid. Late bids will not be considered.

10.7 Evaluation of Bids

The bids shall be examined by the Purchasing Coordinator or designee for compliance with the requirements set forth in the Bid Specifications. Any bid containing exceptions to the specifications will be reviewed by the Purchasing Coordinator and the requesting department before being deemed non-responsive.

Contracts shall be awarded to the lowest responsive, responsible bidder, taking into consideration quality, performance, and time of delivery, in accordance with N.C. General Statute 143-131. The District reserves the right to reject any and all bids, including, without limitation, the right to reject any or all non-conforming, non-responsive, unbalanced or conditional bids, and to reject the bid of any bidder if the District believes that it would not be in the best interest of the District to make an award to that bidder. The District also reserves the right to waive informalities in the bids.

XI. CONSTRUCTION AND REPAIR

N.C. General Statute 143-129 requires the District to obtain formal bids for construction or repair projects with an estimated expenditure of \$500,000 or more. An advertisement must run one time at least seven (7) days before the bid opening. The advertisement must list the date and time of the bid opening, the location where specifications may be obtained, and include a statement that the District Board reserves the right to reject any and all bids. The District publicizes bidding opportunities electronically using the District

website. By adoption of this policy, the District Board hereby approves advertisement of bids by electronic means.

Three responsive bids are required before bids can be opened. If three bids are not received, the bids will not be opened and the project will be re-advertised for a period of at least seven (7) days before the next bid opening. After re-advertisement, the contract may be awarded, per the requirements of NC GS 143-132, even if three bids are not received.

NC GS 143-131 requires the District to obtain informal bids for construction or repair projects of \$30,000.00 to \$499,999.99. The requirements regarding advertising and number of bids for informal construction and repair projects are the same as those applicable to informal bids for purchases of products or services, unless otherwise specified by the bid documents or the requesting department. The District reserves the right to advertise for informal bids electronically using the District website. By adoption of this policy, the District Board hereby approves advertisement of bids by electronic means. The District Board hereby delegates to the General Manager the authority to award bids and enter into contracts for construction and repair projects with an estimated expenditure between \$0 and \$499,999.

The contract shall be awarded to the lowest responsive, responsible bidder, taking into consideration quality, performance, and time of delivery. The District reserves the right to reject any and all bids, including, without limitation, the right to reject any or all non-conforming, non-responsive, unbalanced or conditional bids, and to reject the bid of any bidder if the District believes that it would not be in the best interest of the District to make an award to that bidder. The District also reserves the right to waive informalities in the bidding.

XII. ISO 14001 REQUIREMENTS

All vendors who perform work on District property or as a contractor of the District are required to read the Metropolitan Sewerage District Environmental Management System Brochure and acknowledge their understanding and acceptance of this information by signing the Environmental Health and Safety Training Form. This information will be made available with every bid package as applicable, whether a formal or informal bid. The training form, appropriately signed, must be returned with all bid packages, and kept on file by Purchasing staff.

XIII. MINORITY BUSINESS PARTICIPATION GUIDELINES

Overview

The District has adopted a target of 12% for minority participation in purchases of apparatus, supplies, materials, equipment, construction, repair, and services. The District will exercise its best efforts to reach this target by providing information about District purchases and projects to minority vendors and contractors through the District Website and the State of North Carolina Office of Historically Underutilized Businesses. It is further the policy of the District to prohibit discrimination against any business in

pursuit of these opportunities on the basis of race, color, national origin, religion, sex, age, handicap, or veteran's status. Nothing contained in this statement or these goals/guidelines shall be construed to require the District to award contracts to or to make purchases of materials or services from minority-businesses who do not submit the lowest responsible, responsive bid or bids. Minority vendors should be registered with the State of North Carolina through the *Office of Historically Underutilized Businesses and VendorLink* (www.doa.state.nc.us/hub).

XIV. SPECIFICATIONS

When goods or services are procured under the formal or informal bidding process, specifications must be prepared. These specifications should be prepared by the requesting department, with assistance from the Purchasing Coordinator or Purchasing Agent. All specifications should do at least four things:

- A. Clearly identify minimum requirements.
- B. Encourage competitive bids.
- C. Be capable of objective review.
- D. Provide for an equitable award at the lowest possible cost.

Specifications should be clear, straightforward, and as precise as possible in order to avoid any misunderstandings of what product or service is required by the District. Specifications may include products on a vendor list or samples provided, blueprint/drawings, chemical or physical properties, identification by industry standard, or specifications based on performance, purpose, or use.

If at all possible, the use of brand names in specifications should be avoided, unless a brand product can be obtained from more than one vendor. In the event that a brand name must be used, the brand name and the terminology "or equivalent" should be used in the specification, or the Exceptions from Requirements of the Public Bid Laws (Section 7.4) will be followed.

XV. DELIVERY AND PERFORMANCE

The terms and conditions of purchase orders issued by the District must clearly define the delivery and performance requirements of the services, supplies, or equipment expected of the vendor.

15.1 Delivery Schedule:

The importance of on-time delivery will be emphasized to the vendor. If applicable, special delivery requirements will be clearly written into the District purchase order so as to be fully understood by all vendors. If several items are ordered on one purchase order, there may be a different delivery schedule for each item. If so, this schedule will be noted in the purchase order comments.

15.2 Non-performance:

If a vendor fails to meet any requirements of the specifications or terms and conditions of the contract or purchase order, the vendor can be cited for non-conformance to the contract or purchase order. Correction of the non-conformance or financial penalty may be requested of the vendor, dependent on the non-conformance.

XVI. INSPECTION AND TESTING

Life and safety as well as successful operation of expensive equipment and supplies may depend upon how well a purchased item meets the design and performance specifications.

Goods and materials should be checked at the time of receipt for damage or defects, and for compliance with all specifications. If damage is found or the goods fail to comply with the specifications, the item(s) shall be rejected as outlined below.

