

**BOARD OF THE METROPOLITAN SEWERAGE DISTRICT  
OCTOBER 19, 2011**

**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, October 19, 2011. Chairman Aceto presided with the following members present: Bellamy, Bryson, Creighton, Haner, Kelly, Manheimer, Root, Russell, Stanley, VeHaun and Watts.

Others present were: Thomas E. Hartye, General Manager, William Clarke, General Counsel, Gary McGill with McGill Associates, Inc., Joseph Martin with Woodfin Sanitary Water & Sewer District, Jerry Sternberg, Developer, Ed Bradford, Stan Boyd, Scott Powell, Mike Stamey, Ken Stines, John Kiviniemi, Jim Hemphill, Angel Banks, Wesley Banner, Julie Willingham, Matthew Walter, Sondra Honeycutt, MSD.

**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 September 21, 2011 Meeting:**

Mr. Aceto asked if there were any changes to the Minutes of the September 21, 2011 Board Meeting. Mr. Clarke stated that the percentages reported in the Right of Way Committee Report, Page 4, Paragraph 2, Line 7, should read. "Mr. Clarke stated that only about 7.6% of cases are filed, and of those, about half contest initially and less than 3.8% actually go to mediation." With no further changes, Mr. Russell moved that the Minutes be adopted as changed. Ms. Bryson seconded the motion. Voice vote in favor of the motion was unanimous.

**4. Discussion and Adjustment of Agenda:**

None

**5. Informal Discussion and Public Comment:**

Mr. Aceto welcomed Mr. Martin.

**6. Report of General Manager:**

Mr. Hartye reported that annually, MSD sends out a System Performance Annual Report (SPAR) to customers of the wastewater treatment works and/or collection system along with a press release. He stated that a detailed report can be found on MSD's website.

Mr. Hartye reported that MSD currently has an agreement to provide treatment services for the Cane Creek Water and Sewer District (CCWSD). He stated that CCWSD has a small staff and contract out much of the operation and maintenance of its collection system, which consists of 60 miles of sewers and 7 pump stations. The current agreement with MSD provides for 1.35 MGD while the current flow is only at approximately 700,000 gallons per day. He further reported that in 2009, CCWSD completed a Master Plan that identified a potential future need of 3 MGD. In 2010, following the study, officials of CCWSD, he and Gary McGill met several times to consider two (2) different options: (1. Amending the existing agreement (or drafting a new agreement) to commit to provide future needed treatment service to CCWSD and (2. Bringing CCWSD into MSD, for which a due diligence was done to determine what this would entail. He stated that he and Gary McGill looked at pump stations, maps, CIP, financials, etc. and presented this information to the MSD Planning Committee as an

information item. At that time, CCWSD hired a consultant to evaluate siting a new treatment plant, versus the aforementioned options. They are currently pursuing a new consultant to provide a similar study.

Mr. Hartye presented several articles for reading. He reported that the October 26<sup>th</sup> Right of Way Committee Meeting has been cancelled. The next meeting will be held December 7<sup>th</sup>. The next regular Board Meeting will be held November 16<sup>th</sup> at 2 p.m.

Mr. Aceto welcomed Mr. Sternberg who joined the meeting.

Mr. Sternberg stated that he is a resident of Buncombe County and writes a column for Mountain Express called "The Gospel According to Jerry". He noted his most recent article having to do with MSD vs. Morance and MSD vs. Riverside Partnership LLC. He stated that the right of Eminent Domain is one of the most powerful and necessary rights conferred upon any municipal body or private utility, and the basic intent of that right is fairness to property owners. The problem with putting this right in the hands of utilities or municipalities is the opportunity for abuse of the property owner; not necessarily intentional. Utilities have their own staff, attorneys, appraisers, engineers, etc., while property owners have none of these resources and typically do not fight, except for him. He further stated that when a property owner gets a letter that his property will be taken, he is faced with three (3) options: Take the offer, hire a lawyer and go to mediation, or go to court; his case was "empirical evidence" of what happens with appraisals. He went on to say that his land was appraised at \$152,000 an acre and 6/10 mile down the road within six months, a piece of land, the same size, near the freeway, on the river, etc. was appraised for \$1.2 million an acre. He stated that he is not sure if this is an exception, but believes there are many errors in the appraisal process, especially with commercial property, which is more difficult to appraise than residential. Mr. Sternberg cited NC General Statute 40A. This statute gives the option to the property owner to have a Commission appointed by the Clerk of Court to make an evaluation of the taking. He explained how the process works. He stated that because only 8 to 13% of condemnation cases are ever challenged, and although not mandated, he would like MSD to be proactive and consider using this method and err on the side of the owner. He further stated that MSD has a great legal team, but should have an informal group to review appraisals as an alternative to the present system. Mr. VeHaun asked Mr. Sternberg if he is aware of any utilities that use this method. Mr. Sternberg said it was done all the time. Mr. Haner asked if the Commission would be appointed by the Clerk of Court. Mr. Sternberg said he is not sure. With no further questions, Mr. Aceto thanked Mr. Sternberg for his time.

**7. Report of Committees:**

**Right of Way Committee**

Mr. Kelly reported that the Right of Way Committee met September 28, 2011 to hear a presentation by Ms. Banks on a review of CIP Right of Way procedures, including updates to the policy. Also, the Committee considered a Compensation Budget for Moore Circle PRP, and considered Condemnations on the Willowbrook Road Sanitary Sewer Rehabilitation Project. Mr. Aceto called on Ms. Banks for an overview of the presentation. Ms. Banks stated that the purpose of the presentation was to review the methodology used, what staff went through in negotiations with property owners and how MSD developed its standard of compensation, and some of the policies and procedures surrounding the whole process.

In reference to Mr. Sternberg's presentation, Mr. Haner asked if it would be appropriate for the Right of Way Committee to look at his suggestion in coordination with MSD's current policies to see if there is any merit for adjustment. Mr. Kelly stated that what Mr. Sternberg is suggesting is mandated with regard to private utilities as far as

appointing a Commission if both parties agree, and what he is suggesting for MSD is that it comply with that, although MSD is not obligated to do so. Mr. Aceto asked Mr. Clarke to check into this and report his findings to the Right of Way Committee at its next meeting.

### **Planning Committee**

Mr. Root reported that the Planning Committee met October 17, 2011 to consider two (2) items; first, a draft letter. He stated that the MSD was led to understand the Legislative Research Commission (LRC) is moving forward with appointing a subcommittee. At the August 29<sup>th</sup> meeting of the Planning Committee Mr. Aceto and Mr. Clarke were directed to draft a letter to the Speaker of the N.C. House of Representatives regarding the passage of HB 925 concerning MSD and the City of Asheville. Although the bill has not passed, the (LRC) was given direction to conduct the study. At the September 17<sup>th</sup> meeting of the Planning Committee, it reviewed the letter drafted by Mr. Clarke and certain changes were made to the substance of the letter. Also, a number of additions were made as to whom the letter should go to.

Mr. Root further reported that the Committee then considered the local committee make-up. At that time, Representative Moffitt joined the meeting and a very open and useful discussion followed. Mr. Root stated that Mr. Moffitt talked about the fact that he understood that the process by which this came about was not the best way it could have been done. He stated that his interest in this comes from being a long-term citizen of Asheville and, the water issue like education, has always been prevalent and thought it would be useful to have some type of public discussion that would lead to a conclusion to the issue. He mentioned the five (5) Representatives appointed to the subcommittee and explained that under the rules, this committee can only meet a total of four (4) times. With that being the case, he is pressing to get the most value out of each of those meetings. He further stated that staff was allocated to the subcommittee, and as Chair, he will meet with them next week and go through all the issues so they can gather information to feed into the legislative subcommittee and that he is open to input from the MSD and the City of Asheville. Mr. Root stated that Mr. Moffitt went over the three options to be considered by the legislative subcommittee, 1.) No change in service providers, 2.) City of Asheville Water system will merge with the MSD, or 3.) Form a separate independent authority like the MSD. The subcommittee will also address the twelve (12) issues listed in the letter from the Speaker of the House to Representative Tim Moore, Chairman of the LRC.

Mr. Root reported that the Planning Committee recommends to the full MSD Board and the City Council that a local committee be formed (or Special Task Force) to assemble the information delineated in HB 925 along with other pertinent information in order to provide input to the LRC subcommittee. The local committee shall report all findings to the MSD Board and City Council. In addition, the committee shall consider the three models of providing service 1.) No change in service providers, 2.) City of Asheville Water system will merge with the MSD, or 3.) Form a separate independent authority like the MSD. The local committee shall be comprised of two (2) members from the MSD Board and two (2) members of City Council, with Gary McGill as consultant and facilitator. The Planning Committee voted to have Al Root and Bob Watts represent the MSD Board on the local Committee. Ms. Manheimer asked for a clarification on the action items. Mr. Root stated there are two action items; the letter and the Committee's recommendation regarding the make-up of a local committee. Mr. Haner asked when the local committee meets, will the rest of the Board be able to attend as an interested observer. Mr. Root said he envisions the meetings being open. Mr. Russell moved that the Board approve the letter as revised. Mr. Kelly stated that the logos of the City and MSD on the same page may appear as one and the same. Also, the wording in the second paragraph is not broad enough, since all the ratepayers of MSD

and the users of the City of Asheville water will be affected. Mr. Aceto asked what the thinking was behind writing a combined letter and whether it might be better to write two separate letters. Ms. Bellamy called for a second to Mr. Russell's motion before further discussion. Mr. Root seconded the motion. A discussion followed regarding the wording of the letter. Mr. Clarke suggested revising the sentence to read: "As the ratepayers and users of the Metropolitan Sewerage District of Buncombe County and the ratepayers and users of the City of Asheville water system could be affected substantially by the work of this subcommittee." Mr. Kelly agreed to the change. Mr. Russell amended his motion with the language change. Mr. Haner asked Mr. Aceto what his thoughts were on a separate letter. Mr. Aceto said he feels better about a separate letter and the two logos together make it appear as if we are talking about the same agency. Ms. Manheimer stated that in her opinion, maintaining separateness is ineffectual and that it's more powerful to say we talk to each other and would like to collectively provide input. With regard to the second paragraph of the letter, Mr. Haner suggested adding "and staff" after the word "subcommittee". Mr. McGill agreed with the change, but suggested further modification by adding, "each being currently separate and independent entities". Mr. Clarke re-read the paragraph and suggested the Legislature is aware the entities are separate. With no further discussion, Mr. Aceto called for the question to approve the letter with the modifications discussed and deliver to City Council for consideration. Voice vote in favor of the motion was unanimous.

Mr. VeHaun moved that the Board adopt the recommendation of the Planning Committee as presented. Mr. Watts seconded the motion. Ms. Manheimer stated the only thing she would add is that it was mentioned, not as members of the committee, but that the staff from both entities would support the Committee. With no further discussion, voice vote in favor of the motion was unanimous.

**8. Consolidated Motion Agenda:**

**a. Consideration of Compensation Budget – Moore Circle PRP:**

Mr. Hartye reported that the project consists of approximately 1600 linear feet of existing 8" clay pipe with 8" ductile iron pipe. The Right of Way Committee recommends approval of the Compensation Budget.

**b. Consideration of Condemnations – Willowbrook Road Sanitary Sewer Rehabilitation:**

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

**c. Consideration of Bid for Water Reclamation Facility Electrical Improvements – Equipment Procurement:**

Mr. Hartye reported that MSD is in the midst of a multi-year electrical system upgrade at the plant which will significantly enhance its reliability. He reported that there are three parts to the project with the first two complete and include: 1.) Addition of Automatic Transfer Switch for the Existing Generator, which provides the ability to test the existing 2 megawatt backup generator under a fully loaded state while the power is still on. 2.) Alternate Power Source from Substation, which will allow the automatic transfer of main plant power to the newly added "Division Street" circuit, should the plant's main Craggy circuit fail. The two banks of new transformers now supply these circuits and increases external reliability by over 90%. 3.) Improvements to Internal Distribution System and Additional Backup Generators, which is comprised of adding two 1MW generators to the existing 2MW backup system. The procurement contract was advertised and the following bid was

received on October 6, 2011: Carolina CAT, Charlotte, NC in the amount of \$934,812.93. The FY 11-12 budget for this project is \$1,000,000.00. Staff recommends that the District award the procurement contract to Carolina Caterpillar in the amount of \$934,812.93, subject to review and approval by District Counsel. Mr. Watts asked if MSD has looked at any modification to the fence to prevent either unintentional or intentional vehicular attack on the switchgear. Mr. McGill stated that it has been looked at, but will need to wait to get the other contracts to see what can be done to better protect that equipment.

**d. Consideration of Bids for Pipe Rating Contract No. VI – Lining:**

Mr. Hartye reported this project has been generated thru the District's Pipe Rating Program. He stated that not mentioned is the Flow Monitoring and Smoke Testing Programs that are in place to identify areas that bring infiltration/inflow (I&I). Lines in this contract are located in four sub-basins within the City and County and totals 10,988 LF. The following bids were received on October 6, 2011: Buckeye Construction Company with a total bid of \$926,000.00; Terry Brothers Contruction Company with a total bid of \$778,995.00, and Improved Technologies Group with a total bid of \$778,564.00. Staff recommends award of this contract to Improved Technologies Group in the amount of \$778,564.00, subject to review and approval by District Counsel.

**e. Cash Commitment/Investment Report – Month Ended August 31, 2011:**

Mr. Powell reported that Page 2 presents the makeup of the District's Investment Portfolio and there has been no change in the makeup of the portfolio from the prior month. Page 3 is the MSD Investment Manager Report as of the month of August. The weighted average maturity of the investment portfolio is 325 days and the yield to maturity is 1.02% and is exceeding bench marks of the 6 month T-Bill and NCCMT cash portfolio. Page 4 is an analysis of the District's Cash Receipts. Monthly domestic sewer revenue is considered reasonable based on timing of cash receipts in connection to the Munis Billing System implementation at the City of Asheville. Monthly YTD Industrial Sewer Revenue as well as Facility and Tap Fees are considered reasonable due to historical trends. Page 5 is an analysis of the District's Expenditures. Monthly and YTD expenditures are considered reasonable based on historical trends. Page 6 is MSD's Variable Debt Service Report as of the end of September. Both the 2008 A&B Series are performing better than budgeted expectations. As of the end of September, both issues have saved the District customers approximately \$4.3 million dollars in debt service.

Mr. Watts moved that the Board adopt the consolidated motion agenda as presented. Mr. VeHaun seconded the motion. With no discussion, Mr. Aceto called for the question. Roll call vote was as follows: 11 Ayes; 0 Nays. Ms. Bellamy was absent during the vote.

**9. Old Business:**

None

**10. New Business:**

Mr. Kelly reported that the Finance Committee met today to consider a Resolution for removal of the District's remarketing agent. He stated that this has to do with \$53,030,000 of variable rate revenue bonds of which \$33,095,000 has an interest rate swap where Banc of America Securities, LLC acts as the remarketing agent, and has not done a very good job of remarketing them. He further stated that the Finance Committee recommends to the Board that the proposed Resolution, authorizing the

General Manager and Director of Finance to begin the process of removing the remarketing agent for the Series 2008 A&B revenue bonds and appoint one or more successor remarketing agent(s) be adopted.

