

**BOARD OF THE METROPOLITAN SEWERAGE DISTRICT
MAY 15, 2013**

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, May 15, 2013. In the absence of Chairman Aceto, Vice Chair Stanley presided with the following members present: Belcher, Bryson, Frost, Kelly, Manheimer, Root, VeHaun and Watts: Mr. Aceto, Mr. Pelly and Mr. Russell were absent.

Others present were: Thomas E. Hartye, General Manager, William Clarke, General Counsel, Gary McGill with McGill Associates, PA, Joseph Martin with Woodfin Sanitary Water & Sewer District, Bob Oast and Steve Shoaf with the City of Asheville, Nelda Holder with Mountain Xpress, Mark Barrett with the Asheville Citizen-Times, Barry Summers, Beth Jezek, Elaine Lite, Linda Smathers, Sam Specials, and MSD Staff, Teresa Gilbert, Ed Bradford, Peter Weed, Jim Hemphill, Scott Powell, Mike Stamey, Ken Stines, Matthew Walter, Angel Banks, Cheryl Rice and Sheila Kilby, MSD.

2. Inquiry as to Conflict of Interest:

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

3. Approval of Minutes of the April 17, 2013 Board Meeting:

Mr. Stanley asked if there were any changes to the Minutes of the April 17, 2013 Board Meeting. Mr. VeHaun moved for approval of the minutes as presented. Mr. Watts 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. Stanley welcomed guests and called for public comment. There was no public comment.

6. Report of General Manager:

Mr. Hartye presented a copy of the Preliminary Budget to be considered at today's meeting. Also, he presented a copy of the executed Temporary Restraining Order filed by the City of Asheville on May 14th. He stated this will be addressed with Counsel under Old Business. With regard to the recent spill, he called for any questions on information previously sent to the Board. He stated that as far as follow-up actions in the last few days, staff met with DENR representatives on-site to go over the details; contacted the contractor with MSD's investigation and taking necessary personnel action. Mr. Stanley stated MSD staff did a great job of cleaning up the spill. Mr. Belcher stated he met with Mr. Hartye the afternoon of the spill and saw that staff was doing a wonderful job of cleaning up the site. Ms. Frost expressed her appreciation on the transparency of the situation and how the Board was kept up-to-date.

7. Report of Committees:

CIP Committee

Mr. Watts reported the CIP Committee met April 25, 2013 to hear a presentation by Ed Bradford, CIP Director on the current and proposed CIP budget for the coming year and a report by Mr. DiFiore with Hazen & Sawyer on the preliminary findings of the Incinerator System Emissions Upgrade project. Also, Mr. McGill gave a report on the

Carrier Bridge Pump Station Elimination Study and Mr. Hartye presented the Ten Year CIP Summary document. The Committee moved to endorse the CIP Budget for FY13-14 in the amount of \$16,737,527, which is included in the budget recommendation.

Personnel Committee

Mr. VeHaun reported the Personnel Committee met April 25, 2013. Mr. Hemphill reviewed several areas of activity within the Human Resource Department and discussed highlights from the Safety Department. Mr. Hemphill reported on the Self Insured Health Plan and recommended Cost of Living Adjustment. The Committee moved to approve a 2.1% Cost of Living Adjustment for all employees and provide funding for State mandated increases in Retirement and Unemployment Compensation, which is included in the budget recommendation. No increase to medical funding for the upcoming year because of lower medical claims.

Finance Committee

Mr. Kelly reported the Finance Committee met May 6, 2013 to hear recommendations of staff that includes adoption of the proposed \$40.9 million dollar FY14 budget and incorporates the following: 2.5% Domestic Rate increase; continuation of the Industrial Rate Parity Plan, which includes a 3.5% average increase for the industrial sector. He stated that Mr. Powell will provide further detail in the Budget Report.

8. Cash Commitment/Investment Report Month Ended March 31, 2013:

Mr. Powell reported that Page 2 presents the makeup of the District's Investment Portfolio. There has been no significant change in the makeup of the portfolio from the prior month. Page 3 is the MSD Investment Manager Report as of the month of March. The weighted average maturity of the investment portfolio is 355 days. The yield to maturity is 0.73% and exceeds MSD bench marks of the 6 month T-Bill and NCCMT cash portfolio. Page 4 is the MSD Analysis of Cash Receipts. Monthly and YTD domestic revenue is considered reasonable based on timing of cash receipts in their respective fiscal periods. Monthly and YTD industrial revenue is trending below budgeted expectations due to decreased consumption from industrial users. YTD Facility and Tap fees are above historical trends due to the timing of cash receipts as well as impact fees being budgeted conservatively. Page 5 is an analysis of the District's expenditures. Monthly and YTD expenditures are considered reasonable based on historical trends. This includes O&M, Debt Service as well as Capital Improvement Expenditures. Page 6 is the MSD Variable Debt Service Report. Both the 2008 A&B Series are continuing to perform better than budgeted expectations. As of the end of April, both issues have saved District rate payers \$6.6 million dollars in debt service since April 2008.

9. Consideration of Resolution Adopting the Preliminary Budget for FY2013-2014 and Schedule of Sewer Use Charges.

Mr. Powell reported that behind the Introduction Tab is the District's Budget message. Included in the message is Current Year Highlights. Domestic and industrial revenue are expected to meet budgeted projections. The Operating Budget section outlines the proposed \$15.0 million Operations and Maintenance Budget and proposed changes for the upcoming year. The Capital Improvement Program section outlines the proposed \$16.7 million construction budgets as well as the outstanding debt and debt service. The Sewer Rate Increase section outlines the past five years' domestic rate increases and the proposed FY14 domestic rate increase of 2.5%. Behind the Policies & Process Tab is a description of the budget process including the Statutory and Bond Order requirements, budget administration, and if needed, budget amendments. Page 12 briefly describes the forecasting methodology and includes the current business plan

which outlines the current year proposed budget as well as estimated needs for the next nine (9) years. Page 14 is the proposed \$40,909,395 FY14 budget which incorporates the following:

- 2.5% domestic rate increase;
 - .67 cent increase in the average single family monthly bill
 - Monthly bill will go from \$27.14 to \$27.81

- Continuation of the Industrial Rate Parity Plan
 - In year 14 of 20
 - 3.5% average increase for the industrial sector

- Facility and Tap Fee remain at 2012 levels

- 1.0% Rate of Return on investments.

- 1.45% increase in Salaries and Benefits which has an impact of \$176,099. Includes Personnel Committee recommendations as to COLA, Self-Insurance Funding and GASB 45 OPEB Funding as well as State Increases in Retirement contribution to state unemployment fund.

- .84% increase in materials supplies and service which has an impact of \$50,162.

Mr. Powell further reported behind the Operation & Maintenance tab is a detailed accounting of the proposed budget by department as well as current year projected and prior years actual. Behind the Insurance Fund tab is a concise overview of the various insurance funds along with their respective proposed budgets and FY12 actuals and current year projected. Behind the Replacement Fund tab is an overview of the various insurance funds along with their respective proposed budgets and FY12 actuals and current year projected. Behind the CIP Program tab is an overview of the CIP program run by the Engineering Department along with a proposed current year budget and projection of needs for the upcoming nine years. Behind the Debt Financing tab is an overview of debt management as well as a brief description of capital projects funding. There is a detailed listing of current outstanding debt as well as an aggregate debt service for each outstanding issue. Behind the Appendix tab is the proposed FY13 budget resolution with the schedule of rates and fees. Also included is a flow of funds which is a graphical representation of the budget resolution and a big version of the business plan. Mr. Stanley stated the District is in line with the benefits and increases given by other regional municipal units and well as water and wastewater providers. As a matter of timing, Mr. Clarke reported the District's Bond Order requires it to adopt a Preliminary Budget and submit it to the Local Government Commission of North Carolina and to the Bond Trustee 30 days before the beginning of the fiscal year. Mr. Stanley called for any questions. Mr. Kelly asked for the exact budget number. Mr. Powell stated the exact number is \$40,909,395. With no further questions, Mr. Stanley called for a motion. Mr. Clarke stated the motion should read, Consideration of a Resolution adopting the Preliminary Budget for FY 2013-2014 and a Schedule of Sewer Use Charges. Ms. Bryson moved for adoption. Mr. Watts seconded the motion. Roll call was as follows: 9 Ayes; 0 Nays.

10. Old Business:

Mr. Clarke reported the City of Asheville filed a lawsuit Tuesday, May 14, 2013 in Wake County Superior Court challenging the constitutionality of Section 1 of House Bill 488 for a number of reasons. The City alleged the law violates Article 2, Section 24, of the North Carolina Constitution; violates the equal protection provisions of the North Carolina and U.S. Constitutions; violates Article 1, Section 19 and 35 of the North Carolina Constitution; that it's not a valid exercise of the sovereign power to take

property for public use; violates Article 1, Section 10 of the U.S. Constitution, which has to do with impairment of contracts; violates North Carolina General Statute 159-93 and as an alternative, seeks just compensation for the taking of the Water System. He further reported that a Temporary Restraining Order (TRO) was issued by Judge Donald Stephens in Raleigh on Tuesday. The TRO says that the State of North Carolina is restrained and enjoined from taking any action to implement or enforce Section 1 of House Bill 488 and that MSD is forbidden from assuming any authority or control over the Asheville Water System. Asheville may continue to own, manage and operate the Asheville Water System pending further order of the court. At the hearing on the Preliminary Injunction scheduled for May 20, 2013 at 10 a.m. in Raleigh, the State may ask that the TRO remain in effect, since the State Lawyers did not have a chance to confer with their client before the hearing on Tuesday, May 14th.

Mr. Clarke suggested the Board go into closed session to discuss the action filed by the City of Asheville versus MSD and the State of North Carolina 13-CVS-006691 in Wake County Superior Court challenging the constitutionality of other parts of House Bill 488. Mr. Stanley asked if any Board member feels they should be excused from participating in the closed session. Ms. Manheimer expressed a concern regarding her participation. Mr. Clarke suggested that Ms. Manheimer participate in the closed session, but if at some point she feels that further participation might cause her not to be able to perform her official duties as a Member of the Asheville City Council or the MSD Board, she should excuse herself at that time. There was no objection. At 2:22 p.m., Mr. Watts moved the Board go into closed session. Mr. Root seconded the motion.

At 2:42 p.m., the Board returned to open session. Ms. Frost moved that the Board engage the legal firm of Smith Moore Leatherwood as local counsel for MSD in the action filed in Wake County against MSD 13-CVS-006691. Mr. VeHaun seconded the motion. Roll call vote was as follows: 9 Ayes; 0 Nays.

11. New Business:

None

12. Adjournment:

With no further business, Mr. Stanley called for adjournment at 2:43 p.m.

Jackie W. Bryson/Secretary-Treasurer

MSD

Regular Board Meeting

Metropolitan Sewerage District
of Buncombe County, NC

AGENDA FOR 5/15/13

✓	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 April 17, 2013 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	2:30	
	06. Report of Committees a. CIP Committee – 4/25/13 – Bob Watts b. Personnel Committee – 4/25/13 – Jerry VeHaun c. Finance Committee – 5/6/15 – Glenn Kelly	Aceto	2:45	
	07. Cash Commitment Investment Report as of March 31, 2013.	Powell	3:00	
	08. Consideration of Resolution Adopting the Preliminary Budget for FY 2013-2014 and Schedule of Sewer Use Charges.	Powell	3:10	
	09. Old Business	Aceto	3:25	
	10. New Business	Aceto	3:30	
	11. Adjournment (Next Meeting 6/12/13)	Aceto	3:35	

APPROVAL OF MINUTES

**BOARD OF THE METROPOLITAN SEWERAGE DISTRICT
APRIL 17, 2013**

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, April 17, 2013. Chairman Aceto presided with the following members present: Belcher, Bryson, Frost, Kelly, Manheimer, Pelly, Root, Russell, Stanley and VeHaun. Mr. Watts was absent.

Others present were: Thomas E. Hartye, General Manager, William Clarke, General Counsel, Gary McGill with McGill Associates, PA, Joseph Martin with Woodfin Sanitary Water & Sewer District, Nelda Holder with Mountain Express, Nick Dierkes with Brown & Caldwell, and MSD Staff, Ed Bradford, Stan Boyd, Peter Weed, Jim Hemphill, Scott Powell, Mike Stamey, Ken Stines, Matthew Walter, Angel Banks and Sondra Honeycutt.

2. Inquiry as to Conflict of Interest:

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

3. Approval of Minutes of the March 20, 2013 Board Meeting:

Mr. Aceto asked if there were any changes to the Minutes of the March 20, 2013 Board Meeting. With no changes, the Minutes were approved by acclamation.

4. Discussion and Adjustment of Agenda:

None

5. Informal Discussion and Public Comment:

Mr. Aceto paid tribute to his Stepfather, George Beverly Shea and shared some of his most memorable life experiences.

6. Report of General Manager:

Mr. Hartye presented a copy of House Bill 488, which is currently in the NC Senate after passing the House of Representatives. He stated that MSD Counsel, Billy Clarke will review the bill under "Old Business" and attempt to answer any and all questions the Board may have.

Mr. Hartye reported the District's revenue refunding bonds priced April 4th. The District achieved a net present value savings in excess of 14.7% or \$5.45 million. The District will save in excess of \$9.12 million over the remaining life of the two issues being refunded. He further reported the District received a ratings upgrade from Standard & Poor's to AA+ while Moody's and Fitch reaffirmed the District's current good ratings (Aa2 and AA+ respectively). He expressed his appreciation to Scott Powell, as well as Billy Clarke and the finance team for a job well done.

Mr. Hartye reported that Ken Stines and Mike Stamey will do a presentation on Dew Waite Road. He stated that during Consolidation when lines were brought into the MSD, they were done so with SSES maps prepared by engineers showing all the public lines that were being deeded over. There were many lines that looked like public systems, but were actually private systems that served multiple residences, and were never identified or deeded over and were not built to public standards. At consolidation, he identified a process for that; Private Sewer Rehab (PSR), whereby MSD would take over private lines for ownership and maintenance in exchange for rights of way. This process was based on the idea that private owners agree to request help from MSD and work with

each other. With regard to Dew Waite Road, he stated this is the worst case MSD has seen and is a case where the owners did not work with each other and it became a public health hazard. He called on Ken Stines and Mike Stamey for a PowerPoint presentation.

Mr. Stines presented a map showing the location of Dew Waite Road and the homes involved in a two-year easement dispute, which involved on-site meetings with Chuck Cranford with NCDWQ, MSD and property owners. Mr. Stines stated that when discussions with the property owners became heated, he recommended that they agree to resolve their differences through mediation. He reported that following a second on-site meeting, a letter from the NCDWQ issued a Notice of Violation to one of the property owners for altering a sewer system. In response to the Buncombe County Department of Health's resolution concerning the need for repair of the failing private sewer line, staff recommended the Board adopt a private sewer line failure resolution for private sewer situations that present a public health threat. On November 28, 2012, the Health Director issued an order of abatement requiring that all parties repair the damaged private sewer line. At that point, one of the property owners agreed to discuss options for repair of the line.

Mr. Stamey reported that on February 22, 2013 he met with the aforementioned property owner to inspect his property. On February 26th camera equipment was used to determine issues with the line and found a partially broke down section of pipe that needed to be fixed, but the owner refused any digging on his property. Mr. Stamey presented a map showing the proposed reroute and reconnection of the sewer line. On March 8th, he and Ken Stines met with the Assistant County Attorney and Attorneys for two of the homeowners and a representative with the Health Department to share the results of their investigation of the options. He stated that all parties present were encouraged by what was found and the direction MSD planned to take. Agreements with homeowners were signed on March 14th and construction began on March 18th but not without problems created by two of the homeowners. However, with the help of the Deputy Sheriff assisting MSD crews, service was fully restored on March 20th, with official notice to the property owners from Buncombe County provided on April 1, 2013. Mr. Hartye thanked the MSD crews for maintaining their cool under fire and to Ken Stines and Mike Stamey for their involvement in this process as well as Jon Creighton and Curt Euler.

Mr. Hartye continued with his report. He reported that MSD received a call from Larry Moss at 6 Lancelot Lane. He called to commend Wayne Rice for the quick response and great service with his sewer leak. He said Wayne did a great job and was very nice. He further reported MSD received a "compliment call" from Mr. Rex Ballard who called to say that Ken Stines and Stan Boyd had come out to help him. He said they were the nicest and most knowledgeable persons that he had the pleasure of meeting and that they were an example of what all public serving employees should be like.

