

**BOARD OF THE METROPOLITAN SEWERAGE DISTRICT
DECEMBER 14, 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, December 14, 2011. Chairman Aceto presided with the following members present: Bellamy, Bryson, Creighton, Haner, Kelly, Manheimer, Root, Russell, VeHaun and Watts. Mr. Stanley was absent.

Others present were: Thomas E. Hartye, General Manager, William Clarke, General Counsel, Councilman Chris Pelly, City of Asheville, Greg Wiggins with Cane Creek Water & Sewer District, Marcus Jones with Henderson County, Matthew Socha and Eddie Burke with Cherry, Beckaert and Holland, Joseph Martin with Woodfin Sanitary Water & Sewer District, Stan Boyd, Ed Bradford, Jim Hemphill, Mike Stamey, Scott Powell, Ken Stines, Peter Weed, Neil Hall, Angel Banks, Julie Willingham and Sondra Honeycutt, MSD.

2. Inquiry as to Conflict of Interest:

Mr. Aceto asked if there were any conflicts of interest with the agenda items. No conflicts were reported.

3. Approval of Minutes of the November 16, 2011 Meeting:

Mr. Aceto asked if there were any changes to the Minutes of the November 16, 2011 Board Meeting. Mr. Haner moved that the Minutes be approved as presented. Mr. Russell 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, Mr. Pelly, Mr. Jones, Mr. Wiggins, Mr. Socha and Mr. Burke.

6. Report of General Manager:

Mr. Hartye called on Scott Powell for presentation of the Audit. Mr. Powell introduced Mr. Burke, the new audit Partner for Cherry, Bekaert & Holland, L.L.P. Mr. Burke stated that he will be taking over the audit engagement this year following the transfer of Mr. Russell Coleman to an office in the Virginia market. Mr. Burke gave a brief summation of his background and introduced Mr. Socha for a report on the District's Comprehensive Annual Financial Report (CAFR).

Mr. Socha expressed his appreciation to the Board for engaging Cherry, Bekaert & Holland for the District's audit services and gave a brief summary of what will be covered in his report. Mr. Socha reported that the District engaged Cherry, Bekaert & Holland to perform a financial audit of the District for the year ended June 30, 2011. He stated that the audit was subject to auditing standards issued by the American Institute of Certified Public Accounts and Government Auditing Standards. The standards required them to consider the following risk factors; laws and regulations, and fraud. He further stated that what they actually provide to the District is an audit report on the financial statements and a report on internal control and compliance under Government Auditing Standards. Also, they are required to go over with the Board the audit plan and strategy as well as the results.

With regard to the financial statements, Mr. Socha reported that the balance sheet and results of operations for the District are both very strong. Total assets increased by \$4.7 million. Current assets decreased by \$6.7 million and Capital assets increased by \$11.5 million. Total liabilities decreased by \$4.6 million, due to a decrease in long-term debt, and other liabilities increased by \$1.4 million, mostly related to accounts payable and activities related to the capital projects as of June 30. Net assets increased by about \$9 million, mostly in the area of investments in capital assets. Restricted net assets increased by \$50,000 and Unrestricted net assets were \$38 million, which is about 3x times the annual cash basis operating expenses. Operating revenues increased by \$2 million, mostly from sewer charges, which was \$1.5 million, a rate increase and \$600,000 in Tap fees. Operating expenses decreased by \$270,000 resulting in an increase in operating income of \$2.2 million. Non-operating revenues and expenses decreased by approximately \$200,000, primarily due to more capitalization of interest expense associated with capital projects. Mr. Socha further reported that the statement of cash flows provided a summary of major activity. There was approximately \$16.3 million in cash from operations after making an adjustment for depreciation expense; a non-cash item. Total cash outflows for plant additions of about \$22.7 million. Investment earnings provided \$430,000, and overall, cash decreased by about \$6.2 million.

Mr. Socha reported that significant matters to be discussed with the Board of Directors include: Planned scope and timing of the audit; new accounting pronouncements; significant accounting estimates, the most significant being allowance for uncollectible accounts; other disclosures in the financial statements relating to the interest rate exchange agreement and debt; difficulties encountered in performing the audit; corrected and uncorrected misstatements; disagreements with management; management representations; management consultations with other independent accountants and other audit findings or issues. He stated that no difficulties were encountered in any of the aforementioned communication requirements and that the audit was very smooth. He expressed his appreciation to management for providing timely and accurate information.

With regard to the results of the audit, Mr. Socha reported that the opinion on the financial statements as of and for the year ended June 30, 2011 is unqualified. No material weaknesses were found in internal controls over financial reporting and no instances of noncompliance with laws, regulations or contracts were identified.

Mr. Hartye called on Peter Weed for a presentation on the District's Fleet operation. Mr. Weed stated that for its size, MSD has a large fleet, which is maintained mostly in-house, with 2% of the budget going for outside labor. Also, staff meets each year to review and plan for vehicle replacement.

Mr. Weed reported that the MSD fleet consists of medium-duty trucks, sedans and SUV's, heavy-duty vehicles, support vehicles and trailers and can customize when necessary. He presented a slide showing a tractor-trailer rig with a tank added and water jets in front to wash down pavement, which is used in cleaning roads when there is an SSO. The tank on this vehicle is covered with a "Can the Grease" logo used as an advertisement to help protect the environment. Mr. Hartye stated that this vehicle is also used to provide water to flush sewer lines. Mr. Weed stated that the average age of on-road vehicles is 6 years with 75,000 miles.

Mr. Weed reported that MSD has three (3) certified and factory trained mechanics who work on small engine repairs up to major overhauls of heavy equipment and work extensively on Cummins Diesels. They can also do body repair. Fleet has ten (10) bay doors with five (5) actual bays and has a power-wash bay that can handle its largest vehicles.

Mr. Weed reported that at the beginning of every budget process, the Equipment Review Committee, consisting of Division Directors, Fleet Manager and Purchasing,

systematically look at what needs to be replaced and how. The criteria for new vehicle selection includes matching job requirements with best possible choices; evaluate service records; follow rotation schedule for existing vehicles and the use of NC contract prices and guidelines. He presented spreadsheets showing purchases, rotation of vehicles and equipment replacement fund balances per year; approximately \$500,000 for FY12.

With regard to green fuels and new technology, Mr. Weed reported that since 2003, MSD has been using bio-diesel. Also, MSD has two (2) all-electric vehicles. Ms. Bellamy announced that the City of Asheville has just opened a new electric re-fueling station.

Regarding the Water Study, Mr. Hartye reported that the first meeting of the Study Committee will be held January 23, 2012 from 9-2 pm in Raleigh, NC. The local Task Force met last week and will meet again on December 19th at 2 pm. He stated that there has been a slight change in how the Study Committee is going about the process and they do not want any information from the local Task Force prior to the first meeting. Ms. Manheimer reported that yesterday in a conversation with research staff, she was told the Legislative Research Commission is studying the privatization of not only public/private partnerships, but also privatization of typically public enterprises. She stated that Representative Moffitt is co-chair of this study commission, and that the majority of members serving on this commission, also serve on the Study Committee.

Mr. Hartye presented a press release from the Hendersonville Times News regarding Cane Creek.

Mr. Hartye reported that the Christmas lunch will be held December 15th at 11:30 a.m. in the atrium. The next regular Board Meeting will be held January 18th at 2 p.m. and the next Right of Way Committee Meeting will be held at January 25th at 9 a.m.

7. Report of Committees:

Right of Way Committee

Mr. Kelly reported that the Right of Way Committee met December 7, 2011 to consider the appointment of Commissioners for Condemnation Appraisals and to consider Compensation Budgets for Central Avenue GSR and 165 Old County Home Road projects. The recommendations on these items are part of the Consolidated Motion Agenda.

8. Consolidated Motion Agenda:

a. Consideration of Developer Constructed Sewer Systems:

1. Brookgreen at Crest Mountain Phase 11 Sewer Extension

Mr. Hartye reported that this project is located inside the District boundary off Ben Lippen Road at Crest Mountain in the Town of Woodfin. The project included the installation of approximately 1,567 linear feet of 8" gravity sewer to serve a twenty-seven (27) unit residential subdivision. Staff recommends acceptance of the sewer system. All MSD requirements have been met.

2. Richlyn Tract Sewer Extension Project

Mr. Hartye reported that this project is located inside the District boundary off Asbury Road in the City of Asheville. The project included the installation of approximately 586 linear feet of 8" gravity sewer to serve a six (6) unit

residential development. Staff recommends acceptance of the sewer system. All MSD requirements have been met.

3. Sunrise Drive Sewer Extension Project

Mr. Hartye reported that this project is located inside the District boundary off Sunrise Drive in the City of Asheville. The project included the installation of approximately 85 linear feet of 8" gravity sewer to serve a three (3) unit residential development. Staff recommends acceptance of the sewer system. All MSD requirements have been met.

4. Woodbriar Phase 1 Sewer Extension Project

Mr. Hartye reported that this project is located outside the District boundary off Reems Creek Road in Buncombe County. The project included the installation of approximately 3,888 linear feet of 8" gravity sewer to serve a fifty-two (52) unit residential development. Mr. Hartye stated that this project is a branch off of MSD's Master Plan line in the Reems Creek Valley. Staff recommends acceptance of the sewer system. All MSD requirements have been met.

b. Consideration of Bids for VA Hospital Pipe Rated Project:

Mr. Hartye reported that this project is for the replacement of multiple vitrified clay sanitary sewer lines which serve the VA Hospital in Oteen. The project was originally generated through MSD's Pipe Rating Program, which numerically rates pipe segments based on several structural factors and is comprised of 1,771 linear feet of 8-inch and 12-inch DIP. The following bids were received on December 1, 2011: Moore & Son Site Contractors with a total bid of \$309,795.00; Freestone Contraction, LLC with a total bid of \$295,494.00; T&K Utilities with a total bid of \$291,292.00; Terry Brothers Construction with a total bid of \$285,273.00; Buckeye Construction Co., with a total bid of \$280,771.00; Payne, McGinn & Cummins, Inc. with a total bid of \$256,317.65 and Huntley Construction Co., with a total bid of \$200,786.99. Staff recommends award of this contract to Huntley Construction Co. in the amount of \$200,786.99, subject to review and approval by District Counsel. Mr. Aceto asked about bids coming in under the construction budget amount. Mr. Hartye stated that the market is very competitive and companies are submitting bids to cover overhead so they stay in business.

c. Consideration of the Appointment of Commissioners for Condemnation Appraisals:

Mr. Hartye reported that at the October 19th Board Meeting Mr. Jerry Sternberg requested MSD consider use of three (3) commissioners appointed by the Clerk of Court to determine compensation, rather than the current methodology of engaging a licensed appraiser for such determinations. This issue was forwarded to the Right of Way Committee for consideration. Following a report by Mr. Clarke on the District's current process for condemnations, the Committee recommends no change be made to the current policy and procedure.

d. Consideration of Compensation Budgets for Central Avenue GSR and 165 Old County Home Road Projects:

Mr. Hartye reported that the Central Avenue GSR project is located in Weaverville and consists of approximately 700 linear feet of 6" and 8" clay and PVC pipe to be replaced with 8" DIP. The second project is on Old County Home Road and consists of 1,200 linear feet of 6" clay and PVC to replace 8" DIP. The Right of Way Committee recommends approval of the Compensation Budgets.

e. Presentation of Audit & CAFR – Fiscal Year Ended June 30, 2011:

Mr. Powell reported that the Comprehensive Annual Financial Report is broken down into four sections: Introductory, Financial, Statistical and Compliance. He stated that in the Introduction Section, management communicates the findings of the audit, which is an unqualified opinion; provide a profile of the District which contains a brief overview as well as outlines the budget process; provides a section which address factors affecting financial conditions, and a section which addresses major initiatives and accomplishments in FY 2011.

Mr. Powell reported that the Finance Section contains the independent auditor's report; management's discussion and analysis which is a narrative overview and analysis of the financial activities of the District for FY 2011; basic financial statements, notes, required supplemental information, and non-required supplemental information. On Page 58 of this section is the Schedule of Revenues and Expenditures budget to actual. He stated that Sewer charges were greater than budget due to higher growth and consumption. Facility and Tap Fees were greater than budget due to revenue exceeding the conservative budget amount. Interest income was below budgeted expectations due to continued pressures on the fixed income market. He explained that the District typically achieves a 96% budget to actual ratio on O&M expenditures; this year the District achieved 97%. He further reported that Capital project expenditures are at approximately 72% of budget, due to the timing of the secondary microscreens that were recently received. Bond principal and interest actually spent are less than budget due to actual variable interest rates averaging .26%. He stated that staff used some of the variable rate savings to exercise a call option on its 2001 Series bonds, which will save the District \$23,000 in interest expense in FY 12. The Statistical section provides historical data on Financial Trends, Revenue Capacity, Debt Capacity, as well as Demographic, Economic and Operating information. The Compliance section addresses material weaknesses in internal control, of which there were none. Ms. Bellamy asked why there is only one (1) retiree shown as receiving OPEB (Other Post-Employment Benefits). Mr. Powell stated that as of 6/30/11, there was one retiree participating in this plan. After 6/30/11, there were two or three. Ms. Bellamy asked how this benefit is paid and what the fund balance is. Mr. Powell stated that when looking at the monthly financial statements, an amount is reserved for payment. This amount is not put in an irrevocable trust, but the funds are set aside. He further stated that as of the end of October, \$701,000 is set aside for future post-employment obligation.

f. Cash Commitment/Investment Report – Month Ended October 31, 2011:

Mr. Powell reported that Page 2 presents the makeup of the District's Investment Portfolio, with no change from the prior month. Page 3 is the MSD Investment Manager report as of the month of December. The weighted average maturity of the investment portfolio is 396 days. The yield to maturity is .80% and is exceeding MSD bench marks of the 6 month T-Bill and NCCMT cash portfolio. Page 4 is the MSD Analysis of Cash Receipts. He stated that Domestic User Fees are slightly below budgeted expectations due to the impact of new software implementation at the City, which has had impacts on billing cycles and cash receipt patterns. Page 5 is an Analysis of Expenditures. He stated that O&M Debt Service and Capital Projects expenditures are considered reasonable based on historical trends. Page 6 is the MSD Variable Debt Service report for the month of November. Both the 2008 A&B Series are performing better than budgeted expectations and both issues have saved District ratepayers approximately \$4.7 million dollars in debt service since April of 2008. Mr. Powell reported that a Finance Committee Meeting will be scheduled in January to discuss an opportunity to refund some of the District's existing debt. He stated that based on the market, there is a potential of saving an additional \$3 million. Mr. Aceto asked about the possibility of refunding variable rate debt.