Mr. Powell reported that the District currently has its Liquidity Agreement with Bank of America, NA (BofA) in the event the bonds become tendered and there are no other individuals that will buy the bonds. He stated that as it stands, the downgrade has not affected the liquidity itself, but there is a potential of that impact. He explained that the reason why the District is replacing the current remarketing agent is because they are highly leveraged in (BofA) back paper. Taking that into consideration, the District is charged a premium for Banc of America Securities, LLC to place the paper in the market. He further stated that there are other remarketing agents that are placing the same type back paper, same credit quality utilities in a market right at market rate, which is the SIFMA Index and there are some that are being provided better than the SIFMA Index. He further reported that the District also has a banking relationship with (BofA) which is the Operating Account; a contingency of having a Liquidity Agreement with (BofA). He stated that this is fully collateralized under the Pooling Method with the State Treasurer's Office, therefore, if anything happens to (BofA), the District's monies are intact and there is no exposure to the District. With no discussion, Mr. Aceto called for the question on the Committee's recommendation as presented. Roll call vote was as follows: 11 Ayes; 0 Nays. Ms. Bellamy was absent during the vote.

**11. Adjournment:**

With no further business, Mr. Aceto called for adjournment at 3:03 p.m.

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Jackie W. Bryson, Secretary/Treasurer

<h1 style="margin: 0;">MSD</h1> <h2 style="margin: 0;">Regular Board Meeting</h2>
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Metropolitan Sewerage District  
of Buncombe County, NC

## AGENDA FOR 10/19/11

✓	Agenda Item	Presenter	Time
	Call to Order and Roll Call	Aceto	2:00
	01. Inquiry as to Conflict of Interest	Aceto	2:05
	02. Approval of Minutes of the September 21, 2011 Board Meeting.	Aceto	2:10
	03. Discussion and Adjustment of Agenda	Aceto	2:15
	04. Informal Discussion and Public Comment.	Aceto	2:20
	05. Report of General Manager	Hartye	2:25
	06. Report of Committees: a. Right of Way Committee – 9/28/11 - Kelly b. Planning Committee – 10/17/11 - Root	Aceto	2:40
	07. Consolidated Motion Agenda	Hartye	2:50
	a. Consideration of Compensation Budget – Moore Circle PRP 45001.	Hartye	
	b. Consideration of Condemnations – Willowbrook Road Sanitary Sewer Rehabilitation.	Hartye	
	c. Consideration of Bids: Plant Electrical Improvements – Equipment Procurement	Hartye	
	d. Consideration of Bids: Sanitary Sewer Rehabilitation Project – Pipe Rating Contract No. 6 (Lining).	Hartye	
	e. Cash/Commitment Investment Report Month Ending August 31, 2011.	Powell	
	08. Old Business	Aceto	3:05
	09. New Business:	Aceto	3:10
	10. Adjournment (Next Meeting November 16, 2011)	Aceto	3:15

# **APPROVAL OF MINUTES**



**BOARD OF THE METROPOLITAN SEWERAGE DISTRICT  
SEPTEMBER 21, 2011**

**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, September 21, 2011. Chairman Aceto presided with the following members present: Bellamy, Bryson, Creighton, Haner, Kelly, Manheimer, Root, Russell, Stanley, VeHaun and Watts.

Others present were: Thomas E. Hartye, General Manager, William Clarke, General Counsel, Gary McGill with McGill Associates, Inc., Joseph Martin with Woodfin Sanitary Water & Sewer District, Ed Bradford, Scott Powell, Ken Stines, Mike Stamey, John Kiviniemi, Stan Boyd and Sharon Walk, MSD.

**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 August 17, 2011 Meeting:**

Mr. Aceto asked if there were any changes to the Minutes of the August 17, 2011 Board Meeting. With no changes, the Minutes were approved as presented.

**4. Discussion and Adjustment of Agenda:**

None

**5. Informal Discussion and Public Comment:**

Mr. Aceto welcomed Mr. Martin.

**6. Report of the General Manager:**

Mr. Hartye called on Mike Stamey, Construction Services Director for a presentation regarding the responsibilities of the group and a recent sewer rehabilitation job that required an innovative approach.

Mr. Stamey reported that the department is made up of 27 employees; broken out into five (5) crews. Two crews focus on installing Sewer Service Taps and making repairs to the system. One crew makes manhole repairs and two crews focus on complete pipeline replacement projects. He presented a slide showing the typical activities of the Tap and Repair crews. He stated that in FY 10/11 these crews completed 486 construction repairs and installed 195 taps. He reported that one of the methods of repair is Infrastructure Repair System (IRS), which is a trenchless technology method where no digging is involved. He presented several slides showing how this method is done along with the before and after results. He stated that in FY 10/11 30 IRS repairs were made on MSD lines. Mr. Hartye stated that this method allows for the replacement of a section of line without replacing the entire line. Mr. Stamey presented a slide showing manholes under repair by the Manhole Repair Crew. During FY 10/11 this crew made 404 manhole repairs in the system. Mr. Stamey reported that the Pipeline Replacement Crews go into an area and replace entire lines from manhole to manhole. Often they will replace several segments of lines and manholes all in one location. In FY 10/11 these crews replaced 11,835 feet of mainline sewer in the system.

Mr. Stamey reported that the Sunset Drive at Old Toll Road sewer improvement project was approximately 500 feet and was designed in-house by Shaun Armistead of the CIP Department. He stated that although this project was short in duration, it was

very difficult, expensive and a good fit for in-house crews. He presented several slides of the project and explained the various aspects of each. Mr. Watts asked if MSD has in-house capacity to break clay and ductile iron pipe. Mr. Stamey stated that currently MSD does not have that capacity, but is working toward that goal. Mr. Hartye stated that what Mr. Stamey is trying to show is a day in the life of MSD's in-house construction and a different way of pipe bursting was used because of the plastic pipe and the right situation for using a directional driller which made it easier. Mr. Watts said its great MSD is getting this technology in-house. Mr. Haner asked what the criteria is for determining if this work can be done in-house opposed to going out for bid with a private contractor. Mr. Hartye stated that projects less than \$150,000 can be done in-house. Ms. Manheimer asked if Old Toll Road was closed due to a wash-out. Mr. Stamey said there was a wash-out and the crews had to work in conjunction with that, but tried to keep it open at all times. Mr. Haner asked, when working in residential areas, if MSD encourages homeowners to install backflow preventers and if MSD does the installation. Mr. Stamey said homeowners are encouraged to install a backflow preventer, but MSD does not do the installation. Mr. Stines stated that the backflow preventer is located behind the clean-out on the homeowner's side and it's the responsibility of the homeowner to contact a plumber for installation. Mr. Hartye stated that these are typically needed in low areas nearest interceptors that are prone to back-up situations.

Mr. Hartye presented a letter received from Marian Harbison of Sulpher Spring Road expressing appreciation for the response and service from Herman Shelton and Robert Burnette.

Mr. Hartye presented a list of Accomplishments for Fiscal Year 2011 by Division. He reported that the Capital Improvement Program Division administered a CIP budget of \$22,156,071 and managed 108 projects. Approximately 49,099 Linear Feet of collection system were rehabilitation during FY 11. This includes 28,606 LF rehabilitated through contract construction and 20,493 LF rehabilitated in-house by System Services. The Division completed construction of the Intermediate Pumping System at the plant; completed a study of the Weaverville Pumping System with a significant portion of the force main rehabilitated; saving 30 feet of elevation, future power cost and potential pump replacement cost, and acquired Rights-of-Way across 60 separate properties.

The System Services Division achieved an average response time of 36 minutes to customer service requests during regular working hours and 38 minutes after hours. Cleaned and CCTV 20,000 LF of 36" interceptor on the South Swannanoa Interceptor and 23,000 LF of 36" interceptor on the South French Broad Interceptor, totaling 43,000 LF. Also, completed 486 emergency and scheduled construction repairs; installed 195 taps, and 35 lining jobs.

The Administrative Services Division installed a new GIS database server to give redundancy and access speeds to the FLEX Web GIS application, along with implementation of disaster recovery Dell Equal Logic SANs to improve data redundancy. Also, implemented a new server room at the Treatment Plant building with a clean, secure, temperature controlled environment to house MSD's disaster recovery effort. The MIS Department ran demos for two (2) work order software solutions in an effort to find replacement, enterprise packages to replace the current Access database and created a Parcel Diary module for ROW.

The Wastewater Treatment Division received the National Association of Clean Water Agencies (NACWA) "Peak Performance Award" for the ninth consecutive year and renewed the NPDES permit. The cyanide limit was removed based on a study headed up by John Kiviniemi. Completed (in-house) refurbishment of the Schreiber grease removal system, and worked with Progress Energy to facilitate completion of electrical supply interconnect at the adjacent substation. Two new transformer banks were included in the upgrade and are interconnected to the front of the plant, which increases reliability

by 90%. Additional electrical improvements will take place next year with some redundancy in the plant and adding some new generation capacity.

The Finance Division received the GFOA "Excellence in Financial Reporting" award for the CAFR for FY ending June 30, 2010 and the GFOA "Distinguished Budget" award for the Budget Document prepared for FY ending June 30, 2011. Also, District staff has leveraged GIS flex system and P&D application data with respective member agency's customer data to check for unbilled sewer customers, and assisted Human Resources in substantive changes in the District's self-insurance plan to achieve ongoing financial sustainability.

The Human Resources Division held its 12<sup>th</sup> Annual Health Fair, including flu shots. It completed the Medical/Physical Examinations Program for all insured adults. Mission Hospital staff provided on-site smoking cessation and chronic conditions services. It also provided educational and financial training for employees (Elder Care, 401k/457, etc.). Safety & Environmental Health was awarded \$1,500 from the NC League of Municipalities Safety Grant Program.

The Planning and Development Division showed a slowdown for new projects, but are finishing off existing projects.

With regard to the car purchased as a swap for his car allowance, Mr. Hartye reported that some tax adjustments were made to bring him to parity. The car is a four-wheel drive Honda Accord made in East Liberty, Ohio.

Mr. Hartye reported that the next regular Board Meeting will be held October 19<sup>th</sup> at 2:00 p.m. The next Right of Way Committee meeting will be held October 28<sup>th</sup> at 9:00 a.m. and will include a presentation about the ROW section activities and the ROW Policy. He further reported that the annual employee picnic will be held September 22<sup>nd</sup>; WEFTEC will be held in Los Angeles October 15-19 and the State NCAWWA/WEA Conference will be held November 13-16 in Concord, NC.

## **7. Report of Committees:**

### **Planning Committee**

Mr. Root reported that the Planning Committee met on August 29, 2011 and held an extensive discussion regarding the Asheville Water System and MSD. He stated that Mr. Clarke informed him that as of today, Study Bill (H.B. 773, Section 2.22) remains un-passed by the Legislature. He further reported that the Committee directed the Chairman and Mr. Clarke to draft a joint letter to the Legislative Research Commission (LRC) on behalf of the MSD and the City of Asheville requesting seats on the Study Committee. He stated that it would be his inclination as Chairman of the Committee that should the legislation pass; the letter would go out as directed and a Planning Committee meeting would be scheduled at that time. Mr. Aceto called on Mr. Russell regarding a conversation he had with Representative Tim Moffitt. Mr. Russell reported that just minutes before the meeting Mr. Moffitt called to say he had seen the six-minute on-line campaign video on the Day in the Life of a Councilman where he mentioned the outcome of the MSD Planning Committee meeting. Mr. Moffitt said he planned to recommend to the Legislative Research Commission (LRC) the creation of an Overlay Committee comprised of representatives from the MSD and the City and County to work in collaboration with the LRC to discuss this. Mr. Moffitt indicated he would like to work with him and Mr. Aceto to decide who should serve on this Committee. He stated that as soon as Mr. Moffitt gets back with the formal adopted legislation, a Planning Committee meeting will be scheduled, with Mr. Moffitt's involvement, to decide who will serve on the Overlay Committee. He further stated that Mr. Moffitt said there are three (3) possible outcomes: First, do nothing; let the water be the water and sewer be the sewer.

Second, hand the water over to the MSD, and third, create an independent authority that oversees both. Ms. Manheimer said there are approximately 100 studies under the LRC. She asked if Mr. Moffitt plans to amend the current Study Bill. Mr. Russell said it was Mr. Moffitt's intention to include this with the recommendation to LRC and that he wanted to relay this information to the Board.

### **Right of Way Committee**

Mr. Kelly reported that the Right of Way Committee met prior to the Board meeting to consider condemnation settlements for Riverside Drive/Westover Drive Rehabilitation Projects and for Lower Smith Mill Creek Rehabilitation Projects. Mr. Aceto called for a motion to excuse Ms. Manheimer from voting on the condemnations matters. Mr. Kelly moved. Ms. Bryson seconded the motion. Voice vote in favor of the motion was unanimous. Mr. Stanley asked how many people contest these condemnations. Mr. Clarke stated that only about 15% of cases are filed, and of those, 15%, about half contest initially and less than 5% actually go to mediation. Mr. Kelly asked Mr. Clarke to read into the record the recommendations. Mr. Clarke stated that for MSD vs. Morance Case #8CV 02446 and MSD vs. Riverside Partnership LLC, Case #8CV 02247, the Committee recommendation is to approve a total settlement of \$65,000.00, inclusive of interest in combined cases #8CV 02446 and #8CV 02447. Also, condemnation settlements for Lower Smith Mill Creek Rehabilitation Project (MSD vs. Roberts, ET AL Case #5CV 04348 and MSD vs. Roberts, ET AL Case # 5CV 04315, Case # 5CV 04241 and Case # CV5 04349), the Committee recommendation is to approve a total settlement of \$40,000.00, inclusive of interest in Case #5CV 04348 and to approve a total settlement of \$15,000.00 inclusive of interest in combined Cases #5CV04315, #5CV 04241 and #5CV 04349. Mr. Kelly moved that the Board approve the both settlements as presented by Mr. Clarke. Mr. Stanley seconded the motion. Roll call vote was as follows: 11 Ayes, 0 Nays. Ms. Manheimer did not participate in the deliberations or the vote.

## **8. Consolidated Motion Agenda:**

### **a. Consideration of Bids for Dingle Creek Interceptor @ Crowfields Phase 2:**

Mr. Hartye reported that Phase 1 of this project was a cooperative effort with the City of Asheville. The remaining portion, Phase II, is comprised of 1136 LF of 8-inch through 18-inch DIP. The following bids were received on September 8, 2011: Huntley Construction Company with a total bid of \$286,458.00; Moore & Son Site Contractors with a total bid of \$277,953.00; Payne, McGinn & Cummins, Inc. with a total bid of \$256,942.19; Freestone Contracting, LLC with a total bid of \$233,906.00; Buchanan and Sons, Inc. with a total bid of \$232,209.50; Terry Brothers Construction Co., with a total bid of \$189,478.50 and T&K Utilities with a total bid of \$175,854.00. Staff recommends award of this contract to T&K Utilities, Inc. in the amount of \$175,854.00, subject to review and approval of District Counsel.