16.1 Rejection:

In order to protect the District's rights in the event of rejection, for whatever reason, the Purchasing Coordinator or Purchasing Agent must be informed immediately. Purchasing will notify the vendor of the reason(s) for the rejection, and the apparatus, supplies, materials, or equipment will be returned to the vendor.

XVII. VENDOR RELATIONS

Good vendor relations are valuable business assets established through mutual confidence and satisfactory business relationships between buyer and seller. An important contribution toward promoting and preserving these relations is a clear understanding of the need for good communications between buyer and seller.

Should a department experience difficulties or have a complaint with a particular vendor, concerns or issues should be documented in a memo or email to the Purchasing Coordinator. Be as specific as possible, detailing the circumstances, dates, personnel involved (including titles) and phone numbers. This information will be helpful in resolving the current issue, preventing continuing problems, and in determining if the vendor will be considered for future bid awards.

XVIII. BEST PRACTICES

In carrying out this policy, the District is committed to the following:

- Conducting all purchasing activities in accordance with the applicable North Carolina General Statutes, and District policies and procedures;

- Developing and maintain good public, supplier and internal relationships;
- Ensuring fair and open competition by ethical means;
- Extending honest, courteous and impartial treatment to all interested suppliers;
- Maintaining supplier confidence to the extent permissible;
- Respecting the authority of the department and not use it for personal advantage or gain.

18.1 Gifts and Favors from Vendors:

North Carolina General Statute 133-32 prohibits any vendor who has a current contract with a governmental agency, has performed under such a contract within the past year, or anticipates bidding on such a contract in the future to give gifts or favors to any employee of a governmental agency who is charged with preparing plans, specifications, or estimates for public contracts, awarding or administering such contracts, or inspecting or supervising construction. It is also unlawful for a governmental employee to willfully receive or accept such gifts or favors.

XIX. DISPOSAL OF SURPLUS PROPERTY

The District may from time to time sell, exchange or otherwise dispose of any equipment, motor vehicles, machinery, fixtures, apparatus, tools, instruments or other movable property if it determines that such articles are no longer needed or are no longer useful in connection with the Sewerage System. The District has adopted the following procedures for disposal of personal property.

19.1 Disposal Procedure:

A. Declaration of Surplus Property:

Any employee of the District who determines that any personal property is no longer needed or no longer useful in connection with the District's operations may recommend to his or her immediate supervisor that such item be declared surplus by providing sufficient documentation to make a proper determination of the item's usefulness. If the item's original cost was less than \$1000, and in the supervisor's opinion the item has no value or it would cost more to sell the item than it would be worth, the supervisor may permanently dispose of the item (not to be given to any employee).

The supervisor, if in agreement, is to forward this complete recommendation to their Division Director, along with a full description of the item and additional information about any known defects, if applicable. Digital pictures should also be provided.

Once the Division Director agrees with this determination, the Division Director shall present the item at a meeting of the Equipment Review Committee (ERC). If the item cannot be used by another department and the ERC agrees that the

item is no longer needed or useful in connection with the District's operations, the ERC may recommend the item be declared surplus.

B. Setting Fair Value:

The Purchasing Coordinator may set the sale price for items with resale value estimated to be under \$1000; usually non-rolling stock such as office furniture, computer equipment and small tools.

Items with an estimated resale value over \$1000 – usually vehicles and other rolling stock – shall be valued by appropriate staff, with the assistance of industry-recognized sources such as Blue Book or NADA.

The ERC shall approve the minimum price for items with an estimated resale value of over \$1000 before being placed in auction.

The District Board shall be notified of all surplus property with an estimated fair value over \$90,000 prior to start of disposition procedures.

C. Methods of Disposal:

Upon declaring as surplus personal property owned by the District, the Purchasing Coordinator may initiate proceedings for the sale or exchange of property in the best interest of the District, preferably by auction or competitive bid, and may convey title to the property for the District. The Purchasing Coordinator is not required to publish notice of the sale or exchange, and may make use of electronic methods.

The Purchasing Coordinator shall keep a record of all property sold, exchanged or discarded under this section; and that record shall generally describe the property sold or exchanged, to whom it was sold or exchanged, and the amount of money or other consideration received for each sale or exchange.

The Purchasing Coordinator shall not sell surplus District property to, or exchange for a comparable item with, certain District employees or District Board members due to potential conflict of interest. North Carolina General Statute 14-234 makes it a misdemeanor for a person who is responsible for contracting on behalf of a local government to benefit from a contract with his or her own unit of government. Paragraph X of the District Board's Ethics, Conduct and Attendance Policy prohibits the purchase of surplus property from the District by any Board member, spouse, or immediate family member. For the District, this prohibition will include the employee and supervisor that recommended the surplus, any employee that was directly involved in working with, servicing or repairing the item, the District General Manager, all Division Directors, ERC members, or the Purchasing Coordinator. Spouses of the aforementioned employees are also prohibited from bidding on items.

The Purchasing Coordinator may discard any personal property that: 1) is determined to have no value; or 2) remains unsold or unclaimed after the District has exhausted efforts to sell the property using any applicable procedure under this Article.

D. Real Property:

Real property can be sold, exchanged, or otherwise disposed of only in accordance with Section 7.12 of the District's Amended and Restated Bond Order.

E. Trade-In with Purchase:

The District may dispose of property by including in the specifications for the purchase of apparatus, supplies, materials, or equipment an opportunity for a bidder to purchase as a "trade-in" other specified personal property, per NC GS 143-129.7.

19.2 Auction Procedure:

By adoption of the policy, the District Board authorizes the Director of Finance to establish an electronic auction procedure and authorizes the use of existing private or public electronic auction services.

The District will choose an internet auction site that is reputable, used by other government entities, and that provides the District the best value for time and dollar spent. The auction site will provide a contract to the District outlining the auction site's policies, procedures and terms, as well as the rights and responsibilities of both the auction site and the District. The District Board, by adoption of this policy, hereby authorizes the General Manager to negotiate and enter into such a contract on behalf of the District.