Mr. Powell stated that MSD has an opportunity to refund some fixed rate bonds and possibly some variable rate debt into fixed rate depending on the yield. Mr. Watts asked if MSD has been with the new remarketing agent long enough to see a difference. Mr. Powell stated that the new company will take over remarketing of the bonds this week. He further stated that the market has turned around to the favor of the District but when comparing remarketing agents, Wells Fargo is marketing those bonds within 2 to 3 basis points better than SIFMA.

Mr. Watts moved that the Board approve the Consolidated Motion Agenda as presented. Ms. Bellamy seconded the motion. With no discussion, Mr. Aceto called for the question. Roll call vote was as follows: 11 Ayes; 0 Nays.

9. Old Business:

None

10. New Business:

Mr. Aceto recognized Ms. Bellamy. Ms. Bellamy announced that this would be her last meeting as a member of the Board and that it has been a joy to serve during the last 8 years. She further stated that she has asked Councilman Chris Pelly to serve in her place and that Mr. Russell has been reappointed to serve another term. Ms. Bellamy expressed her appreciation to Mr. Hartye and staff for their timely support over the years.

Mr. Aceto expressed his appreciation to Ms. Bellamy for her dedicated service as a Member of the MSD Board of Directors.

11. Adjournment:

With no further business, Mr. Aceto called for adjournment at 2:50 p.m.

Jackie W. Bryson, Secretary/Treasurer

MSD

Regular Board Meeting

Metropolitan Sewerage District
of Buncombe County, NC

AGENDA FOR 12/14/11

✓	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 November 16, 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 – 12/7/11 – Kelly	Aceto	2:40
	07. Consolidated Motion Agenda	Hartye	2:50
	a. Consideration of Developer Constructed Sewer Systems: Brookgreen @ Crest Mountain Phase II; Richlyn Tract; Sunrise Drive and Woodbriar Phase I.	Hartye	
	b. Consideration of Bids – Sanitary Sewer Rehabilitation: VA Hospital Pipe Rated Projects	Hartye	
	c. Consideration of Appointment of Commissioners for Condemnation Appraisals.	Hartye	
	d. Consideration of Compensation Budgets for Central Avenue GSR and 165 Old County Home Road Projects.	Hartye	
	e. Presentation of FY 10-11 Comprehensive Annual Financial Report	Powell	
	f. Cash Commitment Investment Report as of October 31, 2011	Powell	
	08. Old Business	Aceto	3:15
	09. New Business:	Aceto	3:20
	10. Adjournment (Next Meeting January 18, 2011)	Aceto	3:30

APPROVAL OF MINUTES

**BOARD OF THE METROPOLITAN SEWERAGE DISTRICT
NOVEMBER 16, 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, November 16, 2011. Chairman Aceto presided with the following members present: Bryson, Creighton, Haner, Kelly, Manheimer, Root, Russell, Stanley, VeHaun and Watts. Ms. Bellamy was absent.

Others present were: Thomas E. Hartye, General Manager, William Clarke, General Counsel, Gary McGill with McGill Associates, Inc., Marcus Jones with Henderson County, Stan Boyd, Jim Hemphill, Ed Bradford, Ken Stines, Mike Stamey, Scott Powell, Peter Weed, Angel Banks, Julie Willingham, Ben Reeves, Shaun Armistead, Gilbert Karn, Jason Brigmon, Jason Price, Mike Rice and Sondra Honeycutt, MSD.

2. Inquiry as to Conflict of Interest:

Mr. Aceto asked if there were any conflicts of interest with the agenda items. No conflicts were reported.

3. Approval of Minutes of the October 19, 2011 Meeting:

Mr. Aceto asked if there were any changes to the Minutes of the October 19, 2011 Board Meeting. With no changes, the Minutes were adopted by acclamation.

4. Discussion and Adjustment of Agenda:

None

5. Informal Discussion and Public Comment:

Mr. Aceto welcomed Mr. Jones.

6. Report of General Manager:

Mr. Hartye reported that staff just returned from the NC AWWA-WEA Conference in Concord, NC. He stated that the highlight of the conference was the Operations Challenge where MSD’s “Flow Motion” team won the overall challenge and won two out of three competitions that go into the overall challenge. He congratulated and recognized team members, Jason Brigmon (Captain), Gilbert Karn, Jason Price, Shaun Armistead, Mike Rice (Alternate), and Ben Reeves (Coach). He further stated that the team will represent all of North Carolina in the National Competition at the Water Environment Federation’s 2011 WEFTEC Conference next fall in New Orleans, Louisiana.

Mr. Hartye reported that MSD received an email regarding a call from Julia Capps regarding her praise for MSD and French Broad Paving crews.

Mr. Hartye called on Mr. McGill for an update on the Moffitt Study Bill. Mr. McGill reported that the Research Staff has contacted him regarding the twelve (12) items listed in the Study Bill. He stated that because the Research Staff is unclear as to exactly what they are looking for, they will seek internal clarification as to the kind of information they can manage in the time frame given. He further reported that the first meeting of the Study Committee is scheduled for January to consider the Asheville Water System history and future. A subsequent meeting will be held in February to hear from the public. Mr. McGill stated that the local Task Force is waiting for additional contact from the Research Staff to determine exactly what is needed. A meeting of the Task

Force is scheduled for November 22nd at 9:00 a.m. The location will be confirmed in the next few days.

Mr. Hartye reported that the next Right of Way Committee meeting is scheduled for December 7th at 9a.m and the next Regular Board Meeting will be held December 14th at 2p.m.

7. Consolidated Motion Agenda:

a. Consideration of Acceptance of Developer Constructed Sewer Systems - The Cottages on Liberty Green Sewer Extension and Indian Branch Sewer Extension Projects:

Mr. Hartye reported that the Cottages on Liberty Green included the installation of approximately 123 linear feet of 8" gravity sewer to serve a seven (7) unit residential development. The Indian Branch Sewer included the installation of approximately 703 linear feet of 8" gravity sewer to serve a twenty (20) unit residential subdivision. Staff recommends acceptance of the developer constructed sewer systems. All MSD requirements have been met.

b. Consideration of Bids for Three (3) 3500 Series 4x4 Cab/Chassis Trucks:

Mr. Hartye reported that it's the District's policy to annually evaluate the condition of fleet vehicles and purchase replacements when the estimated cost of repair and maintenance will exceed the cost of a new one. The Equipment Review Committee recommended the purchase of three (3) 3500 Series 4x4 Cab/Chassis Trucks. The following bids were received and opened on November 7, 2011: Ilderton Dodge; High Point, NC with a total bid of \$34,532.00/each; Buchanan and Young; Burnsville, NC with a total bid of \$33,894.00/each and Egolf of Hendersonville, NC with a total bid of \$33,616.00/each. Staff recommends award of the bid to Egolf of Hendersonville, NC in the amount of \$33,616.00/each. Mr. Watts asked if a bid package was sent to the Ford dealership in Spartanburg, SC, who has the State contract on Fords. Ms. Willingham said no, that the District has standardized on Dodge Trucks for compatibility of service and parts. Mr. Haner asked if MSD surpluses the trucks that are being replaced. Mr. Hartye explained that these trucks are rotated down then placed on Gov. Deals as surplus. He stated that a presentation will be given next month on the process for truck replacement.

c. First Quarter Budget to Actual Review:

Mr. Powell reported that Domestic User Fees are slightly below budgeted expectations. This is due to the impact of new software implementation at the City which has had impacts on billing cycles and cash receipts patterns. He stated that in a conversation with the City Water Department, those patterns have been addressed and MSD should start seeing a normal cash receipt trend starting in December. Facility and Tap Fees are slightly below budgeted expectations due to the unpredictable nature of collections and developments. Interest and miscellaneous income are at budgeted expectations. Mr. Powell further reported that on the expenditure side, O&M expenditures are at 30.4% of budget. They include encumbered amounts which has elevated the budget to actual ratio slightly above 25%. Bond Principal and Interest actually spent are less than budget due to actual variable interest rates averaging .16% basis points as well as timing of the debt service for principal and interest payments. Amounts budgeted for capital equipment and capital projects are rarely expended proportionately throughout the year, but as of the end of the year MSD will be at budgeted expectations.

d. Cash Commitment/Investment Report – Month Ended September 30, 2011:

Mr. Powell reported that Page 2 presents the makeup of the District's Investment Portfolio. 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 September. The weighted average maturity of the investment portfolio is 373 days. The yield to maturity is .83% and is exceeding MSD bench marks of the 6 month T-Bill and NCCMT cash portfolio. 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 July, both issues have saved District customers approximately \$4.6 million dollars in debt service.

e. Series 2008 A&B Supplemental Resolution and Approval of New Remarketing Agent:

Mr. Powell presented three (3) resolutions; two supplemental resolutions for the Series 2008 A&B bonds and one for approval of a remarketing agent. He reported that at the October Board meeting, he communicated to the Board that the District's current remarketing agent, Banc of America Securities, LLC was not remarketing the bonds to their fullest potential. As a result, the Finance Committee recommended to the Board that the District change its remarketing agent to Wells Fargo, NA. He explained that in order to do this, it was necessary to broaden the language of both the 2008 Series A&B Resolutions to allow a National Association bank to be included as a remarketing agent, which are Exhibits 1 and 2. Exhibit 3 is a Resolution to have Wells Fargo, NA as the successor remarketing agent. He stated that Wells Fargo, NA has agreed to operate under the terms and conditions of the Remarketing Agreements dated March 1, 2008 between the District and Banc of America Securities, LLC, including the current annual remarketing fee of .10%. He added that Wells Fargo, NA is approved as a remarketing agent by the Local Government Commission. Mr. Clarke stated that under the existing language of the Series Resolutions, Wells Fargo, NA did not qualify as a remarketing agent which is the reason for the amendment. Mr. Powell stated that staff recommends approval of the proposed supplemental Series Resolutions (Exhibits 1 & 2) which broaden the language of qualified remarketing agents. Also, approval of the proposed resolution approving Wells Fargo, NA as successor remarketing agent for the Series 2008 A&B revenue bonds (Exhibit 3).

Mr. VeHaun moved that the Board approve the recommendations of staff. Mr. Stanley seconded the motion. With no discussion, Mr. Aceto called for the question. Roll call vote was as follows: 11 Ayes; 0 Nays.

8. Old Business:

Mr. Aceto reported that he attended the Asheville City Council meeting to present the joint MSD/City of Asheville letter drafted by the Planning Committee to Tim Moore, Chair of the Legislative Research Commission for Council's review and approval. Mr. Haner asked if the Research Staff said anything about another local subcommittee. Mr. McGill said no.

9. New Business:

None

10. Adjournment:

With no further business, Mr. Aceto called for adjournment at 2:20 p.m.

REPORT OF GENERAL MANAGER

MEMORANDUM

TO: MSD Board
FROM: Thomas E. Hartye, P.E., General Manager
DATE: December 8, 2011
SUBJECT: Report from the General Manager

- Audit for Fiscal Year 2011

A representative from Cherry Bekacrt & Holland will be present at the meeting to report on the District's annual audit. There will be a hard copy of the CAFR for FY 2011 in the sleeve of your Board book. In addition to the Financial Statements that appear in the document, there is also useful information in the Introductory and Statistical sections of the document.

- Presentation on MSD Fleet

Peter Weed will give a short presentation on the District's Fleet operation, the rotation and aging of vehicles/equipment and the replacement fund and how it is administered.

- Update on Water Study

Gary McGill will give an update at the meeting as to where the study stands at that time.

- Reading

- Henderson County Press Release - Hendersonville Times News regarding Cane Creek.

- Board/Committee Meetings/Events

The next Right of Way Committee Meeting will be held at 9am on January 25th. The next Regular Board Meeting will be January 18th at 2 pm. The Christmas lunch will take place on December 15th at 11:30am in the atrium.

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Looking at our water treatment options

Christina DeStefano

Henderson County Public Information Officer

Published: Sunday, November 27, 2011 at 4:30 a.m.

In the early 1970s, Henderson County agreed to assist the Metropolitan Sewerage District of Buncombe County with the cost of a major sewer line that was to be installed through the northern portion of Henderson County.

The purpose of the line was to eliminate several small wastewater treatment plants in southern Buncombe County. Installation of the line brought sewer service to northern Henderson County, where it was previously unavailable.

The Cane Creek Water and Sewer District was established in 1981 by Henderson County to provide sewer service to Fletcher, Hoopers Creek and the surrounding area.