### **b. Consideration of Acceptance of Developer Constructed Sewer Systems:**

#### **Newbridge Commons Sewer Extension Project:**

Mr. Hartye reported that this project is located inside the District boundary off Elkwood Avenue in the Town of Woodfin and included the installation of approximately 196 linear feet of 8" gravity sewer to serve a commercial development. Staff recommends acceptance of the developer constructed sewer system. All MSD requirements have been met.

**The Springfield Subdivision:**

Mr. Hartye reported that this project is a ten (10) unit residential development constructed in 1993 in Buncombe County outside the District Boundary off Baldwin Road and included approximately 593 linear feet of gravity sewer. Staff recommends acceptance of the developer constructed sewer system. All MSD requirements have been met.

**The Byrd Street Townhomes Sewer Extension Project:**

Mr. Hartye reported that this project is located inside the District boundary off Byrd Road in the Town of Black Mountain and included the installation of approximately 292 linear feet of 8" gravity sewer to serve a forty (40) unit residential development. Staff recommends acceptance of the developer constructed sewer system. All MSD requirements have been met.

**Westmore Apartments Sewer Extension Project:**

Mr. Hartye reported that this project is located inside the District boundary off Deaverview Road in the City of Asheville and included the installation of approximately 807 linear feet of 8" gravity sewer to serve a seventy-two (72) unit multifamily residential development. Staff recommends acceptance of the developer constructed sewer system. All MSD requirements have been met.

**Weaver Village Phase 1 Sewer Extension Project:**

Mr. Hartye reported that this project is located inside the District boundary off Weaver Boulevard in the Town of Weaverville and included the installation of approximately 263 linear feet of 8" gravity sewer to serve a four (4) unit commercial development. Staff recommends acceptance of the developer constructed sewer system. All MSD requirements have been met.

**c. Cash Commitment/Investment Report – Month Ended July 31, 2011:**

Mr. Powell reported that Page 2 presents the makeup of the District's Investment Portfolio. From June to July the Portfolio decreased 8.5 million dollars, which was attributed to the debt service payment as of July 1<sup>st</sup> in the amount of 6.4 million dollars and the remaining portion is due to timing of cash receipts. He explained that the City of Asheville changed its billing system, which affected billing cycles and therefore affected cash receipts to the District. He stated that the receipts have come in subsequently in August as well as September and should be back on schedule as of the end of September. Page 3 is the MSD Investment Manager Report as of the month of July. The weighted average maturity of the investment portfolio is 349 days. The yield to maturity is 1.03% and is exceeding bench marks of the 6 month T-Bill and NCCMT cash portfolio. Pages 4 & 5 are an analysis of the District's Cash Receipts and Expenditures. Both cash receipts and expenditures are considered reasonable based on historic trends. Page 6 is the MSD Variable Debt Service Report. Both the 2008 A&B Series are performing better than budgeted expectations. As of the end of August the District has saved customers approximately \$4.3 million dollars in debt service.

Mr. Aceto called for a motion to approve the consolidated motion agenda as presented. Mr. Watts moved. Mr. Russell seconded the motion. With no discussion, roll call vote was as follows: 12 Ayes; 0 Nays.

**9. Old Business:**

None

**10. New Business:**

Mr. Russell summarized his conversation with Mr. Moffitt. He stated that if the Study Bill passed, a joint letter from the City of Asheville and the MSD will be sent requesting local representation on an Overlay Committee. Ms. Manheimer stated that since the Legislature has adjourned and will not meet again until November and the Study Bill has not passed, she asked what Mr. Moffitt is talking about. Mr. Russell said to create an Overlay Committee. Ms. Manheimer stated that the Legislative Research Commission (LRC) can choose to study this without passing the Bill. Mr. Russell stated that he would be happy to follow-up with Mr. Moffitt and tell him to keep the MSD and the City of Asheville informed. Ms. Manheimer asked how the conversation with Mr. Moffitt ended. Mr. Russell said Mr. Moffitt originally wanted to get together with him and Mr. Aceto, but he suggested that he contact Mayor Bellamy and Steve Aceto and if a Committee is formed, representatives from the City, County and MSD should be involved.

Mr. Aceto stated that he is not comfortable having a conversation about this without having some sense of where this Board wants to go. Mr. Russell asked if the Board would like him to ask Mr. Moffitt to put something in writing to the MSD as to what his intentions are. Mr. Watts asked if there is a sense of what the driving force is behind this. Mr. Root suggested Mr. Russell contact Mr. Moffitt to see if this is something MSD should be doing and to define who will serve on the Committee. Mr. Aceto suggested the Planning Committee meet and decide who will serve on the Overlay Committee. Mr. Aceto asked the Board if they had a short list of who should serve on this committee. Mr. McGill said it should not be a large committee and feels ten people is too many.

Ms. Bellamy moved that the Board contact Representative Moffitt and asked him what he would like to accomplish and the timeline regarding the Study Bill he introduced. Ms. Manheimer seconded the motion. Mr. Haner asked if the motion precedes any appointments to a committee on the Board's part. Ms. Bellamy said no, the motion is a matter of clarification. A discussion followed regarding what the letter should say. Mr. Clarke pointed out that any written correspondence is public record, therefore suggest the General Manager call Mr. Moffitt and invite him to come to the next Board Meeting. Mr. Aceto stated that he feels it would be wise for the Board to take its own initiative, apart from anything going on at the legislative level, and let the legislature respond to that initiative. Following a discussion regarding the motion, who will draft the letter and the best way to proceed, Ms. Manheimer stated that in a text conversation with Representative Thomas regarding the best way to proceed, he said he would wait to respond since there is no reason to invite the vote in the first place. Based on this advice, she withdrew her second to the motion. Mr. Aceto called for a second to the motion. With no second, the motion failed. Mr. Aceto asked if the Board wants to take any action in this matter. No action was taken. Mr. Russell said he will report on any further conversation with Mr. Moffitt. Ms. Bellamy stated that the Board is talking about this issue without any direction from the individual who started this conversation in Raleigh without MSD and the City, and feels this approach will create more of an adversarial atmosphere. She further stated that it would be best to determine what Mr. Moffitt wants to accomplish, but it was up to the Board to make that decision.

**11. Adjournment:**

With no further business, Mr. Aceto called for adjournment at 3:35 p.m.

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Jackie W. Bryson, Secretary/Treasurer

# **REPORT OF GENERAL MANAGER**

## MEMORANDUM

TO: MSD Board  
FROM: Thomas E. Hartye, P.E., General Manager  
DATE: October 12, 2011  
SUBJECT: Report from the General Manager

- System Performance Annual Report (SPAR)

In 1999, NCDENR began requiring that an annual report or SPAR be provided to the customers of the wastewater treatment works and/or collection system. MSD annually puts out a press release and a bill stuffer to each customer (a copy of which is in your Board Book). These both address general information from the report and provide a link for access to a very detailed report that sits on our website. I will breeze through the report at the meeting.

- Cane Creek Water and Sewer District (CCWSD)

MSD currently has an agreement to provide treatment services for the CCWSD customers. CCWSD has a small staff and contracts out much of the operation and maintenance of their collection system, which consists of 60 miles of sewers and 7 pump stations. The current agreement provides for 1.35 MGD while the current flow is only at approximately 700,000 gallons per day.

CCWSD completed a Master Plan in 2009 that identified a potential future need of 3 MGD. In 2010, officials of CCWSD and MSD met several times to consider two different options: 1. Amending the existing agreement (or drafting a new agreement) to commit to provide future needed treatment service to CCWSD and 2. Bringing CCWSD into MSD.

CCWSD at that time hired a consultant to evaluate siting a new treatment plant (versus the above options). They are currently pursuing a new consultant to provide a similar study.

- Reading

- Article in Hendersonville Times regarding study of future wastewater needs.
- Hendersonville Times Editorial regarding same study.
- Jerry Sternberg of Mountain Xpress regarding MSD ROW Acquisition process.
- Article in Mountain Xpress online regarding the MSD SPAR.



- Board/Committee Meetings/Events

The October 26<sup>th</sup> Right of Way Committee Meeting has been cancelled. The next Right of Way Committee Meeting will be held at 9am on December 7<sup>th</sup>. The next Regular Board Meeting will be November 16<sup>th</sup> at 2 pm.

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## County leaders focus on future wastewater needs

### Commissioners call for feasibility study of treatment plant

By [Gary Glancy](#)

Times-News Staff Writer

Published: Monday, September 26, 2011 at 4:30 a.m.

Henderson County officials have begun the process of preparing for northern Henderson County's future water and sewer needs, saying it's critical for the county to control its own fate.

Last week, county commissioners voted to have county staff collect three Requests for Qualifications for a feasibility study to build a wastewater treatment plant serving residents in the Cane Creek Sewer District, which includes the Fletcher-Mills River area, and possibly as far out as Etowah.

"This will be a very involved process, and it will identify, ultimately, what the options are," County Manager Steve Wyatt said. "No decision has been made to build a wastewater treatment plant, but this would be the first step in determining if that's the right route to take."

Wyatt said he was approached by Commissioners Charlie Messer and Larry Young to look into the potential project. After discussing it, the three took the matter to the Board of Commissioners. Messer said the issue has been on commissioners' plate going back to the last board.

Currently, the county has an agreement with the Metropolitan Sewer District in Buncombe County to have its wastewater sent to MSD's treatment plant through an MSD interceptor that runs through the northern part of Henderson County. While Henderson County sets the rates for collection of its wastewater, MSD sets the rates for treatment at its plant.

"My main concern is 20, 25 years out, our future growth would be in the hands of some other county, and I don't think that's appropriate," Messer said. "I think we've got to look at, really, water and sewer issues for future growth down the road, regardless of who's in the (commission) chambers."

According to County Engineer Marcus Jones, MSD has allocated a treatment capacity of 1.3 million gallons of wastewater per day for its service area here, which now uses 700,000 gallons per day.

"We think build-out for the district will be about 3 million (gallons per day), but that's not tomorrow," Jones said. "We don't anticipate being at capacity in the near future, and that's why it's important the board do that work now before it becomes a time issue."

Jones said the feasibility study is "a very good move" on the commissioners' part that showed "very forward thinking."



“Especially the north part of the county where there is a lot of industrial development and something like sewer could make or break an industrial project,” Jones said. “If you haven’t done your planning right, you could forsake all kinds of opportunities for the county. So it’s critically important.”

Wyatt said he’s recommended a work session for commissioners to get the board involved in the process from the beginning of the feasibility study. He also said the board might want to invite affected municipalities, such as the towns of Fletcher and Mills River, to participate “sooner rather than later.”

“What I don’t want to see is a cut-and-paste, boiler-plate study,” Wyatt said. “I want (an engineering) firm with expertise, obviously, in this field to guide the board through a strategic process, and we would begin the process once we selected a firm.”

Messer, who lives in Fletcher, said his sewer rates are a little higher than residents in the southern part of the county, and “I have a lot of concerned citizens that talk about the sewer rates right now — why they’re so high.”

Ultimately, Messer said his biggest worry will be what happens when MSD’s service approaches capacity if a couple of major users — such as a residential development or manufacturing facility — move to Buncombe or northern Henderson County when the economy eventually turns around.

“From what I understand, it is when (capacity) gets to 90 percent that the state says you’ve got to start planning for your future. Well, our future is in the hands of MSD,” Messer said. “Who’s to say, in 20 years from now when things do pick up, the capacity might not be there, and I think we need to take care of the people in Henderson County.”

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# Times-News

Hendersonville Times Established 1881  
Hendersonville News Established 1894  
The Times-News Established 1927

NED COWAN  
PUBLISHER

DIANE NORMAN  
MANAGING EDITOR

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## EDITORIAL

# Sewer study would show needs, costs

**H**enderson County leaders are correct to look at future sewer needs in northern Henderson County. At the same time, taxpayers should be wary of the costs that could come with the county getting into the wastewater treatment business.

The Board of Commissioners recently voted to have county staff seek requests for qualifications for a feasibility study on building a wastewater treatment plant to serve the Cane Creek Sewer District, which includes much of the north and west part of the county.

The sewer lines that now exist in the area feed into the Metropolitan Sewer District in Buncombe County. Henderson County sets rates to collect the wastewater and MSD sets rates to treat it.

Commissioners Charlie Messer and Larry Young asked County Manager Steve Wyatt to look into the potential project.

"My main concern is 20, 25 years out, our future growth would be in the hands of some other county, and I don't think that's appropriate," Messer said.

Planning for the future is always a good idea, although in this case it is hard to envision the needs justifying the potential costs, or exceeding capacity any time in the foreseeable future. It's also questionable whether the state would approve additional sewage treatment facilities when MSD and Hendersonville have large amounts of unused capacity in their systems.

The Cane Creek district now sends about 700,000 gallons of wastewater per day to MSD, a little bit more than half the 1.3 million gallons per day allocated to Henderson County.

The district, when fully built out, could produce about 3 million gallons per day, County Engineer Marcus Jones says. "We don't anticipate being at capacity in the near future, and that's why it's important the board do that work now before it becomes a time issue."

To put things in perspective, MSD can treat up to 40 million gallons per day, but has for years operated at less than half its capacity since the closure of some major industries in Buncombe County. According to MSD's website, "MSD is averaging 16 million gallons of wastewater through the plant every day. However, 40 percent of that is from infiltration and inflow, which means it comes from sources that are not supposed to be entering the system, such as groundwater and rainwater."

Meanwhile, the city of Hendersonville in 2002 built a new sewage treatment plant to replace one from the 1960s. According to Hendersonville's website, "The new facility was constructed with a capacity to treat 4.8 MGD (million gallons per day) but can be expanded up to 12 MGD, which should serve our community well into the future. The daily average flow in 2009 was 2.68 MGD, or 56 percent of existing treatment capacity."

Sewage systems generally follow the lay of the land to take advantage of gravity, so Henderson County can't rely on Hendersonville to treat wastewater in the northern part of the county. Still, residents should insist that local governments look for ways to cooperate to use existing infrastructure before building costly new facilities.

It's understandable that commissioners are wary of depending on other governments, especially after the 1990s fiasco that allowed Asheville to build a "regional" drinking water plant in Mills River, practically next door to one operated by Hendersonville. We recall that as part of that deal, Henderson County was offered a piece of land in Buncombe County as a possible future location for a sewage treatment plant. However, that property was near the Blue Ridge Parkway, the N.C. Arboretum and Biltmore Estate and subject to legal restrictions that made it virtually impossible that a sewage plant could ever be built there.

Jones says the feasibility study is "a very good move" by commissioners that showed "very forward thinking ... especially the north part of the county where there is a lot of industrial development and something like sewer could make or break an industrial project. If you haven't done your planning right, you could forsake all kinds of opportunities for the county."