Mr. Hartye reported the Right of Way Committee Meeting scheduled for April 24th is cancelled. The next meeting will be held May 22nd at 9a.m. The annual CIP Committee will meet April 25th at 8:30 a.m. to discuss several current and upcoming projects as well as to endorse the 10-year CIP and the budget for next year. The Personnel Committee will meet at 10 a.m. on April 25th as well. They will discuss budget items regarding salary and medical benefits as well as receive an update on Personnel activities. The next regular Board Meeting will be May 15th at 2 p.m.

7. Consolidated Motion Agenda:

a. Consideration of Developer Constructed Sewer System: Mosswood Mobile Home Park:

Mr. Hartye reported that the Mosswood Mobile Home Park was built in the early 1980's to serve a 131 unit Mobile Home Park. He stated the system had been

maintained and operated as a private system. Mr. Moss brought the system up to standards so it could be operated and maintained by MSD. The system is located in the Emma area of Buncombe County outside the District Boundary and includes approximately 2,675 linear feet of gravity sewer. Staff recommends acceptance of the developer constructed sewer system. All MSD requirements have been met.

b. UNC Environmental Finance Center FY2012 Financial Performance Benchmarks:

Mr. Powell reported in preparation for the FY2014 Budget, he supplied the Board with a financial analysis of MSD compared to AA and AAA utilities in North Carolina as of June 30, 2012. The information is provided by the Environmental Finance Center of North Carolina and addresses how well an entity can meet liquidity, debt service, cost recovery, leverage, and condition of physical assets needs. He stated MSD is performing at or near the highest levels in comparison to its peer group for every benchmark. Ms. Manheimer asked if the full report is available on-line. Mr. Powell said yes.

c. Cash Commitment/Investment Report – Month Ended February 28, 2013:

Mr. Powell reported Page 2 presents the makeup of the District's Investment Portfolio. There has been no significant change in the makeup of the portfolio from the prior month. Page 3 is the MSD Investment Manager Report as of the month of February. The weighted average maturity of the investment portfolio is 340 days. The yield to maturity is .66% and exceeds MSD bench marks of the 6 month T-Bill and NCCMT cash portfolio. Page 4 is the MSD Analysis of Cash Receipts. Monthly and YTD domestic revenue is considered reasonable based on timing of cash receipts in their respective fiscal periods. Monthly and YTD industrial sewer revenues are trending below budgeted expectations due to a decrease in consumption from three (3) industrial users. YTD Facility and Tap fees are above historical trends from a year to date perspective due to the timing of cash receipts as it pertains to development in the area. Page 5 is an analysis of the District's expenditures. Monthly and YTD expenditures are considered reasonable based on historical trends. Page 6 is the MSD Variable Debt Service Report. Both the 2008 A&B Series are continuing to perform better than budgeted expectations. As of the end of March, both issues have saved the District rate payers approximately \$6.5 million dollars in debt service since April of 2008.

Mr. VeHaun moved the Board approve the Consolidated Motion Agenda as presented. 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:

Review of House Bill 488

Mr. Clarke reported that HB 488 has passed the House of Representatives and is now in the Senate. A copy of the Bill can be found on the NC General Assembly website by typing in HB488 to get the latest version.

Mr. Clarke reported the Bill in its current form sets out the following:

- Transfers all assets and outstanding debts of public water system to MSD to be operated as a Metropolitan Water and Sewerage District (MWSD).
- Transfers all assets and outstanding debts of interconnected public sewer systems (Cane Creek to MSD) to be operated as a Metropolitan Water and Sewerage District.

- Transfers all assets and all outstanding debts of the MSD sewer system to the Metropolitan Water and Sewerage District established under the bill. The effective date of the Bill will be May 15, 2013.
- The Metropolitan Water and Sewerage District would be governed by a 15 member board: 3 from Asheville, 3 from Buncombe County, 3 from Henderson County, 1 from Biltmore Forest, 1 from Black Mountain, 1 from Montreat, 1 from Weaverville, 1 from Woodfin and 1 from Woodfin Sanitary Water & Sewer District.
- The MSD Board shall function as the District Board of the Metropolitan Water and Sewerage District until appointments are made by the governing bodies to the MWSD Board.
- The Statute sets out powers and responsibilities of MWSD in new Article 5A of Chapter 162A-85.1 – 85.29.

Mr. Aceto asked what would change in terms of additional powers or restrictions. Mr. Clarke stated he does not see much change, but there is some language in one of the sections that says before any construction can be done to the water system or sewer system, within any municipality or other governing body of the District, the new entity would have to get approval. Mr. Hartye stated it just says “construction”, and feels it should say extensions because construction could be anything; it could be rehab. Ms. Manheimer stated this comes from an Environmental Group who met with Legislators and expressed concern about controlling land use through utilities, the sprawl, etc. Mr. Aceto stated its unfortunate for those who are concerned about this and were not aware of policies that already limit MSD’s extensions and planning. Mr. Clarke stated there is some good language in the section that talks about coordinating with local governments and local government planning, which makes sense, but sub-paragraph C. requires approval and would be cumbersome.

Mr. Pelly asked Mr. Clarke to address the determination of tax rates by the Board. Mr. Clarke stated this language is in the current MSD Statute as well as the current MWSD Statute and essentially says if the MSD needs money to meet its budget, it can go to the County Commissioners and say this is what they need in terms of taxes to balance the budget or meet commitments and add it to the tax rate. He further stated that MSD has had the ability to use this, but never has.

Mr. Kelly stated that given the fact the legislature told MSD to study and negotiate with Asheville and in December, MSD made them an offer for \$57 million dollars that has not been responded to and given the fact the Legislature said no compensation was due, in his opinion, the \$57 million dollar offer ought to be withdrawn, if not today, certainly by May when the Bill comes out with legislation. He further stated that if it’s improper to make the motion today, he will make it in May. Mr. Stanley asked why he would wait until May since the Legislature is in session now. Mr. Kelly moved that the \$57 million dollar offer made to the City of Asheville in December be withdrawn effective today. Mr. Stanley seconded the motion. Mr. Aceto called for discussion. Mr. Russell asked for an opinion from Counsel. Mr. Clarke stated that it’s certainly within MSD’s authority to make an offer and within its authority to withdraw it. Ms. Frost asked if there is a time limit on the offer. Mr. Clarke said no. Mr. Root asked if it was really an offer. Mr. Clarke said he would characterize it as a proposal contemplating future negotiation. Ms. Manheimer stated she does not feel it was a proposal tendered to Asheville with the words, here’s a proposal, accept it, reject it or negotiate with us. It was a study, and in the study, we adopted parameters that we would accept as reasonable, and built into those parameters, was compensation to the tune of \$57 million dollars. Mr. Clarke stated that what Mr. Kelly was referring to was a proposal and it outlined what would happen; that the City would receive \$1 million dollars a year and that MSD would take all Water Department employees, etc. Mr. Hartye stated it had to do with the taking on of all the employees and paying off the existing outstanding indebtedness; fund the CIP; a statement opposing privatization; City to retain ownership of the reservoir lands, except for the areas under the water production facilities and MSD to have operational

control. Mr. Kelly stated that his motion is, whether it is a proposal or offer it would be withdrawn effective to date. Mr. Stanley seconded the amendment. Ms. Manheimer asked if this includes all eight (8) points not just the money part. Mr. Kelly said yes. Mr. Russell asked Ms. Manheimer if this bill ends the efforts of the City and MSD over the last 18 months. Ms. Manheimer stated once enacted, yes. She further stated from the City's perspective, they responded, but if it's important to symbolically withdraw the proposal; although unnecessary and fairly mean spirited, she can understand the rationale. Mr. Aceto asked about the legal risk to withdrawing the proposal, since making the offer was important, it was symbolic of the intent to negotiate by stating the parameters of the proposal. He stated he is very concerned about withdrawing the proposal, and unless Counsel says there is a significant legal reason, he suggests the Board not pass the motion. Mr. Root asked about the possibility, through a motion, of expressing an understanding that MSD has not made a legally binding offer and, if there had been a legally binding offer, it is now withdrawing it. Ms. Frost asked why anything has to be done at this point and feels it would be construed as a negative. Mr. Kelly stated the Legislature has told the MSD it would not have to pay anything for the system and if the MSD were to depart with the \$57 million dollar offer, should the City say they would accept the offer, the MSD would be in direct contradiction with what the Legislature is apparently going to pass in May at the latest. Mr. Hartye stated that the Legislature's intention all along is that the MSD and the City come together with a local solution. Ms. Manheimer stated from recent conversations, she feels the opportunity for negotiation is gone. With no further comments, Mr. Aceto called for the question. The motion was defeated by a vote of: 4 Ayes, 7 Nays.

9. New Business:

None

10. Adjournment:

With no further business, Mr. Aceto called for adjournment at 3:15 p.m.

Jackie W. Bryson, Secretary/Treasurer

REPORT OF GENERAL MANAGER

MEMORANDUM

TO: MSD Board
 FROM: Thomas E. Hartye, P.E., General Manager
 DATE: May 10, 2013
 SUBJECT: Report from the General Manager

- Update on Water/ Sewer Consolidation

Please find the following attached documents:

1. Attached is a copy of House Bill 488 as Ratified. This becomes law end of business Monday the 13th and goes into effect Wednesday May 15th.
2. The City of Asheville is filing a lawsuit to stop the law from taking effect. A copy of the City's resolution initiating legal action is attached.
3. A communication from Henderson County wherein they are notifying us of their three new appointments to the MSD Board.
4. A working document developed by MSD staff to provide the basis for an agreement with the City of Asheville regarding the smooth transition of operations for the employees and the customers. We have had one meeting with the City regarding this. With the advent of the lawsuit things have pretty much gone silent.

We will send along any information we get regarding the lawsuit as soon as it becomes available.

Depending on when the lawsuit is filed, it may be necessary for MSD to take some l action, in response to the lawsuit, before next Wednesday. The purpose of any such action would be to represent MSD's interest(s) when this issue as is discussed in court, as we are a central part of the Bill and any court decision will have an effect on MSD. . If General Counsel advises us to act, I will poll the Board before any action is taken.

- Board/Committee Meetings

The May Right of Way Committee has been cancelled. The next Right of Way Meeting will be held June 26th at 9am. The next Regular Board Meeting will be June 12th, at 2 pm.

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013**

**HOUSE BILL 488
RATIFIED BILL**

AN ACT TO PROMOTE THE PROVISION OF REGIONAL WATER AND SEWER SERVICES BY TRANSFERRING OWNERSHIP AND OPERATION OF CERTAIN PUBLIC WATER AND SEWER SYSTEMS TO A METROPOLITAN WATER AND SEWERAGE DISTRICT.

Whereas, regional water and sewer systems provide reliable, cost-effective, high-quality water and sewer services to a wide range of residential and institutional customers; and

Whereas, in an effort to ensure that the citizens and businesses of North Carolina are provided with the highest quality services, the State recognizes the value of regional solutions for public water and sewer for large public systems; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1.(a) All assets, real and personal, tangible and intangible, and all outstanding debts of any public water system meeting all of the following criteria are by operation of law transferred to the metropolitan sewerage district operating in the county where the public water system is located, to be operated as a Metropolitan Water and Sewerage District:

- (1) The public water system is owned and operated by a municipality located in a county where a metropolitan sewerage district is operating.
- (2) The public water system has not been issued a certificate for an interbasin transfer.
- (3) The public water system serves a population greater than 120,000 people, according to data submitted pursuant to G.S. 143-355(l).

SECTION 1.(b) All assets, real and personal, tangible and intangible, and all outstanding debts of any public sewer system operated by a subdivision of the State and body politic that is interconnected with the metropolitan sewerage district receiving assets pursuant to Section 1(a) of this act are by operation of law transferred to that metropolitan sewerage district to be operated as a Metropolitan Water and Sewerage District.

SECTION 1.(c) All assets, real and personal, tangible and intangible, and all outstanding debts of any public sewer system operated by the metropolitan sewerage district receiving assets pursuant to Sections 1(a) and 1(b) of this act, are by operation of law transferred to, and be operated as, a Metropolitan Water and Sewerage District, as established pursuant to this act.

SECTION 1.(d) Until appointments are made to the Metropolitan Water and Sewerage District established pursuant to this act, the district board of the metropolitan sewerage district in the county in which the public water system, the assets of which are transferred pursuant to Section 1(a) of this act, is located shall function as the district board of the Metropolitan Water and Sewerage District. All members of the metropolitan sewerage district shall continue to serve on the district board of the Metropolitan Water and Sewerage District until the governing body with appointing authority appoints or replaces that individual on the district board of the Metropolitan Water and Sewerage District.

SECTION 1.(e) All necessary permits for operation shall also be transferred to the Metropolitan Water and Sewerage District established pursuant to this act to ensure that no current and paid customer loses services due to the regionalization of water and sewer services required by this act. The new Metropolitan Water and Sewerage District shall immediately begin assessing all permits and the process for transferring the permit or applying for any



needed permits. All State agencies shall assist the new Metropolitan Water and Sewerage District in obtaining any needed permits in that entity's name.

SECTION 1.(f) For purposes of this section, the transfer of all outstanding debts by operation of law shall make the Metropolitan Water and Sewer District liable for all debts attached to and related to the assets transferred under this section, and the Metropolitan Water and Sewer District shall indemnify and hold harmless the grantor entity for any outstanding debts transferred under this section.

SECTION 2. Chapter 162A of the General Statutes is amended by adding a new Article to read:

"Article 5A.

"Metropolitan Water and Sewerage Districts.

"§ 162A-85.1. Definitions.

(a) Definitions. – As used in this Article, the following definitions shall apply:

- (1) Board of commissioners. – The duly elected board of commissioners of the county or counties in which a metropolitan water and sewerage district shall be created under the provisions of this Article.
- (2) City council or Council. – The duly elected city council of any municipality.
- (3) Cost. – As defined in G.S. 162A-65.
- (4) District. – A metropolitan water and sewerage district created under the provisions of this Article.
- (5) District board. – A water and sewerage district board established under the provisions of this Article.
- (6) General obligation bonds. – As defined in G.S. 162A-65.
- (7) Governing body. – As defined in G.S. 162A-32.
- (8) Person. – As defined in G.S. 162A-65.
- (9) Political subdivision. – As defined in G.S. 162A-65.
- (10) Revenue bonds. – Any bonds the principal of and the interest on which are payable solely from revenues of a water and sewerage system or systems.
- (11) Revenues. – All moneys received by a district from, in connection with, or as a result of its ownership or operation of a water and sewerage system, including moneys received from the United States of America, or any agency thereof, pursuant to an agreement with the district board pertaining to the water and sewerage system, if deemed advisable by the district board.
- (12) Sewage. – As defined in G.S. 162A-65.
- (13) Sewage disposal system. – As defined in G.S. 162A-65.
- (14) Sewerage system. – As defined in G.S. 162A-65.
- (15) Sewers. – As defined in G.S. 162A-65.
- (16) Water distribution system. – As defined in G.S. 162A-32.
- (17) Water system. – As defined in G.S. 162A-32.
- (18) Water treatment or purification plant. – As defined in G.S. 162A-32.

(b) Description of Boundaries. – Whenever this Article requires the boundaries of an area be described, it shall be sufficient if the boundaries are described in a manner which conveys an understanding of the location of the land and may be by any of the following:

- (1) By reference to a clearly identified map recorded in the appropriate register of deeds office.
- (2) By metes and bounds.
- (3) By general description referring to natural boundaries, boundaries of political subdivisions, or boundaries of particular tracts or parcels of land.
- (4) Any combination of the foregoing.

"§ 162A-85.2. Creation.

(a) Except as provided by operation of law, the governing bodies of two or more political subdivisions may establish a metropolitan water and sewerage district if all of the political subdivisions adopt a resolution setting forth all of the following:

- (1) The names of the appointees to the district board.
- (2) The date on which the district board shall be established.
- (3) The boundaries of the district board.

(b) Prior to the adoption of a resolution under subsection (a) of this section, the governing body shall hold at least two public hearings on the matter, held at least 30 days apart,

after publication of the notices of public hearing in a newspaper of general circulation, published at least 10 days before each public hearing.

"§ 162A-85.3. District board.