The CCWSD secured its first wastewater to MSD in 1988 in the amount of 550,000 gallons per day. This was increased to 1.35 million gallons per day in 1989.

Since the CCWSD was established in 1988, the district boundary has been enlarged a number of times to incorporate Broadmoor Golf Course, Broadpointe Industrial Park and portions of Mills River.

The district today includes about 30,571 acres and encompasses an area from Buncombe County south to the Hendersonville service area, from Hoopers Creek in the east to a significant portion of Mills River in the West.

The CCWSD currently operates and maintains approximately 70 miles of sewer collection lines, with 11 pump stations serving 3,200 residential customers, 250 commercial customers and six industrial customers in the Fletcher area, Mountain Home Industrial Park, Broadpointe Industrial Park and a portion of the Mills River area.

These customers receive water service from the city of Hendersonville, the city of Asheville and in some limited cases, private wells.

The draft District Master Plan identified that the treatment capacity area needed for the district at buildout exceeds the current allocation from MSD. At buildout, the district will require 3 million gallons per day. The current maximum allocation is 1.35 million gallons per day.

The need is not immediate, but county officials are thinking ahead and doing their due diligence by performing a Wastewater Treatment Study.

The study will analyze different options and the costs associated by each of these options, as well as how these options will ultimately affect customer rates.

In the end, the Board of Commissioners wants to identify the best treatment option before approving the master plan.

"For years the Board of Commissioners has expressed a concern regarding the county's dependence on an outside source—the Metropolitan Sewerage District—to treat the wastewater with little, and frankly, no input on the cost and little negotiation leverage," said County Manager Steve Wyatt.



"This board is determined to take a look at all the options available and going forward to develop a plan that meets the county's needs. Another component is to look at the potential expansions of the service for residential, commercial and industrial needs. In order for us to be competitive in the recruitment of job-creating businesses in this economy, it is mandatory for us to have viable sites for these potential businesses to locate.

"One of the major requirements of a viable site is the availability of wastewater treatment. If we do not have viable sites that are fully serviced with utilities, we are at a disadvantage. The more sites that we have, the more competitive we can be in recruiting jobs to Henderson County."

Wyatt continued, "From an environmental standpoint, it is critical to make sure that wastewater, as with other waste products, is managed effectively from both an environmental and financial perspective. Therefore, we need to review the options, work with partnering municipalities and determine the best course of action going forward.

"The process is very detailed and involved and will take at minimum six months to complete, but we must be patient to ensure that we get all of the pertinent information to enable the Board of Commissioners to make the best decisions possible for the future of Henderson County."

If you have any questions regarding the Cane Creek Water and Sewer District, contact the office at 828-694-6608.

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REPORT OF COMMITTEES

**RIGHT OF WAY
COMMITTEE RECOMMENDATIONS
AND MINUTES
December 7, 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, December 7, 2011. The following Right of Way Committee members were present: Glenn Kelly, Jackie Bryson, Jerry VeHaun, Jon Creighton, Robert Watts and Esther Manheimer.

Others present were: Billy Clarke, MSD Counsel; Max Haner, Bill Stanley and Al Root, Board Members; Ellen McKinnon, Martin-McGill; Tom Hartye, Ed Bradford, Angel Banks, Shaun Armistead, Wesley Banner and Pam Nolan, M.S.D.

II. Inquiry as to Conflict of Interest

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

III. Consideration of Appointment of Commissioners for Condemnation Appraisals

At the October 19th Board meeting, Mr. Jerry Sternberg requested MSD consider use of three commissioners appointed by the Clerk of Court to determine compensation, rather than the current methodology of engaging a licensed appraiser for such determinations. Attached is a copy of the Board minutes as review. This issue was forwarded to the Right of Way Committee for discussion.

Mr. Clarke reviewed the District's current process for condemnations. When MSD files a condemnation, a notice of its intent to condemn is sent to the property owner thirty days before filing anything. The notice must describe the property and state what the estimated just compensation will be. After 30 days a complaint can be filed and the just compensation amount is deposited with the Clerk of Court. At that time, title is vested with MSD. This is a benefit if MSD needs to move forward with the sewer line construction. If there is no dispute as to title, the property owner being condemned can immediately go to the Clerk and withdraw the money. Property owner has 120 days to file an answer, then proceed with normal things you would have with a trial such as discovery, mediation, etc. Generally with MSD, the issue is how much is being paid since there is no question that MSD is a public entity and is taking the easement for a public purpose. When the property owner files an answer, they may request the appointment of Commissioners by the Clerk of Court. MSD may also request the appointment of Commissioners. If requested, the Clerk has to appoint Commissioners, who may visit the property, hold a hearing and swear witnesses and come back to the Clerk with a report stating their estimated value, before and after construction. MSD and the landowner can take exception to that report and request a jury trial which would be a "trial *de novo*", meaning that none of the facts are decided at that point. Neither the Commissioners report nor the deposit amount are competent evidence as to the amount of just compensation. Mr. Kelly mentioned at the last meeting that other private utilities, such as the power company, have to go through an appointment of Commissioners if they condemn and both parties have a right to appeal. When the Commissioners make the determination as to valuation, then the private utility can deposit funds and at that point is when title vests for them. MSD formerly did that and the statute has been amended. The good thing now is that title vests right away instead of 6 months to a year or longer. Mr. Clarke stated that he thought Mr. Sternberg was advocating the Commissioners process at the Board Meeting, which is already available to landowners. Ms. Manheimer stated that he wanted the notice letter to landowners to state that you can request Commissioners. Mr. Clarke stated that the letter can say that but that the

appointment of Commissioners can only be requested after a lawsuit is filed. Mr. Clarke stated that it was also important to look at this issue in terms of what MSD's obligations are. Under the law, before you take someone's property without their consent you are required to go through the condemnation process. In the condemnation process, if a landowner hires an expert witness to testify as to valuation, and the witness actually testifies, the landowner is entitled to recover those costs. Landowners also receive 6% interest on any amount an ultimate jury verdict, judge or commissioner award exceeds, over and above what is deposited. That 6% interest runs from the date of the filing of the complaint. The other obligation MSD has is to its ratepayers and bond holders to maximize the use of funds. Where MSD can avoid spending more money on rights of way, there is an obligation to do so. Mr. Clarke states that his opinion is that the current procedure adequately protects the rights of the landowners and that he would not recommend a change unless MSD wanted to add to the notice letter the information that owner is entitled to request an appointment of Commissioners. Mr. Clarke states that he does not recommend any change at this time. Mr. Kelly stated that his position is the same as Mr. Clarke in that the landowners are very well protected the way it is done now. Ms. Banks stated that even if condemnation was filed MSD still continues to negotiate with owners. Mr. Haner stated that his suggestion to have this matter reviewed by Committee was not necessarily to invoke change but to evaluate whether our procedures were consistent with what we would generally expect for the rights of all concerned, and he stated that has been done. Mr. Haner asked if owners typically had legal representation when a complaint was filed or if they represented themselves. Mr. Clarke stated that they typically had legal representation. Mr. Haner asked if it would not be their counsel's responsibility to request commissioners be appointed. Mr. Clarke stated that even if owners did not request it in their answer they can request appointment within 60 days after filing an answer. Mr. Clarke stated that MSD pays to have an appraisal done but generally when Commissioners were appointed, MSD would also pay for Commissioners time, which is not inexpensive. Ms. Manheimer asked if the cost was always borne by MSD. Mr. Clark stated that generally it would be. There was some general discussion regarding owners questions to the Clerk of Court if they go to get their money. Ms. Banks stated that at the time that condemnation is necessary the property owners are well informed of the process. Ms. Banks also stated that at this time the price for a residential appraisal is anywhere from \$1800-\$2500; for commercial tracts costs run in the \$3000-\$3500 range. Mr. Clarke stated that in his last case with Commissioners, costs were \$7500. Mr. Clarke stated that the option to request an Appointment of Commissioners is always there for MSD and landowners. By deciding today to leave the policy as is, no one is giving up the option to request an Appointment of Commissioners. Mr. Kelly stated that as he is understanding, the position of the Committee at this time is that no change be made to the current policy. Ms. Bryson made the motion to accept the recommendation. Mr. Watts seconded the motion. Voice vote was unanimous.

COMMITTEE RECOMMENDATION: That no change be made to the current policy and procedure.

IV. Consideration of Compensation Budgets--

**Central Avenue GSR, Project No. 2009135
165 Old County Home Road, Project No. 2011086**

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

STAFF RECOMMENDATION: Approval of Compensation Budgets.

Ms. Banks explained the Central Avenue GSR project is located in Weaverville and consists of approximately 700 linear feet of 6" and 8" clay and PVC pipe to be replaced with 8" DIP. The second project is on Old County Home Road and consists of 1200 linear feet of 6" clay and PVC which will be replaced with 8" DIP. Mr. Creighton made the motion to accept staff's recommendation. Mr. Watts seconded the motion. Voice vote was unanimous.

COMMITTEE RECOMMENDATION: Approval of Compensation Budgets.

V. Other business – Lighter Side of Right of Way

Angel Banks, Ellen McKinnon and Wesley Banner shared some of their more humorous stories of property owner negotiations.

There being no further business the meeting adjourned at approximately 9:34 am.

CONSOLIDATED MOTION AGENDA

Metropolitan Sewerage District of Buncombe County

Board Action Item

BOARD MEETING DATE: December 14, 2011

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

PREPARED BY: David Monteith, Kevin Johnson

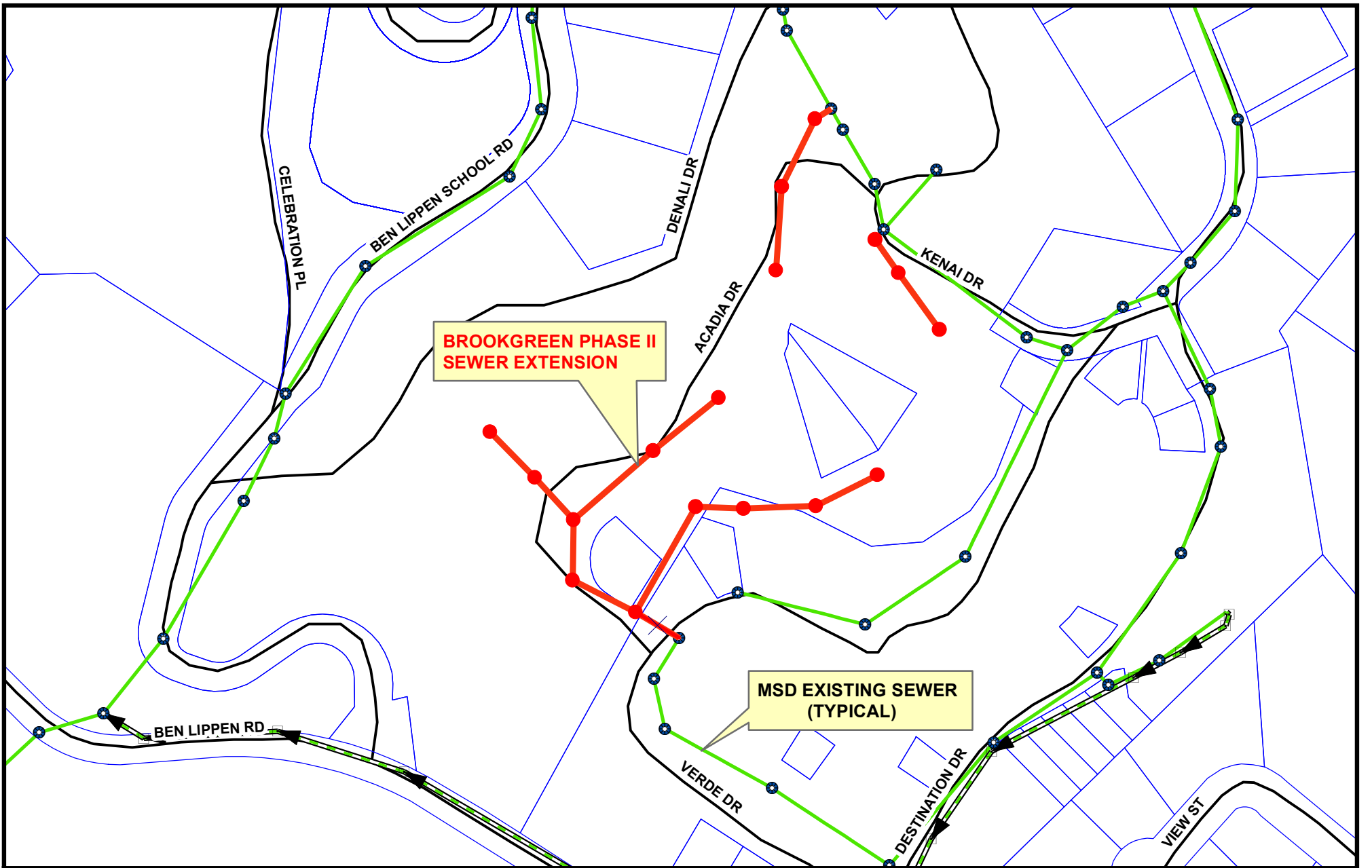
REVIEWED BY: Stan Boyd, PE, Engineering Director

SUBJECT: Acceptance of Developer Constructed Sewer System for the Brookgreen at Crest Mountain Phase II Sewer Extension Project.