Now is a good time to look at the future needs for, and costs of, such a system. A feasibility study will also show how many millions of dollars would be required to build a wastewater plant, and give some idea of how far in the future it might be needed.

That will give residents and leaders the information they need to plan properly and make well-informed decisions.



## The Gospel According to Jerry

Beware eminent domain

by Jerry Sternberg

If you own a home, farm or business, you could suffer huge losses when Jesse James and his Eminent Domain Gang ride onto your spread — unless you know what to do. I speak from experience here, having recently concluded a run-in with the Metropolitan Sewerage District. I'm not a lawyer, but here's my take on how these things work.

In layman's terms, eminent domain gives the government and public utilities the right to take part or all of your property if it's deemed to be in the public interest. This absolutely necessary law allows essential infrastructure such as power lines, railroads, sewer lines, etc. to be built without prohibitive obstruction by property holders.

The abiding, underlying principle is that if one of these entities takes your property, you're entitled to fair and reasonable compensation for your loss, spreading the financial cost and pain over all those who will benefit from the resulting facility or service.

The typical series of events begins when you receive a letter from the utility or government agency notifying you that they intend to take all or part of your property as a "right of way" in connection with some public project.

From this moment until the matter is settled, you are usually prohibited from making any improvements to your property. Suppose you'd been planning to build a garage in the area where the city intended to build a water line: If you proceeded with construction after receiving the notice, you could be forced to tear down the garage.

Here's how the James Gang works:

First they send in Frank James, the engineer, who's their straight shooter. He draws the cheapest, most efficient lines across your property — with no concern for the devastating effect it will have on present or future use or the cost to the property owner. He leaves that to the other members of the gang to sort out.

Next comes Billy the Kid, the appraiser, who's hired to shoot as low as possible in order to kneecap the property owner. He must go around the neighborhood of the "taking" (the property the engineer says he needs for the project) seeking similar properties in order to compare valuations. Using a series of mystical computations, he determines the fair value of the property owner's loss.

Then in rides Jesse James, the right-of-way negotiator. Of course, he's not really Jesse James, but the only difference is that Jesse had a gun. This silver-tongued salesman type

*This silver-tongued salesman type explains that your land has been condemned under eminent domain but that he has a big, fat check to compensate you for your loss.*

explains that your land has been condemned under eminent domain but that he has a big, fat check to compensate you for your loss, in an amount an appraiser determined to be the fair value — as spelled out in a 20-page document you probably can't understand.

If you sign on the dotted line, you can get the check almost immediately. (If you attempt to negotiate, he can usually increase the original offer by 10 percent, just to make you feel you've gained something.)

If you refuse to sign, you'll receive notice that they've taken the property anyway, and your money is in the courthouse when you want to pick it up. Now your only options are to accept the money or sue them.

It should be noted that these entities avoid taking rights of way from one another, since they all maintain a posse of legal hired guns. And if you choose not to file an appeal, you've allowed the appraiser to be judge, jury and executioner.

Remember when silver-tongued Jesse told you "We're just going to take this little sliver of land, which won't affect your property use"? You might discover later that the right of way blocked the only access to the property or made it useless for building purposes, costing you thousands of dollars.

I'm an experienced real estate investor, and over the years I've contested at least six right-of-way cases that began with totally unrealistic offers. I chose to handle them "pro se" (i.e., myself), even though I had no legal background. Every judge I went before told me I had a fool for a client, yet in every case, this fool won settlements or judgments equal to my original demand.

Most recently, MSD needed access to the main sewer line and chose to go right through a space a business partner and I had planned to build on. We proposed two other options for crossing our property, offering to donate them for free, but the engineer had drawn his straight bead, and he wasn't backing down.

They subsequently made us a ridiculously low offer based on the work of their own Billy the Kid, who appraised our property at one-sixth of the value he'd set for an almost identical property a half-mile away.

Just before going to jury, we received a

settlement of five times the original offer. Unfortunately, this was a case I couldn't handle myself, and the legal fees amounted to 20 percent of the final settlement. I imagine MSD's legal fees were equivalent.

I've always been outraged by eminent domain's "fair value" charade, but I wouldn't have thought that the citizen-owned, generally well-run MSD would use low appraisals to take advantage of local property owners. It's my understanding that only 8 percent of recent cases were contested: This suggests that many of the remaining 92 percent of property owners were victimized by unfair, low-ball appraisals.

I urge the MSD board to investigate the agency's egregious and fraudulent practices concerning their eminent-domain privilege. But in the meantime, if the James Gang moves to take your property, buy an hour of a good right-of-way attorney's time to consider your case.

The attorney might be willing to take it on a contingency basis, meaning they would share in any additional settlement. But you can't lose, as the agency can't take back money they've already paid you. ❧

*Developer Jerry Sternberg is a longtime observer of the local scene. He can be reached at [gospeljerry@aol.com](mailto:gospeljerry@aol.com).*

Close Article

By Susan Andrew on 10/06/2011 03:11 PM

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We've said it before: if it weren't for MSD, we'd be wading in waste. Before the treatment plant on Riverside Drive in Woodfin came online in 1967, untreated wastewater was discharged directly into local waterways. Large, sudden discharges can be serious: Last April, a massive sewage spill in Gatlinburg, Tenn., killed two workers and sent millions of gallons of raw sewage into the Little Pigeon River. Even the smaller spills can result in fish kills and other environmental damage, and can have negative health impacts.

The agency's service area covers about 180 square miles; some 960 miles of sewer lines collect wastewater from an estimated 125,000 users in Asheville, Biltmore Forest, Black Mountain, Montreat, Weaverville, Woodfin and unincorporated areas. Perhaps the biggest single challenge is getting sewage to the treatment plant without losing any en route. In 1990, MSD assumed ownership of a hodgepodge of smaller local collection systems; many of the pipes were between 50 and 100 years old and in dire need of replacement. Since then, the utility has undertaken an aggressive program to correct the inherited problems, and it's made a considerable fiscal investment in the upgrades. Even so, the system overflowed 32 times last year — although that's down considerably from the 288 releases tallied in 2000.

Sanitary sewer overflows (SSOs) are accidental discharges that typically come during big storms. "The lines get so much [stormwater] coming in, they can't handle any more. [If] the pipes aren't large enough to handle that much flow ... it's gonna come out a manhole cover," System Services Coordinator Ken Stines tells Xpress. But the rate of SSOs is down again this year compared to 2010: there were 24 spills in 2011, according to the MSD report, which covers the period between July 1, 2010, and June 30 of this year.

Cleaning up the water we all flush down the drain involves a reclamation process, and MSD measures its performance in part by the concentration of suspended solids in the water it "reclaims" during the treatment process. The utility removed 93 percent of the total suspended solids in its wastewater stream in the assessment period (up slightly from 90 and 91 percent in the previous two years); meantime, it maintained perfect compliance with the requirements of its state permit for allowable discharges into local air and water. (Air discharges occur when the utility incinerates the solid waste extracted during the treatment process.)

In 2011, for the eleventh year in a row, MSD won a National Association of Clean Water Agencies Peak Performance Award

# **REPORT OF COMMITTEES**

**RIGHT OF WAY  
COMMITTEE RECOMMENDATIONS  
AND MINUTES  
September 28, 2011**

**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, September 28, 2011. The following Right of Way Committee members were present: Glenn Kelly, Jerry VeHaun, Robert Watts and Esther Manheimer.

Others present were: Billy Clarke, MSD Counsel; Steven Aceto, Board Chairman; Max Haner and Terry Bellamy, Board Members; Tom Hartye, Ed Bradford, Angel Banks, Mike Stamey, Shaun Armistead, Roger Watson 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. Presentation and Review of Right of Way Policy and Updates**

Right of Way has maintained a policy on acquisition procedures since 1991. For the benefit of both new and existing committee members, a review of CIP Right of Way procedures will be presented, including updates to the policy. Attached is the policy for your records; areas of update are highlighted.

Ms. Banks gave a powerpoint presentation. There was some discussion regarding wording in Item 3.0. Mr. Clarke will revise this wording and get it back to Ms. Banks. Ms. Manheimer asked if the 2 years for inverse condemnation starts from the completion of construction or does a governmental entity have to operate it for 2 years. Mr. Clarke stated that an inverse condemnation claim against a governmental entity runs 2 years from completion of the project and it consists of the whole project. There was some further discussion regarding inverse condemnation. Regarding net new area on property with an existing sewerline, Mr. Watts asked if easement area not used in new construction would be returned to owner. Ms. Banks stated that easement would cease to exist and some property owners would ask for abandonment language to be added into the easement document. Mr. Haner asked what the typical claimed easement width is. Ms. Banks stated a typical claimed easement was 20', 10' on either side of the sewer line. Mr. Aceto stated that the policy had served well over the years and thanked Ms. Banks. There was no further discussion.

**STAFF RECOMMENDATION: For presentation and review only. No action required.**

**IV. Consideration of Compensation Budget--**

**Moore Circle PRP 45001, Project No. 2004266**

The attached Compensation Budget is based on current ad valorem tax values and follows the MSD approved formula.



**STAFF RECOMMENDATION: Approval of Compensation Budget.**

Ms. Banks explained the location of this project and that it consists of approximately 1600 linear feet of existing 8" clay pipe with 8" ductile iron pipe. There was some discussion regarding the location of this project. Mr. Kelly made the motion to accept staff's recommendation. Mr. VeHaun seconded the motion. Voice vote was unanimous.

**COMMITTEE RECOMMENDATION: Approval of Compensation Budget.**

**IV. Consideration of Condemnations–Willowbrook Road Sanitary Sewer Rehabilitation, Project No. 2009128**

**PIN 9659-81-0614**-This property is located in the Haw Creek Neighborhood and is improved with one residential dwelling. The property owner's major concern pertaining to the project is loss of buildable area on their property. The existing line impedes buildable area. MSD realigned the sewer to reduce the impact the permanent easement will have on buildable area. Another concern is tree loss along the property boundary since this serves as a buffer. There are two rows of mature white pines that will be crossed during construction of the sewer. MSD offered an additional \$1000 to the compensation amount of \$4422 (\$5422 total), and despite this offer the property owner has been unresponsive.

Total Contacts: 10

**PIN 9659-71-9314**-This property is located in the Haw Creek Neighborhood and is improved with several apartment buildings. The property owner's major concern pertaining to the project is the compensation amount being offered (\$12,683), and is requesting \$100,000 in compensation for the required easement areas. A meeting was held on site with the property owner and the project engineer, and the property owner requested the alignment of the sewer be revised. MSD did offer to revise the alignment of the sewer as requested, however, the property owner has been unresponsive and unwilling to move forward.

Total Contacts: 7

**STAFF RECOMMENDATION: Authority to obtain appraisal and proceed with condemnations.**

Ms. Banks reviewed the situations with these property owners. Ms. Manheimer asked what the square footage was of the second parcel. There was some further discussion regarding this parcel. Mr. Kelly made the motion to accept staff's recommendation. Mr. VeHaun seconded the motion. Voice vote was unanimous.

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

**There being no further business the meeting adjourned at approximately 9:40 am.**

# **CONSOLIDATED MOTION AGENDA**

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

COMMITTEE MEETING DATE: 9/28/2011

BOARD MEETING DATE: 10/19/2011

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 Budget–**

**Moore Circle PRP 45001, Project No. 2004266**

The attached Compensation Budget is based on current ad valorem tax values and follows the MSD approved formula.

**STAFF RECOMMENDATION: Approval of Compensation Budget.**

Ms. Banks explained the location of this project and that it consists of approximately 1600 linear feet of existing 8” clay pipe with 8” ductile iron pipe. There was some discussion regarding the location of this project. Mr. Kelly made the motion to accept staff’s recommendation. Mr. VeHaun seconded the motion. Voice vote was unanimous.

**COMMITTEE RECOMMENDATION: Approval of Compensation Budget.**

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

# Moore Circle PRP 45001

Project Number: 2004266

## Compensation Budget

06-Sep-11

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	TCE Rent Value	Total Comp. (Rounded)		
27 Pin	83 Pin															
	0629464677	Crosland	Tommie	0.59	25,700.40	\$33,100.00	\$1.29	2,954.70	\$3,811.56	\$1,905.78	3,466.40	\$4,471.66	\$447.17	2	\$74.53	\$1,980
	0629467612	Greene	David	0.34	14,810.40	\$31,400.00	\$2.12	1,032.30	\$2,188.48	\$1,094.24	0.00	\$0.00	\$0.00	2	\$0.00	\$1,094
	0629465984	Greene	James	0.76	33,105.60	\$33,900.00	\$1.02	96.25	\$98.18	\$49.09	1,227.21	\$1,251.75	\$125.18	2	\$20.86	\$70
	0629465697	Laferrara	Salvatore	0.47	20,473.20	\$32,400.00	\$1.58	5,383.30	\$8,505.61	\$4,252.81	5,231.90	\$8,266.40	\$826.64	2	\$137.77	\$4,394
	0629467722	Matayabas	Glen	0.26	11,325.60	\$30,700.00	\$2.71	1,962.80	\$5,319.19	\$2,659.59	2,075.00	\$5,623.25	\$562.33	2	\$93.72	\$2,753
	0629466850	Wickham Family Trust	Ione	0.39	16,988.40	\$31,800.00	\$1.87	2,029.30	\$3,794.79	\$1,897.40	2,402.70	\$4,493.05	\$449.30	2	\$74.88	\$1,972
	0629478101	Woodbury	Thomas	0.38	16,552.80	\$31,700.00	\$1.92	1,623.55	\$3,117.22	\$1,558.61	2,402.20	\$4,612.22	\$461.22	2	\$76.87	\$1,635

<b>TOTALS:</b>	\$13,896
<b>Staff Contingency:</b>	\$5,000
<b>GM's Contingency</b>	\$5,000
<b>Amendment</b>	
<b>Total Budget:</b>	\$23,896

# Metropolitan Sewerage District of Buncombe County

## Board Action Item - Right-of-Way Committee

COMMITTEE MEETING DATE: 9/28/2011

BOARD MEETING DATE: 10/19/2011

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 – Willowbrook Road Sanitary Sewer Rehabilitation, Project No. 2009128**

**PIN 9659-81-0614**-This property is located in the Haw Creek Neighborhood and is improved with one residential dwelling. The property owner's major concern pertaining to the project is loss of buildable area on their property. The existing line impedes buildable area. MSD realigned the sewer to reduce the impact the permanent easement will have on buildable area. Another concern is tree loss along the property boundary since this serves as a buffer. There are two rows of mature white pines that will be crossed during construction of the sewer. MSD offered an additional \$1000 to the compensation amount of \$4422 (\$5422 total), and despite this offer the property owner has been unresponsive.

Total Contacts: 10

**PIN 9659-71-9314**-This property is located in the Haw Creek Neighborhood and is improved with several apartment buildings. The property owner's major concern pertaining to the project is the compensation amount being offered (\$12,683), and is requesting \$100,000 in compensation for the required easement areas. A meeting was held on site with the property owner and the project engineer, and the property owner requested the alignment of the sewer be revised. MSD did offer to revise the alignment of the sewer as requested, however, the property owner has been unresponsive and unwilling to move forward.