19.3 Payment Policy for Sold Surplus:

Payment in full to the District is due no later than five (5) business days from the time and date of the winning bidder's notification. Acceptable forms of payment are Cash, Certified Check, Money Order, or Company Check with mandatory Bank letter guaranteeing payment.

All items must be removed from the District's property within ten (10) business days from the time and date of the winning bidder's notification. The winning bidder is totally responsible for the removal of the property. Under no circumstances will the District assume responsibility for packing, loading or shipping of surplus material.

This page intentionally left blank.

Metropolitan Sewerage District of Buncombe County BOARD INFORMATIONAL ITEM

Meeting Date: February 18, 2009

Submitted By: Thomas E. Hartye, PE., General Manager

Prepared By: W. Scott Powell, Director of Finance

Subject: Second Quarter Budget to Actual Review

Background

Attached for the Board's information is a budget to actual comparison of the revenues and expenditures for the second quarter of the fiscal year ending June 30, 2009. This information is based on cash revenues and invoices received prior to January 1, 2009 and may not include some accruals of revenue and expenditures as explained below.

Discussion

The attached sheet summarizes revenues and expenditures per the budget summary, comparing actual plus encumbered expenditures to budgeted amounts. The notes are added to anticipate any questions or comments concerning amounts reported. Additional notes to aid in the analysis the District's financial performance for the fiscal year are as follows:

- Industrial User Fees are slightly below 50%. This is a direct result of Spring Global cutting production.
- Facility and Tap Fees, also conservatively budgeted, can be significantly higher than budget. The unusually large variance is due to receiving unanticipated checks for \$854,400 from two new developments early this fiscal year.
- Interest and miscellaneous income reflect higher than expected earnings on investments.
- Rental income is down, as the facility vacated by the Buncombe County Solid Waste Department has not yet been leased to another tenant.
- Actual O&M expenditures are slightly over 50% as they also include encumbered amounts, which will be spent throughout the remainder of the fiscal year.
- Bond principal and interest actually spent/reserved are below 50% of budgeted amounts due to the entire amount of principal payments being made on July 1 2009.
- Amounts budgeted for capital equipment and projects are rarely expended proportionately throughout the year and are expected to be fully spent prior to the end of the year.

Staff Recommendation

None – Informational only

<u>Action Taken</u>			
Motion by:	to	Approve	Disapprove
Second by:		Table	Send to Committee
Other:			
Follow-up required:			
Person responsible:			Deadline:

Metropolitan Sewerage District
Budget to Actual Revenue and Expenditure Report
For the fiscal year ended December 31, 2008
UNAUDITED--NON-GAAP

	Budget	Actual to Date	% Budget to Actual
REVENUES			
Domestic User Fees ¹	\$ 23,408,339	\$ 11,915,896	50.90%
Industrial User Fees	1,438,311	702,062	48.81%
Facility Fees ²	1,330,000	1,581,810	118.93%
Tap Fees ³	147,000	165,230	112.40%
Billing and Collection	590,181	300,470	50.91%
Interest and Misc. Income	855,607	687,415	80.34%
Employee Contribution to Health Ins.	333,370	150,552	45.16%
City of Asheville (Enka Bonds) ⁴	37,000	-	0.00%
Rental Income	58,750	8,280	14.09%
Use of Available Funds ⁵	12,823,337	-	0.00%
	\$ 41,021,895	\$ 15,511,714	
Total Revenues ⁶	\$ 41,021,895	\$ 15,511,714	55.01%
EXPENDITURES			
Operations and Maintenance ⁷	\$ 13,520,130	\$ 7,015,413	51.89%
Bond Principal and Interest ⁸	8,160,540	2,714,000	33.26%
Capital Equipment (Other than O&M)	537,500	276,019	51.35%
Capital Projects	17,803,725	6,884,814	36.61%
Contingency	1,000,000	-	
	\$ 41,021,895	\$ 16,890,245	
Total Expenditures	\$ 41,021,895	\$ 16,890,245	41.17%

Notes:

¹ Revenues are on the cash basis

² Received \$608,000 from Continential Properties and \$246,400 from Berrington Village Apts.

³ Increase in number of taps requiring bore fees

⁴ Payment to be received in May

⁵ Prior year bond and pay-as-go funds to be used for CIP

⁶ Budget-to-Actual Ratio does not include use of available funds

⁷ Includes encumbered amounts as well as actual insurance expenditures

⁸ Below 50% because 100% of principal payments due on July 1, 2009 for the entire FY09

Metropolitan Sewerage District of Buncombe County

BOARD INFORMATIONAL ITEM

Meeting Date: February 18, 2009
Submitted By: Thomas E. Hartye, PE., General Manager
Prepared By: W. Scott Powell, Director of Finance
Subject: Cash Commitment/Investment Report-Month Ended December 31, 2008

Background

Each month staff presents to the Board an investment report for all monies in bank accounts and specific investment instruments. The total investments as of December 31, 2008 were \$38,449,057. The detailed listing of accounts is available upon request. The average rate of return for all investments is 3.417%. These investments comply with North Carolina General Statutes, Board written investment policies and the District's Bond Order.

The attached investment report represents cash and cash equivalents as of December 31, 2008 does not reflect contractual commitments or encumbrances against said funds. Shown below are the total investments as of December 31, 2008 reduced by contractual commitments, bond funds, and District reserve funds. The balance available for future capital outlay is \$2,131,320.