BACKGROUND: This project is located inside the District boundary off Ben Lippen Road at Crest Mountain in the Town of Woodfin. The developer of the project is Reese Lasher of Brookgreen, LLC. The project included the installation of approximately 1,567 linear feet of 8" gravity sewer to serve a twenty-seven (27) unit residential subdivision. A wastewater allocation was issued in the amount of 8,100 GPD for the project. The estimated cost of the sewer extension is \$45,000.00.

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

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



**BROOKGREEN PHASE II
SEWER EXTENSION**

**MSD EXISTING SEWER
(TYPICAL)**



Project # 2011019

Not To Scale



METROPOLITAN SEWERAGE DISTRICT
of
BUNCOMBE COUNTY, NORTH CAROLINA

**Brookgreen Phase II
Sewer Extension**

Metropolitan Sewerage District of Buncombe County

Board Action Item

BOARD MEETING DATE: December 14, 2011

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

PREPARED BY: David Monteith, Kevin Johnson

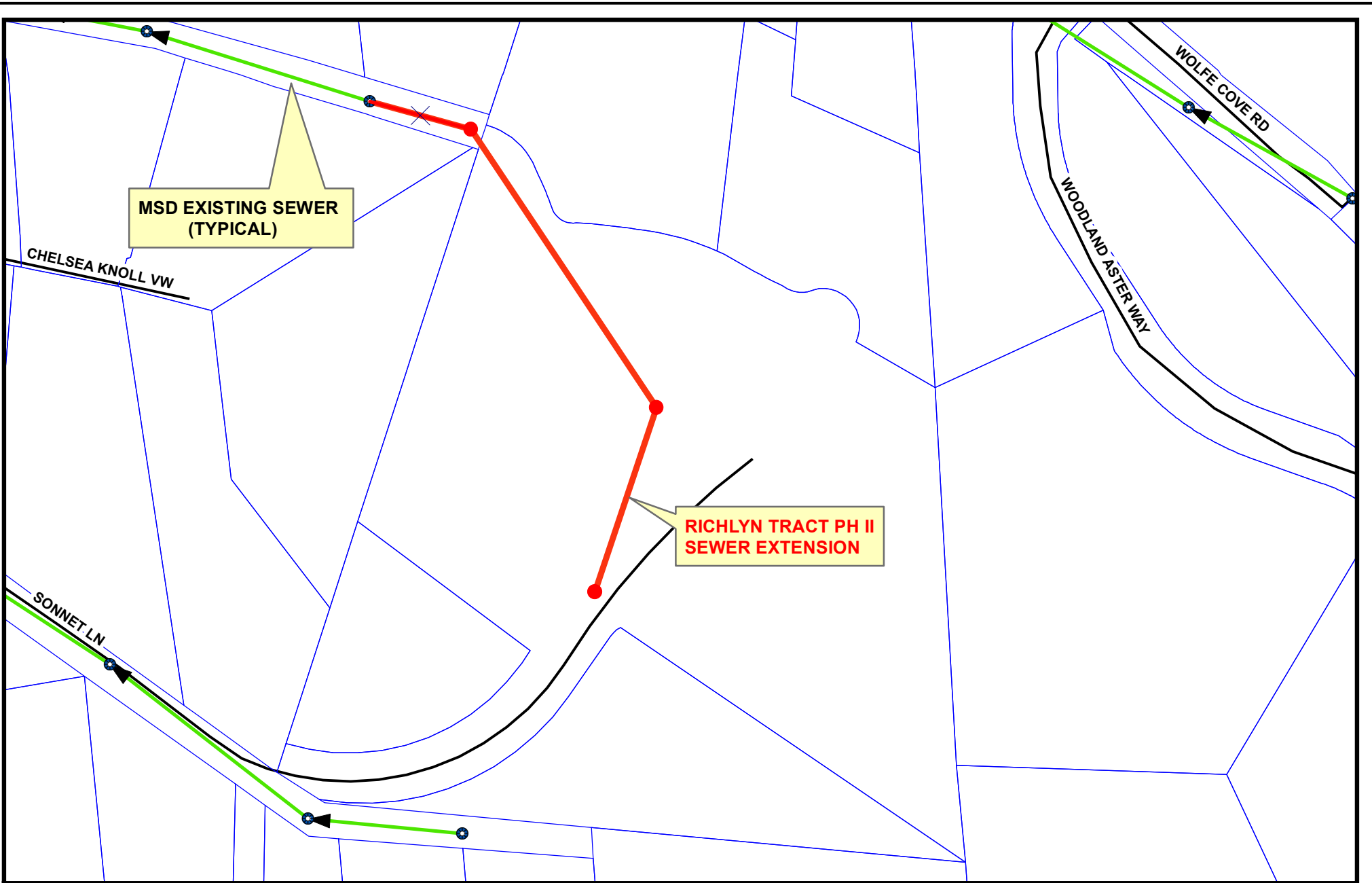
REVIEWED BY: Stan Boyd, PE, Engineering Director

SUBJECT: Acceptance of Developer Constructed Sewer System for the Richlyn Tract Sewer Extension Project.

BACKGROUND: This project is located inside the District boundary off Asbury Road in the City of Asheville. The developer of the project is Lynn Bowers of Richlyn Investments, LLC. The project included the installation of approximately 586 linear feet of 8" gravity sewer to serve a six (6) unit residential development. A wastewater allocation was issued in the amount of 2,400 GPD for the project. The estimated cost of the sewer extension is \$22,900.00.

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

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



MSD EXISTING SEWER
(TYPICAL)

RICHLYN TRACT PH II
SEWER EXTENSION



Project # 2010009

Not To Scale



METROPOLITAN SEWERAGE DISTRICT
of
BUNCOMBE COUNTY, NORTH CAROLINA

**Richlyn Tract Ph II
Sewer Extension**

Metropolitan Sewerage District of Buncombe County

Board Action Item

BOARD MEETING DATE: December 14, 2011

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

PREPARED BY: David Monteith, Kevin Johnson

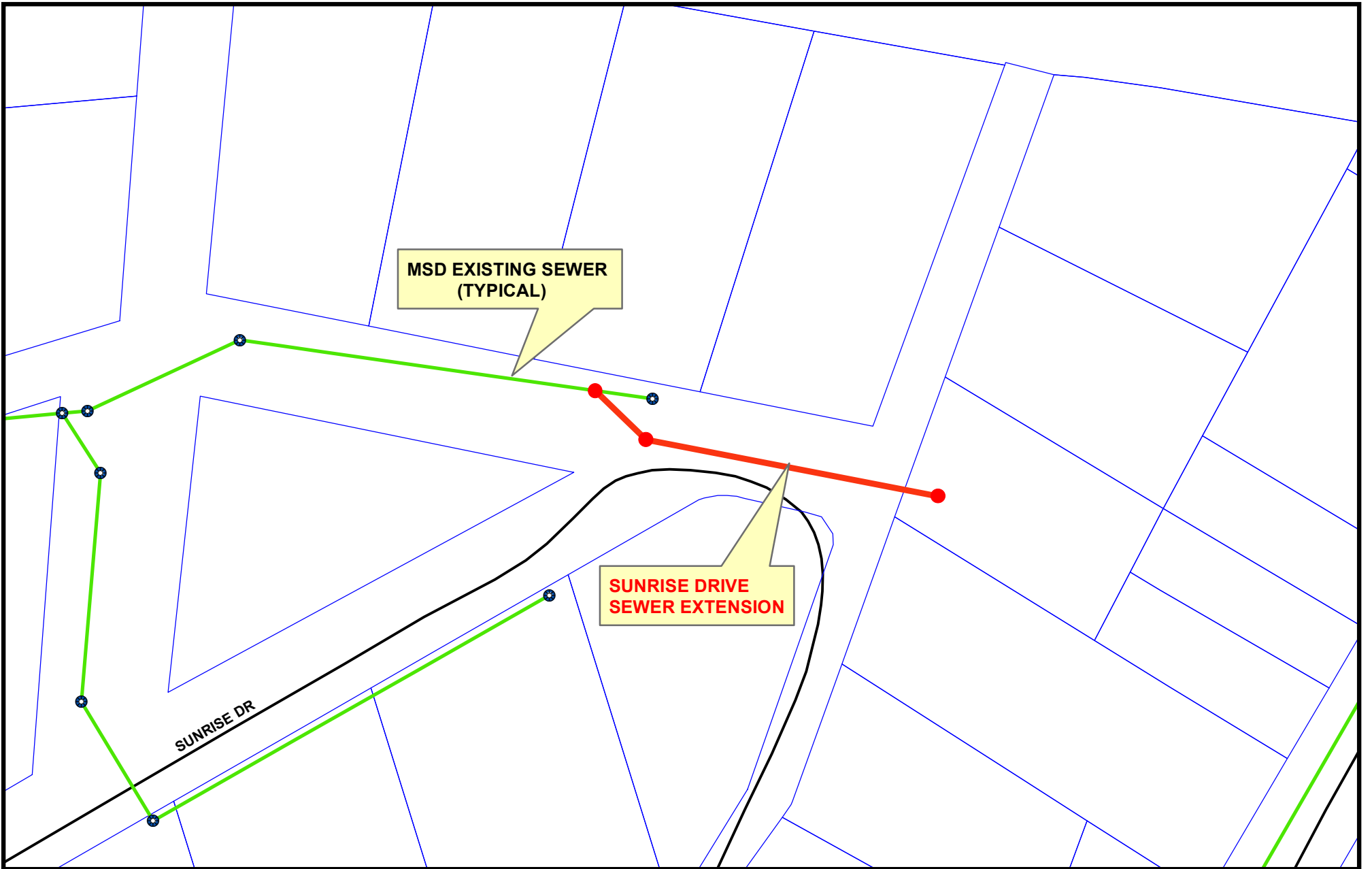
REVIEWED BY: Stan Boyd, PE, Engineering Director

SUBJECT: Acceptance of Developer Constructed Sewer System for the Sunrise Drive Sewer Extension Project.

BACKGROUND: This project is located inside the District boundary off Sunrise Drive in the City of Asheville. The developer of the project is Howard Lerner of Sage Concepts, LLC. The project included the installation of approximately 85 linear feet of 8" gravity sewer to serve a three (3) unit residential development. A wastewater allocation was issued in the amount of 900 GPD for the project. The estimated cost of the sewer extension is \$20,000.00.

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

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



Project # 2010079

Not To Scale



METROPOLITAN SEWERAGE DISTRICT
of
BUNCOMBE COUNTY, NORTH CAROLINA

**Sunrise Drive
Sewer Extension**

Metropolitan Sewerage District of Buncombe County

Board Action Item

BOARD MEETING DATE: December 14, 2011

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

PREPARED BY: David Monteith, Kevin Johnson

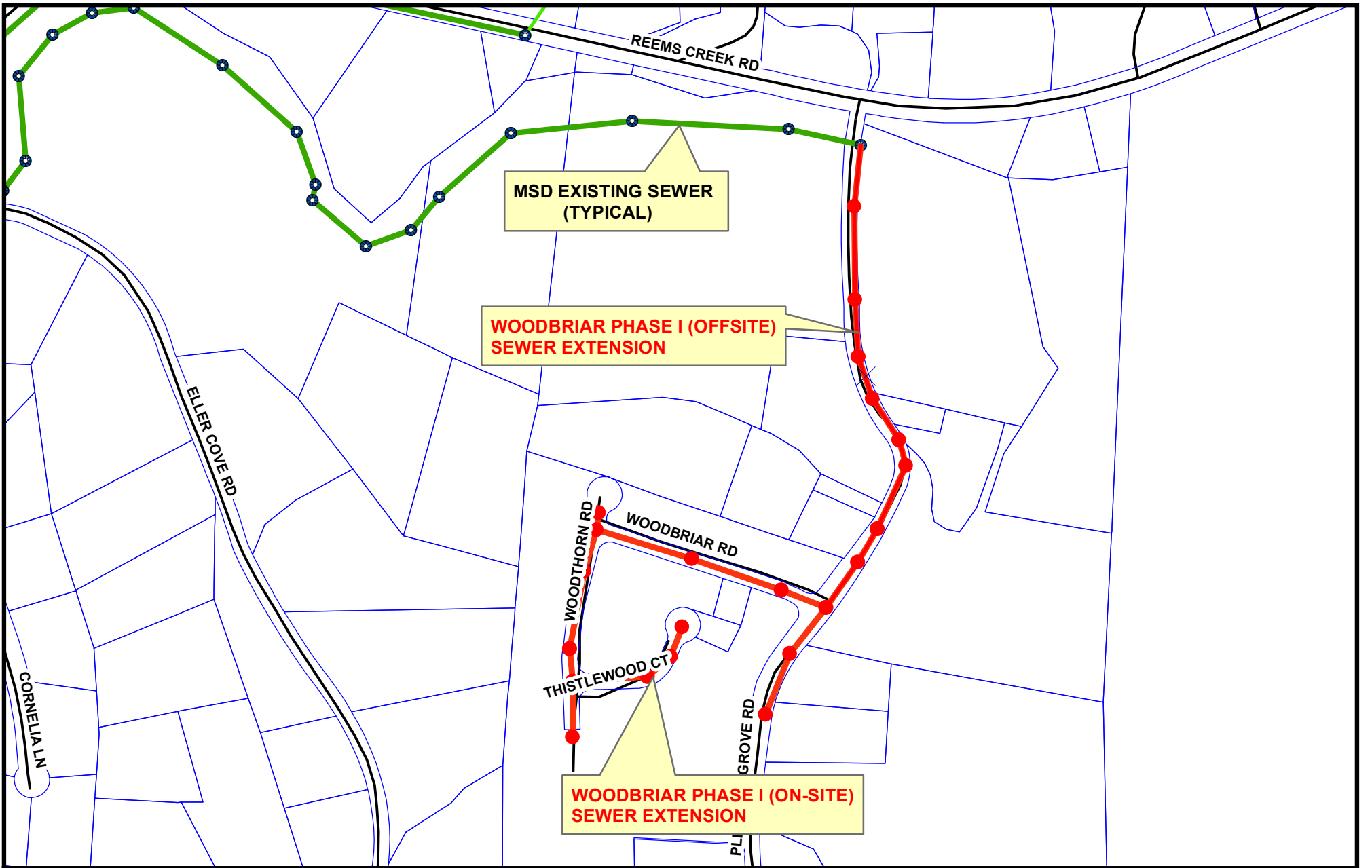
REVIEWED BY: Stan Boyd, PE, Engineering Director

SUBJECT: Acceptance of Developer Constructed Sewer System for the Woodbriar Phase 1 Sewer Extension Project.