Total Contacts: 7

**STAFF RECOMMENDATION: Authority to obtain appraisal and proceed with condemnations.**

Ms. Banks reviewed the situations with these property owners. Ms. Manheimer asked what the square footage was of the second parcel. There was some further discussion regarding this parcel. Mr. Kelly made the motion to accept staff's recommendation. Mr. VeHaun seconded the motion. Voice vote was unanimous.

**COMMITTEE RECOMMENDATION: Authority to obtain appraisal and proceed with condemnations.**

COMMITTEE ACTION TAKEN	
Motion by: Glenn Kelly	To: <input checked="" type="checkbox"/> Approve <input type="checkbox"/> Disapprove
Second by: Jerry VeHaun	<input checked="" 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

**BOARD MEETING DATE:** October 19, 2011

**SUBMITTED BY:** Tom Hartye, P.E. - General Manager

**REVIEWED BY:** Gary McGill, P.E. - Engineer of Record  
Phil Fisher, P.E. - Project Manager

**PREPARED BY:** Ed Bradford, P.E. - Director of CIP

**SUBJECT:** Water Reclamation Facility Electrical Improvements - Equipment Procurement, MSD Project No. 2010032

**BACKGROUND:** MSD is in the midst of a multi-year electrical system upgrade at the plant which will significantly enhance its reliability. It will also provide for independent operation of the plant in the event of a power failure. The following significant areas are being addressed:

- Addition of Automatic Transfer Switch for the Existing Generator: This provides the ability to test the existing 2 megawatt (MW) backup generator *under a fully loaded state* while utility power is still on. This is now complete.
- Alternate Power Source from Substation: This will allow the automatic transfer of main plant power to the newly added "Division Street" circuit, should the plant's main Craggy circuit fail. Two banks of new transformers now supply these circuits. This increases external reliability by over 90%. This is now complete.
- Improvements to Internal Distribution System and Additional Backup Generators: This will upgrade the existing switchgear, add multiple main feeds within the plant, and provide redundancy to the existing 2MW backup generator by adding two 1MW generators.

The third item centers on rehabilitating the plant's *internal* power system - for both distribution and backup supply. Additional switchgear will be added to supplement the existing switchgear, and reconfigure how power is supplied internally.

The additional backup generation is comprised of adding two 1MW generators to the existing 2MW backup system. Utilizing multiple smaller units as opposed to one larger unit gives the ability to ramp up power as needed, and provides redundancy in the event that one unit fails. It is also important to note that the new backup system will power *all plant processes* during an outage, thus maintaining full treatment if external power is lost.

These three measures combined will ensure that power to the plant is stable, robust, and has sufficient redundancy.

This current contract is to procure two one megawatt generators and the matching switchgear, in order to have them ready for the construction contract. This equipment has a lengthy manufacturing process of approximately eight months. The construction contract will be competitively bid in late Spring 2012.

The procurement contract was advertised and one bid was received on Thursday October 6, 2011 in the following amount:

<u>Manufacturer</u>	<u>Bid Amount</u>
1) Carolina CAT, Charlotte, NC	\$934,812.93

Note that this is an equipment procurement contract; therefore, the minimum number of three bids is not required.

Carolina Caterpillar is a quality manufacturer of power generating equipment, and their price is within the engineer's previously expected price range as well as the project budget. Staff therefore recommends award of this contract to Carolina Caterpillar.

**FISCAL IMPACT:** The FY11-12 budget for this project is \$1,000,000.00.

**STAFF RECOMMENDATION:** Staff recommends that the District award the procurement contract to Carolina Caterpillar in the amount of \$934,812.93, subject to review and approval by District Counsel.

METROPOLITAN SEWERAGE DISTRICT  
OF BUNCOMBE COUNTY, NORTH CAROLINA

WATER RECLAMATION FACILITY  
ELECTRICAL IMPROVEMENTS  
EQUIPMENT PROCUREMENT  
MSD PROJECT NO. 2010032

BID TABULATION  
October 6, 2011

BIDDER	Bid Bond	Bid Forms	Total Bid Amount
Carolina Caterpillar Charlotte, NC	5%	Yes	\$934,812.93
Cummins Atlantic Charlotte, NC			NO BID

APPARENT LOW BIDDER



Phillip A. Fisher, PE  
Electrical Services Manager  
McGill Associates, PA  
55 Broad Street  
Asheville, North Carolina 28801



This is to certify that the bids tabulated herein were publicly opened and read aloud at 2:00 p.m. on the 6<sup>th</sup> day of October, 2011, in the W.II. Mull Building at the Metropolitan Sewerage District of Buncombe County, Asheville, North Carolina, and that said bids were accompanied by acceptable bidders bonds in the amount of 5% of the bid.





October 10, 2011

Ed Bradford, PE  
Director of Capital Improvement  
Metropolitan Sewerage District  
2028 Riverside Drive  
Asheville, North Carolina 28804

Re: Letter of Recommendation of Award  
Water Reclamation Facility  
Electrical Improvements  
Equipment Procurement  
Asheville, North Carolina  
MSD Project No. 2010032

Dear Mr. Bradford:

The bids for the generator and switchgear equipment procurement contract for the Water Reclamation Facility Electrical Improvements were received by the Metropolitan Sewerage District and publicly opened on October 6, 2011. Bids were received from one (1) equipment provider as shown on the Certified Bid Tabulation.

The low bid was submitted by Carolina Caterpillar of Charlotte, North Carolina, in the base bid amount of \$934,812.93. Carolina Caterpillar is a reputable and experienced supplier of generators and switchgear and possesses the capabilities to provide the required equipment and perform the work required by the contract documents.

McGill Associates hereby recommends the procurement contract be awarded to Carolina Caterpillar in the amount shown on the Certified Bid Tabulation.

Should there be any questions or the need for additional information, please do not hesitate to contact me.

Sincerely,  
McGILL ASSOCIATES, P.A.

A handwritten signature in black ink that reads "Phillip A. Fisher".

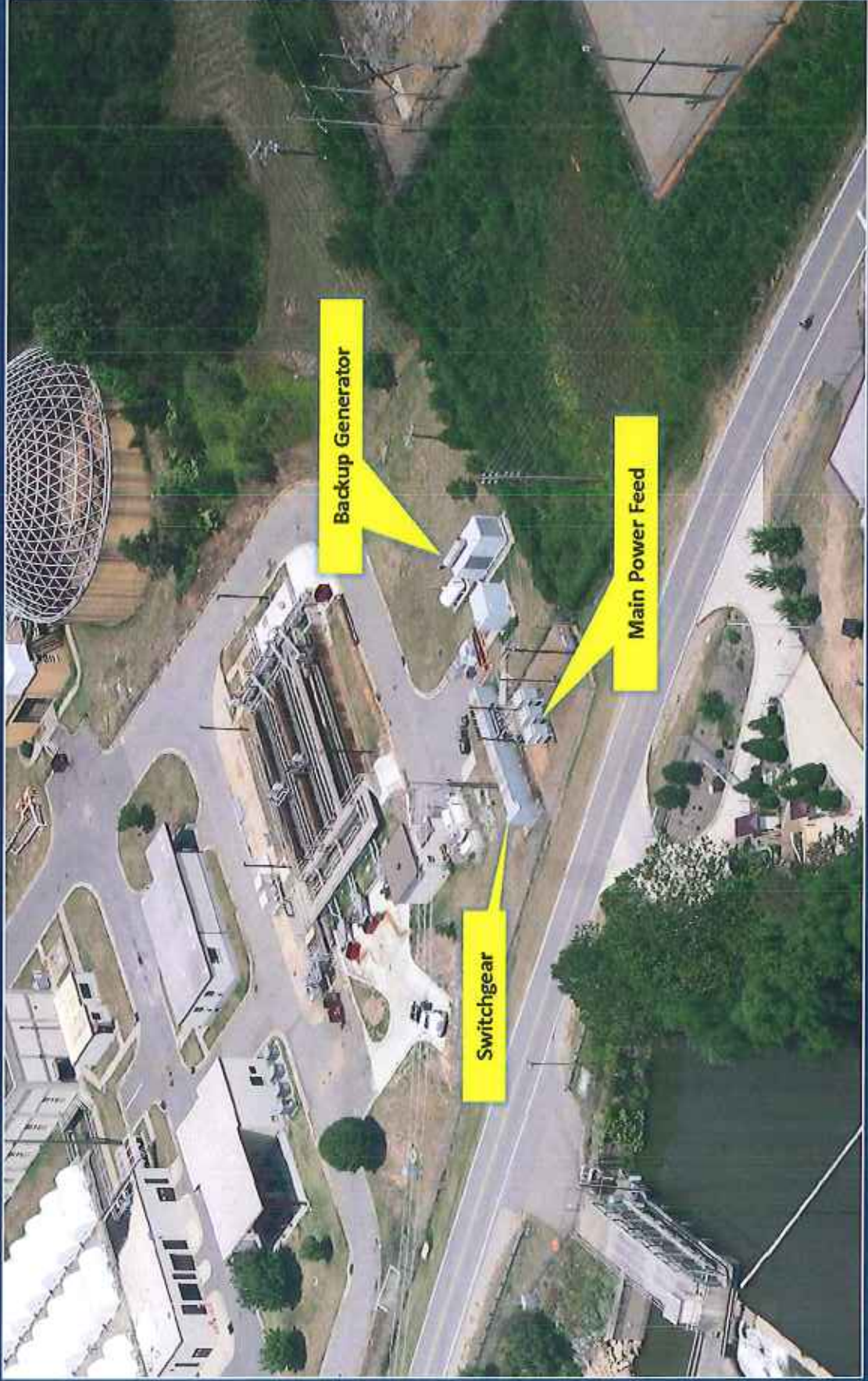
Phillip A. Fisher, PE  
Electrical Services Manager

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Engineering • Planning • Finance

McGill Associates, P.A. • P.O. Box 2259, Asheville, NC 28802 • 55 Broad Street, Asheville, NC 28801

828-252-0575 • Fax: 828-252-2518



Plant's Main Electrical Supply System



**Electrical Improvements at WRF**  
**Project No. 2010032**

NOT TO SCALE



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

**Budget Map**

METROPOLITAN SEWERAGE DISTRICT OF BUNCOMBE COUNTY, NORTH CAROLINA

**CAPITAL IMPROVEMENT PROGRAM**

**BUDGET DATA SHEET - FY 2011 - 2012**

PROJECT:	Electrical Improvements	LOCATION:	MSD-WRF	REVIEWED BY:
TYPE:	WRF	DATE OF REPORT:	January-11	
PROJECT NO.	2010032	TOTAL L.F.:	0	
PROJECT BUDGET:	\$2,766,326.00	PROJECT ORIGIN:	General Manager	

DESCRIPTION	ESTIMATED PROJECT COST	TOTAL EXPENDS THRU 6/30/10	TOTAL COSTS JULY - DEC 10	EST. COST JAN - JUNE 11	EST. BUDGET FY 11-12
01 - SURVEY / EASEMENT PLAYS # PLATS: [ 0 ]					
02 - LEGAL FEES					
03 - ENGINEERING ASSISTANCE					
04 - ACQUISITION SERVICES					
05 - COMPENSATION					
06 - APPRAISAL					
07 - CONDEMNATION					
08 - ENVIRONMENTAL SURVEY					
09 - PRELIM. ENG. REP.					
10 - DESIGN					
11 - ENVIRONMENTAL ASSESSMENT					
12 - ARCHAEOLOGICAL					
13 - GEOTECHNICAL					
14 - CONSTRUCTION CONTRACT ADM.					
15 - CONSTRUCTION	\$2,766,326.00		\$66,326.00	\$200,000.00	\$1,000,000.00
16 - PERMITS					
17 - PUBLIC MEETINGS					
18 - TESTING					
TOTAL AMOUNT	\$2,766,326.00	\$0.00	\$66,326.00	\$200,000.00	\$1,000,000.00

ENGINEER:	McGill Associates	ESTIMATED BUDGETS - FY '12-'21	
CONTRACTOR:	MSD	FY 12-13	\$1,500,000.00
CONSTRUCTION ADMINISTRATION:	MSD	FY 13-14	\$0.00
INSPECTION:	MSD / McGill Associates	FY 14-15	\$0.00
R.O.W. ACQUISITION:		FY 15-16	\$0.00
		FY 16-17	\$0.00
PROJECT NOTES:	This project will add four (4) 600 KW generators to the Water Reclamation Facility, additional switchgear, and new power feeds for redundancy.	FY 17-18	\$0.00
		FY 18-19	\$0.00
		FY 19-20	\$0.00
		FY 20-21	\$0.00

**Metropolitan Sewerage District of Buncombe County**  
**BOARD ACTION ITEM**

**BOARD MEETING DATE:** 10/19/11

**SUBMITTED BY:** Tom Hartye, P.E. - General Manager

**PREPARED BY:** Ed Bradford, P.E. - Director of CIP  
 Mike Stamey, P.E. - Director of System Services Construction  
 Hunter Carson, P.E. - Project Manager

**SUBJECT:** Pipe Rating Contract No. VI - Lining, MSD Project Number 2010089

**BACKGROUND:** This project has been generated thru the District's Pipe Rating Program, which is a structural defect-rating system using CCTV data combined with the GIS. The highest rated pipes (meaning worst) are flagged by the program, and they are then individually evaluated by an engineer for possible rehabilitation options.

This contract is the sixth of the District's Pipe Rated lining contracts. Lines in this contract are located in four sub-basins within the City and County. It consists of lining aged clay collector lines; rehabilitating associated manholes; and renewing the District-maintained portions of all service lines. The contract totals 10,988 LF.

Three bids were received on October 6, 2011 for this contract in the following amounts:

<u>Contractor</u>	<u>Total</u>
Buckeye Construction Company	\$926,000.00
Terry Bros. Const. Co.	\$778,995.00
<b>Improved Technologies Group</b>	<b>\$778,564.00</b>

The apparent low bidder is Improved Technologies Group, with a bid amount of \$778,564.00.

Improved Technologies (previously dba Jones Brothers) has prior experience with District lining projects, and their work at that time was satisfactory. Staff also checked current references, and all were satisfactory.

Please refer to the attached documentation for more detailed information.

**FISCAL IMPACT:** The FY12 construction budget is \$900,000.00.

**STAFF RECOMMENDATION:** Staff recommends award of this contract to Improved Technologies Group in the amount of \$778,564.00, subject to review and approval by District Counsel.