Total Cash & Investments as of 12/31/08	38,449,057
Less:	
Budgeted Commitments (Required to pay remaining FY09 budgeted expenditures from unrestricted cash)	
Construction Funds	(13,520,399)
Operations & Maintenance Fund	(7,547,905)
	(21,068,304)
Bond Restricted Funds	
Bond Service (Funds held by trustee):	
Funds in Principal & Interest Accounts	(1,884,851)
Debt Service Reserve	(4,962,726)
Remaining Principal & Interest Due	(5,031,699)
	(11,879,276)
District Reserve Funds	
Fleet Replacement	(1,114,417)
WWTP Replacement	(793,475)
Maintenance Reserve	(801,425)
	(2,709,317)
Self-Funded Employee Medical	(660,840)
Designated for Capital Outlay	2,131,320

Staff Recommendation

None. Information Only.

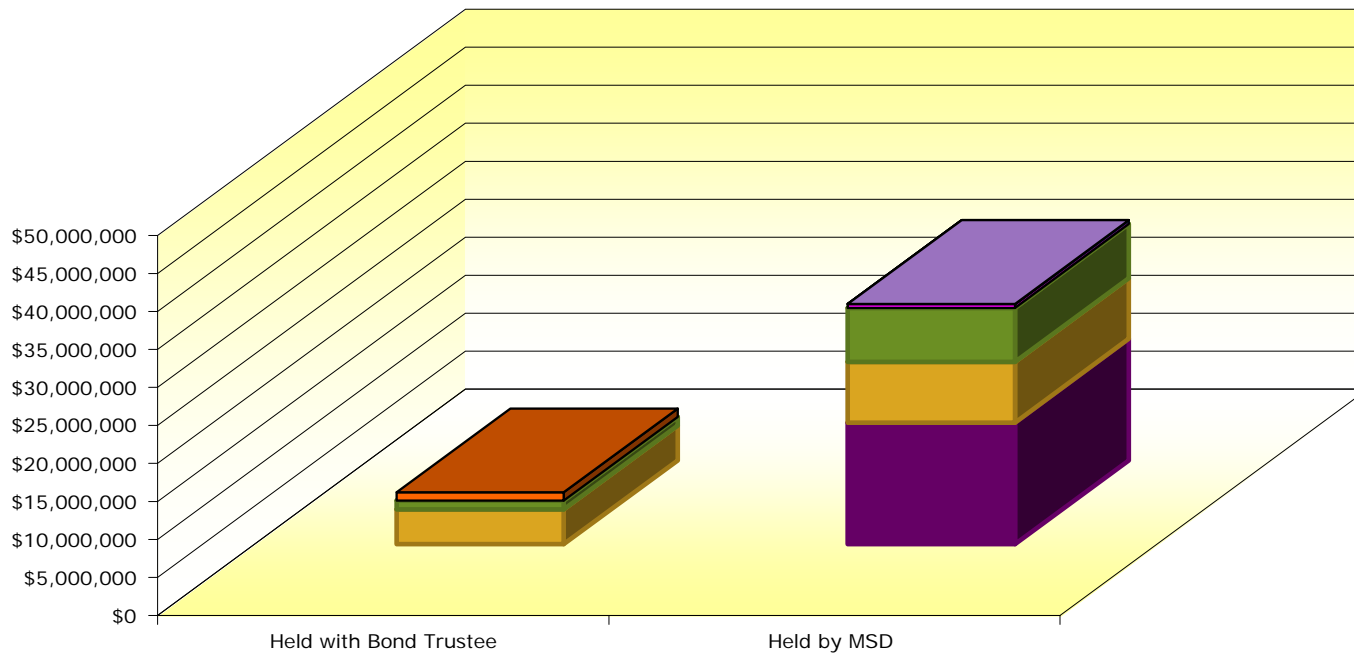
Action Taken

Motion by:	to	Approve Table	Disapprove Send to Committee
Second by:			
Other:			
Follow-up required:			
Person responsible:			Deadline:

Metropolitan Sewerage District of Buncombe County Investment Portfolio

	Cash in Interest Bearing Accounts	NCCMT (Money Market)	Certificate of Deposit	Commercial Paper	Municipal Bonds	Cash Reserve	Gov't Agencies & Treasuries	Total
Held with Bond Trustee	\$ -	\$ 4,588,780	\$ -	\$ -	\$ -	\$ 1,119,021	\$ 1,139,776	\$ 6,847,577
Held by MSD	500,648	7,988,922	16,000,000	0	-	-	7,111,910	31,601,480
	\$ 500,648	\$ 12,577,702	\$ 16,000,000	\$ 0	\$ -	\$ 1,119,021	\$ 8,251,687	\$ 38,449,057

**MSD of Buncombe County
Investment Portfolio by Location
As of December 31, 2008**



Certificate of Deposit
 NCCMT (Money Market)
 Gov't Agencies & Treasuries
 Cash in Interest Bearing Accounts
 Cash Reserve
 Municipal Bonds
 Commercial Paper

MSD Investment Managers' Report at December 31, 2008

Summary of Asset Transactions

	Original Cost	Market
Beginning Balance	\$ 29,831,184	\$ 29,920,294
Capital Contributed (Withdrawn)	(247,245)	(247,245)
Realized Income	14,685	14,685
Unrealized/Accrued Income	-	32,670
Ending Balance	<u>\$ 29,598,624</u>	<u>\$ 29,720,404</u>

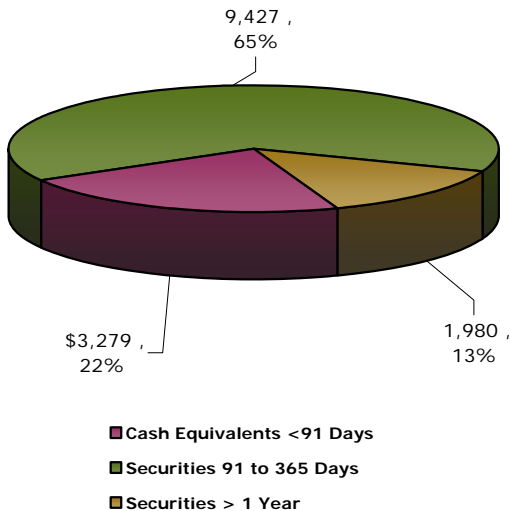
Value and Income by Maturity

	Original Cost	Income
Cash Equivalents <91 Days	\$ 6,608,494	\$ 3,279
Securities 91 to 365 Days	19,000,750	9,427
Securities > 1 Year	3,989,380	1,980
	<u>\$ 29,598,624</u>	<u>\$ 14,686</u>