BACKGROUND: This project is located outside the District boundary off Reems Creek Road in the Buncombe County. The developer of the project is Drew Norwood of Windsor-Aughtry Company, Inc. The project included the installation of approximately 3,888 linear feet of 8" gravity sewer to serve a fifty-two (52) unit residential development. A wastewater allocation was issued in the amount of 15,600 GPD for the project. The estimated cost of the sewer extension is \$132,000.00.

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

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



Project # 2007186

Not To Scale



METROPOLITAN SEWERAGE DISTRICT
of
BUNCOMBE COUNTY, NORTH CAROLINA

**Woodbriar Phase I
Sewer Extension**

Metropolitan Sewerage District of Buncombe County BOARD ACTION ITEM

BOARD MEETING DATE: December 14, 2011

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

PREPARED BY: Ed Bradford, P.E. - Director of CIP
Roger Watson, P.E. - Project Manager

SUBJECT: VA Hospital Pipe Rated Project, MSD Project No. 2004262

BACKGROUND: This project is for the replacement of multiple vitrified clay sanitary sewer lines which serve the VA Hospital in Oteen. There have been numerous work orders for repairs on these lines due to their deteriorated structural condition.

It was originally generated through MSD's Pipe Rating program, which numerically rates pipe segments based on several structural factors. Line segments with high (meaning bad) ratings are then evaluated by an engineer for possible rehabilitation needs.

This project is located within the VA Hospital campus. It is comprised of 1,771 linear feet of 8-inch and 12-inch DIP.

The contract was advertised and seven bids were received on December 1, 2011 in the following amounts:

<u>Contractor</u>	<u>Bid Amount</u>
1) Moore & Son Site Contractors	\$309,795.00
2) Freestone Contraction, LLC	\$295,494.00
3) T & K Utilities	\$291,292.00
4) Terry Brothers Construction Co.	\$285,273.00
5) Buckeye Construction Co.	\$280,771.00
6) Payne, McGinn & Cummins, Inc.	\$256,317.65
7) Huntley Construction Co.	\$200,786.99

The apparent low bidder is Huntley Construction Co. Huntley has completed several recent MSD rehabilitation projects (including one currently under construction). Their work quality has been excellent to date.

Please refer to the attached documentation for further details.

FISCAL IMPACT: The FY11-12 Construction Budget is \$290,000.00.

STAFF RECOMMENDATION: Staff recommends award of this contract to Huntley Construction Co. in the amount of \$200,786.99, subject to review and approval by District Counsel.


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

**VA Hospital (PRP 28001) Sewer Replacement
Project No. 2004262**

**BID TABULATION
December 1, 2011**

BIDDER	MBE Form	Bid Forms (Proposal)	Total Bid Amount
Carolina Specialties, LLC Hendersonville, NC	1	Yes	\$309,795.00
Freestone Construction, LLC Waynesville, NC	1	Yes	\$295,494.00
T & K Utilities, Inc. Asheville, NC	1	Yes	\$291,292.00
Terry Brothers Construction Company Leicester, NC	1	Yes	\$285,273.00
Buckeye Construction Company Canton, NC	1	Yes	\$280,771.00
Payne, McGinn & Cummins Travelers Rest, SC	2	Yes	\$256,317.65
Huntley Construction Company Asheville, NC	1	Yes	\$200,786.99

APPARENT LOW BIDDER


 F. Roger Watson, P.E.
 Project Engineer
 Metropolitan Sewerage District of
 Buncombe County, North Carolina

12-2-11

This is to certify that the bids tabulated herein were publicly opened and read aloud at 2:00 p.m. on the 1st day of December, 2011, in the W.H. Mull Building at the Metropolitan Sewerage District of Buncombe County, Asheville, North Carolina. This was an informal bid and no bid bond was required.

Interoffice Memorandum

TO: Tom Hartye, General Manager

FROM: Ed Bradford, CIP Manager
F. Roger Watson, Project Engineer

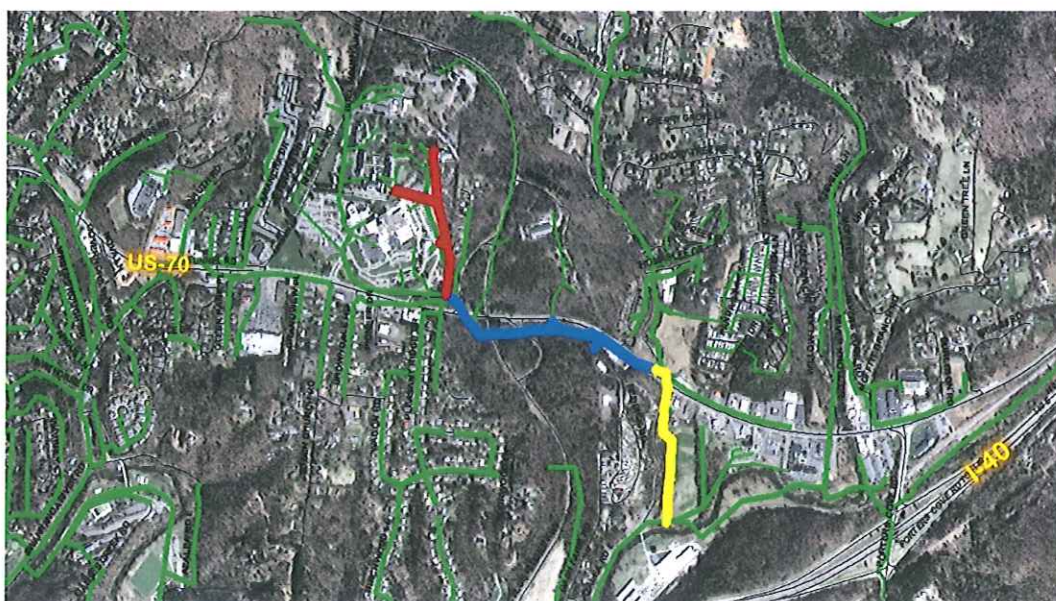
DATE: December 1, 2011

RE: VA Hospital – PRP 28001. MSD Project No. 2004262

This project is for the replacement of a portion of the existing sanitary sewer lines serving the Veteran's Administration Hospital on US70 at Oteen. This project begins at the southeastern corner of the VA Hospital property and continues further into the property. These lines serve the Administration building, a maintenance building, and the rear service line from the main hospital. Buncombe County originally accepted ownership and maintenance responsibility for certain lines within the hospital property. When the District took over ownership and maintenance of the County's sewer mains and system, they became MSD's maintenance responsibility. These lines serve a major hospital facility and have a very high maintenance priority.

These lines are in very poor condition and have generated numerous maintenance calls over the past few years, which have resulted in several short-term patchwork repairs and the system is in need of replacing. This project proposes to replace these lines with new 8-inch and 12-inch DIP lines. This portion of MSD's Sewer System has been identified by MSD's System Services Dept. as one of their higher priority needs.

MSD recently completed replacement of this same line downstream of this project (the US 70 @ Parkway project) and prior to that, the Lower Grassy Branch Interceptor project. With the completion of this project and the two projects mentioned above; the main line serving this sub-basin will have been upgraded to the Swannanoa River Interceptor.



Blue and Yellow lines are completed projects, ending at the Swannanoa River Interceptor.
Red is current proposed project at the VA Hospital.

This project proposes to replace the existing 6-inch, 8-inch, and 10-inch mains with 820 LF of 8-inch DIP and 951 LF of 12-inch DIP.

Bids were received at 2:00 PM on Thursday, December 1, 2011 from seven bidders and the results of those bids are shown below:

<u>Contractor</u>	<u>Bid Amount</u>
Moore & Son Site Contractors , Mills River, NC	\$309,795.00
Freestone Contraction. LLC , Hazelwood, NC	\$295,494.00
T & K Utilities, Asheville, NC	\$291,292.00
Terry Brothers Construction Company, Leicester, NC	\$285,273.00
Buckeye Construction Company, Canton, NC	\$280,771.00
Payne, McGinn & Cummins, Inc. , Travelers Rest, SC	\$256,317.65
Huntley Construction Company, Asheville, NC	\$200,786.99

Huntley Construction Company of Asheville, NC is the apparent low bidder with a bid of \$200,786.99. This amount is within the FY2012 construction budget of \$290,000.00 allocated for this project. In addition, Huntley has completed several previous rehabilitation projects for MSD and has an excellent performance history.

It is recommended that this project be awarded to Huntley Construction Company of Asheville, NC in the amount of \$200,786.99, subject to review and approval by MSD Legal Counsel.

METROPOLITAN SEWERAGE DISTRICT OF BUNCOMBE COUNTY, NORTH CAROLINA

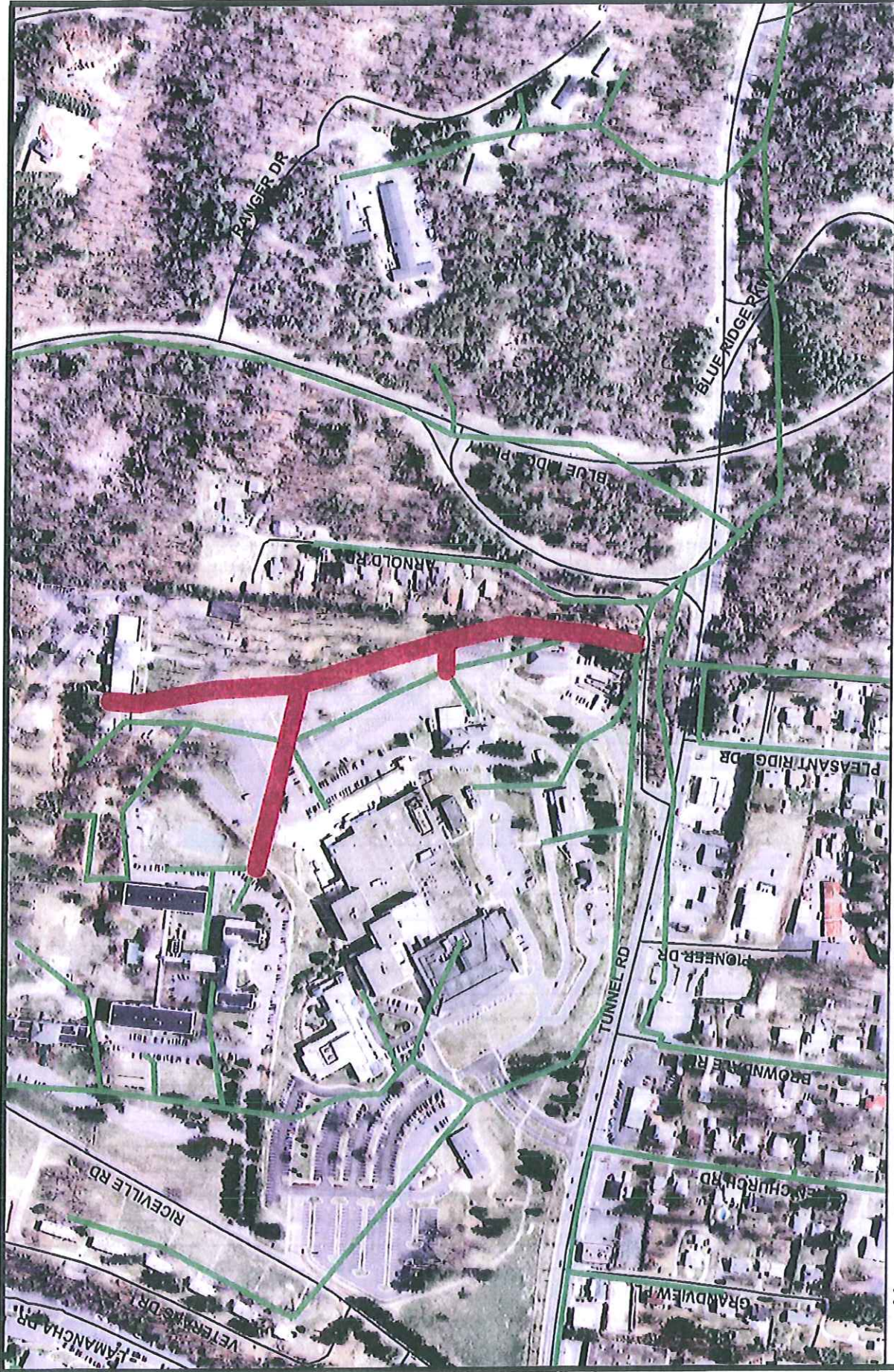
CAPITAL IMPROVEMENT PROGRAM

BUDGET DATA SHEET - FY 2011 - 2012

PROJECT:	VA Hospital - PRP 28001	LOCATION:	Asheville	REVIEWED BY:
TYPE:	Pipe Rated Projects	DATE OF REPORT:	January-11	
PROJECT NO.	2004262	TOTAL L.F.:	1,772	EB
PROJECT BUDGET:	\$302,161.00	PROJECT ORIGIN:	Pipe Rating Program	RW
				AB