- (a) Appointment. – The district board shall consist of members appointed as follows:
- (1) Two individuals by the governing body of each county served, wholly or in part, by the district.
 - (2) One individual by the governing body of each municipality served by the district located in any county served by the district with a population greater than 200,000.
 - (3) Two individuals by the governing body of any municipality served by the district with a population greater than 75,000, in addition to any appointments under subdivision (2) of this subsection.
 - (4) One individual by the governing body of any county served by the district with a population greater than 200,000, in addition to any appointments under subdivision (1) of this subsection.
 - (5) One individual by the governing body of a county in which a watershed serving the district board is located in a municipality not served by the district, upon recommendation of that municipality. The municipality shall provide to the governing body of the county a list of three names within 30 days of written request by the county, from which the county must select an appointee if the names are provided within 30 days of written request.
 - (6) One individual by the governing body of any elected water and sewer district wholly contained within the boundaries of the district.
- (b) Terms; Reappointment. – Terms shall be for three years. A member shall serve until a successor has been duly appointed and qualified.
- (c) Vacancies; Removal. – If a vacancy shall occur on a district board, the governing body which appointed the vacating member shall appoint a new member who shall serve for the remainder of the unexpired term. Any member of a district board may be removed by the governing board that appointed that member.
- (d) Oath of Office. – Each member of the district board, before entering upon the duties, shall take and subscribe an oath or affirmation to support the Constitution and laws of the United States and of this State and to discharge faithfully the duties of the office. A record of each such oath shall be filed with the clerk or clerks of the governing boards appointing the members.
- (e) Chair; Officers. – The district board shall elect one of its members as chairman and another as vice-chairman. The district board shall appoint a secretary and a treasurer who may, but need not, be members of the district board. The offices of secretary and treasurer may be combined. The district board may also appoint an assistant secretary and an assistant treasurer or, if the office is combined, an assistant secretary-treasurer who may, but need not, be members of the district board. The terms of office of the chairman, vice-chairman, secretary, treasurer, assistant secretary, and assistant treasurer shall be as provided in the bylaws of the district board.
- (f) Meetings; Quorum. – The district board shall meet regularly at such places and dates as are determined by the district board. All meetings shall comply with Article 33C of Chapter 143 of the General Statutes. A majority of the members of the district board shall constitute a quorum, and the affirmative vote of a majority of the members of the district board present at any meeting thereof shall be necessary for any action taken by the district board. No vacancy in the membership of the district board shall impair the right of a quorum to exercise all the rights and perform all the duties of the district board. Each member, including the chairman, shall be entitled to vote on any question.
- (g) Compensation. – The members of the district board may receive compensation in an amount to be determined by the district board but not to exceed that compensation paid to members of Occupational Licensing Boards as provided in G.S. 93B-5(a) for each meeting of the district board attended and for attendance at each regularly scheduled committee meeting of the district board. The members of the district board may also be reimbursed the amount of actual expenses incurred by that member in the performance of that member's duties.

"§ 162A-85.4. Expansion of district board after creation.

(a) After creation pursuant to G.S. 162A-85.2, the district board may expand to include other political subdivisions if the district board and the political subdivision adopt identical resolutions indicating the political subdivision will become a participant in the district board.

(b) Prior to adopting the resolution under subsection (a) of this section, the district board and the political subdivision shall hold at least two public hearings on the matter, held at least 30 days apart, after publication of the notices of public hearing in a newspaper of general circulation, published at least 10 days before each public hearing.

(c) Upon adoption of the identical resolutions, the political subdivision shall appoint a district member in accordance with G.S. 162A-85.3(a), if that political subdivision is entitled to an appointment under that section.

"§ 162A-85.5. Powers generally.

(a) Each district shall be deemed to be a public body and body politic and corporate exercising public and essential governmental functions to provide for the preservation and promotion of the public health and welfare, and each district is hereby authorized and empowered to do all of the following:

- (1) To exercise any power of a Metropolitan Water District under G.S. 162A-36, except subdivision (9) of that section.
- (2) To exercise any power of a Metropolitan Sewer District under G.S. 162A-69, except subdivision (9) of that section.
- (3) To do all acts and things necessary or convenient to carry out the powers granted by this Article.

(b) Each district shall keep its accounts on the basis of a fiscal year commencing on the first day of July and ending on the 30th day of June of the following year.

"§ 162A-85.7. Bonds and notes authorized.

A metropolitan water and sewerage district shall have power from time to time to issue bonds and notes under the Local Government Finance Act.

"§ 162A-85.13. Rates and charges for services.

(a) The district board may fix, and may revise from time to time, rents, rates, fees, and other charges for the use of and for the services furnished or to be furnished by any water system or sewerage system. Such rents, rates, fees, and charges may not apply differing treatment within and outside the corporate limits of any city or county within the jurisdiction of the district board. Such rents, rates, fees, and charges shall not be subject to supervision or regulation by any bureau, board, commission, or other agency of the State or of any political subdivision.

(b) Any such rents, rates, fees, and charges pledged to the payment of revenue bonds of the district shall be fixed and revised so that the revenues of the water system or sewerage system, together with any other available funds, shall be sufficient at all times to pay the cost of maintaining, repairing, and operating the water system or sewerage system, the revenues of which are pledged to the payment of such revenue bonds, including reserves for such purposes, and to pay the interest on and the principal of such revenue bonds as the same shall become due and payable and to provide reserves therefor. If any such rents, rates, fees, and charges are pledged to the payment of any general obligation bonds issued under this Article, such rents, rates, fees, and charges shall be fixed and revised so as to comply with the requirements of such pledge.

(c) The district board may provide methods for collection of such rents, rates, fees, and charges and measures for enforcement of collection thereof, including penalties and the denial or discontinuance of service.

"§ 162A-85.17. Rights-of-way and easements.

A right-of-way or easement in, along, or across any State highway system, road, or street, and along or across any city or town street within a district is hereby granted to a district in case such right-of-way is found by the district board to be necessary or convenient for carrying out any of the work of the district. Any work done in, along, or across any State highway system, road, street, or property shall be done in accordance with the rules and regulations and any reasonable requirements of the Department of Transportation, and any work done in, along, or across any municipal street or property shall be done in accordance with any reasonable requirements of the municipal governing body.

"§ 162A-85.19. Authority of governing bodies of political subdivisions.

(a) The governing body of any political subdivision is hereby authorized and empowered to do any of the following:

- (1) Subject to the approval of the Local Government Commission regarding the disposition of any outstanding debt related to the water system or sewer system, or both, to transfer jurisdiction over and to lease, lend, sell, grant, or convey to a district, upon such terms and conditions as the governing body of such political subdivision may agree upon with the district board, the whole or any part of any existing water system or systems or sewerage system or systems or such real or personal property as may be necessary or useful in connection with the acquisition, construction, reconstruction, improvement, extension, enlargement, equipment, repair, maintenance, or operation of any water system or sewerage system by the district, including public roads and other property already devoted to public use.
- (2) To make and enter into contracts or agreements with a district, upon such terms and conditions and for such periods as such governing body and the district board may determine for any of the following:
 - a. For the collection, treatment, or disposal of sewage.
 - b. For the supply of raw or treated water on a regular retail or wholesale basis.
 - c. For the supply of raw or treated water on a standby wholesale basis.
 - d. For the construction of jointly financed facilities whose title shall be vested in the district.
 - e. For the collecting by such political subdivision or by the district of rents, rates, fees, or charges for the services and facilities provided to or for such political subdivision or its inhabitants by any water system or sewerage system and for the enforcement of collection of such rents, rates, fees, and charges.
 - f. For the imposition of penalties, including the shutting off of the supply of water furnished by any water system owned or operated by such political subdivision, in the event that the owner, tenant, or occupant of any premises utilizing such water shall fail to pay any such rents, rates, fees, or charges.
- (3) To fix and revise from time to time, rents, rates, fees, and other charges for the services furnished or to be furnished by a water system or sewerage system under any contract between the district and such political subdivision and to pledge all or any part of the proceeds of such rents, rates, fees, and charges to the payment of any obligation of such political subdivision to the district under such contract.
- (4) To pay any obligation of such political subdivision to the district under such contract from any available funds of the political subdivision and to levy and collect a tax ad valorem for the making of any such payment.
- (5) In its discretion or if required by law, to submit to its qualified electors under the election laws applicable to such political subdivision any contract or agreement which such governing body is authorized to make and enter into with the district under the provisions of this Article.

(b) Any such election upon a contract or agreement called under subsection (a) of this section may, at the discretion of the governing body, be called and held under the election laws applicable to the issuance of bonds by such political subdivision.

"§ 162A-85.21. Submission of preliminary plans to planning groups; cooperation with planning agencies.

(a) Prior to the time final plans are made for the extension of any water system or sewerage system, the district board shall present preliminary plans for such improvement to the county or municipal governing board for their consideration if such facility is to be located within the jurisdiction of any such county or municipality. The district board shall make every effort to cooperate with the county or municipality in the location and construction of any new proposed facility authorized under this Article.

(b) Any district board created under the authority of this Article is hereby directed, wherever possible, to coordinate its plans for the construction of any new water system or sewerage system improvements with the overall plans for the development of the planning area if such district is located wholly or in part within a county or municipal planning area.

(c) This section shall not apply to renovations, repairs, or regular maintenance of water systems or sewer systems.

"§ 162A-85.25. Adoption and enforcement of ordinances.

(a) A district shall have the same power as a city under G.S. 160A-175 to assess civil fines and penalties for violation of its ordinances and may secure injunctions to further ensure compliance with its ordinances as provided by this section.

(b) An ordinance may provide that its violation shall subject the offender to a civil penalty of not more than one thousand dollars (\$1,000) to be recovered by the district in a civil action in the nature of debt if the offender does not pay the penalty within a prescribed period of time after he has been cited for violation of the ordinance. Any person assessed a civil penalty by the district shall be notified of the assessment by registered or certified mail, and the notice shall specify the reasons for the assessment. If the person assessed fails to pay the amount of the assessment to the district within 30 days after receipt of notice, or such longer period, not to exceed 180 days, as the district may specify, the district may institute a civil action in the General Court of Justice of the county in which the violation occurred or, in the discretion of the district, in the General Court of Justice of the county in which the person assessed has his or its principal place of business, to recover the amount of the assessment. The validity of the district's action may be appealed directly to General Court of Justice in the county in which the violation occurred or may be raised at any time in the action to recover the assessment. Neither failure to contest the district's action directly nor failure to raise the issue of validity in the action to recover an assessment precludes the other.

(c) An ordinance may provide that it may be enforced by an appropriate equitable remedy issuing from court of competent jurisdiction. In such case, the General Court of Justice shall have jurisdiction to issue such orders as may be appropriate, and it shall not be a defense to the application of the district for equitable relief that there is an adequate remedy at law.

(d) Subject to the express terms of an ordinance, a district ordinance may be enforced by any one, all, or a combination of the remedies authorized and prescribed by this section.

(e) An ordinance may provide, when appropriate, that each day's continuing violation shall be a separate and distinct offense.

"§ 162A-85.29. No privatization.

The district board may not in any way privatize the provision of water or sewer to the customers of the district unless related to administrative matters only."

SECTION 3. G.S. 159-44(4) reads as rewritten:

"(4) "Unit," "unit of local government," or "local government" means counties; cities, towns, and incorporated villages; consolidated city-counties, as defined by G.S. 160B-2(1); sanitary districts; mosquito control districts; hospital districts; merged school administrative units described in G.S. 115C-513; metropolitan sewerage districts; metropolitan water districts; metropolitan water and sewerage districts; county water and sewer districts; regional public transportation authorities; and special airport districts."

SECTION 4. G.S. 159-48(e) reads as rewritten:

"(e) Each sanitary district, mosquito control district, hospital district, merged school administrative unit described in G.S. 115C-513; metropolitan sewerage district, metropolitan water district, metropolitan water and sewerage district, county water and sewer district, regional public transportation authority and special airport district is authorized to borrow money and issue its bonds under this Article in evidence thereof for the purpose of paying any capital costs of any one or more of the purposes for which it is authorized, by general laws uniformly applicable throughout the State, to raise or appropriate money, except for current expenses."

SECTION 5. G.S. 159-81(1) reads as rewritten:

"(1) "Municipality" means a county, city, town, incorporated village, sanitary district, metropolitan sewerage district, metropolitan water district, metropolitan water and sewerage district, county water and sewer district, water and sewer authority, hospital authority, hospital district, parking authority, special airport district, special district created under Article 43 of Chapter 105 of the General Statutes, regional public transportation authority, regional transportation authority, regional natural gas district, regional sports authority, airport authority, joint agency created pursuant to Part 1 of Article 20 of Chapter 160A of the General Statutes, a joint agency authorized by

agreement between two cities to operate an airport pursuant to G.S. 63-56, and the North Carolina Turnpike Authority described in Article 6H of Chapter 136 of the General Statutes and transferred to the Department of Transportation pursuant to G.S. 136-89.182(b), but not any other forms of State or local government."

SECTION 5.5. Article 5 of Chapter 162A of the General Statutes is amended by adding a new section to read:

"§ 162A-66.5. Approval of all political subdivisions required.

Prior to the adoption of a resolution under G.S. 162A-66 on or after April 1, 2013, the Environmental Management Commission shall receive a resolution supporting the establishment of a district board from (i) the board of commissioners of the county or counties lying wholly or partly within the boundaries of the proposed district and (ii) from the governing board of each political subdivision in the county or counties lying wholly or partly within the boundaries of the proposed district. If the Environmental Management Commission does not receive a resolution from each of those political subdivisions, the Environmental Management Commission may not adopt the resolution to create the district board."

SECTION 6. This act becomes effective May 15, 2013, and the Metropolitan Water and Sewerage District in Section 1 of this act shall be created by operation of law.

In the General Assembly read three times and ratified this the 2nd day of May, 2013.

s/ Daniel J. Forest
President of the Senate

s/ Paul Stam
Speaker Pro Tempore of the House of Representatives

Pat McCrory
Governor

Approved _____ .m. this _____ day of _____, 2013

RESOLUTION NO. 13- 88

RESOLUTION AUTHORIZING LEGAL ACTION TO CHALLENGE HOUSE BILL 488, RATIFIED
MAY 2, 2013, SHOULD IT BECOME LAW

WHEREAS, the City of Asheville is a North Carolina municipal corporation, operating pursuant to the laws of North Carolina, including Chapters 159 and 160A of the General Statutes, and its Charter, N.C. Private Laws 1931-121, as amended; and

WHEREAS, the City has the authority pursuant to N.C.G.S. 160A-11 and Section 1 of its Charter to sue and be sued; and

WHEREAS, the City has the authority pursuant to Article 16 of Chapter 160A of the General Statutes to own and operate public enterprises, including water systems; and

WHEREAS, the City has for over 100 years, owned and operated a water system serving its citizens and providing service on the same basis to users beyond its corporate limits, and said water system, including real and personal property, has substantial value; and

WHEREAS, the City has issued and currently has outstanding revenue bonds to support expansions and upgrades to the water system in the name of the City; and

WHEREAS, House Bill 488, ratified by the North Carolina General Assembly on May 2, 2013 (herein "HB 488"), will, if it becomes law, be effective May 15, 2013, and will, by operation of said law, transfer all assets, real and personal, of the City's water system to the Metropolitan Sewerage District of Buncombe County, for eventual operation by a new entity, styled as a metropolitan water and sewerage district, to be operated pursuant to other provisions of HB 488; and

WHEREAS, the citizens of the City of Asheville voted overwhelmingly to oppose the sale or lease of the water system in a referendum conducted on November 6, 2012, pursuant to N.C.G.S. 160A-321(b); and

WHEREAS, HB 488 does not specify a proper purpose for the forced transfer of the City's water system to MSD, and provides for no compensation to the City of Asheville; and

WHEREAS, the transfer of operational responsibility for the water system as provided for in HB 488 creates immediate and critical operations and maintenance issues for the water system, with the potential to affect the health, sanitation and safety of the City and the users of the water system; and

WHEREAS, the forced transfer of the water system as provided for in HB 488 may affect the City's contractual obligations, including bonded indebtedness, such that contracts may be breached and defaults may occur, with potential impacts upon the City's credit ratings; and

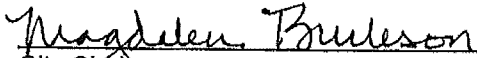
NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ASHEVILLE AS FOLLOWS:

1. That the imminent effectiveness of HB 488 has the potential to affect the health,

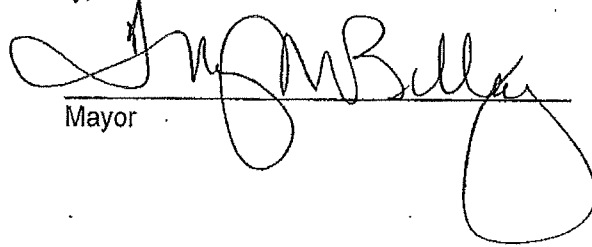
sanitation and safety of the City of Asheville, and the users of the water system, and has the potential to affect the City's financial soundness;

2. That the City Attorney is hereby directed to take appropriate legal action to: (a) challenge the validity of HB 488, should it become law, (b) have said law declared invalid, (c) obtain appropriate injunctive or other relief to prevent said law from becoming effective, (d) seek compensation for the forced transfer of the water system, and (e) such other or further relief as necessary or appropriate; and to employ such attorneys or other persons as may be needed to assist in said legal action.