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

**Pipe Rating Contract #6 - Lining  
Project No. 2010089**

**BID TABULATION  
October 6, 2011**

<b>BIDDER</b>	<b>Bid Bond</b>	<b>MBE Form</b>	<b>Bid Forms (Proposal)</b>	<b>Total Bid Amount</b>
Buckeye Construction Company Canton, NC	5%	2	Yes	\$926,000.00
Terry Brothers Construction Company Leicester, NC	5%	1	Yes	\$778,995.00
Improved Technologies Group LLC Knoxville, TN	5%	1	Yes	\$778,564.00

**APPARENT LOW BIDDER**

Michael W. Stamey, P.E.  
Project Engineer  
Metropolitan Sewerage District of  
Buncombe County, North Carolina



This is to certify that the bids tabulated herein were publicly opened and read aloud at 2:00 p.m. on the 6th day of October, 2011, in the W.II. Mull Building at the Metropolitan Sewerage District of Buncombe County, Asheville, North Carolina, and that said bids were accompanied by acceptable bidder's bonds in the amount of 5% of the bid.

## Interoffice Memorandum

**TO:** Tom Hartye, General Manager

**FROM:** Ed Bradford, CIP Manager  
Mike Stamey, System Services Director of Construction  
Hunter Carson, Project Engineer

**DATE:** October 7, 2011

**RE:** Pipe Rating Contract No. 6 – Lining, MSD Project No. 2010089

On October 6, 2011, bids were received for Pipe Rating Contract No. 6 – Lining. To date, the District has completed five lining contracts; all work has been completed within the last eight fiscal years. This project is comprised of numerous line segments which have been flagged by the Pipe Rating Program as having significant structural problems. These line segments are located within four sub-basins of the District: sub-basin #1, #10, #39, and #42. Each of the line segments has been reviewed using CCTV data to establish the appropriate method of rehabilitation. Line segments both upstream and downstream of the flagged portions were all reviewed during the design process in order to ensure a comprehensive rehabilitation project.

This contract consists of the rehabilitation of existing collector sewers using the "Cured in Place" method of trenchless rehabilitation, and consists of approximately 1,772 L.F. of 6" lining, 7,009 L.F. of 8" lining, and 2,207 of 10" lining (10,988 L.F. total). In general, these lines are located in fully developed urban areas. Line capacities are adequate for current and future flows; therefore, upsizing of the lines was not justified. In addition to the lines, the manholes on these segments will be rehabilitated or replaced, and cleanouts will be added to each service line.

Three bids were received on October 6, 2011 for this contract in the following amounts:

<u>Contractor</u>	<u>Total</u>
Buckeye Construction Company	\$926,000.00
Terry Bros. Const. Co.	\$778,995.00
<b>Improved Technologies Group</b>	<b>\$778,564.00</b>

The apparent low bidder is Improved Technologies Group with a bid amount of \$778,564.00. The FY11/12 construction budget for this project is \$902,500.00. Improved Technologies Group (ITG), formerly under the banner Jones Brothers Construction, has performed at least two lining projects for the District in 2000 and 2001. District staff spoke with several of ITG's previous clients, each of whom provided a positive reference and confirmed that ITG delivered a quality product. References are attached for your review.

Staff recommends award of this contract to Improved Technologies Group contingent upon review and approval by District Counsel.

## Reference Checks for Improved Technologies Group

By: MikeStamey, Conducted 9/30/11, 10/3/11, and 10/6/11

- Previous MSD Experience

Per the reference list provided by ITG, their company (formerly under the banner of Jones Brothers Construction) completed a project for MSD in 2000.

Per a quick review of available MSD files I found where Jones Brothers was contractor on London Road Pilot Basin, Phase 1, Contract 1, Fold and Formed PVC (Purchase Order No. 7845). They also were contractor on the Rhododendron Avenue (Lining) Sanitary Sewer Rehabilitation Project (No. 2000130B). That project included approximately 1000 LF of lining work.

- E-mail Reference Check from Keith Shirley with Charlotte Mecklenburg Utilities

**From:** Stamey, Mike [mailto:MStamey@msdbc.org]  
**Sent:** Friday, September 30, 2011 12:15 PM  
**To:** Shirley, Keith  
**Subject:** Reference for CIPP Contractor

Keith,

I am doing a reference check for a CIPP trenchless technology company that wants to bid one of our upcoming projects. The company is Improved Technologies Group (Inland Pipe and Rehab Company). They indicate that they installed 30,000+ LF of their CIPP liner (invert-A-pipe) on the CMUD FY07 – Renewal #2 Project. With that in mind, what was Charlotte's experience with this company? Any reference information you can provide would be appreciated.

Thanks.

Mike  
*Michael W. Stamey, PE*  
Director of System Services Construction  
Metropolitan Sewerage District of Buncombe County, NC  
2028 Riverside Drive  
Asheville, NC 28804  
Ph: (828) 225-8262

Response from Shirley, Keith <kshirley@ci.charlotte.nc.us>

Hi Mike – Hope all is well. Improved Technologies Group has been doing work for us for a number of years. I'm not sure of the footage but I would think that 30,000 LF would be low. They are experienced in all sizes....the largest they've done for us is 54". They are very good at lining pipe and working through problems in the field. Their greatest shortcoming with us has been with project management and paperwork, which has at times been a struggle. But I not sure that's much different from most other contractors. Overall, I would rate them high. Hope this helps. - Keith



- **Reference Check with Aaron Frazier with Frazier Engineering in the Charlotte, NC area.**

Frazier Engineering is a highly respected firm in the field of CIPP trenchless Technology. In times past, I have called Aaron Frazier for technical assistance on CIPP issues. One of their clients is the City of Charlotte Utilities Department.

On ITG's reference list Aaron Frazier was listed as a reference on a City of Charlotte project that included over 30,000 feet of 8" CIPP work. Aaron indicated that ITG was one of the best companies he has seen for CIPP installation. He indicated that they had many years of experience dating back to when they worked under the banner of Jones Brothers Construction. Aaron echoed the same comments as Keith Shirley above.

- **Reference Check with Ernie Woodcock of Portland Utilities (Phone:615/325-3374)**

Portland Utilities hired ITG to perform several CIPP projects for them including the KUB-Ellis Road project and KUB-Second Creek project (2,164 of 8" and 151' of 12"). Both of the subject projects were located in Knoxville, TN.

Portland Utilities had a good experience with ITG. The company has a lot of experience. Portland Utility would work with ITG again.



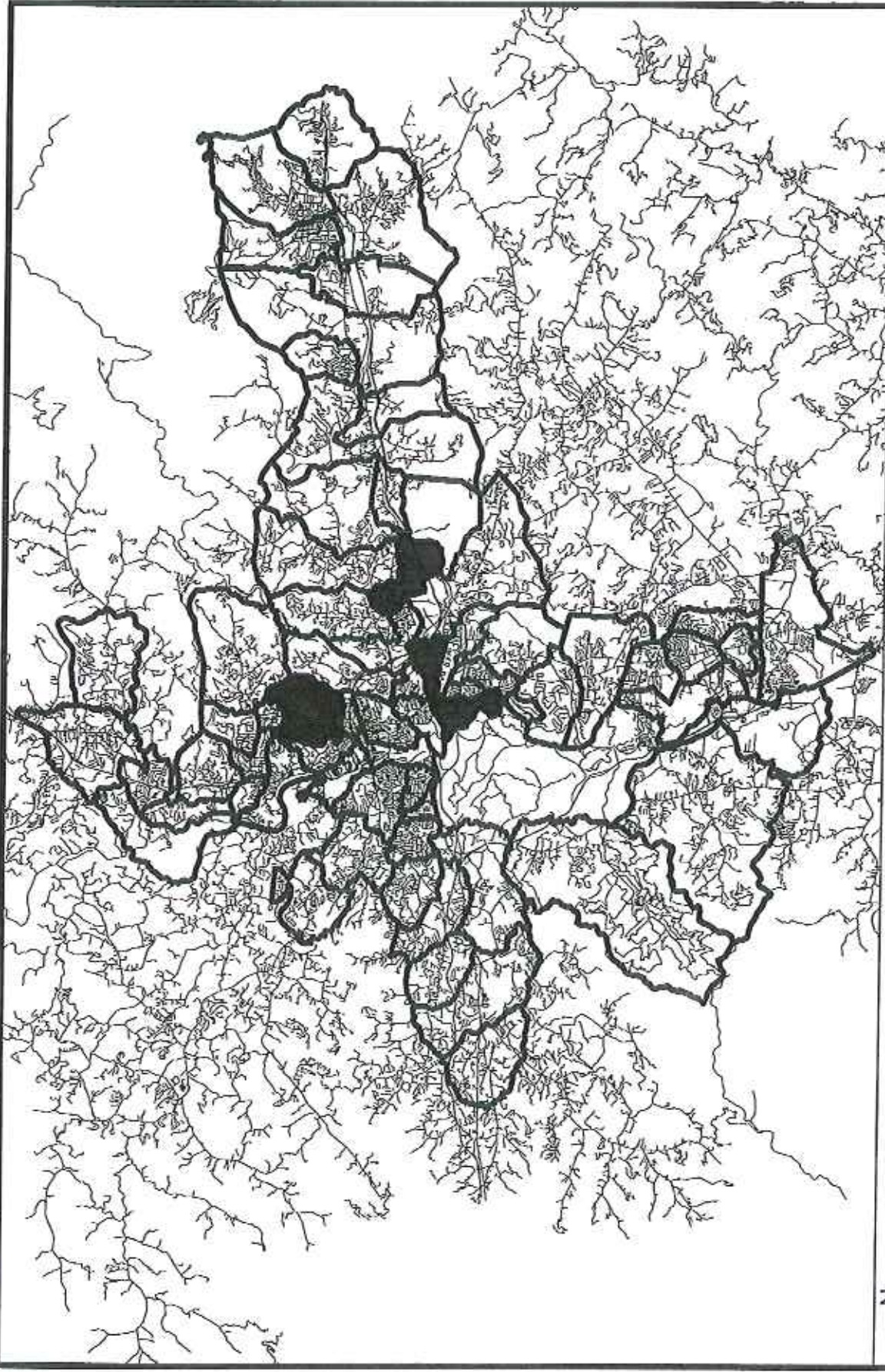
**Pipe Rating Contract #6 (Lining)  
Project No. 2010089**

NOT TO SCALE



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

**Budget Map**



METROPOLITAN SEWERAGE DISTRICT OF BUNCOMBE COUNTY, NORTH CAROLINA

**CAPITAL IMPROVEMENT PROGRAM**

*BUDGET DATA SHEET - FY 2011 - 2012*

PROJECT:	Pipe Rated Project Contract #6 (Lining)	LOCATION:	Various	REVIEWED BY:
TYPE:	Pipe Rated Projects	DATE OF REPORT:	January-11	EB
PROJECT NO.	2010089	TOTAL L.F.:	10,458	MS
PROJECT BUDGET:	\$902,500.00	PROJECT ORIGIN:	Pipe Rating Program	AB

DESCRIPTION	ESTIMATED PROJECT COST	TOTAL EXPENDS THRU 8/30/10	TOTAL COSTS JULY - DEC 10	EST. COST JAN - JUNE 11	EST. BUDGET FY 11-12
01 - SURVEY / EASEMENT PLATS # PLATS: [ 0 ]					
02 - LEGAL FEES					
03 - ENGINEERING ASSISTANCE					
04 - ACQUISITION SERVICES					
05 - COMPENSATION					
06 - APPRAISAL					
07 - CONDEMNATION					
08 - ENVIRONMENTAL SURVEY					
09 - PRELIM. ENGR. REP.					
10 - DESIGN / ASBUILT SURVEYS	\$500.00				\$500.00
11 - ENVIRONMENTAL ASSESSMENT					
12 - ARCHAEOLOGICAL					
13 - GEOTECHNICAL					
14 - CONSTRUCTION CONTRACT ADM.					
15 - CONSTRUCTION	\$900,000.00				\$900,000.00
16 - PERMITS					
17 - PUBLIC MEETINGS					
18 - TESTING	\$2,000.00				\$2,000.00
TOTAL AMOUNT	\$902,500.00	\$0.00	\$0.00	\$0.00	\$902,500.00

ENGINEER:	MSD	ESTIMATED BUDGETS - FY '12-'21	
CONTRACTOR:		FY 12-13	\$0.00
CONSTRUCTION ADMINISTRATION:	MSD	FY 13-14	\$0.00
INSPECTION:	MSD	FY 14-15	\$0.00
R.O.W. ACQUISITION:	N/A	FY 15-16	\$0.00
		FY 16-17	\$0.00
PROJECT NOTES:		FY 17-18	\$0.00
		FY 18-19	\$0.00
		FY 19-20	\$0.00
		FY 20-21	\$0.00

# Metropolitan Sewerage District of Buncombe County

## BOARD INFORMATIONAL ITEM

**Meeting Date:** October 19, 2011  
**Submitted By:** Thomas E. Hartye, PE., General Manager  
**Prepared By:** W. Scott Powell, CLGFO, Director of Finance  
**Subject:** Cash Commitment/Investment Report-Month Ended August 31, 2011

### **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 August 31, 2011 were \$38,069,057. The detailed listing of accounts is available upon request. The average rate of return for all investments is 1.066%. 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 August 31, 2011 does not reflect contractual commitments or encumbrances against said funds. Shown below are the total investments as of August 31, 2011 reduced by contractual commitments, bond funds, and District reserve funds. The balance available for future capital outlay is (\$4,604,371).

<b>Total Cash &amp; Investments as of 08/31/2011</b>	38,069,057
<b>Less:</b>	
Budgeted Commitments (Required to pay remaining FY12 budgeted expenditures from unrestricted cash)	
Construction Funds	(16,918,804)
Operations & Maintenance Fund	(12,212,871)
	(29,131,675)
Bond Restricted Funds	
Bond Service (Funds held by trustee):	
Funds in Principal & Interest Accounts	(14,593)
Debt Service Reserve	(2,661,450)
Remaining Principal & Interest Due	(7,318,487)
	(9,994,530)
District Reserve Funds	
Fleet Replacement	(601,921)
WWTP Replacement	(768,485)
Maintenance Reserve	(813,688)
	(2,184,094)
Post-Retirement Benefit	(665,379)
Self-Funded Employee Medical	(697,750)
<b>Designated for Capital Outlay</b>	<b>(4,604,371)</b>

### **Staff Recommendation**

None. Information Only.