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 PLATS # PLATS: [1]	\$1,000.00	\$1,000.00			
02 - LEGAL FEES	\$211.00	\$211.00			
03 - ENGINEERING ASSISTANCE					
04 - ACQUISITION SERVICES					
05 - COMPENSATION					
06 - APPRAISAL					
07 - CONDEMNATION					
08 - ENVIRONMENTAL SURVEY					
09 - PRELIM. ENG. REP.					
10 - DESIGN / ASBUILT SURVEYS	\$8,950.00	\$5,140.00			
11 - ENVIRONMENTAL ASSESSMENT					
12 - ARCHAEOLOGICAL					
13 - GEOTECHNICAL					
14 - CONSTRUCTION CONTRACT ADM.					
15 - CONSTRUCTION	\$290,000.00				\$290,000.00
16 - PERMITS					
17 - PUBLIC MEETINGS					
18 - TESTING	\$2,000.00				\$2,000.00
TOTAL AMOUNT	\$302,161.00	\$8,351.00	\$0.00	\$0.00	\$292,000.00

ENGINEER:	MSD	ESTIMATED BUDGETS - FY '12 -'21	
CONTRACTOR:		FY 12-13	\$3,800.00
CONSTRUCTION ADMINISTRATION:	MSD	FY 13-14	\$0.00
INSPECTION:	MSD	FY 14-15	\$0.00
R.O.W. ACQUISITION:	MSD	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



**VA Hospital - PRP 28001
Project No. 2004262**

NOT TO SCALE



METROPOLITAN SEWERAGE DISTRICT
of
BUNCOMBE COUNTY, NORTH CAROLINA

Budget Map

Metropolitan Sewerage District of Buncombe County

Board Action Item - Right-of-Way Committee

COMMITTEE MEETING DATE: 12/7/2011

BOARD MEETING DATE: 12/14/2011

SUBMITTED BY: Tom Hartye, PE, General Manager

PREPARED BY: Billy Clarke, MSD Counsel

REVIEWED BY: Angel Banks, Right of Way Manager; Ed Bradford, PE, Director of CIP

SUBJECT: Consideration of Appointment of Commissioners for Condemnation Appraisals

At the October 19th Board meeting, Mr. Jerry Sternberg requested MSD consider use of three commissioners appointed by the Clerk of Court to determine compensation, rather than the current methodology of engaging a licensed appraiser for such determinations. Attached is a copy of the Board minutes as review. This issue was forwarded to the Right of Way Committee for discussion. MSD Counsel will be present to discuss North Carolina law applicable to public condemnors and Mr. Sternberg's suggestion.

At the October 19th Board meeting, Mr. Jerry Sternberg requested MSD consider use of three commissioners appointed by the Clerk of Court to determine compensation, rather than the current methodology of engaging a licensed appraiser for such determinations. Attached is a copy of the Board minutes as review. This issue was forwarded to the Right of Way Committee for discussion.

Mr. Clarke reviewed the District's current process for condemnations. When MSD files a condemnation, a notice of its intent to condemn is sent to the property owner thirty days before filing anything. The notice must describe the property and state what the estimated just compensation will be. After 30 days a complaint can be filed and the just compensation amount is deposited with the Clerk of Court. At that time, title is vested with MSD. This is a benefit if MSD needs to move forward with the sewer line construction. If there is no dispute as to title, the property owner being condemned can immediately go to the Clerk and withdraw the money. Property owner has 120 days to file an answer, then proceed with normal things you would have with a trial such as discovery, mediation, etc. Generally with MSD, the issue is how much is being paid since there is no question that MSD is a public entity and is taking the easement for a public purpose. When the property owner files an answer, they may request the appointment of Commissioners by the Clerk of Court. MSD may also request the appointment of Commissioners. If requested, the Clerk has to appoint Commissioners, who may visit the property, hold a hearing and swear witnesses and come back to the Clerk with a report stating their estimated value, before and after construction. MSD and the landowner can take exception to that report and request a jury trial which would be a "trial *de novo*", meaning that none of the facts are decided at that point. Neither the Commissioners report nor the deposit amount are competent evidence as to the amount of just compensation. Mr. Kelly mentioned at the last meeting that other private utilities, such as the power company, have to go through an appointment of Commissioners if they condemn and both parties have a right to appeal. When the Commissioners make the determination as to valuation, then the private utility can deposit funds and at that point is when title vests for them. MSD formerly did that and the statute has been amended. The good thing now is that title vests right away instead of 6 months to a year or longer. Mr. Clarke stated that he thought Mr. Sternberg was advocating the Commissioners process at the Board Meeting, which is already available to landowners. Ms. Manheimer stated that he wanted the notice letter to landowners to state that you can request Commissioners. Mr. Clarke stated that the letter can say that but that the appointment of Commissioners can only be requested after a lawsuit is filed. Mr. Clarke stated that it was also important to look at this issue in terms of what MSD's obligations are. Under the law, before you take someone's property without their consent you are required to go through the condemnation process. In the condemnation process, if a landowner hires an expert

witness to testify as to valuation, and the witness actually testifies, the landowner is entitled to recover those costs. Landowners also receive 6% interest on any amount an ultimate jury verdict, judge or commissioner award exceeds, over and above what is deposited. That 6% interest runs from the date of the filing of the complaint. The other obligation MSD has is to its ratepayers and bond holders to maximize the use of funds. Where MSD can avoid spending more money on rights of way, there is an obligation to do so. Mr. Clarke states that his opinion is that the current procedure adequately protects the rights of the landowners and that he would not recommend a change unless MSD wanted to add to the notice letter the information that owner is entitled to request an appointment of Commissioners. Mr. Clarke states that he does not recommend any change at this time. Mr. Kelly stated that his position is the same as Mr. Clarke in that the landowners are very well protected the way it is done now. Ms. Banks stated that even if condemnation was filed MSD still continues to negotiate with owners. Mr. Haner stated that his suggestion to have this matter reviewed by Committee was not necessarily to invoke change but to evaluate whether our procedures were consistent with what we would generally expect for the rights of all concerned, and he stated that has been done. Mr. Haner asked if owners typically had legal representation when a complaint was filed or if they represented themselves. Mr. Clarke stated that they typically had legal representation. Mr. Haner asked if it would not be their counsel's responsibility to request commissioners be appointed. Mr. Clarke stated that even if owners did not request it in their answer they can request appointment within 60 days after filing an answer. Mr. Clarke stated that MSD pays to have an appraisal done but generally when Commissioners were appointed, MSD would also pay for Commissioners time, which is not inexpensive. Ms. Manheimer asked if the cost was always borne by MSD. Mr. Clark stated that generally it would be. There was some general discussion regarding owners questions to the Clerk of Court if they go to get their money. Ms. Banks stated that at the time that condemnation is necessary the property owners are well informed of the process. Ms. Banks also stated that at this time the price for a residential appraisal is anywhere from \$1800-\$2500; for commercial tracts costs run in the \$3000-\$3500 range. Mr. Clarke stated that in his last case with Commissioners, costs were \$7500. Mr. Clarke stated that the option to request an Appointment of Commissioners is always there for MSD and landowners. By deciding today to leave the policy as is, no one is giving up the option to request an Appointment of Commissioners. Mr. Kelly stated that as he is understanding, the position of the Committee at this time is that no change be made to the current policy. Ms. Bryson made the motion to accept the recommendation. Mr. Watts seconded the motion. Voice vote was unanimous.

COMMITTEE RECOMMENDATION: That no change be made to the current policy and procedure.

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

**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 Stemberg, Developer, Ed Bradford, Stan Boyd, Scott Powell, Mike Stamey, Ken Stinès, 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:

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 26th Right of Way Committee Meeting has been cancelled. The next meeting will be held December 7th. The next regular Board Meeting will be held November 16th 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 29th 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 17th 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 Construction 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.

Jackie W. Bryson, Secretary/Treasurer

Metropolitan Sewerage District of Buncombe County

Board Action Item - Right-of-Way Committee

COMMITTEE MEETING DATE: 12/7/2011

BOARD MEETING DATE: 12/14/2011

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 Budgets--

**Central Avenue GSR, Project No. 2009135
 165 Old County Home Road, Project No. 2011086**

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

STAFF RECOMMENDATION: Approval of Compensation Budgets.

Ms. Banks explained the Central Avenue GSR project is located in Weaverville and consists of approximately 700 linear feet of 6" and 8" clay and PVC pipe to be replaced with 8" DIP. The second project is on Old County Home Road and consists of 1200 linear feet of 6" clay and PVC which will be replaced with 8" DIP. Mr. Creighton made the motion to accept staff's recommendation. Mr. Watts seconded the motion. Voice vote was unanimous.

COMMITTEE RECOMMENDATION: Approval of Compensation Budgets.

COMMITTEE ACTION TAKEN	
Motion by: Jon Creighton	To: <input checked="" type="checkbox"/> Approve <input type="checkbox"/> Disapprove
Second by: Robert Watts	<input type="checkbox"/> Table <input type="checkbox"/> Send back to Staff
	<input type="checkbox"/> Other
BOARD ACTION TAKEN	
Motion by:	To: <input type="checkbox"/> Approve <input type="checkbox"/> Disapprove
Second by:	<input type="checkbox"/> Table <input type="checkbox"/> Send back to Staff

Central Avenue GSR

Project Number 2009135

Compensation Budget

29-Nov-11

Pin Number and Name

27 Pin	83 Pin	Acres	Parcel SF	Land Value	LV/SF	PE	PE Assd. Value	50% PE Assd. Value	TCE SF	TCE Assd.	10% Annl Return	Proj Time (Months)	TCE Rent Value	Total Comp. (Rounded)
	9742263795	0.78	33,976.80	\$252,400.00	\$7.43	2,807.17	\$20,857.27	\$10,428.64	4,227.95	\$31,413.67	\$3,141.37	3	\$785.34	\$11,214
	9742272247	0.46	20,037.60	\$35,100.00	\$1.75	0.00	\$0.00	\$0.00	1,797.80	\$3,146.15	\$314.62	3	\$78.65	\$79
	9742274075	2.30	100,188.00	\$459,800.00	\$4.59	1,235.35	\$5,670.26	\$2,835.13	10,695.80	\$49,093.72	\$4,909.37	3	\$1,227.34	\$4,062
	9742274226	0.92	40,075.20	\$37,600.00	\$0.94	0.00	\$0.00	\$0.00	2,927.17	\$2,751.54	\$275.15	3	\$68.79	\$69

TOTALS:	\$15,424
Staff Contingency:	\$5,000
GM's Contingency	\$5,000
Amendment	
Total Budget:	\$25,424

165 Old County Home Road SS Rehabilitation

Project Number 2011086

Compensation Budget

29-Nov-11

Pin Number and Name

27 Pin	83 Pin	Acres	Parcel SF	Land Value	LV/SF	PE	PE Assd. Value	50% PE Assd. Value	TCE SF	TCE Assd.	10% Annl Return	Proj Time (Months)	TCE Rent Value	Total Comp. (Rounded)
	9629406582	0.20	8,712.00	\$25,100.00	\$2.88	19.38	\$55.81	\$27.91	1,793.14	\$5,164.24	\$516.42	2	\$86.07	\$114
	9629408623	0.17	7,405.20	\$42,800.00	\$5.78	0.00	\$0.00	\$0.00	526.90	\$3,045.48	\$304.55	2	\$50.76	\$51
	9629406690	0.23	10,018.80	\$26,100.00	\$2.61	118.34	\$308.87	\$154.43	2,255.76	\$5,887.53	\$588.75	2	\$98.13	\$253
	9629407668	0.17	7,405.20	\$42,800.00	\$5.78	0.24	\$1.39	\$0.69	316.58	\$1,829.83	\$182.98	2	\$30.50	\$31
	9628591822	6.75	294,030.00	\$78,400.00	\$0.27	0.00	\$0.00	\$0.00	6,604.38	\$1,783.18	\$178.32	2	\$29.72	\$30

TOTALS:	\$478
Staff Contingency:	\$5,000
GM's Contingency	\$5,000
Amendment	
Total Budget:	\$10,478

Metropolitan Sewerage District of Buncombe County

BOARD ACTION ITEM

Meeting Date: December 14, 2011

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

Prepared By: W. Scott Powell, CLGF0, Director of Finance

Subject: Presentation of Audit & CAFR – Fiscal Year Ended June 30, 2011

Background

Both North Carolina law and the Bond Order require an annual audit of the District's financial records. The District has incorporated the audited financial statements into a Comprehensive Annual Financial Report (CAFR), which adds transmittal and statistical data to assist readers in analyzing the audited financial statements. The CAFR is also used to satisfy continuing disclosure requirements imposed by the Bond Order and other contractual agreements.

Discussion

The auditors' unqualified (commonly called "clean") opinion is the first document behind the "Financial Section" tab.

Included with the CAFR is a standard letter from the independent auditors describing the auditors' responsibilities under accounting standards, their understanding of District policies and estimates, and assurance that no significant adjustments to the District financial records are required.

Finally, there is no Management Letter because the auditors did not find any reportable conditions or other issues requiring communication to the Board.

Staff Recommendation

Acceptance of the CAFR.