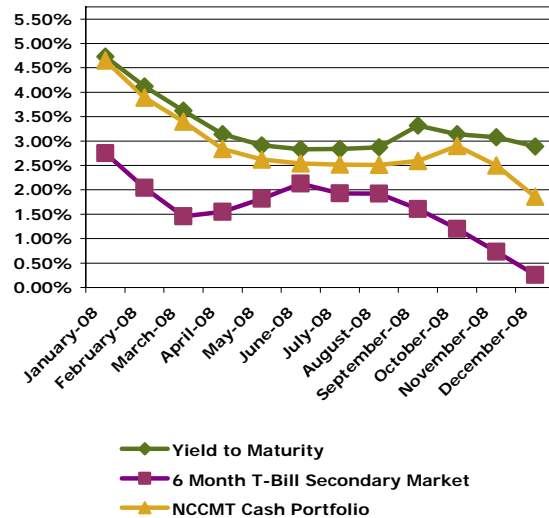
Month End Portfolio Information

Weighted Average Maturity	207 Days
Yield to Maturity	2.89%
6 Month T-Bill Secondary Market	0.26%
NCCMT Cash Portfolio	1.86%

Metropolitan Sewerage District of Buncombe Co.
Investment Portfolio Income by Maturity
December 31, 2008

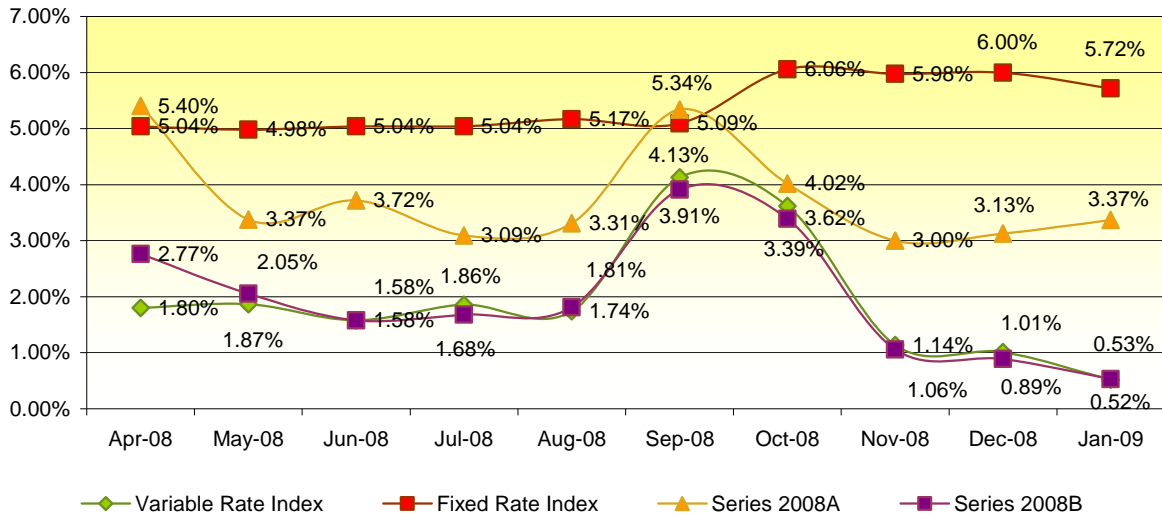


Metropolitan Sewerage District of Buncombe Co.
Yield Comparison
December 31, 2008

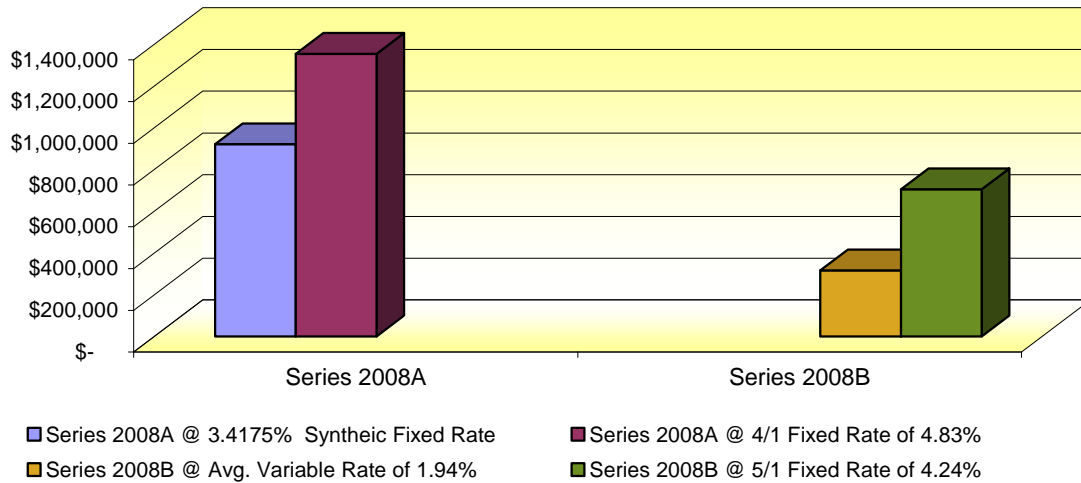


MSD Variable Debt Service Report As of January 31, 2009

Variable & Fixed Rate Market History



Series 2008 A&B Interest Rate Performance



Series 2008A:

Savings to date on the Series 2008A Synthetic Fixed Rate Bonds is \$432,662 as compared to 4/1 fixed rate of 4.83%.