Read, approved and adopted the 7th day of May, 2013.

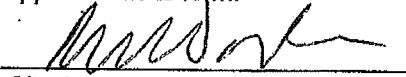


City Clerk



Mayor

Approved as to form:



City Attorney

Board and Commission Members

And Vacant Positions

Metropolitan Sewerage District of Buncombe County (MSD)

Meeting Times: 2:00 Monthly - 3rd Wednesday Positions: 3 Terms: Contact Person: Tom Hardy
 Meeting Place: MSD Office 2028 Riverside Dr., Asheville, NC 28804 Length: Contact Phone: 254-9646
 Description: 2 appointed positions for Henderson County/ 1 appointed position for Mills River. Mills River provides 3 nominations and the BOC make the appointment of 1 of those.

Mr. Larry Freeman

1 119 McDowell Road
 WHKP
 Mills River NC 28759

Status:
 Work Phone: 693-9061
 Home Phone: 692-0814
 FAX:
 Gender: Male
 E-mail: lfreeman@whkp.com

Special Representation: Mills River
 Representative

First Appointed: 05/06/2013
 Current Appointment: 05/06/2013
 Expiration: 05/31/2016
 Number of Terms: 0

Mr. Charlie Messer

2 1 Historic Courthouse Square, Suite 1
 Hendersonville NC 28792

Status:
 Work Phone: 697-4808
 Home Phone:
 FAX: 692-9855
 Gender: Male
 E-mail: cmesser@hendersoncountync.org

Special Representation: Henderson County
 Rep.

First Appointed: 05/06/2013
 Current Appointment: 05/06/2013
 Expiration: 05/31/2016
 Number of Terms: 0

Mr. Larry Young

3 2641 Haywood Road
 Hendersonville NC 28739

Status:
 Work Phone: 692-4242
 Home Phone: 697-7301
 FAX: 692-9855
 Gender: Male
 E-mail: lyoung@hendersoncountync.org

Special Representation: Henderson County
 Rep.

First Appointed: 05/06/2013
 Current Appointment: 05/06/2013
 Expiration: 05/31/2016
 Number of Terms: 0

HENDERSON COUNTY BOARD OF COMMISSIONERS

1 Historic Courthouse Square, Suite 1
Hendersonville, North Carolina 28792
Phone: 828-697-4808 • Fax: 828-692-9855
www.hendersoncountync.org

CHARLES D. MESSER
Chairman
THOMAS H. THOMPSON
Vice-Chairman

LARRY R. YOUNG
J. MICHAEL EDNEY
GRADY H. HAWKINS

May 7, 2013

Mr. Larry Freeman
WHKP
119 McDowell Road
Mills River, NC 28759

Dear Mr. Freeman:

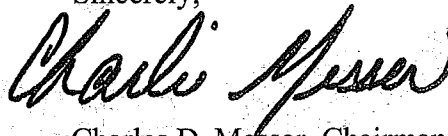
Thank you for your willingness to serve on the **METROPOLITAN SEWERAGE DISTRICT (MSD)**. At the County Commissioners' Monday, May 6, 2013 meeting, you were appointed to that Board as a Mills River representative.

Service on boards and committees is extremely important to the effective, participatory operation of the Henderson County Government. Regular attendance and participation are essential to the success of this Board. If you become unable to make this commitment, please let me know. Please understand that under most circumstances, board appointments are of limited duration in order to permit as many people to serve as possible.

The contact for this Board is Tom Hardy. He will be notified of your appointment and will be in touch with you regarding the details of the committee's operation.

The Board of Commissioners appreciates your commitment to Henderson County. We thank you in advance for your time and dedication in serving on the Metropolitan Sewerage District.

Sincerely,



Charles D. Messer, Chairman
Henderson County Board of Commissioners

CDM/tlw

cc: Tom Hardy

HENDERSON COUNTY BOARD OF COMMISSIONERS

1 Historic Courthouse Square, Suite 1
Hendersonville, North Carolina 28792
Phone: 828-697-4808 • Fax: 828-692-9855
www.hendersoncountync.org

CHARLES D. MESSER
Chairman
THOMAS H. THOMPSON
Vice-Chairman

LARRY R. YOUNG
J. MICHAEL EDNEY
GRADY H. HAWKINS

May-7, 2013

Mr. Larry Young
2641 Haywood Road
Hendersonville, NC 28739

Dear Mr. Young:

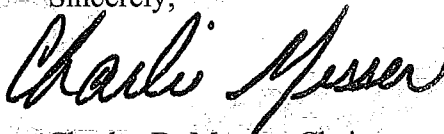
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Sincerely,



Charles D. Messer, Chairman
Henderson County Board of Commissioners

CDM/tlw

cc: Tom Hardy

HENDERSON COUNTY BOARD OF COMMISSIONERS

1 Historic Courthouse Square, Suite 1
Hendersonville, North Carolina 28792
Phone: 828-697-4808 • Fax: 828-692-9855
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CHARLES D. MESSER
Chairman
THOMAS H. THOMPSON
Vice-Chairman

LARRY R. YOUNG
J. MICHAEL EDNEY
GRADY H. HAWKINS

May 7, 2013

Mr. Charlie Messer
1 Historic Courthouse Square
Suite 1
Hendersonville, NC 28792

Dear Mr. Messer:

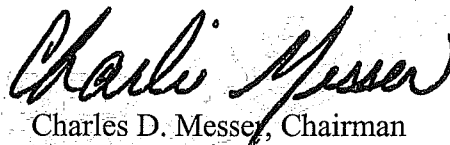
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The Board of Commissioners appreciates your commitment to Henderson County. We thank you in advance for your time and dedication in serving on the Metropolitan Sewerage District.

Sincerely,



Charles D. Messer, Chairman
Henderson County Board of Commissioners

CDM/tlw

cc: Tom Hardy

Objective:

In the event that the water/sewer merger goes forward, MSD and COA staff will endeavor to develop a plan/agreement to provide for a smooth **operational** transition for the sake of the water employees, the water customers, and public health and safety.

Preparation of this plan/agreement will in no way endorse the merger or address the issue of asset compensation.

Goal:

If the merger was to go forward, an operations proposal/agreement could be brought quickly forward to our respective Board/Council for approval.

Elements:

- A. The District will take on all water department employees for at least one year under our current employment terms and policies.

In the event of an agreement, MSD will:

1. Recognize a raise provided by the City to staff on July 1, 2013, currently projected to be 3%
2. Within the first 12 months conduct a Wage & Classification study
3. Bring all COA employees under the MSD account for the State LGERS Retirement system. Any existing COA work will count towards retirement.
4. Recognize the COA hire date for Retiree's medical insurance premiums.
5. Accept transfer of all accrued benefits: Vacation leave, Sick leave and Compensatory time will be transferred to MSD
6. Provide a 5% contribution to 401k/ 457 program, contributions by the employee will not be required
7. Medical Insurance: If agreeable, COA employees will remain on the City's plan until June 30, 2013. On July 1, 2013 COA employees will transfer to the MSD medical insurance plan. There will be no interruption of coverage or pre-existing issues.
8. Recognize any existing disciplinary actions and steps taken by the COA.
9. COA will provide copies of any training, Certifications and disciplinary actions for the Water employees.

- B. An agreement to honor the existing Water Department's remaining budget for the period 5/16/2013 through 6/30/2013.
- C. The following are areas where the existing/new District would contract with the COA to provide particular services for a specified period.
 - 1. All Support Services currently provided by COA from May 16th through June 30, 2013 as outlined in the COA current cost allocation plan (general admin and PW engineering excluded).
 - 2. Lease of current billing software through June 30, 2014.
 - 3. Retain current space for Customer Service representatives through June 30, 2014.
 - 4. Fleet Services for water vehicles through June 30, 2014.
- D. An agreement to honor existing contracts and liabilities of Public Water Department as entered into (or in process) by COA as of May 14, 2013.
- E. Transfer of title of all Public Water Department assets to MSD as outlined in HB 488.
- F. Transfer or assigning of all operational permits.

REPORT OF COMMITTEES

CAPITAL IMPROVEMENT PROGRAM COMMITTEE

**Minutes
April 25, 2013
8:30 a.m.**

The Capital Improvement Program Committee of the Metropolitan Sewerage District met on April 25, 2013 at 8:30 a.m. in the Mull Administration Building on Riverside Drive in Woodfin with the following persons present: Robert Watts - Committee Chairman; Steve Aceto – Board Chairman; Joe Belcher, Jon Creighton, Chuck Cranford, Marcus Jones, Joseph Martin, Chris Pelly, Nelson Smith, and Jason Young - CIP Committee members; Jackie Bryson, Bill Russell, and Bill Stanley – MSD Board members; Linda Wiggs – DWQ; Nick Dierkes – Brown and Caldwell; Tom Hartye – MSD General Manager; Billy Clarke – Roberts & Stevens; Gary McGill – McGill Associates; Robert DiFiore – Hazen & Sawyer; Ed Bradford, Mike Stamey, Scott Powell, Angel Banks, Peter Weed, Hunter Carson, Matthew Walter, Ken Stines, and Sharon Walk - MSD.

The following items were considered:

1. Call to Order

Mr. Watts called the meeting to order at 8:36 a.m. He welcomed and thanked everyone for coming to the committee meeting and stated that we had a quorum. He then turned the meeting over to Mr. Hartye.

Mr. Hartye thanked everyone for coming and stated that we had a PowerPoint presentation to review the projects so the member agencies would know about the current and proposed projects for the ten year CIP. He then introduced Mr. Bradford, Capital Improvement Program Director for a presentation on the current and proposed budget for the coming year.

2. Highlights of the Current and Proposed Capital Improvement Program

Mr. Bradford proceeded to give a power point presentation beginning with a summary of the proposed CIP Budget for the coming fiscal year and following years. The subtotal budget of all the projects for the coming fiscal year is \$15,537,527 with a proposed contingency of \$1,000,000 as in prior years. Additionally, the standard budget for reimbursement projects is recommended in the amount of \$200,000. The total recommended CIP budget for next fiscal year is therefore \$16,737,527. He also stated that a copy of the budget was posted on MSD's website www.msdbc.org including budget data sheets and budget maps of all the projects, along with a timeline for each project. Mr. Bradford explained that we have a 10 year program, and we inflate future years 2 through 10 by an inflationary rate based on the ENR index which is 3.60% for this budget cycle.

Mr. Bradford explained that MSD maintains over 991 miles of line – extending a distance further than Houston, Texas; Nassau, Bahamas; or Ottawa, Canada. He explained that the primary approach is to maintain an aggressive and proactive rehabilitation program with a general methodology for project generation being SSO and work order reduction. Staff changes the CIP every year somewhat by meeting with System Services Division to determine what lines are causing the most problems in order to re-prioritize projects each year. Pipe Rating and structural problems are utilized next in the methodology, followed by Wet Weather pipeline replacements. He then went on to state that projects are generated and prioritized based solely on regional system needs – regardless of political subdivisions or location.

Mr. Bradford then reviewed several of the larger projects that had been done or were in the process of being completed this year, including Givens Estates, which is the largest dig and replace project constructed this fiscal year. He then briefly reviewed the techniques - boring, etc. used in conjunction with this particular project. Another project – the Weaverville Force Main – was constructed by the System Services crews, utilizing HDPE and PVC pipe. This project also involved some complex pump bypassing as flows had to be maintained all during construction. He presented PowerPoint slides showing the different techniques utilized for this project. Mr. Hartye reiterated that this project was done by in-house crews, and the equipment was rented from a specialty equipment company.

Mr. Bradford then reviewed the Private Sewer Rehabilitation. This program is for rehabilitation of private, failing, unclaimed systems that were not built to any public standard nor were they accepted by any entity for ownership and maintenance. These are usually of poor quality, with no manholes, etc. MSD will accept these for maintenance and rehabilitation if they are a demonstrated health threat and/or cited for SSO's by NCDENR. Additionally, each homeowner connected to the system has to sign an agreement to donate all easements at no cost to MSD; it is a voluntary program. Once all the homeowners have signed, MSD will put the system on a list to maintain, until such time that the project needs to be included in the formal CIP budget for full replacement. He then presented a list of all the systems (approximately 36) where the homeowners have signed all agreements, and MSD is now

maintaining the systems. He explained that MSD may maintain these systems for many years before the problems get bad enough for rehabilitation. He then explained that 20 systems have been fully rehabilitated since Consolidation. No new PSR projects were added to the CIP during this budget cycle.

Mr. Bradford then reviewed several upcoming projects in the collection system including the South French Broad Interceptor Grouting project, which runs mainly through the Biltmore Estate where the pipe is still in good condition but the joints are not. Other projects include Bradley Branch Road Ph. 2 which is south in the city near the Wal-Mart on Airport Road; Forest Ridge Road near Sweeten Creek and Rock Hill Road; Indiana Avenue in West Asheville near State Street; Macon Ave at Sunset Parkway near Charlotte Street; Merrimon Avenue at Colonial Place near Grace Presbyterian Church; Merrimon Avenue at Stratford near Beaver Lake which was quite troublesome as there were three levels of sewer line each laid on top of each other, most of which is near the creek. Other projects also include Mount Vernon Place Phase 1; Old US 70 at Grovemont which is the largest dig and replace project in the coming year; Brookcliff Drive near the Beaverdam area in north Asheville; Crockett Road in East Asheville just off of I-240, and Sycamore Terrace which is south near the city/county border.

Mr. Bradford then reviewed the Collection System Master Plan (which was adopted by the Board in November of 2008). He explained that the Master Plan was developed in close cooperation with the District's member agencies and regional stakeholders, utilizing their land use policies and zoning regulations in laying out locations of new sewer lines. The Master Plan is used as the basis to ensure that extensions are done in an orderly and predictable fashion. Two larger projects guided under this plan are the Reems Creek Master Plan Interceptor which was just over 5,500 feet and is now complete; and the West French Broad Master Plan Interceptor – which the Board approved in July 2011. Design and right of way acquisition is now complete on this project and it is ready for construction with the developer paying for the construction costs.

Mr. Bradford then reviewed projects pertaining to the Water Reclamation Facility (Treatment Plant) and Pump Stations. He explained that approximately 18 million gallons of water are treated per day, basically amounting to the area within a football field, 50 feet high. He reviewed the Final Microscreen project, stating that this project started in 2007 when design was initiated. Bidding and procurement of the equipment was scheduled for 2008, but because of the economic downturn, the project was delayed. The Board awarded the construction contract in October, 2010. Construction cost was approximately \$9.2 million, and has spanned three fiscal years. The project startup was late August 2012. He showed several slides of the construction work, equipment installed, and explained how the total system worked. He also explained that the filters are removing approximately 60% of TSS and the performance level of the system is very good.

Mr. Bradford then proceeded to review the electrical improvements project at the treatment plant. He stated that the external power supply portion of the project is complete and was done by Progress Energy. The installation of an automatic transfer switch and the Broadway feeder connect provides for two separate power sources for the plant, where before there was only one. The internal system now includes new switchgear and multiple feeds within the plant. Additional backup power units have been installed, adding to the existing backup generation for redundancy. He then showed several slides of the project in construction. Construction is estimated to be completed by late spring of this year.

Mr. Bradford then introduced Mr. Gary McGill who proceeded to give a presentation on the Carrier Bridge Pump Station Elimination Study.

Mr. McGill explained that this is a pump station at the confluence of the Swannanoa and French Broad Rivers at Carrier Bridge. This is the largest and most critical pump station in the system and was built when the interceptors were built. It serves a very large area including the South French Broad and Hominy Creek areas all the way down into Henderson County. It has a 20 million GPD pump capacity and is 47 years old but is still functioning and doing its job. It has to operate 24/7 – if it goes offline, we have immediate problems. There is a critical emergency plan if something happens, but it is a plan that is difficult and takes some time to implement. Mr. McGill then presented several pictures of the existing pump station, explaining that the actual building was equivalent to three stories below the ground. He went on to review the primary concerns of the equipment and its function within the pump station and the building itself. He stated that this pump station basically pumped sewage from one side of the river to the other side. It is made from 2-foot thick concrete at the base, and has some problems such as corrosion but this is mostly superficial. Some repairs were recently done including a ventilation system. The pumps in the station are not very big, but the O&M costs on the pump station as a whole are about \$100,000 a year on average.