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

BOARD INFORMATIONAL ITEM

Meeting Date: December 14, 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 October 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 October 31, 2011 were \$38,133,349. The detailed listing of accounts is available upon request. The average rate of return for all investments is 1.049%. 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 October 31, 2011 does not reflect contractual commitments or encumbrances against said funds. Shown below are the total investments as of October 31, 2011 reduced by contractual commitments, bond funds, and District reserve funds. The balance available for future capital outlay is \$3,316,477.

Total Cash & Investments as of 10/31/2011	38,133,349
Less:	
Budgeted Commitments (Required to pay remaining FY12 budgeted expenditures from unrestricted cash)	
Construction Funds	(11,467,338)
Operations & Maintenance Fund	(10,207,108)
	(21,674,446)
Bond Restricted Funds	
Bond Service (Funds held by trustee):	
Funds in Principal & Interest Accounts	(11,253)
Debt Service Reserve	(2,666,140)
Remaining Principal & Interest Due	<u>(7,114,467)</u>
	(9,791,860)
District Reserve Funds	
Fleet Replacement	(560,863)
WWTP Replacement	(740,244)
Maintenance Reserve	<u>(813,690)</u>
	(2,114,797)
Post-Retirement Benefit	(701,061)
Self-Funded Employee Medical	<u>(534,708)</u>
Designated for Capital Outlay	<u><u>3,316,477</u></u>

Staff Recommendation

None. Information Only.

Action Taken

Motion by: _____ to Approve Disapprove

Second by: _____ Table Send to Committee

Other: _____

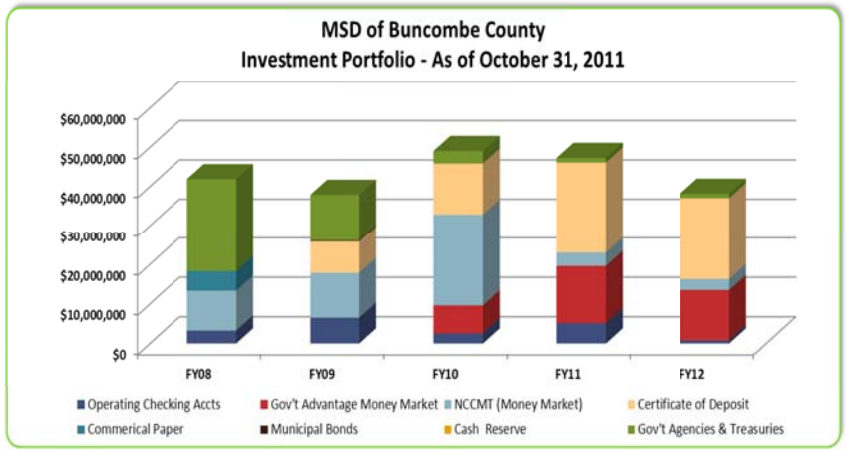
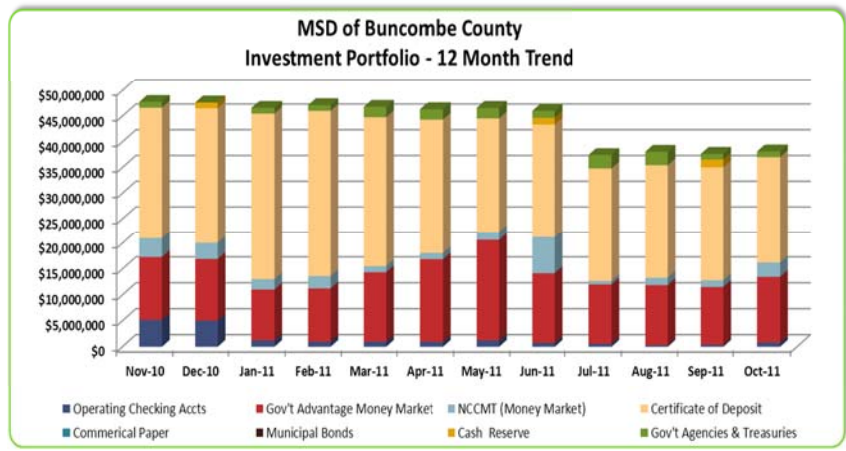
Follow-up required: _____

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
Held with Bond Trustee	\$ -		\$ 1,561,227				\$ -	\$ 1,116,166	\$ 2,677,393
Held by MSD	801,410	12,686,325	1,219,184	20,749,037	-	-		-	35,455,956
	\$ 801,410	\$ 12,686,325	\$ 2,780,411	\$ 20,749,037	\$ -	\$ -	\$ -	\$ 1,116,166	\$ 38,133,349

Investment Policy Asset Allocation	Maximum Percent	Actual Percent	
U.S. Government Treasuries, Agencies and Instrumentalities	100%	2.93%	No significant changes in the investment portfolio as to makeup or total amount.
Bankers' Acceptances	20%	0.00%	
Certificates of Deposit	100%	54.41%	The District 's YTM of .80% 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%	7.29%	All funds invested in CD's, operating checking accounts, Gov't Advantage money market are fully collateralized with the State Treasurer.
Checking Accounts:	100%		
Operating Checking Accounts		2.10%	
Gov't Advantage Money Market		33.27%	



Board Meeting

December 14, 2011

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

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

Summary of Asset Transactions

	Original Cost	Market	Interest Receivable
Beginning Balance	\$ 34,143,796	\$ 34,143,796	\$ 210,617
Capital Contributed (Withdrawn)	(44,085)	(44,085)	
Realized Income	43,541	43,541	(23,077)
Unrealized/Accrued Income	-	-	4,241
Ending Balance	<u>\$ 34,143,252</u>	<u>\$ 34,143,252</u>	<u>\$ 191,781</u>

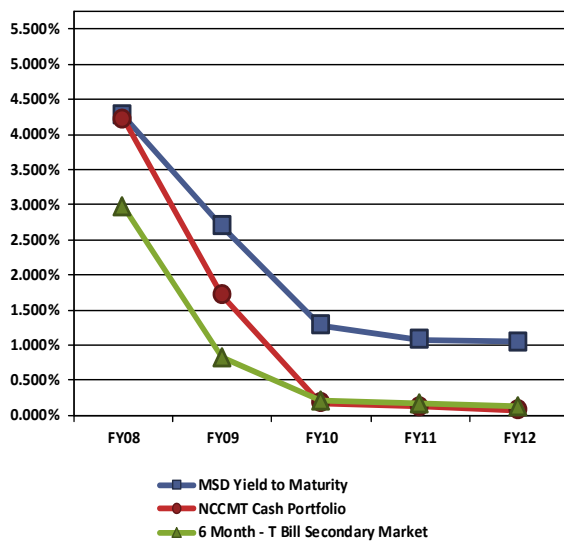
Value and Income by Maturity

	Original Cost	Income
Cash Equivalents <91 Days	\$ 13,394,216	\$ 9,692
Securities/CD's 91 to 365 Days	20,749,037	\$ 15,014
Securities/CD's > 1 Year	-	\$ -
	<u>\$ 34,143,252</u>	<u>\$ 24,705</u>

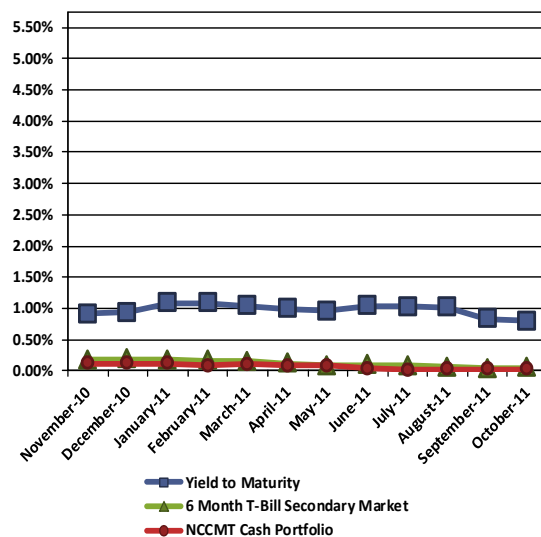
Month End Portfolio Information

Weighted Average Maturity	396 Days
Yield to Maturity	0.80%
6 Month T-Bill Secondary Market	0.05%
NCCMT Cash Portfolio	0.03%

**Metropolitan Sewerage District
Annual Yield Comparison**



**Metropolitan Sewerage District
Yield Comparison - September 30, 2011**



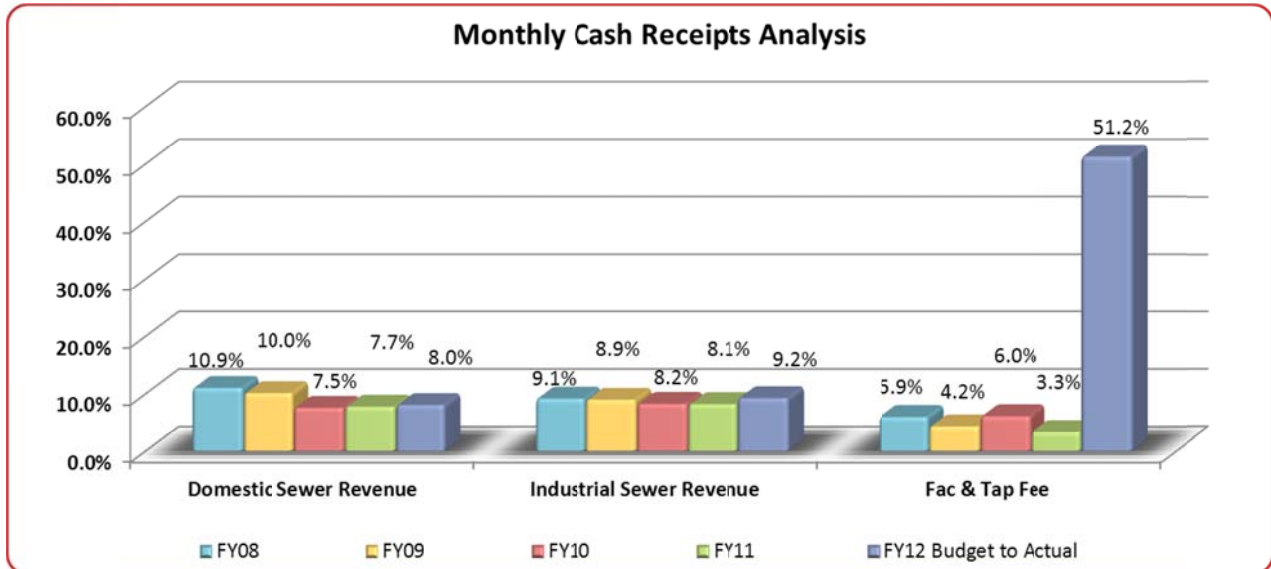
Board Meeting

December 14, 2011

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

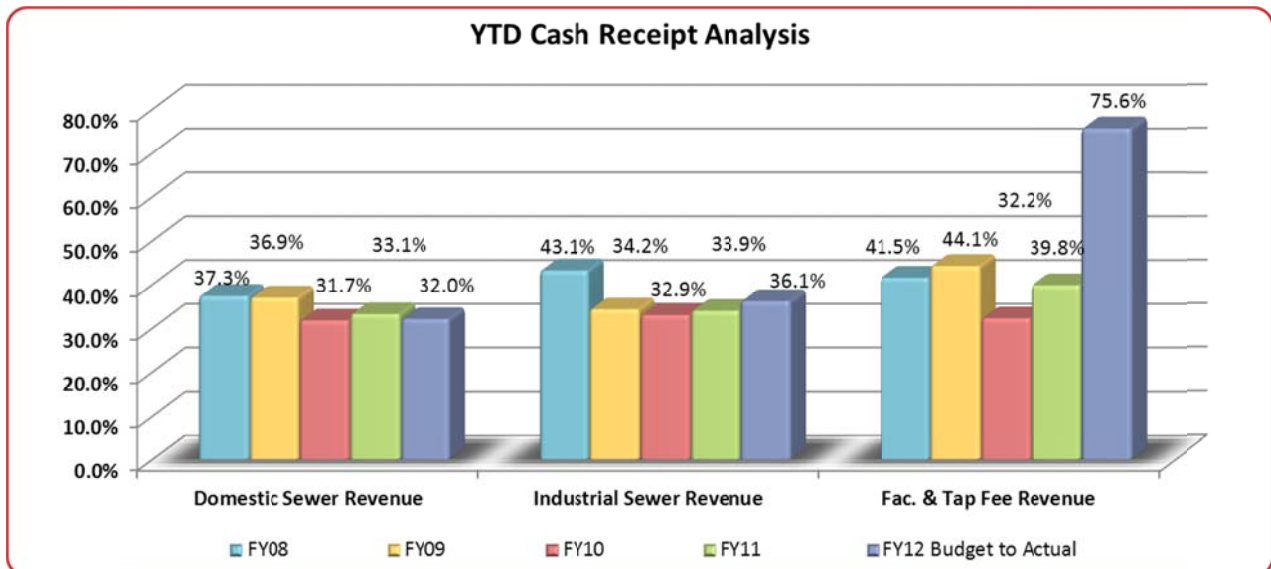
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**METROPOLITAN SEWERAGE DISTRICT
ANALYSIS OF CASH RECEIPTS
AS OF OCTOBER 31, 2011**



Monthly Cash Receipts Analysis:

- ▶ Due to the City of Asheville’s implementation of their Munis Billing System, cash receipts were delayed. This has impacted receipts and will be resolved in the following 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 has impacted receipts and will be resolved in the following months.
- ▶ YTD 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.