Assuming that the rate on the Series 2008A Bonds continue at the current all-in rate of 3.7175%. MSD will achieve cash savings of \$5,923,374 over the life of the bonds.

MSD would pay \$6,300,000 to terminate the existing Bank of America Swap Agreement.

Series 2008B:

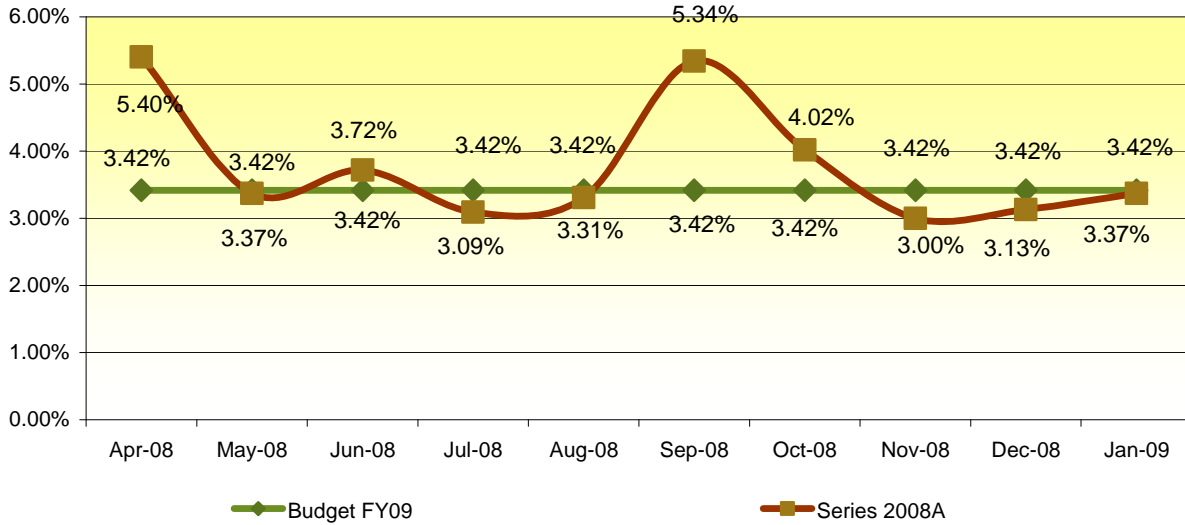
Saving to date on the 2008B Variable Rate Bonds is \$389,010 as compared to 5/1 fixed rate of 4.24%

Since May 1, 2008, the Series 2008B Bonds average variable rate has been 1.94% .

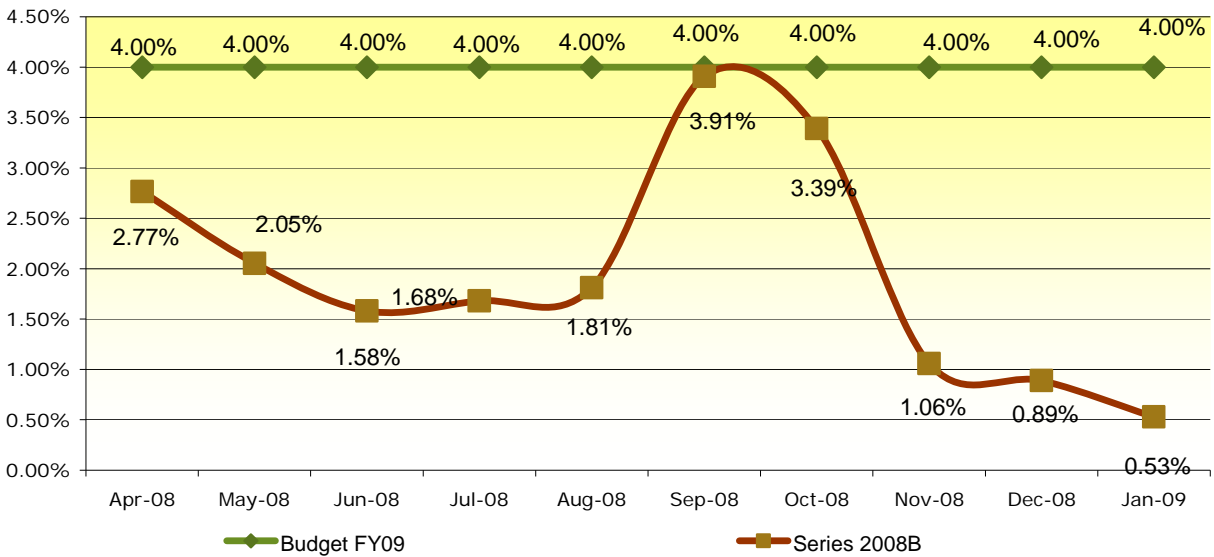
MSD will achieve \$5,879,878 in cash savings over the life of the bonds at the current average variable rate.

MSD Variable Debt Performance History Budget v. Actual

Series 2008A Performance History



2008B Performance History



STATUS REPORTS

CAPITAL IMPROVEMENT PROGRAM

STATUS REPORT SUMMARY

Current as of February 10, 2009

PROJECT	AWARD DATE	NOTICE TO PROCEED	*COMPLETION DATE	*CONTRACT AMOUNT	*COMPLETION STATUS (WORK)	COMMENTS
HAYWOOD STREET @ INDIGO HOTEL	12/17/2008	1/19/2009	4/18/2009	\$64,686.00	0%	No work has begun yet.
MERRIMON AVENUE @ OTTARI ROAD	1/21/2009	2/9/2009	6/8/2009	\$283,910.00	0%	Contractor has mobilized to the site.
MONROE PLACE	12/17/2008	1/19/2009	4/18/2009	\$179,095.00	20%	Open dig pipe replacement is complete, awaiting pipe bursting contractor to begin. Service construction in progress.
REEMS CREEK INTERCEPTOR	9/17/2008	10/9/2008	6/30/2010	\$3,549,320.00	40%	One construction crew is working in the Pinebrook Development and another crew is working at the Town of Weaverville property.
ROGERS PLACE	12/17/2008	1/19/2009	4/18/2009	\$118,653.00	0%	No work has begun yet.
WRF - VENTURI REHAB AT INCINERATOR	1/21/2009	2/10/2009	10/7/2009	\$263,000.00	0%	Notice to Proceed is February 10, 2009.