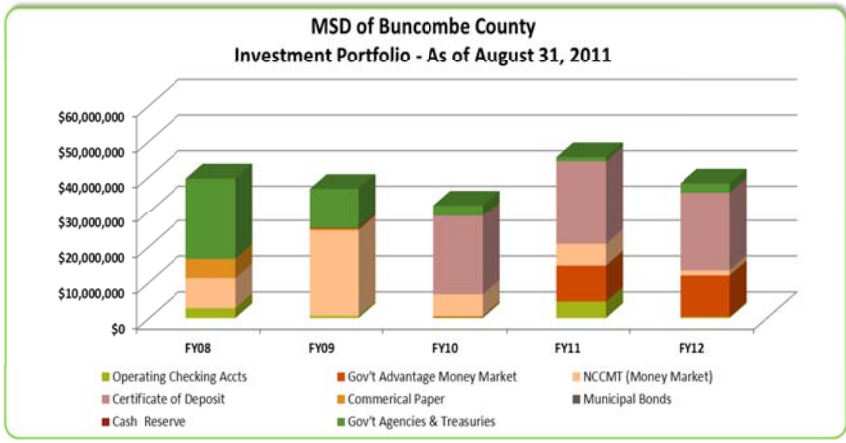
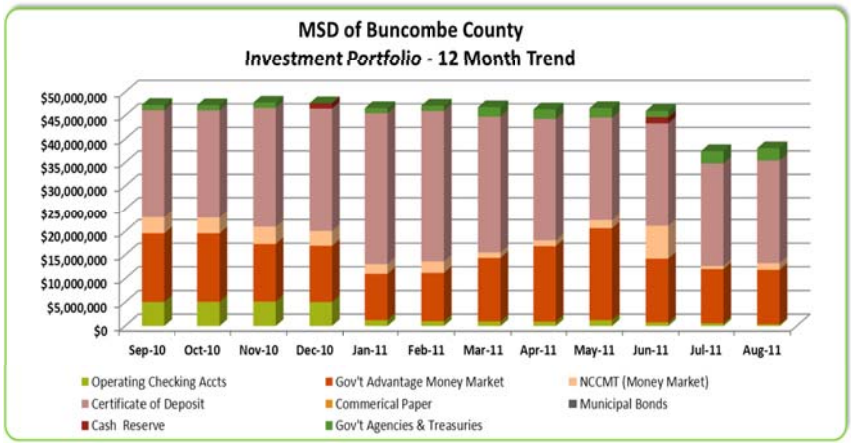
#### **Action Taken**

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

### Metropolitan Sewerage District of Buncombe County Investment Portfolio

	Operating Checking Accounts	Gov't Advantage Money Market	NCCMT (Money Market)	Certificate of Deposit	Commercial Paper	Municipal Bonds	Cash Reserve	Gov't Agencies & Treasuries	Total
<b>Held with Bond Trustee</b>	\$ -		\$ 59,877				\$ -	\$ 2,616,166	\$ 2,676,043
<b>Held by MSD</b>	335,517	11,543,812	1,376,834	22,136,851	-	-		-	35,393,014
	\$ 335,517	\$ 11,543,812	\$ 1,436,711	\$ 22,136,851	\$ -	\$ -	\$ -	\$ 2,616,166	\$ 38,069,057

<u>Investment Policy Asset Allocation</u>	<u>Maximum Percent</u>	<u>Actual Percent</u>	
U.S. Government Treasuries, Agencies and Instrumentalities	100%	6.87%	No significant changes in the investment portfolio as to makeup or total amount.
Bankers' Acceptances	20%	0.00%	
Certificates of Deposit	100%	58.15%	The District's YTM of .99% is exceeding the YTM benchmarks of the 6 month T-Bill and NCCMT Cash Portfolio.
Commercial Paper	20%	0.00%	
North Carolina Capital Management Trust	100%	3.78%	
Checking Accounts:	100%		All funds invested in CD's, operating checking accounts, Gov't Advantage money market are fully collateralized with the State Treasurer.
Operating Checking Accounts		0.88%	
Gov't Advantage Money Market		30.32%	



**Board Meeting**

October 19, 2011

Subject: Cash Commitment/Investment Report-Month Ended August 31, 2011

Page -3-

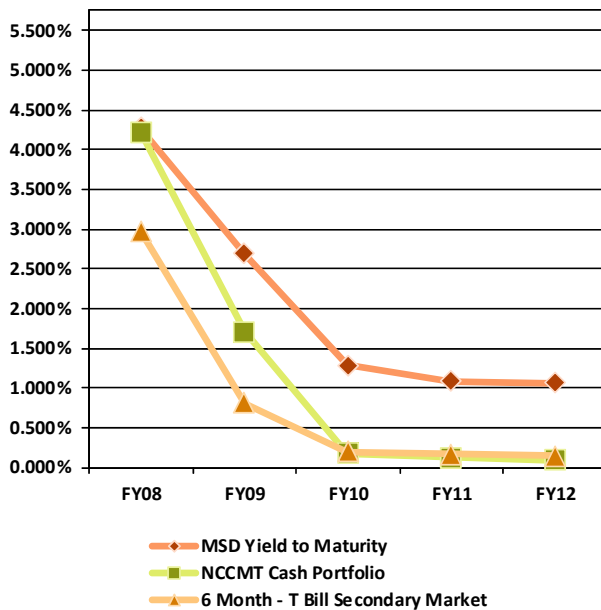
**METROPOLITAN SEWERAGE DISTRICT  
INVESTMENT MANAGERS' REPORT  
AT AUGUST 31, 2011**

	Original		Interest Receivable
	Cost	Market	
Beginning Balance	\$ 33,738,193	\$ 33,738,193	\$ 258,555
Capital Contributed (Withdrawn)	895,926	895,926	
Realized Income	3,377	3,377	
Unrealized/Accrued Income	-	-	27,031
Ending Balance	<u>\$ 34,637,496</u>	<u>\$ 34,637,496</u>	<u>\$ 285,586</u>

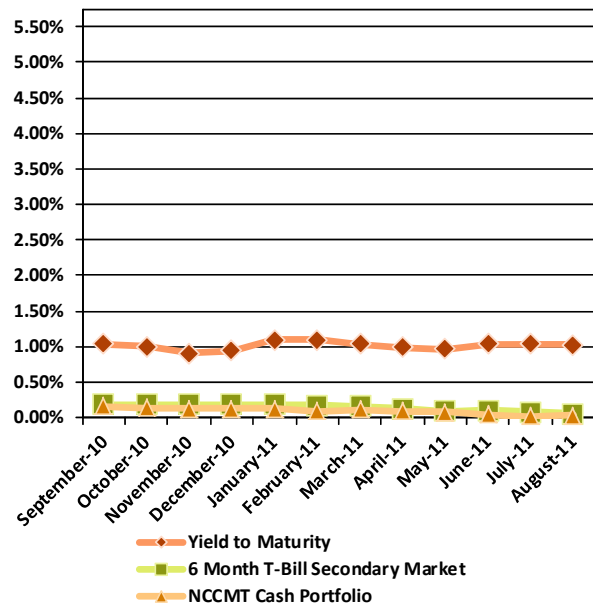
	Original Cost	Income
Cash Equivalents <91 Days	\$ 12,500,645	\$ 10,974
Securities/CD's 91 to 365 Days	22,136,851	19,434
Securities/CD's > 1 Year	-	-
	<u>\$ 34,637,496</u>	<u>\$ 30,408</u>

<u>Month End Portfolio Information</u>	
Weighted Average Maturity	325 Days
Yield to Maturity	1.02%
6 Month T-Bill Secondary Market	0.06%
NCCMT Cash Portfolio	0.03%

**Metropolitan Sewerage District  
Annual Yield Comparison**



**Metropolitan Sewerage District  
Yield Comparison - August 31, 2011**



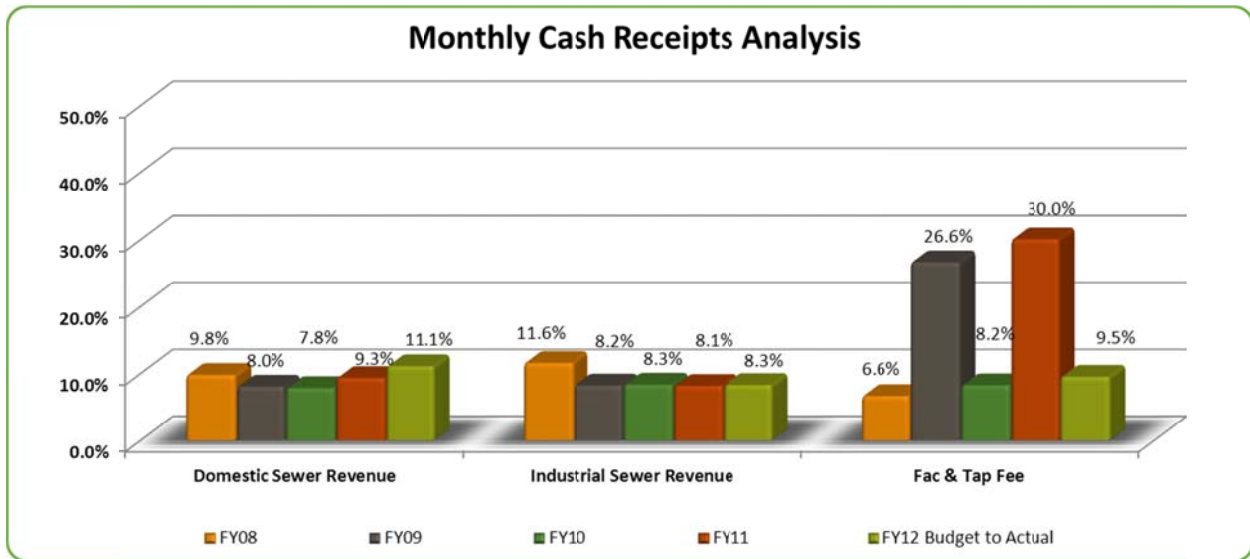
**Board Meeting**

October 19, 2011

Subject: Cash Commitment/Investment Report-Month Ended August 31, 2011

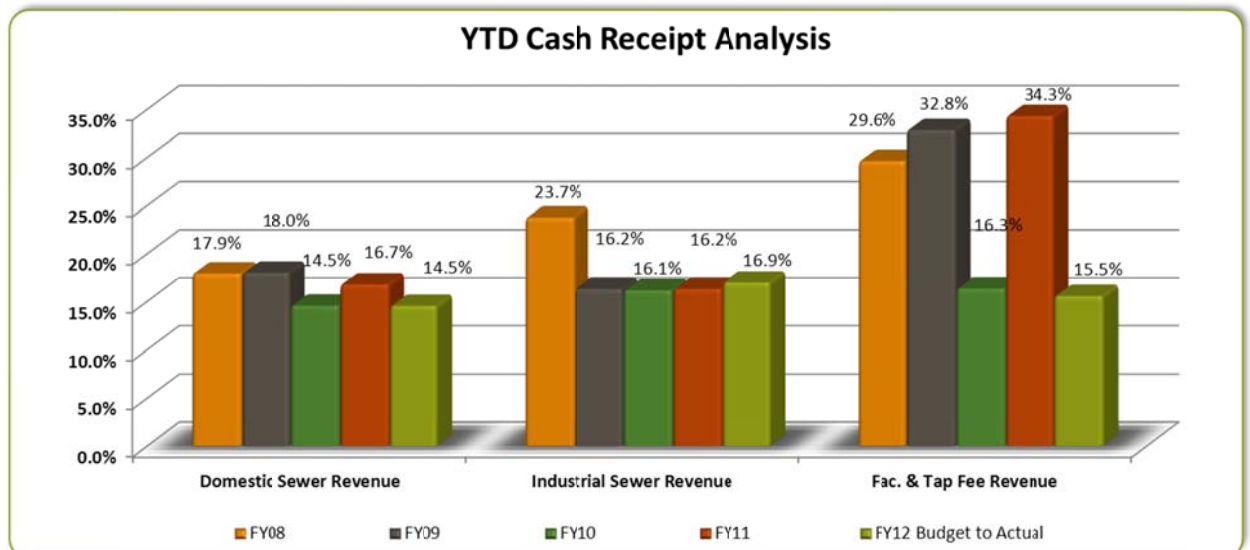
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**METROPOLITAN SEWERAGE DISTRICT  
ANALYSIS OF CASH RECEIPTS  
AS OF AUGUST 31, 2011**



**Monthly Cash Receipts Analysis:**

- ✦ Due to the City of Asheville’s implementation of their Munis Billing System, cash receipts were delayed. This impacted July receipts and will be resolved in the following two (2) months.
- ✦ Monthly industrial sewer revenue is considered reasonable based on historical trends.
- ✦ Due to the unpredictable nature of facility and tap fee revenue, staff considers facility and tap fee revenue reasonable.



**YTD Actual Revenue Analysis:**

- ✦ Due to the City of Asheville’s implementation of their Munis Billing System, cash receipts were delayed. This impacted July receipts and will be resolved in the following two (2) months.
- ✦ YTD industrial sewer revenue is considered reasonable based on historical trends.
- ✦ YTD facility and tap fee is higher due to two unexpected developments.

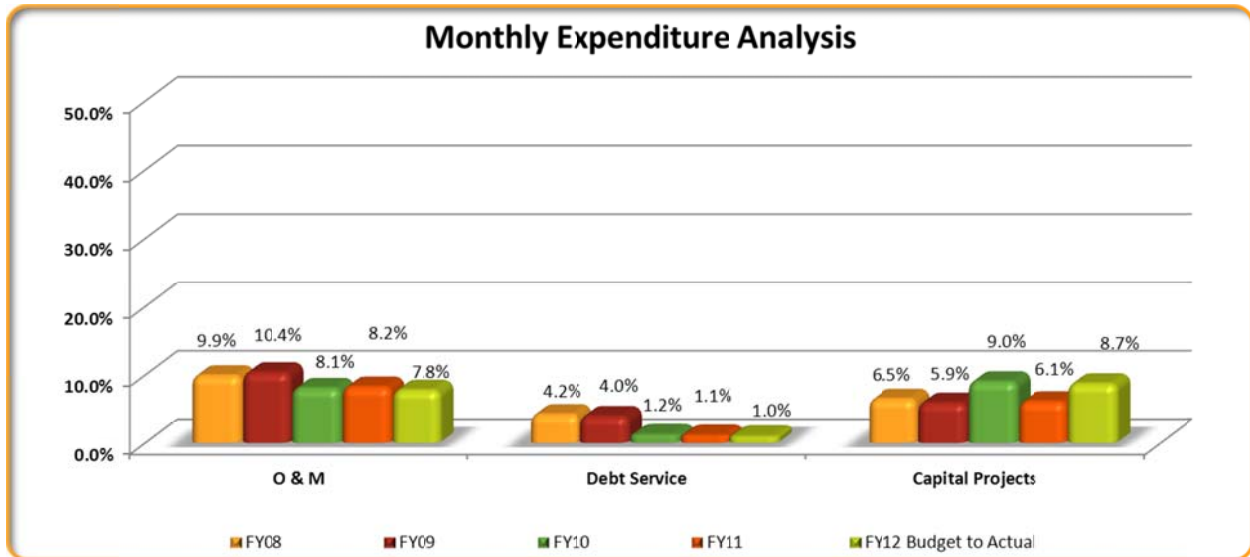
**Board Meeting**

October 19, 2011

Subject: Cash Commitment/Investment Report-Month Ended August 31, 2011

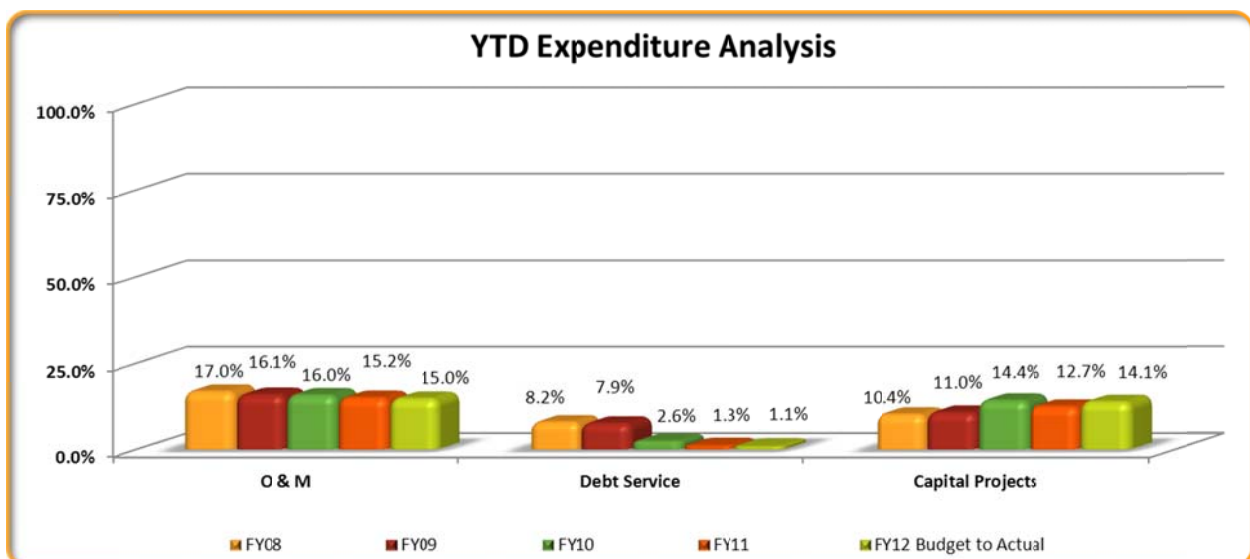
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**METROPOLITAN SEWERAGE DISTRICT  
ANALYSIS OF EXPENDITURES  
AS OF AUGUST 31, 2011**