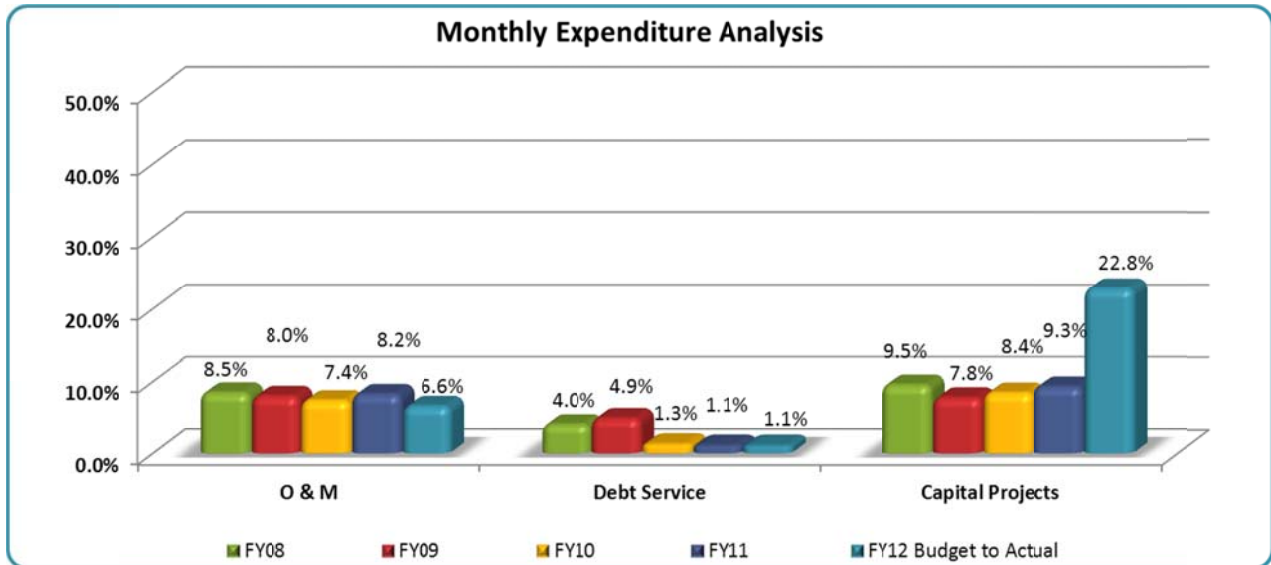
Board Meeting

December 14, 2011

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

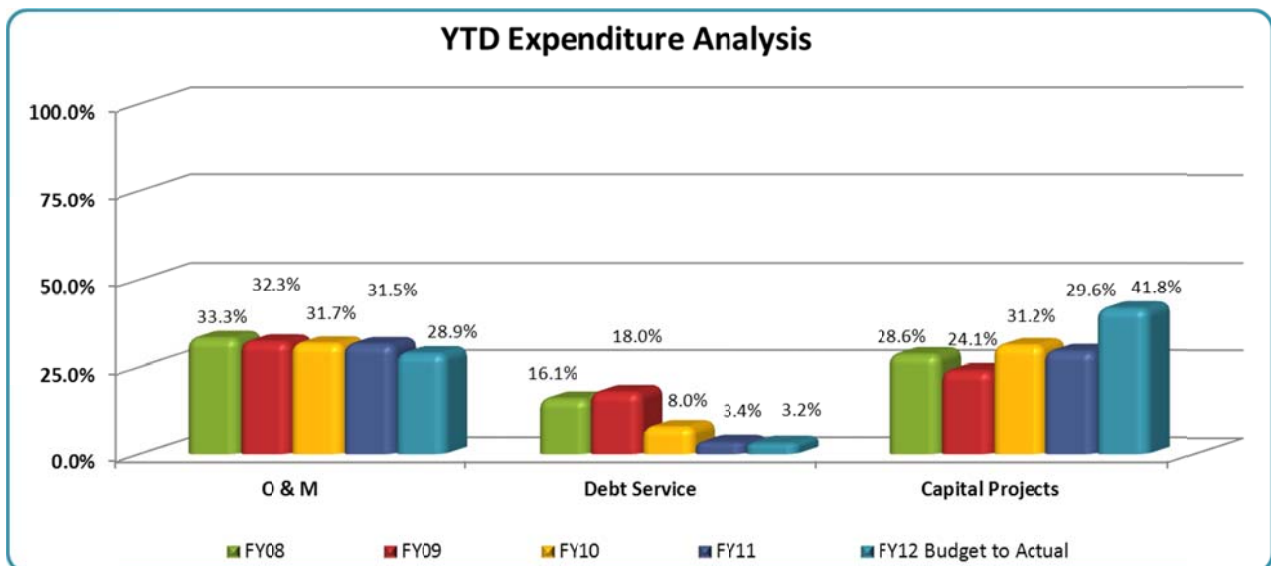
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**METROPOLITAN SEWERAGE DISTRICT
ANALYSIS OF EXPENDITURES
AS OF OCTOBER 31, 2011**



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.

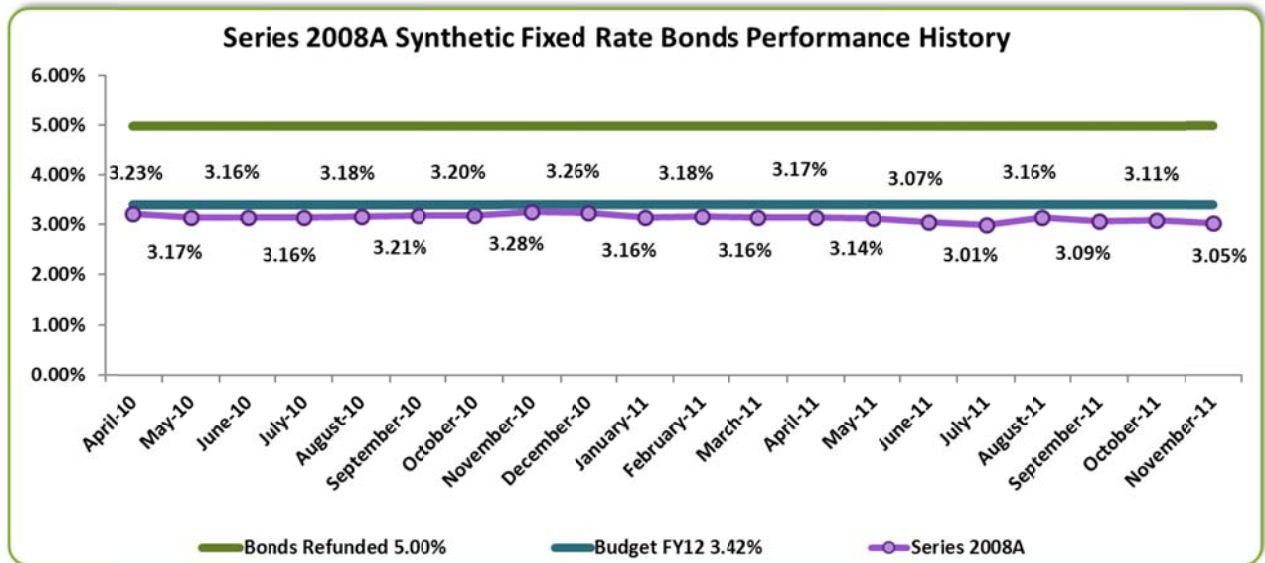
Board Meeting

December 14, 2011

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

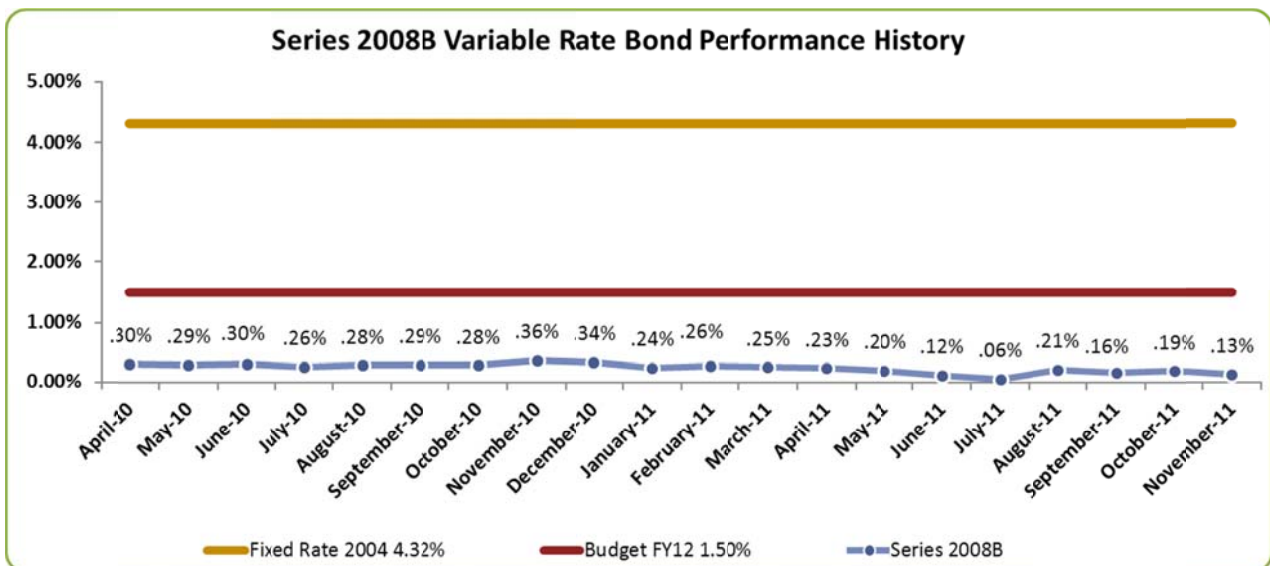
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**METROPOLITAN SEWERAGE DISTRICT
Variable Debt Service Report
As of November 30, 2011**



Series 2008A:

- Savings to date on the Series 2008A Synthetic Fixed Rate Bonds is \$1,911,003 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 \$6,100,000 to terminate the existing Bank of America Swap Agreement.



Series 2008B:

- Savings to date on the 2008B Variable Rate Bonds is \$2,761,658 as compared to 5/1 fixed rate of 4.32%.
- Since May 1, 2008, the Series 2008B Bonds average variable rate has been 0.63%.
- MSD will achieve \$8,690,000 in cash savings over the life of the bonds at the current average variable rate.

STATUS REPORTS

CAPITAL IMPROVEMENT PROGRAM

STATUS REPORT SUMMARY

December 7, 2011

PROJECT	CONTRACTOR	AWARD DATE	NOTICE TO PROCEED	ESTIMATED COMPLETION DATE	*CONTRACT AMOUNT	*COMPLETION STATUS (WORK)	COMMENTS
DINGLE CREEK INTERCEPTOR @ CROWFIELDS, PHASE II	T & K Utilities	9/21/2011	10/7/2011	2/14/2012	175,854.00	75%	Informal The bore is complete; working on 18 inch line.
PATTON AVENUE @ PARKWOOD ROAD	TBA	TBA	TBA	TBA	TBA	0%	Informal Bid opening is scheduled for January 5, 2012.
PIPE RATING CONTRACT #6 (LINING)	Improved Technologies Group	10/19/2011	12/5/2011	7/2/2012	\$778,564.00	0%	Formal No work has begun yet. Pre-lining inspection via CCTV in progress.
ROLLINGWOOD ROAD	Huntley Construction	8/17/2011	9/19/2011	1/17/2012	\$206,957.50	30%	Informal Construction is progressing slowly but going well.
TOWN BRANCH INTERCEPTOR PHASE II	Moore & Son	6/15/2011	7/18/2011	1/14/2012	\$538,328.30	70%	Formal Contractor is working on South French Broad Avenue.
TOWN MOUNTAIN ROAD (4-INCH MAIN)	TBA	TBA	TBA	TBA	TBA	0%	Informal Bid opening is scheduled for January 5, 2012.
VA HOSPITAL (PRP 28001)	TBA	TBA	TBA	TBA	TBA	0%	Informal Huntley Construction Company is the apparent low bidder. Project will be presented at the December Board meeting.
WRF - FINAL MICROSCREEN REPLACEMENT	Hickory Construction	10/20/2010	1/3/2011	4/2/2012	\$8,937,108.20	48%	Formal Painting complete; preparing for urethane liners; windows complete; front of building closed in; crane installation expected next week; equipment installation soon.

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

Planning and Development Projects Status Report
December 14, 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	Redesign
	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
	Black Mtn Annex: Avena Rd.	1999026	Black Mtn.	24	4,300	8/19/2010	Complete - Waiting on final documents
	Black Mtn Annex: McCoy Cove	1992174	Black Mtn.	24	2,067	8/19/2010	Complete - Waiting on final documents
	Black Mtn Annex: Blue Ridge Rd.	1992171	Black Mtn.	24	2,560	8/19/2010	Complete-Waiting on final documents
	Kenilworth Healthy Built	2011030	Asheville	5	252	8/23/2011	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
	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
	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
	AVL Technologies	2010018	Woodfin	Comm.	133	5/21/2010	Complete-Waiting on final documents
	Ridgefield Business Park	2004188	Asheville	18	758	2/16/2005	Complete-Waiting on final documents

Subtotal	559	18,144
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Planning and Development Projects Status Report
December 14, 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	Punchlist pending
	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	Redesign
	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
	Fairview Road Property	2010043	Asheville	10	542	11/9/2011	Pre-con held, ready for construction
	Larchmont Apartments	2011014	Asheville	60	26	6/23/2011	Installing

Subtotal	2039	90,149
Total Units:	2,598	
Total LF:		108,293