*Updated to reflect approved Change Orders and Time Extensions

Planning and Development Projects
Status Report January 12, 2009

Status	Project Name	Project Number	Work Location	Units	LF	Pre-Construction Conference Date	Comments
	Gene Bradley Subdivision	2004022	Fletcher	9	420	3/3/2005	Complete-Waiting on final documents
	Acton Woods Apartments	2002195	Enka	20	0	1/27/2003	Complete-Waiting on final documents
	Davidson Road Sewer Extension	2004154	Asheville	3	109	12/15/2004	Complete-Waiting on final documents
	Givens Estates	2001143	S. Asheville	116	267	7/16/2003	Complete-Waiting on final documents
	Falconwood Subdivision	2004122	Enka	23	502	12/6/2005	Complete-Waiting on final documents
	Reynolds Mountain Phase IV	1995126	Asheville	37	2,036	7/6/2005	Complete-Waiting on final documents
	Riverbend Urban Village	2004206	Asheville	260	1250	8/29/2006	Complete-Waiting on final documents
	N. Bear Creek Road Subdivision	2005137	Asheville	20	127	7/11/2006	Complete - Waiting on final documents
	Woodfin Manor	2003154	Woodfin	60	575	10/11/2006	Complete - Waiting on final documents
	Willowcreek Village Ph.3	2003110	Asheville	26	597	4/21/2006	Complete - Waiting on final documents
	Westmore Subdivision	2003003	West Asheville	92	1163	8/29/2006	Complete - Waiting on final documents
	Rock Hill Road Subdivision	2005153	Asheville	2	277	8/7/2006	Complete - Waiting on final documents
	Ken Higgins	199153	Asheville	-	240	6/15/2007	Complete - Waiting on final documents
	Waightstill Mountain Ph-2-A	2003158	Arden	50	5011	10/14/2005	Complete - Waiting on final documents
	Waightstill Mountain Ph.2	2003158	Arden	32	5,011	5/5/2006	Complete - Waiting on final documents
	Jim Beck	2003003	West Asheville	future	75	12/12/2000	Complete - Waiting on final documents
	Reems Creek Townhomes - PH IV	2007279	Weaverville	8	796	12/11/2007	Complete- Waiting on final documents
	Holiday Inn	2001068	Asheville	1	474	8/11/2003	Complete - Waiting on final documents
	Bitmore Park Town Square II-4	2007079	Arden	-	481	6/21/2007	Complete - Waiting on final documents
	Reynolds Village Phase V	2006250	Woodfin	Comm.	4,786	4/3/2008	Complete - Waiting on final documents
	Byrd Street Condos	2007085	Asheville	14	300	7/31/2007	Complete - Waiting on final documents
	MWB Sewer Extension	2008046	Asheville	Comm.	285	5/12/2008	Complete - Waiting on final documents
	The Cottages on Liberty Green	2007297	Asheville	7	124	5/30/2008	Complete - Waiting on final documents
	Haw Creek Tract	2006267	Asheville	49	1,817	10/16/2007	Complete - Waiting on final documents
	Oak Crest Place	2004056	West Asheville	27	791	12/3/2004	Ready for final inspection
	Buncombe County Animal Shelter	2007216	Asheville	Comm.	78	5/1/2008	Ready for final inspection
	Ridgefield Business Park	2004188	Asheville	18	758	2/16/2005	Complete-Waiting on final documents
			Subtotal	874	28,350		