Mr. McGill went on to explain that an elimination study was conducted to determine if elimination of the pump station was even viable. Two alternatives were studied – No. 1) To eliminate the pump station and replace it with a 60" gravity interceptor down the west bank of the river; or, if the first option was not feasible, No. 2) Replace the existing pump station with a new pump station. He then showed a map of the alternative gravity line along the west side of

the river, going about two miles downriver to a point where it could cross the river and get back to the other side and tie back into the existing interceptor. Alternative No. 2 would be to rebuild the pump station at the current site; however this is not the first choice.

The average flow is about 8 million GPD and is not a problem right now, but has much higher flows coming from the south Buncombe area during wet weather conditions. The study needed to determine the true pump station capacity especially during high flow conditions; what happens in the upstream and downstream interceptors during those high flows; and if we eliminate the pump station, how does that affect the flow in these interceptors - and possibly creating SSO's that we don't currently have.

He went on to review the results of the study and explained that the peak flows during the significant wet weather periods have exceeded the design pumping capacity with excess wastewater surcharging in the pump station. The interceptors have sufficient capacity but also surcharge during high flows. There have not been any SSO's from the pump station or the interceptors during peak flows, but during peak flows, the pumping capacity increases to 22-23 mgd and thereby avoiding SSO's. Continued operation of the pump station is still financially beneficial until capital improvements are necessary or until the surcharging conditions in the pump station reach an elevation of about 1972 feet in the wet pit and create vulnerability to SSO's. Trigger points have been established so that when those points are reached, we know it's time to do something before an SSO occurs.

He went on to review current growth levels and projected flows and explained that based on these levels, the existing pump station capacity should last until the year 2020. The level of costs for both alternatives over the next 10 to 20 years are almost equal with both being about \$10 million, and these estimates are adequate for planning purposes. If the pump station is replaced, there is going to be a bump up in O&M costs about every 20 years for replacing pumps and equipment. The initial cost of the gravity interceptor would be more, but yearly operating and maintenance costs for this system after it is in place would be much less.

He stated that interim recommendations were to construct a 24" force main under the French Broad River to augment the existing 20" force main for backup use in case of failure. This would also increase the pumping capacity by an additional 1.5 mgd. Additionally, continued diligent maintenance activities and close monitoring, measuring and documentation of the pump station needs to occur, especially during high flow events. Lastly, professional judgment should be exercised based on the trigger points to abandon the pump station. The long term recommendation would be to construct a new 60" gravity interceptor to replace the pump station. Much of the concern at this time is related to the force main under the river which has been installed for a long time.

Mr. Martin asked if the pump station had its own back-up generators, and Mr. McGill replied that it does and this has not been an issue. Mr. Russell asked if MSD already had an easement down the west side of the river. Mr. Bradford stated that those easements would have to be acquired. Staff has already spoken to Progress Energy as the interceptor would cross through their property, but have not acquired easements. Mr. Young asked if the 24" force main were installed across the river, would it be used as the primary line, or would we just maintain the existing 20" and just wait for a failure. Mr. McGill stated that the primary line would be the new 24" line, with occasional use of the 20" line. There was no further discussion on this project.

Mr. Bradford then reported on the Incinerator System Emissions Upgrade project, stating that this project is required as a result of new regulations which will go into effect March 2016. These new regulations require controls for mercury and other pollutants, and are essentially an "unfunded mandate" which MSD must comply with. He then introduced Mr. Robert DiFiore with Hazen & Sawyer to present preliminary findings.

Mr. DiFiore explained that third parties petitioned EPA to classify sewage sludge incinerators (SSI's) as solid waste incinerators under the Clean Air Act Section 129, and to be regulated the same as industrial waste incinerators. Sewage sludge incinerators are currently regulated under the Clean Water Act. The Clean Air Act utilizes limits using Maximum Available Control Technology (MACT). The Numerical limits were developed from existing sewage sludge incinerators across the country already using MACT. Many SSI's, including MSD's, Greensboro's, and High Point's, will require upgrades due to pollutants exceeding MACT standards, with the majority requiring controls for mercury, among others. The new equipment upgrades will also provide removal of Cadmium (Cd), particulate matter (PM), Sulfur Dioxide (SO₂), and Oxides of Nitrogen (NO_x). There are several other regulated pollutants included, of which MSD is not exceeding limits. Testing is to be done this summer to determine what compliance needs to be met. Additional emission controls which may be required are carbon adsorption for mercury; wet electrostatic precipitator for particulate matter; caustic addition for SO₂; and ammonia injection for NO₂. Mr. DiFiore went on to state that these modifications are very expensive, and worst case scenario, will cost approximately \$7.9 million.

Mr. Martin asked how this equipment would change any odors which come from the incinerator, if it does at all. Mr. DiFiore stated that it would be putting out a lot less emissions, but as far as odors, there will not be much change.

He explained that odors are caused mostly from incomplete combustion, and with the temperature being at 1500 degrees in the incinerator, there shouldn't be any odors. Mr. Hartye stated that the majority of the odors coming from the plant are coming from processes at the plant, other than incineration. Mr. DiFiore further stated that the general consensus from the engineering and regulatory community is that the incremental improvement in emissions does not justify these high costs. There was no further discussion on this project.

Mr. Bradford then presented information and pictures on the proposed slide gate repairs on RBC basins #2 and #3, and stated that the construction costs are estimated to be about \$600,000. He explained that divers will probably have to be utilized to repair the gates.

He then presented information regarding the Capital Improvement Program and financial issues, stating that staff tries to save money wherever possible – coordinating projects with member agencies, particularly sidewalks, waterlines, storm drains, and paving repair, etc. with City of Asheville, Black Mountain, Woodfin, etc. Lining is utilized whenever possible – these are typically put out to bid in 10,000 foot blocks to obtain the best prices possible. In-house lining footages are utilized as well with about 20,000 feet done per year by System Services crews. Prescriptive easements are also utilized.

Mr. Bradford stated that the budgeted revenue for the current fiscal year is \$41.9 million; and since we operate with a balanced budget, expenditures are also estimated at \$41.9 million, with about two-thirds of the budget being project-related through debt service and construction projects. An inflationary component is added for years 2 through 10, which is 3.60% for this budget cycle, and has typically averaged 3.4 to 3.7 percent in previous fiscal years. Estimates for all projects are taken from current bid pricing – we take bids from last calendar year to formulate new project estimates. He then presented a snapshot of the next ten years with total expenditures estimated at approximately \$160 million. The bulk of these expenses are for smaller collection system rehabilitation amounting to about \$122 million. He also pointed out that from consolidation through the end of FY 12, MSD has reinvested over \$293 million back into the system.

He went on to review the State Collection System permit, which requires MSD to rehabilitate 250,000 L.F. over five years. This used to be 50,000 L.F. minimum for each year, but was re-negotiated in 2007. When we get extra footage in one year, it helps to offset less footage in those years that we have more expensive projects with less footage, i.e. treatment plant projects. Over the past five years, 49 miles of pipe has been rehabilitated. He also explained that this permit has been temporarily extended by S.B. 831 to 8 years and 400,000 L.F. because of the previous downturn in the economy. This bill temporarily extended various existing permits across the state, which included MSD's Collection System Permit. MSD's current 8-year target is 401,184 L.F.

Mr. Bradford then briefly covered Reimbursement Projects and explained there are no NCDOT betterments scheduled for the coming year. He also explained that special Districts such as MSD do not have to pay for non-betterment costs associated with NCDOT projects. All annexation agreement projects since consolidation have been completed with the exception of one in Black Mountain. There are also no new reimbursement projects for FY 13-14.

He presented a chart showing the reduction in SSO's ever the last 10 years, with a high of 289 back in 2000, and a low of 23 in 2009. In the last 12 month period, the SSO's have hovered around 25, mostly due to the reinvestment into the system and also due to the aggressive maintenance performed by System Services.

He then presented a slide of MSD's website and stated that a copy of the proposed CIP budget has been posted on the website for public viewing and comment. He also thanked staff for the work on the CIP budget, and asked for any questions or comments. There was no discussion of this item.

3. Capital Improvement Priorities & Review of the Ten-Year CIP Document

Mr. Hartye presented the Ten Year CIP Summary document. Mr. Bradford reviewed each category of projects and proposed budget for each one. He stated that the total proposed budget, including contingency and reimbursement funding was \$16,737,527, and is the amount for which staff is seeking the committee's recommendation for approval by the Board.

Mr. Martin asked if a project had no footage noted, but had budget money – were these costs pertaining to design, surveys and right of way. Mr. Bradford stated that this was correct. Mr. Martin also asked, where these costs are noted, are they strictly allocated, i.e. two hours for a GIS tech – are these external costs, or are they built into the project because you have staff here anyway. Mr. Bradford stated that staff costs were allocated under Design, ROW and Construction Management Expenses, and built into the overall project budget.

Mr. Watts encouraged everyone to look at the summary and project schedule contained in the CIP notebook, and asked each municipality to coordinate projects with MSD staff whenever possible. Mr. Bradford explained that the projects were listed on the summary and the schedule in the same order, alphabetically, and as they are in the budget book under each category.

Following no further discussion, Mr. Watts asked for a motion recommending endorsement of the CIP Budget for FY 13-14 in the total amount of \$16,737,527. Mr. Martin so moved. Mr. Creighton made a second to the motion. Following no further discussion, voice vote was unanimous in favor of the motion. The motion passed.

4. Adjourn

There was no further business or discussion. The meeting was adjourned at 9:40 a.m.

PERSONNEL COMMITTEE MEETING

April 25, 2013

10:00 a.m.

1. Call to Order

Bill Stanley called the meeting to order at 10:00 a.m. in the W.H. Mull Building of the Metropolitan Sewerage District. In attendance were the following members: Jackie Bryson, Ellen Frost, Bill Stanley, Bob Watts, and Bill Russell. Also present were Billy Clarke, Tom Hartye, Jim Hemphill, Scott Powell, Mike Stamey, Matt Walter, Teresa Gilbert and Sheila Kilby.

2. Inquiry as to Conflict of Interest

Mr. Stanley stated there was none at this time.

3. Human Resource Activities

Mr. Hemphill reviewed several areas of activity within the Human Resource Department: organizational chart with a total of 149 full time employees, a chart on personnel reductions from FY 2000-01 with 168 employees to FY 2011-12 at 149 employees. He also presented demographic information, provided an overview of employees with average age being 48, and years of service at 13. Mr. Hemphill also presented a chart showing the turnover rate since 2004, with the current rate at 6.75% totaling 10 employees, three (3) retirees and a variety of reasons for the other seven (7). He also reviewed Employee Relations activities: John Crowe Memorial, Day of Caring participation and the Operations Challenge.

Mr. Hemphill also presented information about some highlights of last years' Wellness programs: a) Spirometry testing ; b) Flu & Hepatitis shots; c) Breast Cancer Awareness.

Succession Planning activities, including interviewing every employee for self identified career goals was then discussed. If possible MSD tailors trainings and experiences to match the employees goals.

The next item of discussion were some highlights from the Safety department including ongoing ISO activities, requiring CDL drivers to obtain a CDL Medical evaluation and safety modifications for backhoes and trackhoes.

Mr. Watt asked if we were seeing a wave of retirements coming? Mr. Hemphill responded that yes, we were seeing a wave of retirees, somewhere between 5-8 retirements, every year for the next 10 years.

Ms. Frost commented upon the organizations concern for each other and how admirable it was. She asked if we had any trepidation or concern with the water issue and folding all that in? Mr. Hemphill responded that we were excited about it. He mentioned that the average guys in the hole knew the water employees and were complimentary of their abilities..

4. Consideration of Self Insured Health Plan & Cost of Living Plan

Mr. Hemphill presented staff recommendations to increase salaries by a 2.1% Cost of Living Adjustment for all employees.

No additional funds were requested because of lower medical claims.

The budget impact of the COLA request, along with the state mandated contributions is .78% or \$62,400 increase over FY13's budget.

He also presented the Consumer Price Index for the South Region Urban Wage Earners and Clerical Workers and compared that to our local government agencies. In most cases our request is equal to or lower than their projections.

5. Recommendation:

Mr. Watt's motioned and Ms. Frost seconded the recommendation that the Board approve a 2.1% Cost of Living Adjustment for all employees and provide funding for state mandated increases in Retirement and unemployment compensation.

Mr. Stanley called for the vote. It was unanimous in favor of the motion.

6. Other

Ms. Bryson asked if we could attribute the lower medical claims cost to the programs that were mentioned during the presentation. Mr. Hemphill responded that a couple of things came in to play and had a positive effect, lower claims are a big driver of our costs; requiring medical examinations for all employees and spouses had a positive effect; along with the nurse practitioner that we have come in to a weekly Sick Call, at no cost to the employees; and the CDL driver's medical examinations.

Mr. Hartye commented that Scott and Jim had done a good job on the fixed costs by "popping the hood" and negotiating with each of the players. He reminded the Board members that we were a small organization that could be affected by only a few people having a serious health event. We don't reduce our premiums, we put any savings into reserves for the next year to try and temper the fluctuations.

6. Adjourn

With no further business, Mr. Stanley adjourned the meeting at 10:17 AM. No future meeting has been scheduled.

Finance Committee Meeting Minutes

May 6, 2013

Call to Order:

The Finance Committee of the Metropolitan Sewerage District met in the Boardroom of the Administration Building at 2:00 p.m., Monday, May 06, 2013. Chairman Kelly presided with the following members present: Jackie Bryson, Ellen Frost, Esther Manheimer, and Bill Russell.

Others present were: Thomas Hartye, General Manager, Scott Powell, Director of Finance, Joseph Martin, Director of Woodfin Sanitary Water and Sewer District, Marcus Jones, P.E, Director of Engineering, Henderson County, and the following board members: Steve Aceto, Al Root, Robert C Watts, and MSD staff.

Third Quarter Budget to Actual Review:

Mr. Powell began his PowerPoint presentation with a review of the Third Quarter Budget to Actual by stating that domestic and industrial user fees are meeting budgeted expectations. Industrial revenues are slightly below prediction, due to reduced flow from a couple of key industrial users, but in totality, domestic and industrial user fees are meeting expectations. Facility fees are on target while tap fees are above expectations, these items are budgeted conservatively. The rest of our revenues are on track for the year. Operation and Maintenance is at 68%. This is a direct result of the District deferring utility cost with the Hydroelectric Facility. Bond principal and interest expenditures are at 20% due to principal payments being made on July 1, 2013. Capital equipment is at 90%, and capital projects are meeting budgeted expectation.

FY 2014 Proposed Budget:

Mr. Powell continued his PowerPoint presentation with highlights of the FY 2014 Proposed Budget. He stated the Operations and Maintenance budget is \$14.7 million, CIP \$16.7 million, Capital Equipment Replacement \$.9 million, and Debt Service \$8.5 million for a total of \$40.9 million.

The proposed budget includes the Personnel Committee recommendations for a 2.1% COLA and self-insurance funding at a 0% increase this year. State mandated contributions of \$32,000 to the NC Unemployment Insurance pool and a 5% increase in the NC Retirement System rate are included in the FY14 budget. In addition, a previously unfunded position is being funded in the F14 budget. Recent turnover has mitigated these increased costs to an overall 1.45% increase.

Materials, Supplies, and Services are included in FY 2014 operation and maintenance recommendations and is expected to be less than 1%.

Mr. Powell continued his presentation, which included information on Personnel Growth, Trends in Health Care Cost, Operation actual to budget efficiency, CIP committee endorsed

Finance Committee Meeting Minutes

May 6, 2013

capital project needs, proposed Capital Equipment Replacement, and the District's June 30, 2013 Debt Composition and FY 2014 debt service requirements.

Mr. Powell stated over the past 6 years the District has achieved operational objectives while averaging an actual/budget ratio of 95.3%.

Mr. Powell discussed major CIP project for the upcoming fiscal year, which include; Old US-70 at Grovemont (\$890,000), Merrimon Avenue at Stratford (\$813,100), and WRF slide gate improvements (\$600,000).

Mr. Powell discussed Capital Equipment Replacement FY 2014; Operations & Maintenance \$128,300, Fleet Replacement \$605,000, Wastewater Treatment Plant \$200,000.

Mr. Powell reported MSD's debt composition as of June 30, 2013 is \$85 million in total, with 61% in traditional fixed income and 39% in synthetic fixed debt. He referred to the recent debt refunding, and the Standard and Poor's rating upgrade from AA to AA+. Debt Service is projected to be \$5.38 million in principal and \$3.12 million interest.