**Monthly Expenditure Analysis:**

- ◆ Monthly O&M expenditures are considered reasonable based on historical trends and timing of expenditures in the current year.
- ◆ Due to the nature of the variable rate bond market, monthly expenditures can vary year to year. Based on current variable interest rates, monthly debt service expenditures are considered reasonable.
- ◆ Due to nature and timing of capital projects, monthly expenditures can vary from year to year. Based on the current outstanding capital projects, monthly capital project expenditures are considered reasonable.



**YTD Expenditure Analysis:**

- ◆ YTD O&M expenditures are considered reasonable based on historical trends.
- ◆ Due to the nature of the variable rate bond market, YTD expenditures can vary year to year. Based on current variable interest rates, YTD debt service expenditures are considered reasonable.
- ◆ Due to nature and timing of capital projects, YTD expenditures can vary from year to year. Based on the current outstanding capital projects, YTD capital project expenditures are considered reasonable.



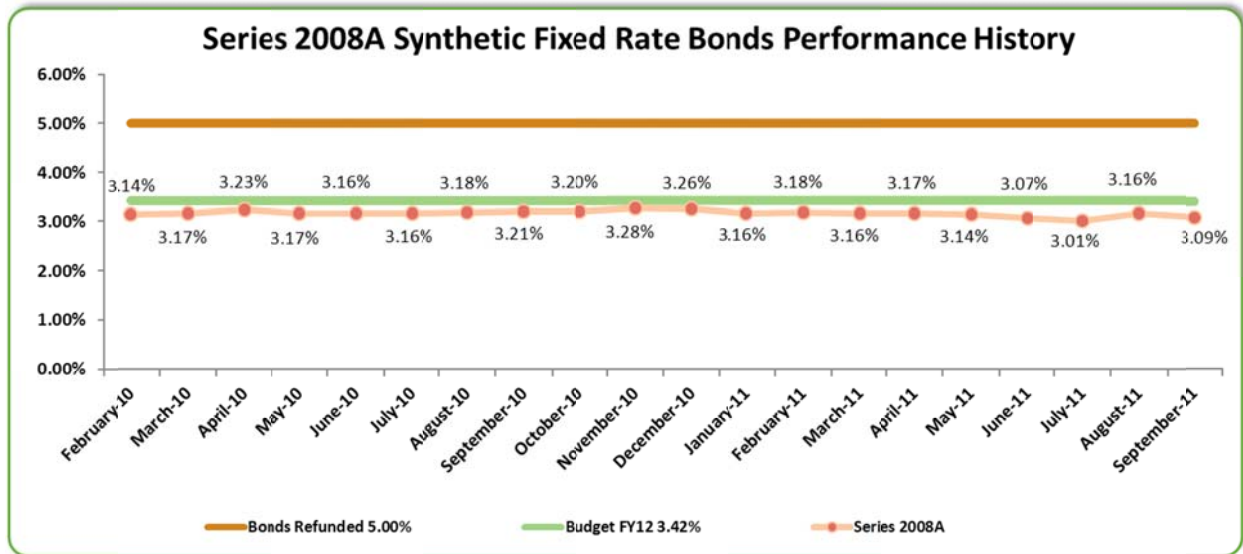
**Board Meeting**

October 19, 2011

Subject: Cash Commitment/Investment Report-Month Ended August 31, 2011

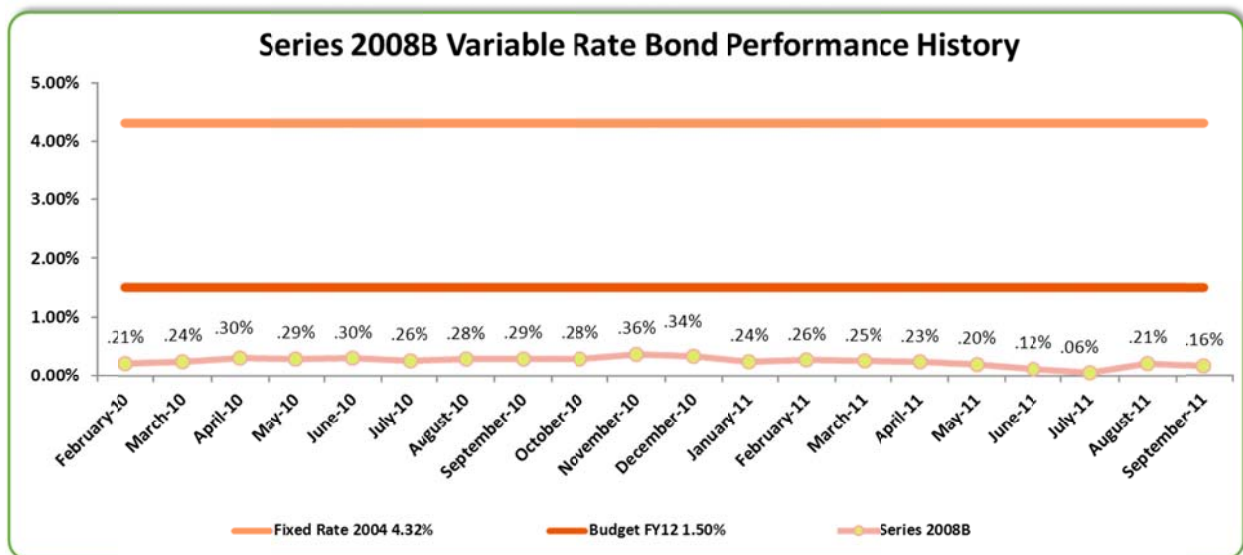
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**METROPOLITAN SEWERAGE DISTRICT  
Variable Debt Service Report  
As of August 31, 2011**



**Series 2008A:**

- \* Savings to date on the Series 2008A Synthetic Fixed Rate Bonds is \$1,694,239 as compared to 4/1 fixed rate of 4.83%.
- \* Assuming that the rate on the Series 2008A Bonds continues at the current all-in rate of 4.0675%, MSD will achieve cash savings of \$3,503,702 over the life of the bonds.
- \* MSD would pay \$6,057,000 to terminate the existing Bank of America Swap Agreement.



**Series 2008B:**

- \* Savings to date on the 2008B Variable Rate Bonds is \$2,625,912 as compared to 5/1 fixed rate of 4.32%.
- \* Since May 1, 2008, the Series 2008B Bonds average variable rate has been 0.65%.
- \* MSD will achieve \$8,705,000 in cash savings over the life of the bonds at the current average variable rate.

# **STATUS REPORTS**

**CAPITAL IMPROVEMENT PROGRAM**

**STATUS REPORT SUMMARY**

**October 11, 2011**

<b>PROJECT</b>	<b>CONTRACTOR</b>	<b>AWARD DATE</b>	<b>NOTICE TO PROCEED</b>	<b>ESTIMATED COMPLETION DATE</b>	<b>*CONTRACT AMOUNT</b>	<b>*COMPLETION STATUS (WORK)</b>	<b>COMMENTS</b>
DINGLE CREEK INTERCEPTOR @ CROWFIELDS, PHASE II	T & K Utilities	9/21/2011	10/7/2011	2/14/2012	175,854.00	0%	<b>Informal</b> Construction expected to start the week of October 17th.
LAKE JULIAN INTERCEPTOR PHASE IV	Terry Brothers	7/20/2011	8/8/2011	12/6/2011	\$247,035.00	95%	<b>Informal</b> Project complete except for paving. Final inspection pending.
PIPE RATING CONTRACT #6 (LINING)	TBA	TBA	TBA	TBA	TBA	0%	<b>Formal</b> Bids were opened on October 6th. Improved Technologies Group is the apparent low. Project will be presented at the October Board meeting.
ROCKDALE AVENUE (PRP 29003)	Buckeye Construction	11/17/2010	2/1/2011	10/21/2011	\$420,694.51	95%	<b>Formal</b> Contractor finishing up punch list items.
ROLLINGWOOD ROAD	Huntley Construction	8/17/2011	9/19/2011	1/17/2012	\$206,957.50	0%	<b>Informal</b> No work has begun yet.
TOWN BRANCH INTERCEPTOR PHASE II	Moore & Son	6/15/2011	7/18/2011	1/14/2012	\$538,328.30	20%	<b>Formal</b> Progress is slow because of rock. Contractor working on 30-inch line at Depot Street.
WRF - FINAL MICROSREEN REPLACEMENT	Hickory Construction	10/20/2010	1/3/2011	4/2/2012	\$8,937,108.20	40%	<b>Formal</b> Installing drain piping; preparing for wall finishes; window installation is imminent; and crane is being installed.

**\*Updated to reflect approved Change Orders and Time Extensions**

Planning and Development Projects Status Report  
October 12, 2011

Status	Project Name	Project Number	Work Location	Units	LF	Pre-Construction Conference Date	Comments
	Davidson Road Sewer Extension	2004154	Asheville	3	109	12/15/2004	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
	Willowcreek Village Ph.3	2003110	Asheville	26	597	4/21/2006	Complete - Waiting on final documents
	Rock Hill Road Subdivision	2005153	Asheville	2	277	8/7/2006	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
	Haywood Village	2007172	Asheville	55	749	7/15/2008	Complete - Waiting on final documents
	Oak Crest Place	2004056	West Asheville	27	791	12/3/2004	Complete - Waiting on final documents
	Buncombe County Animal Shelter	2007216	Asheville	Comm.	78	5/1/2008	Complete - Waiting on final documents
	Brookgreen at Crest Mtn. - Phase II	2011019	Woodfin	29	1,567	3/28/2011	Complete - waiting final documents
	Lodging at Farm (Gottfried)	2008169	Candler	20	45	6/2/2009	Complete - Waiting on final documents
	Camp Dorothy Walls - Ph. 1	2007294	Black Mtn.	Comm.	593	6/16/2009	Complete - Waiting on final documents
	Greeley Street	2011053	Asheville	2	119	9/15/2011	Complete - Waiting on final documents
	Momentum Health Adventure	2008097	Asheville	Comm.	184	8/19/2009	Complete - Waiting on final documents
	Richlyn Tract	2010009	Asheville	6	586	6/28/2011	Testing
	North Point Baptist Church	2008105	Weaverville	Comm.	723	5/20/2009	Complete - Waiting on final documents
	Lutheridge - Phase I	2009112	Arden	Comm.	330	3/16/2010	Complete-Waiting on final documents
	Black Mtn Annex: Blue Ridge Rd.	1992171	Black Mtn.	24	2,560	8/19/2010	Complete, waiting final documents
	AVL Technologies	2010018	Woodfin	Comm.	133	5/21/2010	Complete-Waiting on final documents
	Woodbriar Subdivision	2009004	Weaverville	72	3,888	8/2/2010	Complete-Waiting on final documents
	Ridgefield Business Park	2004188	Asheville	18	758	2/16/2005	Complete-Waiting on final documents

Subtotal	620	17,690
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Planning and Development Projects Status Report  
October 12, 2011

Status	Project Name	Project Number	Work Location	Units	LF	Pre-Construction Conference Date	Comments
	UNC-A New Residence Hall	2011047	Asheville	304	404	8/29/2011	Testing
	The Settings (6 Acre Outparcel)	2004192	Black Mountain	21	623	3/15/2006	Ready for final inspection
	Falcon Ridge	2004240	Asheville	38	3,279	10/11/2006	Punchlist pending
	Waightstill Mountain PH-8	2006277	Arden	66	3,387	7/26/2007	testing / in foreclosure
	Emergency Services Training Center	2009027	Woodfin	Comm.	2,512	2/7/2011	Testing
	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	Punchlist pending
	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	Ready for final inspection
	Versant Phase I	2007008	Woodfin	64	12,837	2/14/2007	testing
	Canoe Landing	2007137	Woodfin	4	303	5/12/2008	Ready for construction
	Central Valley	2006166	Black Mtn	12	472	8/8/2007	Punchlist pending
	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
	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
	Thom's Estate	2006309	Asheville	40	3,422	1/24/2008	Ready for final inspection
	Thom's Estate - Phase II	2008071	Asheville	40	3,701	2/9/2011	Testing
	Berrington Village Apartments	2008164	Asheville	308	4,690	5/5/2009	Testing
	Cottonwood Townhomes	2009110	Black Mtn.	8	580	10/20/2009	Testing
	Mission Hospitals (Victoria Road)	2009022	Asheville	Comm.	532	2/12/2010	Punchlist pending
	Camp Dorothy Walls - Ph. 2	2007294	Black Mtn.	Comm.	593	6/16/2009	Pre-con held, ready for construction
	South Buncombe Intermediate Sch.	2009065	Arden	Comm.	1,656	6/7/2010	Ready for final inspection
	Black Mtn Annex: Avena Rd.	1999026	Black Mtn.	24	4,300	8/19/2010	Punchlist pending
	Kenilworth Healthy Built	2011030	Asheville	5	252	8/23/2011	Installing
	Larchmont Apartments	2011014	Asheville	60	26	6/23/2011	Installing
	Sunrise	2010079	Asheville	3	85	9/15/2011	Testing
	Black Mtn Annex: McCoy Cove	1992174	Black Mtn.	24	2,067	8/19/2010	Punchlist pending
				Subtotal	2207	95,403	
				Total Units:	2,827		
				Total LF:		113,093	