Planning and Development Projects
Status Report January 12, 2009

Status	Project Name	Project Number	Work Location	Units	LF	Pre-Construction Conference Date	Comments
Under Construction	Bell Road	2007159	Black Mtn	5	285	11/28/2007	Punchlist pending
	Crayton Creek Green	2006282	Asheville	10	482	3/15/2007	Ready for final inspection
	Haywood Village	2007172	Asheville	55	749	7/15/2008	testing
	Grove Park Cove Subdivision	2004101	Asheville	14	1122	6/28/2006	Pre-con held ready for construction
	The Settings (6 Acre Outparcel)	2004192	Black Mountain	21	623	3/15/2006	Ready for final inspection
	Northridge Commons	2006198	Weaverville	-	5,826	6/15/2007	Ready for final inspection
	McGinnis Sewer Extension	2004225	Asheville	9	48	5/19/2005	In redesign.
	Falcon Ridge	2004240	Asheville	38	3,279	10/11/2006	Ready for final inspection
	Waightstill Mountain PH-8	2006277	Arden	66	3,387	7/26/2007	testing
	Artisan Park	1998125	West Asheville	133	4,529	4/26/2001	Changed Engineer - work to restart soon
	Brookside Road Relocation	2008189	Black Mtn	n/A	346	1/14/2009	Pre-con held, ready for construction
	Scenic View	2006194	Asheville	48	534	11/15/2006	Ready for final inspection
	Ingles	2007214	Black Mtn.	Comm.	594	3/4/2008	Ready for final inspection
	Bartram's Walk	2007065	Asheville	100	10,077	7/28/2008	testing
	New Bridge Commons	2008070	Woodfin	Comm.	192	8/26/2008	testing
	Creekside Village	2007138	Weaverville	295	1,265	8/21/2008	Ready for final inspection
	Morgan Property	2008007	Candler	10	1,721	8/11/2008	Pre-con held, ready for construction
	Village at Bradley Branch - Ph. III	2008076	Asheville	44	783	8/8/2008	Installing
	Versant Phase I	2007008	Woodfin	64	12,837	2/14/2007	Ready for final inspection
	Canoe Landing	2007137	Woodfin	4	303	5/12/2008	Ready for construction
	Central Valley	2006166	Black Mtn	12	472	8/8/2007	Punchlist pending
	Hominy Valley Center	2005010	Candler	5	433	8/9/2005	Punchlist pending
	Kenilworth Cottages	2008031	Asheville	11	177	5/12/2008	Ready for construction
	CVS-Acton Circle	2005163	Asheville	4	557	5/3/2006	Ready for final inspection
	Hamburg Mountain Phase 3	2004086	Weaverville	13	844	11/10/2005	Ready for final inspection
	UNCA New Science Building	2005039	Asheville	5	538	10/28/2005	Ready for final inspection
	Bostic Place Sewer Relocation	2005102	Asheville	3	88	8/25/2005	Ready for final inspection
	Kyfields	2003100	Weaverville	35	1,118	5/10/2004	Ready for final inspection
	Brotherton Co-Housing	1999162	West Asheville	32	152	1/24/2003	Ready for final inspection
	Teems Road Subdivision	2007143	Asheville	40	1,308	5/27/2008	Ready for construction
	Thom's Estate	2006309	Asheville	40	3,422	1/24/2008	testing
	Thom's Estate - Phase II	2008071	Asheville	40	3,701	6/10/2008	testing
	Rockwood Apartments	2008109	Asheville	256	4072	1/27/2009	Pre-con held, ready for construction
Skyland Apartments	2007117	Arden	63	96	4/23/2008	Ready for construction	
Leicester Village Townhomes	2007291	Weaverville	56	427	4/15/2008	testing	
Oak Crest Drive	2008138	Asheville	5	290	1/14/2009	Pre-con held, ready for construction	
Gorilla Express Carwash	2008086	Asheville	Comm.	178	12/4/2008	Installing	
Forest Manor Complex	2088050	Asheville	Comm.	96	12/4/2008	Pre-con held, ready for construction	
Subtotal				2526	105,195		
Total Units:				3,400			
Total LF:					133,545		

Right of Way Section 2nd Quarter Summary Open Projects

<i>Project</i>	<i>Total ROW Budget</i>	<i>Total Expends to Date</i>	<i>Comment</i>
Charland Forest GSR	\$34,906	\$11,907	Access 64% complete with 34% of Total Budget expended to date.
Crockett Road PRP	\$17,109	\$26,878	Access 67% complete with 157% of Total Budget expended to date. One condemnation anticipated. Appraisal reflects higher market values than tax values. Additionally, existing trench could not be used due to structures, thereby encumbering new area.
Delano Road 4" Main	\$12,944	\$2,943	Project 100% complete with 23% of Total Budget expended and no condemnations.
Dingle Creek Interceptor (formerly Ph II)	\$64,657	\$48,004	Access 90% complete with 74% of Total Budget expended to date. One condemnation anticipated.
Evergreen Avenue Four Inch Main	\$10,971	\$838	Access 100% complete with 8% of Total Budget expended to date. One condemnation filed with judgment pending.
Forest Hill Drive #2 PRP	\$85,404	\$3,929	Access 28% complete with 5% of Total Budget expended to date.
Heywood Rd Interceptor Ph 2	\$26,419	\$21,420	Access 34% complete with 81% of Total Budget expended to date. Appraisal reflects higher market values than tax values.
Inglewood Road	\$43,990	\$43,394	Access 100% complete with 99% of Total Budget expended to date. One condemnation filed with judgment pending.
Long Shoals Road PRP	\$340,584	\$213,591	Access 100% complete with 63% of Total Budget expended to date. Three condemnations filed with judgments pending.
Lower Smith Mill Creek Rehabilitation	\$295,324	\$265,443	Access 100% complete with 90% of Total Budget expended to date. Ten condemnations filed; two have been dismissed, three settled prior to trial and five are pending judgments.
Merchant Street PRP	\$13,081	\$2,788	Access 86% complete with 21 % of Total Budget expended to date.
Merrimon Ave @ Ottari Rd GSR	\$221,473	\$82,572	Access 75% complete with 37% Total Budget expended to date. One condemnation anticipated..
Merrimon Avenue @ Stratford Road GSR	\$55,854	\$44,030	Access 100% complete with 79% of Total Budget expended to date. One condemnation filed with judgment pending.
Monroe Place GSR	\$15,461	\$9,452	Project 100% complete with 61% of Total Budget expended and no condemnations filed.
Nasty Branch Interceptor	\$19,962	\$6,477	Access 75% complete with 32% of Total Budget expended to date.

<i>Project</i>	<i>Total ROW Budget</i>	<i>Total Expends to Date</i>	<i>Comment</i>
Oakland Avenue Rehabilitation Project	\$27,338		System Services project for in-house construction. Negotiations just begun.
Old Home @ Weaverville Highway PRP	\$100,394	\$99,277	Access 100% complete with 99% of Total Budget expended to date. Market values much greater than tax values in this corridor and appraised damages were high. One condemnation filed with judgment pending.
Reems Creek Interceptor	\$58,824	\$55,309	Project 100% complete with 94% of Total Budget expended. One condemnation filed and settled prior to trial.
Reems Creek Master Plan Extension	\$84,130	\$45,180	Access 73% complete with 54% of original Estimated Budget expended to date. Budget (\$84,900.00) was estimated based on a preliminary design. Final alignment was revised due to trout buffer restrictions and permitting requirements, deleting four of the original parcels, adding three new parcels and revising one easement already acquired.
Riverside Drive/Westover Drive	\$19,322	\$13,895	Access 100% complete with 72% of Total Budget expended to date. Two condemnations filed with judgments pending.
Weaverville Hwy. @ Hillcrest Road SS Replacement	\$31,751	\$25,371	Access 75% complete with 80% of Total Budget expended to date. One condemnation filed with judgment pending.