Mr. Aceto asked when the next refunding would happen. Mr. Powell responded April or May of 2014.

Budgeted revenue highlights include .75% growth in residential users, .75% growth in domestic consumption. Facility and Tap fees are conservatively budgeted. The return on investments is expected to be 1%. Proposed budgeted revenues are \$40.9 million comprised mainly of domestic user fees (69%), Industrial User Fees (4%), Facility and Tap Fees (3%), and Interest Income and Miscellaneous Income (2%), and Other Sources (22%).

MSD Business Plan:

The next section of Mr. Powell's presentation covered the MSD Business Plan. This section covers the long-term (ten-year) plan for expected Project Sewer Rates and Revenues, Operating Expenses, CIP needs, and Debt Coverage Ratio. Mr. Powell explained staff uses its master plan objectives, regulatory requirements, debt service requirements, the CPI and other indexes to determine level incremental sewer rate increases. He pointed out that this year's proposed rate increase of 2.5%, while maintaining healthy debt coverage ratios.

Mr. Powell stated the District will be investing \$16.7 million into the infrastructure, with the breakdown being as follows: Interceptors 9%, Collection Rehabilitation 76%, Treatment Plant 14%, and Reimbursements 1%, along with a \$1 million contingency to guard against any price fluctuations that might occur.

Finance Committee Meeting Minutes

May 6, 2013

Mr. Powell stated the Ten Year Capital Improvements Plan incorporates \$160.2 million in future projects, with the funding being a mixture of 53% pay-as-you-go and 47% in future debt issuance.

Rate Information:

Mr. Powell discussed State and National Trends for sewer rates:

In North Carolina, 2013 sewer rates represented 1.12% of median household income (this was from NACWA). The District's rates were 0.73% of median household income for the same time period.

National average residential sewer bills are typically 20% greater than water bills. The District's average residential sewer bill will be 6.6% greater than their comparable water bill.

Clean water utilities have experienced cost increases at levels two times more than the rate of inflation over the last several years. The overall average sewer service charge for a single-family residence rose to \$389 in 2011 and is estimated to exceed \$522 by 2014. The District's single-family residence cost is estimated to be \$334 for FY 2014.

Sewer service charges are anticipated to increase nationally at an average rate of 6% for the next three years. The District's rates are project to increase 2.5% for the same time period.

Based on data for EPA Region IV–Southeast, the District was in the bottom one-third percent. The District's projected average monthly bill will be approximately \$27.81 and the national average will be \$41.05.

Mr. Aceto asked if the Rates & Funding information rate schedule was still available on the District's website. Mr. Powell confirmed it was.

Staff recommends Tap and Facility Fees remain at 2013 levels; a 2.5% increase in the Domestic Rate; which would be a .67¢ increase in the average single-family monthly bill bringing the average bill from \$27.14 to \$27.81. Staff also recommends continuing the Industrial rate parity plan, which includes a 3.5% average increase for the industrial section and incorporates the 2.5% Domestic rate increase.

The proposed increase is to provide funding for CIP, maintain favorable debt service ratio to minimize future interest expense, and keep rate increases small and uniform per industry standards and previous District Board directions.

Mr. Powell gave special thanks to Division Heads, his finance team and Teresa Gilbert, Budget Analyst.

Finance Committee Meeting Minutes

May 6, 2013

Ms. Manheimer asked why there was a difference in the rate for City of Asheville and Black Mountain. Mr. Powell explained that Black Mountain meters are 3/4" and City of Asheville is typically 5/8" (for residential customers). She also asked about the rate for Buncombe County customers. Mr. Powell explained most Buncombe County customers are billed by one of the municipalities.

Chairman Kelly stated the two action items had been voted on separately in the past and asked if this was a requirement. Mr. Clarke responded, he did not think it was a requirement. In the past, committee members had wanted to vote differently on the items, so they were kept separate.

Motion to accept staff recommendation:

Schedule of Rates & Fees for FY2013:

Chairman Kelly called for any questions or comments concerning the item under Tab 7. With there being none, Chairman Kelly called for a recommendation to approve the Schedule of Rates & Fees for FY14.

Recommendation:

Mrs. Bryson moved to approve the Schedule of Rates & Fees for FY14. Mr. Russell seconded the motion. By a show of hands, the motion was carried unanimously.

Proposed FY13 Budget:

Following Scott Powell's presentation, Chairman Kelly called for any questions or comments. With there being none, Chairman Kelly inquired if anyone would like to make a recommendation on the Proposed FY2014 budget as presented under Tab 6.

Recommendation:

Chairman Kelly moved to approve the Proposed FY14 Budget. Ms. Frost seconded the motion. By a show of hands, the motion was carried unanimously.

Adjournment:

With no further discussion, Mr. Kelly called for adjournment at 2:30 pm.

Metropolitan Sewerage District of Buncombe County BOARD INFORMATIONAL ITEM

Meeting Date: May 15, 2013

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

Prepared By: W. Scott Powell, CLGFO, Director of Finance
Cheryl Rice, Accounting Manager

Subject: Cash Commitment/Investment Report-Month Ended March 31, 2013

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 March 31, 2013 were \$30,295,660. The detailed listing of accounts is available upon request. The average rate of return for all investments is 1.908%. 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 March 31, 2013 do not reflect contractual commitments or encumbrances against said funds. Shown below are the total investments as of March 31, 2013 reduced by contractual commitments, bond funds, and District reserve funds. The balance available for future capital outlay is \$4,368,479.

Total Cash & Investments as of 03/31/2013		30,295,660
Less:		
Budgeted Commitments (Required to pay remaining FY13 budgeted expenditures from unrestricted cash)		
Construction Funds	(8,063,296)	
Operations & Maintenance Fund	<u>(4,735,816)</u>	
		(12,799,112)
Bond Restricted Funds		
Bond Service (Funds held by trustee):		
Funds in Principal & Interest Accounts	(14,508)	
Debt Service Reserve	(2,691,407)	
Remaining Principal & Interest Due	<u>(5,754,799)</u>	
		(8,460,714)
District Reserve Funds		
Fleet Replacement	(538,215)	
WWTP Replacement	(511,644)	
Maintenance Reserve	<u>(913,012)</u>	
		(1,962,871)
District Insurance Funds		
General Liability	(343,054)	
Worker’s Compensation	(311,051)	
Post-Retirement Benefit	(1,009,166)	
Self-Funded Employee Medical	<u>(1,041,213)</u>	
		(2,704,484)
Designated for Capital Outlay		<u><u>4,368,479</u></u>

Staff Recommendation

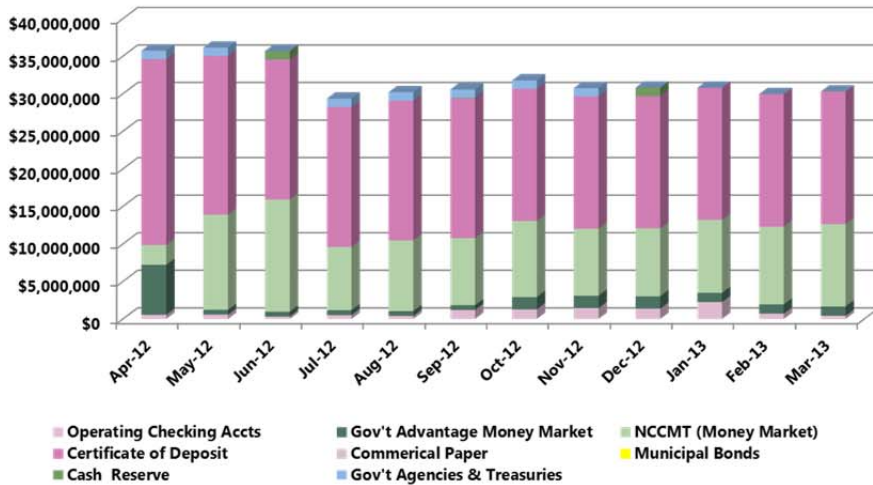
None. Information Only.

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

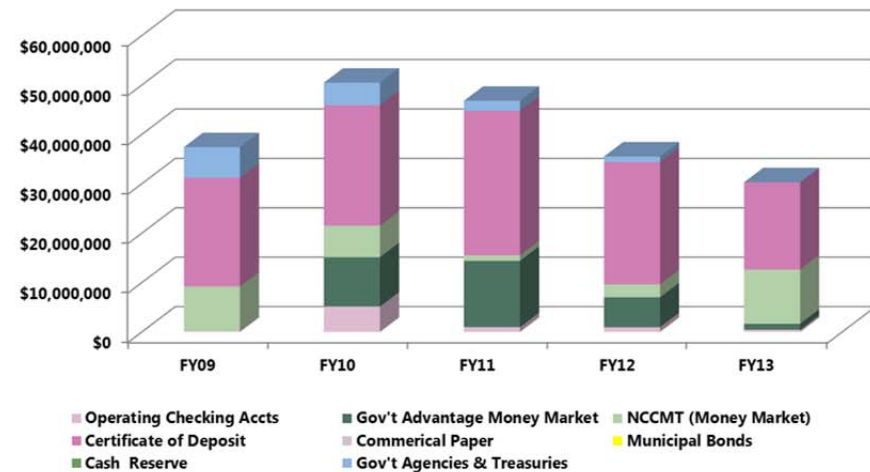
	Operating Checking Accounts	Gov't Advantage Money Market	NCCMT (Money Market)	Certificate of Deposit	Commercial Paper	Municipal Bonds	Cash Reserve	Gov't Agencies & Treasuries	Total
Held with Bond Trustee	\$ -	\$ -	\$ 14,508	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 14,508
Held by MSD	430,886	1,229,339	10,971,906	17,649,021	-	-	-	-	30,281,152
	<u>\$ 430,886</u>	<u>\$ 1,229,339</u>	<u>\$ 10,986,414</u>	<u>\$ 17,649,021</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ 30,295,660</u>

Investment Policy Asset Allocation	Maximum Percent	Actual Percent	
U.S. Government Treasuries, Agencies and Instrumentalities	100%	0.00%	No significant changes in the investment portfolio as to makeup or total amount.
Bankers' Acceptances	20%	0.00%	
Certificates of Deposit	100%	58.26%	The District 's YTM of .73% 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%	36.26%	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		1.42%	
Gov't Advantage Money Market		4.06%	

**MSD of Buncombe County
Investment Portfolio - 12 Month Trend**



**MSD of Buncombe County
Investment Portfolio - As of March 31, 2013**



Board Meeting: May 15, 2013

Subject: Cash Commitment/Investment Report-Month Ended March 31, 2013

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**METROPOLITAN SEWERAGE DISTRICT
INVESTMENT MANAGERS' REPORT
AT March 31, 2013**

Summary of Asset Transactions

	Original Cost	Market	Interest Receivable
Beginning Balance	\$ 25,456,967	\$ 25,456,967	\$ 330,933
Capital Contributed (Withdrawn)	649,371	649,371	-
Realized Income	1,090	1,090	-
Unrealized/Accrued Income	-	-	16,377
Ending Balance	<u>\$ 26,107,428</u>	<u>\$ 26,107,428</u>	<u>\$ 347,310</u>

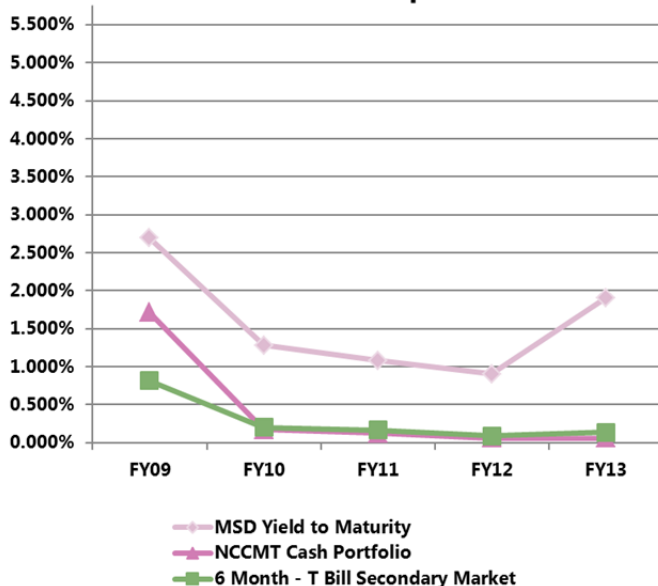
Value and Income by Maturity

	Original Cost	Income
Cash Equivalents <91 Days	\$ 8,458,407	\$ 5,659
Securities/CD's 91 to 365 Days	17,649,021	\$ 11,808
Securities/CD's > 1 Year	-	-
	<u>\$ 26,107,428</u>	<u>\$ 17,467</u>

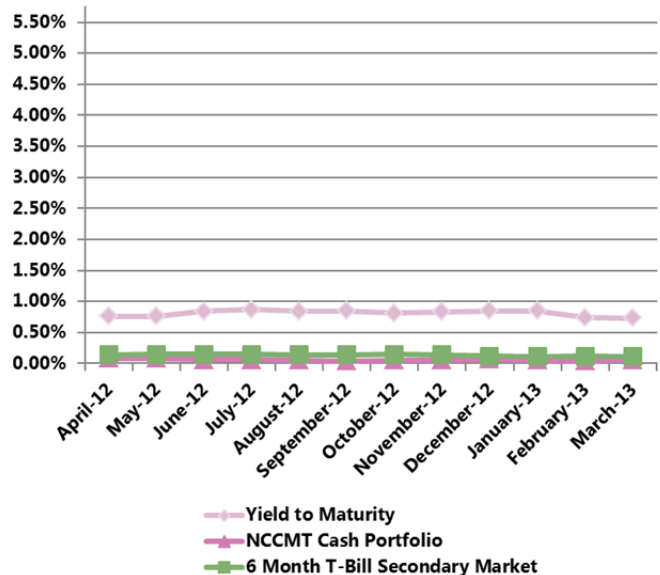
Month End Portfolio Information

Weighted Average Maturity	355
Yield to Maturity	0.73%
6 Month T-Bill Secondary Market	0.11%
NCCMT Cash Portfolio	0.06%

**Metropolitan Sewerage District
Annual Yield Comparison**

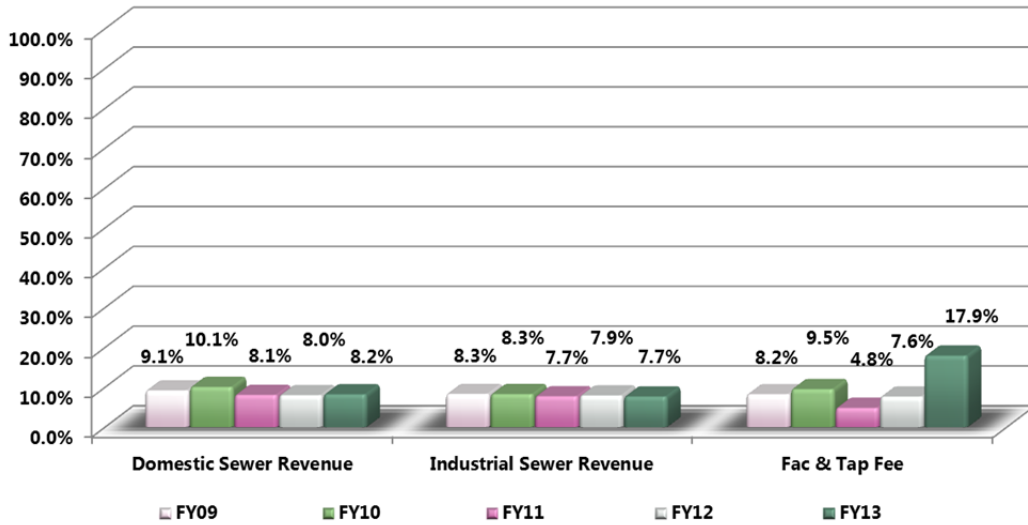


**Metropolitan Sewerage District
Yield Comparison - March 31, 2013**



**METROPOLITAN SEWERAGE DISTRICT
ANALYSIS OF CASH RECEIPTS
AS OF March 31, 2013**

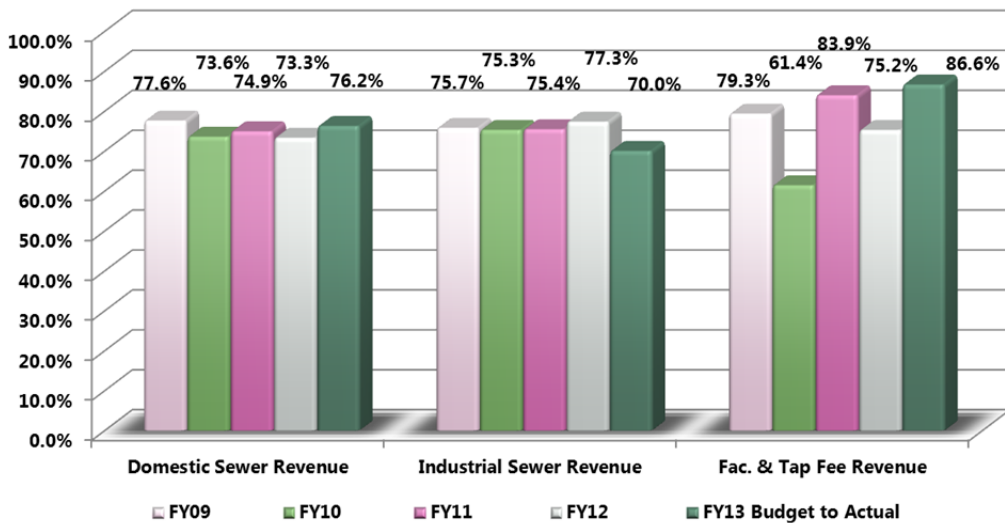
Monthly Cash Receipts Analysis



Monthly Cash Receipts Analysis:

- Monthly domestic sewer revenue is considered reasonable based on timing of cash receipts in their respective fiscal periods.
- Monthly industrial sewer revenue is trending below budgeted expectations.
- Due to the unpredictable nature of facility and tap fee revenue, staff considers facility and tap fee revenue reasonable.

YTD Cash Receipt Analysis

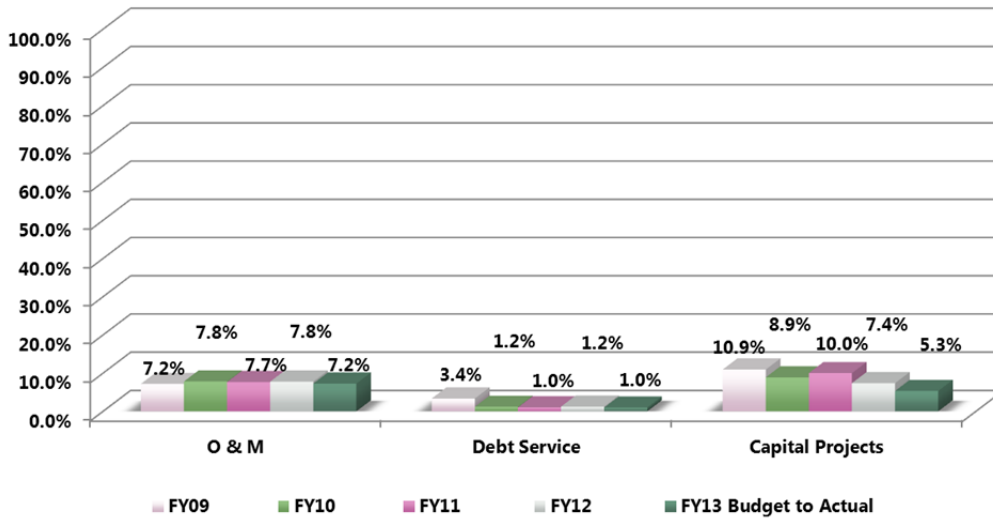


YTD Actual Revenue Analysis:

- YTD domestic sewer revenue is considered reasonable based on historical trends.
- YTD industrial sewer revenue is trending below budgeted expectations.
- Due to the unpredictable nature of facility and tap fee revenue, staff considers facility and tap fee revenue reasonable.

**METROPOLITAN SEWERAGE DISTRICT
ANALYSIS OF EXPENDITURES
AS OF MARCH 31, 2013**

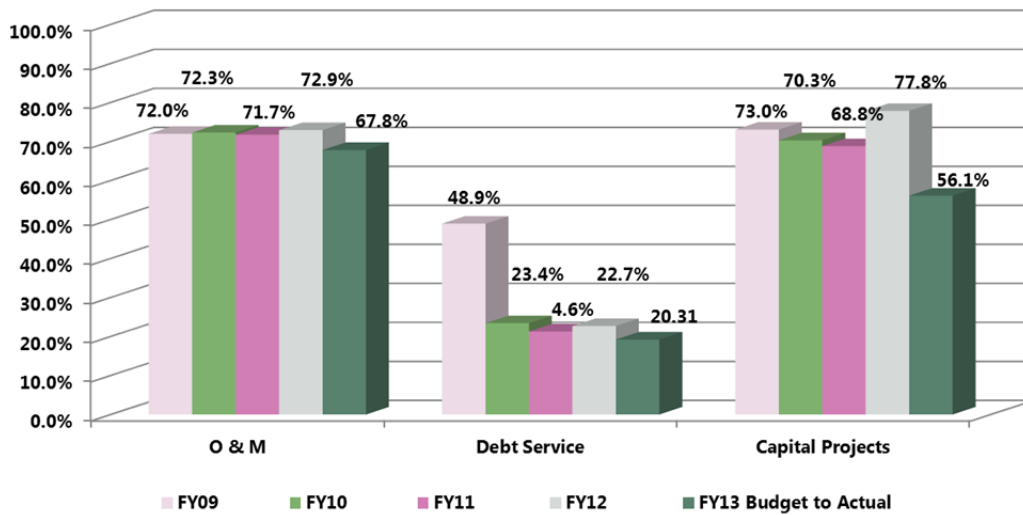
Monthly Expenditure Analysis



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 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.

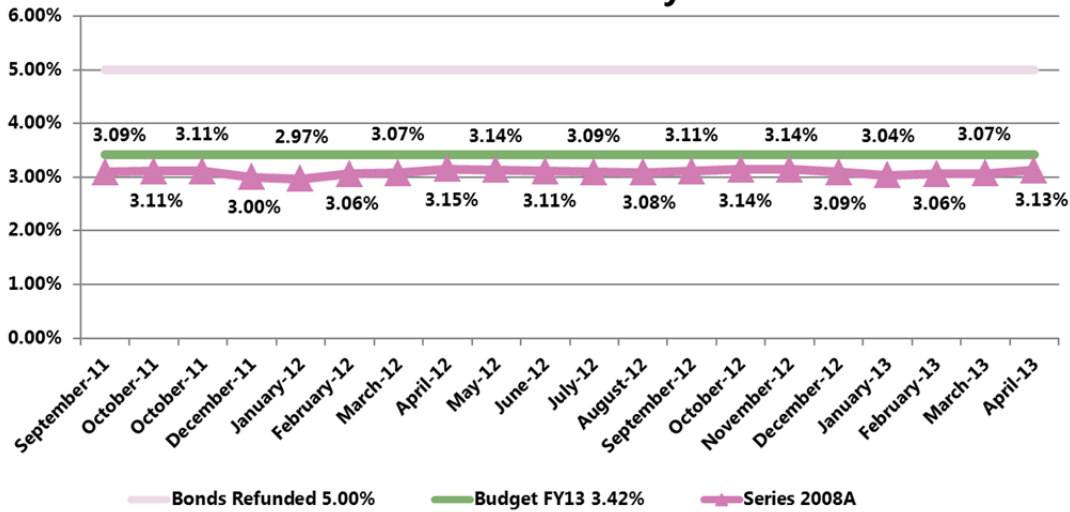
Board Meeting: May 15, 2013

Subject: Cash Commitment/Investment Report-Month Ended March 31, 2013

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**METROPOLITAN SEWERAGE DISTRICT
Variable Debt Service Report
As of April 30, 2013**

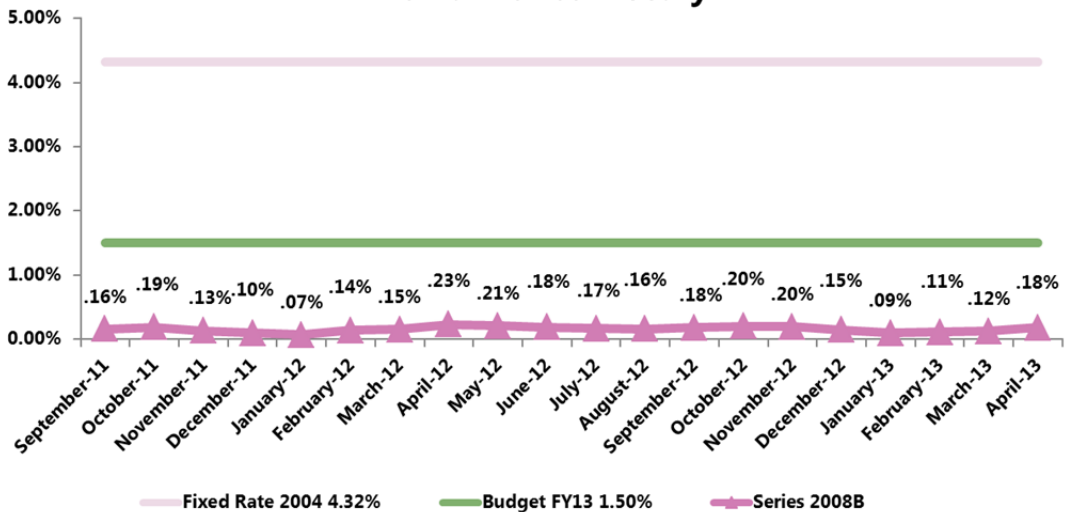
**Series 2008A Synthetic Fixed Rate Bonds
Performance History**



Series 2008A:

- Savings to date on the Series 2008A Synthetic Fixed Rate Bonds is \$2,733,775 as compared to 4/1 fixed rate of 4.85%.
- Assuming that the rate on the Series 2008A Bonds continues at the current all-in rate of 4.0475%, MSD will achieve cash savings of \$4,730,000 over the life of the bonds.
- MSD would pay \$6,220,000 to terminate the existing Bank of America Swap Agreement.

**Series 2008B Variable Rate Bond
Performance History**



Series 2008B:

- Savings to date on the 2008B Variable Rate Bonds is \$3,888,704 as compared to 5/1 fixed rate of 4.32%.
- Since May 1, 2008, the Series 2008B Bonds average variable rate has been 0.49%.

Metropolitan Sewerage District of Buncombe County BOARD ACTION ITEM

Meeting Date: May 15, 2013

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

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

Subject: Consideration of Resolution adopting the Preliminary Budget for FY 2013-2014 and Schedule of Sewer Rates & Fees

Background

The District Budget process must comply with North Carolina General Statutes and the MSD Revenue Bond Order. The Bond order requires that the District adopt its final budget on or before June 15 of each year. The North Carolina General Statutes required that an annual balanced budget ordinance, based upon expected revenues, along with a budget message, to be presented to the governing board no later than June 1 of each year.

Staff/Finance Committee Recommendations

BUDGET:

The Finance Committee unanimously approved staff's recommendation to forward to the Board for approval of the attached Proposed FY 2013-2014 Budget along with the Resolution.

SEWER RATES & FEES:

The Finance Committee unanimously approved staff's recommendation to forward to the Board for approval of the attached Proposed Schedule of Fees and Charges – FY2014.

Action Taken

Motion by:

to

Approve

Disapprove

Second by:

Table

Send to Committee

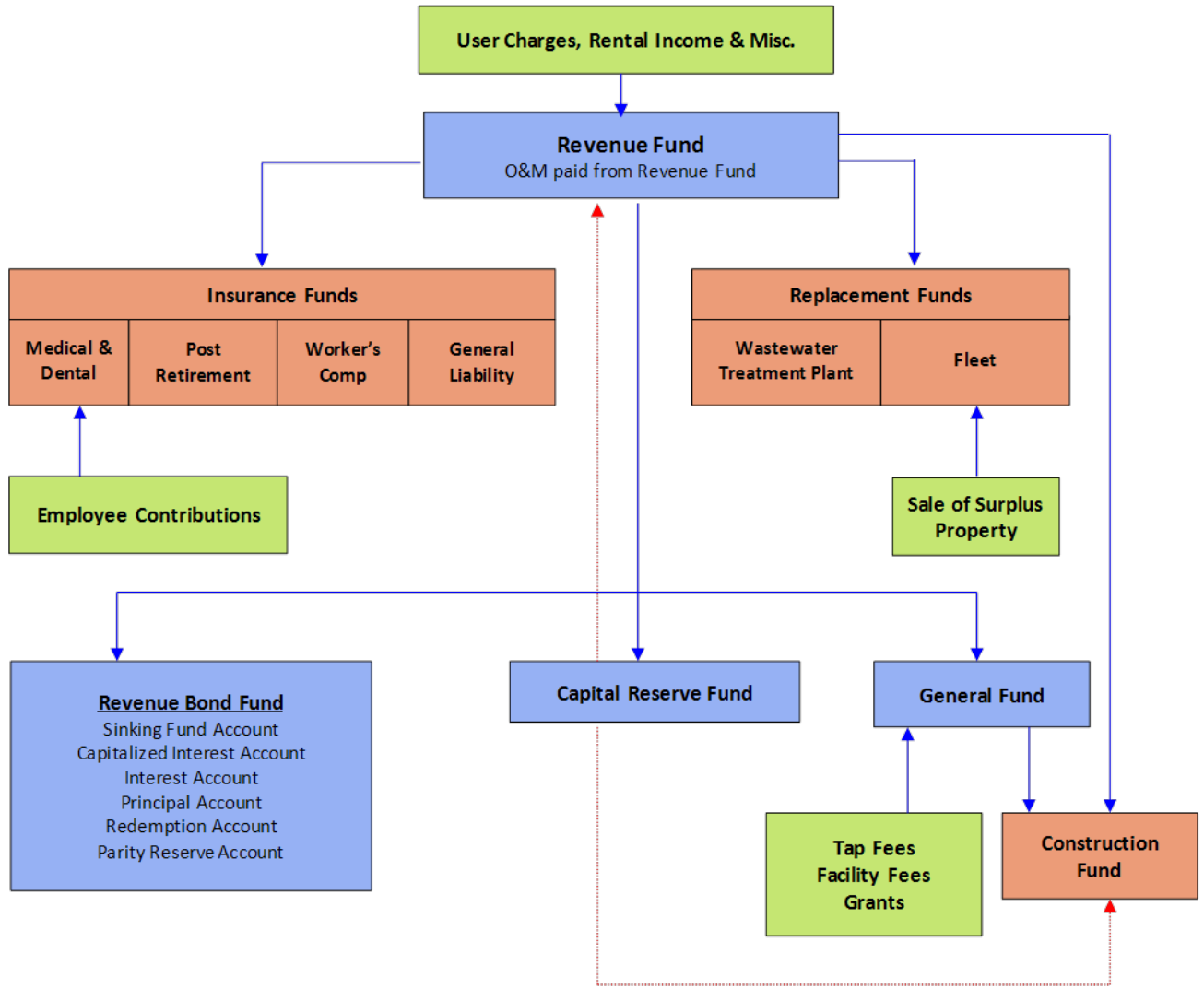
Other:

Follow-up required:

Person responsible:

Deadline:

Flow of Funds Chart



Priority of expenditures per Bond Order

1. Current Expenditures
2. Debt Service
3. Capital Reserve
4. Any Lawful Purpose

	Income Sources
	Trustee Funds
	Expenditures

————— Flow of Funding

- - - - - Flow of Funding if required for emergency repairs or maintenance

Resolution – Preliminary Budget & Sewer Use Charges

**RESOLUTION ADOPTING PRELIMINARY BUDGET AND SEWER USE CHARGES
FOR THE
METROPOLITAN SEWERAGE DISTRICT
OF BUNCOMBE COUNTY, NORTH CAROLINA
FOR THE FISCAL YEAR July 1, 2013 THRU June 30, 2014**

WHEREAS, the Board of Directors has reviewed the Operations and Maintenance, Bond, Reserves, and Construction Expenditures of the District and the sources of revenue and allocations (uses) of expenditures for the 2013-2014 fiscal year; and

NOW, THEREFORE, BE IT RESOLVED:

1. The following amounts are hereby appropriated in the Revenue Fund for the Operations and Maintenance of the District and for transfers to the debt service and general funds for the Fiscal year beginning July 1, 2013 and ending June 30, 2014:

Operating and Maintenance Expenses	\$	11,698,246
Transfer to insurance accounts	\$	2,810,662
Transfer to Fleet Replacement Reserve	\$	400,000
Transfer to Wastewater Treatment Plant Reserve	\$	<u>100,000</u>
Subtotal O&M	\$	15,008,908
Transfer to Debt Service Fund	\$	8,502,191
Transfer to General Fund	\$	<u>15,050,516</u>
	\$	<u><u>38,561,615</u></u>

It is estimated that the following revenues will be available in the Revenue Fund for the Fiscal year beginning July 1, 2013 and ending June 30, 2014:

Domestic User Fees	\$	27,367,458
Industrial User Fees	\$	1,710,390
Billing and Collection Fees	\$	689,062
Investment Interest	\$	293,692
Reimbursement for Debt Service from COA	\$	37,000
Rental Income	\$	68,597
Transfer from Construction	\$	20,000,000
Contributions to Net Assets	\$	<u>(11,604,584)</u>
	\$	<u><u>38,561,615</u></u>

2. The following amounts are hereby appropriated in the General Fund for the transfers to the construction fund for the Fiscal year beginning July 1, 2013 and ending June 30, 2014:

Transfer into construction	\$	<u><u>16,737,527</u></u>
----------------------------	----	--------------------------

Resolution – Preliminary Budget & Sewer Use Charges

It is estimated that the following revenues will be available in the General Fund for the fiscal year beginning July 1, 2013 and ending June 30, 2014:

Facility and Tap Fees	\$	1,355,000
Investment Income	\$	25,000
Transfer from Revenue Fund	\$	15,050,516
Appropriated Net Assets	\$	<u>307,011</u>
	\$	<u><u>16,737,527</u></u>

3. The following amounts are hereby appropriated in the Construction Fund for Capital Improvement Plan expenditures for the fiscal year beginning July 1, 2013 and ending June 30, 2014.

Capital Improvements Projects	\$	16,737,527
Transfer to Revenue Fund	\$	<u>20,000,000</u>
	\$	<u><u>36,737,527</u></u>

It is estimated that the following revenues will be available to the Construction Fund for the fiscal year beginning July 1, 2013 and ending June 30, 2014.

Proceeds from Revenue Bonds	\$	28,000,000
Investment Income	\$	1,000
Transfer from General Fund	\$	16,737,527
Contributions to Net Assets	\$	<u>(8,001,000)</u>
	\$	<u><u>36,737,527</u></u>

4. The following amounts are presented as the financial plan for the Internal Service Funds used to provide insurance services. Estimated operating expenditures for the fiscal year beginning July 1, 2013 and ending June 30, 2014 are:

Operating expenditures	\$	<u><u>3,166,431</u></u>
------------------------	----	-------------------------

It is estimated that the following revenues will be available in the Insurance Fund for the fiscal year beginning July 1, 2013 and ending June 30, 2014:

Transfer in from the Revenue Fund	\$	2,810,662
Investment Income	\$	11,000
Employee health insurance premiums	\$	389,000
Contributions to Net Assets	\$	<u>(44,231)</u>
	\$	<u><u>3,166,431</u></u>

5. The following amounts are presented as the Financial Plan in the Fleet Replacement Fund for the Internal Service Fund serving as capital equipment expenditures for the fiscal year beginning July 1, 2013 and ending June 30, 2014 are estimated as follows:

Capital equipment	\$	<u><u>605,000</u></u>
-------------------	----	-----------------------

Resolution – Preliminary Budget & Sewer Use Charges

It is estimated that the following revenues will be available in the Fleet Replacement Fund for the fiscal year beginning July 1, 2013 and ending June 30, 2014:

Transfer in from the Revenue Fund	\$	400,000
Sale of surplus property	\$	80,276
Investment Income	\$	4,351
Appropriated Net Assets	\$	<u>120,373</u>
	\$	<u>605,000</u>

6. The following amounts are presented as the Financial Plan in the Wastewater Treatment Plant Replacement Fund for the internal service fund designated as expenditures for the fiscal year beginning July 1, 2013 and ending June 30, 2014 are estimated as follows:

Capital equipment	\$	<u>200,000</u>
-------------------	----	----------------

It is estimated that the following revenues will be available in the Wastewater Treatment Plant Replacement Fund for the fiscal year beginning July 1, 2013 and ending June 30, 2014:

Transfer in from the Revenue Fund	\$	100,000
Investment Income	\$	5,327
Appropriated Net Assets	\$	<u>94,673</u>
	\$	<u>200,000</u>

7. The following amounts are hereby appropriated in the Debt Service Fund for principal and interest payments for the fiscal year beginning July 1, 2013 and ending June 30, 2014:

Debt Service	\$	<u>8,502,191</u>
--------------	----	------------------

It is estimated that the following revenues will be available in the Debt Service Fund for the fiscal year beginning July 1, 2013 and ending June 30, 2014:

Transfer in from the Revenue Fund	\$	8,502,191
Investment Income	\$	250
Contribution to Net Assets	\$	<u>(250)</u>
	\$	<u>8,502,191</u>

8. That the Board of the Metropolitan Sewerage District does hereby approve an increase in the Budgets to the amount necessary to reflect any contributions to the Debt Service Reserve Fund or Capital Reserve Fund as determined by the Bond Trustee to be necessary to comply with covenants in the Bond Order.
9. The General Manager is hereby authorized to transfer appropriations as contained herein under the following conditions:
- He may transfer amounts without limitation between departments in a fund.
 - He may transfer any amounts within debt service and reserve funds designated as excess by the Trustee into another fund.

Resolution – Preliminary Budget & Sewer Use Charges

10. That the attached schedule of fees and charges be adopted as effective July 1, 2013.
11. That this resolution shall be entered in the minutes of the District and within five (5) days after its adoption, copies thereof are ordered to be filed with the Finance and Budget Officer and Secretary of the Board as required by G.S. 159-13 (d).

Adopted this 15th day of May, 2013

Steven T. Aceto, Chairman
Metropolitan Sewerage District of
Buncombe County, North Carolina

Attest:

Jackie Bryson
Secretary/Treasurer

Schedule of Rates & Fees – FY2014

	ADOPTED FY13 RATE 2.50%	PROPOSED FY14 RATE 2.50%
Rate increase		
Average Monthly Sewer Charge (Without Billing Charges)	\$ 26.03	\$ 26.68
Average Monthly Sewer Charge (With 1/2 Billing Charges-COA example)	\$ 27.14	\$ 27.81
Collection Treatment Charge		
Residential & Commercial Volume Charges (per CCF) Inside	\$ 3.98	\$ 4.08
Industrial Volume Charges (per CCF) Inside	\$ 2.975	\$ 3.195
Industrial Surcharge for BOD (per lb., BOD >210 mg/l) Inside	\$ 0.345	\$ 0.341
Industrial Surcharge for TSS (per lb., TSS >210 mg/l) Inside	\$ 0.269	\$ 0.267
Residential & Commercial Volume Charges (per CCF) Outside	\$ 3.99	\$ 4.09
Industrial Volume Charges (per CCF) Outside	\$ 2.985	\$ 3.205
Industrial Surcharge for BOD (per lb., BOD >210 mg/l) Outside	\$ 0.345	\$ 0.341
Industrial Surcharge for TSS (per lb., TSS >210 mg/l) Outside	\$ 0.269	\$ 0.267
Base Meter/Maintenance Charge & Billing Fee		
5/8"	\$ 6.13	\$ 6.28
3/4"	\$ 8.93	\$ 9.15
1"	\$ 15.82	\$ 16.22
1 1/2"	\$ 36.24	\$ 37.15
2"	\$ 64.11	\$ 65.71
3"	\$ 142.18	\$ 145.73
4"	\$ 253.70	\$ 260.04
6"	\$ 571.50	\$ 585.79
8"	\$ 1,014.78	\$ 1,040.15
10"	\$ 1,589.07	\$ 1,628.80
Billing Fee (per bill)	\$ 2.21	\$ 2.25
Sewer Facility Fees		
Residential		
Per Unit (non-mobile home)	\$ 2,500	\$ 2,500
Mobile Home	\$ 1,740	\$ 1,740
Affordable Housing	\$ 670	\$ 670
Nonresidential (modifiable per economic development waiver)		
5/8"	\$ 2,500	\$ 2,500
3/4"	\$ 2,830	\$ 2,830
1"	\$ 5,560	\$ 5,560
1 1/2"	\$ 11,350	\$ 11,350
2"	\$ 20,000	\$ 20,000
3"	\$ 45,000	\$ 45,000
4"	\$ 87,500	\$ 87,500
6"	\$ 225,400	\$ 225,400
8"	\$ 237,500	\$ 237,500
Additions < 1,400 GPD	\$ 870	\$ 870

Schedule of Rates & Fees – FY2014

	ADOPTED FY13 RATE	PROPOSED FY14 RATE
Sewer Tap Fees		
Tap installed by MSD	\$ 650	\$ 650
Additional Charge for Pavement Disturbance	\$ 2,200	\$ 2,200
Additional Charge for Boring	N/A	N/A
Refund if Boring avoids pavement disturbance	\$ (1,300)	\$ (1,300)
Inspection Fee for Developer-Installed Tap	\$ 140	\$ 140
Manhole Installation/Replacement		
Cost per foot	\$ 250	\$ 250
Pavement replacement (if required)	\$ 1,800	\$ 1,800
Other Fees		
Allocation Fee	\$ 170	\$ 170
Non-Discharge Permit	\$ 200	\$ 200
Plan Review Fee	\$ 450	\$ 450
Plan re-review Fee	\$ 350	\$ 350
Final Inspection	\$ 350	\$ 350
Pump Station Acceptance Fee	Note 1	Note 1
Note 1-- See policy for details of computation of O&M and equipment replacement costs for upcoming 20 years; 50% discount for affordable housing		
Bulk Charges		
Volume Charge for Septic Haulers (per 1000 Gal.)	\$ 45.00	\$ 45.00
Biochemical Oxygen Demand >210 mg/l (per lb.)	\$ 0.345	\$ 0.341
Total Suspended Solids >210 mg/l (per lb.)	\$ 0.269	\$ 0.267
Returned Check Charge		
Returned Check (per event)	\$ 25.00	\$ 25.00
Dishonored Draft (per event)	\$ 25.00	\$ 25.00
Copy/Printing Fees/Miscellaneous (each)		
8x11 first print of standard GIS inquiry	\$ 1.00	\$ 1.00
8x14 first print of standard GIS inquiry	\$ 1.00	\$ 1.00
11x17 first print of standard GIS inquiry	\$ 2.00	\$ 2.00
24x36 first print of standard GIS inquiry	\$ 7.00	\$ 7.00
34x44 first print of standard GIS inquiry	\$ 12.00	\$ 12.00
36x48 first print of standard GIS inquiry	\$ 14.00	\$ 14.00
8x11 or 8x14 copies after first print	\$ 0.11	\$ 0.11
11x17 copies after first print	\$ 0.20	\$ 0.20
24x36 copies after first print	\$ 0.94	\$ 0.94
34x44 copies after first print	\$ 1.76	\$ 1.76
36x48 copies after first print	\$ 2.03	\$ 2.03
Foam Core mounting per sq. foot	\$ 3.00	\$ 3.00
Data CD	\$ 30.00	\$ 30.00
Shipping for CD	\$ 5.00	\$ 5.00
Permit Decals for Septic Haulers		\$ 50.00

STATUS REPORTS

CAPITAL IMPROVEMENT PROGRAM

STATUS REPORT SUMMARY

May 8, 2013

PROJECT	CONTRACTOR	AWARD DATE	NOTICE TO PROCEED	ESTIMATED COMPLETION DATE	*CONTRACT AMOUNT	*COMPLETION STATUS (WORK)	COMMENTS
GIVENS ESTATES	Terry Brothers	10/17/2012	10/24/2012	6/1/2013	\$770,098.50	78%	Boring Contractor is working on Sweeten Creek / Norfolk Southern bore. Mainline construction is progressing upstream of the bore.
MOORE CIRCLE (PRP 45001)	Bryant's Land & Development	2/20/2013	3/18/2013	7/16/2013	\$240,640.58	30%	Mainline construction is in progress. Depth of construction and conflicts with existing utilities along Old U.S. 70 will pose difficulties.
PIPE RATING CONTRACT #7 (LINING)	Southeast Pipe Survey, Inc.	12/12/2012	1/14/2013	6/15/2013	\$798,778.61	15%	Lining Contractor is cleaning the lines/removing roots, and expects to begin the lining portion of this project in mid-May.
SCENIC VIEW DRIVE (PRP 29020)	Carolina Specialties	9/19/2012	10/29/2012	4/1/2013	\$249,450.00	98%	Construction is complete except for final paving, which will be done when COA completes their waterline project.
SHORT COXE AVENUE AT SOUTHSIDE AVENUE	Cana Construction	7/18/2012	9/4/2012	7/1/2013	\$888,998.01	75%	Contractor is working on the 16-inch line now and will finish the 8-inch line on Biltmore Avenue at night, within 30 days.
WRF - CRAGGY HYDRO FACILITY REPAIRS - CONTROL COMPONENTS UPGRADE	Innovative Solutions of NC	7/12/2012	N/A	5/31/2013	\$100,717.72	75%	This is to upgrade the old control panel at the Hydro Facility. In addition to this, Turbine No. 2 is being repaired as well.
WRF - ELECTRICAL IMPROVEMENTS	Haynes Electric	8/15/2012	9/10/2012	6/7/2013	\$1,061,900.00	85%	Project is going very well. New generators and switchgear are in place and operational, sitework is nearly complete. Final testing and configuration is expected in June.
WRF - PAVING IMPROVEMENTS	Trace and Company	2/27/2013	N/A	5/31/2013	\$ 119,985.00	20%	Project will install and repair pavement at various areas within the Treatment Plant property. Preparatory work has begun, completion is expected by the end of May.

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

Planning and Development Projects Status Report
May 8, 2013

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
	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
	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
	New Salem Studios	2011119	Black Mountain	5	36	5/21/2012	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
	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
	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
	UNC-A New Residence Hall	2011047	Asheville	304	404	8/29/2011	Complete-Waiting on final documents
	Larchmont Apartments	2011014	Asheville	60	26	6/23/2011	Complete-Waiting on final documents
	Cottonwood Townhomes	2009110	Black Mtn.	8	580	10/20/2009	Complete-Waiting on final documents
	Brookgreen Phase 1C	2012015	Woodfin	4	280	8/2/2012	Complete-Waiting on final documents
	Berrington Village Apartments	2008164	Asheville	308	4,690	5/5/2009	Complete-Waiting on final documents
	Parameter Generation Relocation	2012024	Black Mtn.	Comm.	545	5/24/2012	Complete-Waiting on final documents
	MWB Phase II	2012053	Montreat	1	90	8/9/2012	Complete-Waiting on final documents
	Swannanoa Habitat Project	2012055	Swannanoa	17	303	6/26/2012	Complete-Waiting on final documents
	Carolina Truck and Body (Cooper)	2012075	Asheville	Comm.	298	10/30/2012	Complete-Waiting on final documents
	Ridgefield Business Park	2004188	Asheville	18	758	2/16/2005	Complete-Waiting on final documents
			Subtotal	972	22,621		

Planning and Development Projects Status Report
May 8, 2013

Status	Project Name	Project Number	Work Location	Units	LF	Pre-Construction Conference Date	Comments
	The Settings (6 Acre Outparcel)	2004192	Black Mountain	21	623	3/15/2006	Ready for final inspection
	Waightstill Mountain PH-8	2006277	Arden	66	3,387	7/26/2007	testing / in foreclosure
	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
	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
	Onteora Oaks Subdivison	2012026	Asheville	28	1,222	1/4/2013	Pre-con held, ready for construction
	Camp Dorothy Walls - Ph. 2	2007294	Black Mtn.	Comm.	593	6/16/2009	Pre-con held, ready for construction
	Harris Teeter - Merrimon Ave.	2011045	Asheville	Comm.	789	3/27/2012	Ready for final inspection
	Pisgah Manor Skilled Nursing Facility	2012008	Candler	Comm.	131	4/9/2011	Ready for final inspection
	Ardmion	2011107	Asheville	5	208	4/16/2013	Pre-con held, ready for construction
	Biltmore Lake Block "J"	2013013	Enka	32	3,918	4/16/2013	Pre-con held, ready for construction
	Bradley Street - Phase II	2013031	Asheville	12	194	2/14/2013	Pre-con held, ready for construction
	Myers Project	2013007	Asheville	5	147	2/14/2013	Ready for final inspection
	Goldmont St	2012087	Black Mtn.	6	91	1/11/2013	Ready for final inspection

Subtotal	2341	72,872
Total Units:	3,313	
Total LF:		95,493