

METROPOLITAN SEWERAGE DISTRICT BOARD

March 17, 1981

The regular monthly meeting of the Metropolitan Sewerage District Board was held in the Boardroom of MSD's Administration Building at 2 p.m., Tuesday, March 17, 1981.

Chairman Robinson called the meeting to order, and Mrs. Crowe called the roll. In addition to the chairman, the following members were present: Messrs. Black, Boggs, Clark, Griffith, Hyatt, and Pope.

In addition to the Board members, the following attorneys, consultant, and staff members were present: Messrs. John S. Stevens and Gwynn C. Radeker; Mr. Dean Huber; Mr. W. H. Mull and Mrs. Jan Crowe. Mr. Doug Thrash, right-of-way coordinator for Hominy Valley, South Buncombe, and Weaverville sewer projects, also attended.

Several representatives of pipe manufacturers attended the meeting, those being: Richard L. Leonardi and Justus Everett, Pomona Pipe; Dan Magers and Mike Hammontree, Carlon; Dave Eckstein, Uni-Bell Plastic Pipe Association; Tommy Thompson, Metromont Materials; Richard W. Johnson, Carolina Concrete Pipe Co.; and L. Michael Word, Hermitage Concrete Pipe. In addition to these gentlemen, Billy F. Trussell of CFW Construction Co., Inc., and attorney Keith S. Snyder of Snyder, Leonard, Biggers & Dodd, attended the meeting.

Mr. Clark moved that the Minutes of the February 17 meeting stand approved as written. Mr. Hyatt seconded the motion, and voice vote was unanimous in favor of the motion.

Mr. W. H. Mull, Engineer-Manager, reported on the following:

- (a) Action on receipt of bid for  $\frac{1}{2}$ -ton pickup truck for MSD operators: Mr. Mull told the Board advertisement for bids was first placed in the newspaper on January 22, with bid opening scheduled for 2 p.m., February 6, at which time only two bids were received. Since a minimum of three bids is required by law, a readvertisement was placed in the newspaper February 10, with the bid opening scheduled for 2 p.m., February 18. The re-advertisement resulted in only one bid being submitted, that being from Apple Tree Chevrolet in the total amount of \$6,160.80. Since only one bid is required on readvertisement, Mr. Pope moved that the Board accept the bid of \$6,160.80 from Apple Tree. Mr. Black seconded the motion, and roll call vote was unanimous in favor of the motion.
- (b) Status report on Hominy Valley, South Buncombe, and Weaverville sewer projects: Mr. Mull told the Board that one additional parcel had been acquired in Hominy Valley, with six additional parcels acquired in South Buncombe, since the February 17 Board meeting. In addition, eleven parcels (four in Hominy Valley and seven in South Buncombe) had condemnation papers filed, bringing the total under condemnation to twenty. There are 21 parcels to be acquired in Weaverville, with title opinions having been received on 11 of the 21. This report was received as information by the Board.
- (c) Tabulation of bids received for Phase I, Hominy Valley Interceptor Sewer project; and
- (d) Consideration of protest filed by Carlon, a division of Indian Head, Inc., regarding procurement procedure with respect to the Hominy Valley Interceptor sewer project: Mr. Mull told the Board that the apparent low bidder on this project was CFW Construction Co., Inc., with Hobson Construction Co., Inc., and Taylor & Murphy Construction Co., Inc., submitting the second and third lowest bids, respectively. CFW's bid was in the amount of \$1,269,494.00; Hobson's was \$1,271,552.00, and Taylor & Murphy's was \$1,355,238.00.

Chairman Robinson then told the Board that normally the Board would be able to discuss the bids submitted and could award the contract for Phase I, Hominy Valley, or reject all bids. However, Carlon, a division of Indian Head, Inc., a manufacturer of polyvinyl chloride (PVC) pipe, protested the receipt or opening of bids on or the award of any contract for construction of Phase I of the Hominy Valley sewer project based upon the violation of an EPA statute in the structuring of the specifications on said project so as to exclude the use of PVC pipe in 8-inch and 18-inch sizes. Mr. Stevens then informed the Board that a hearing was in order to consider this protest, after which the hearing was begun at 2:08 p.m.

Mr. Stevens stated that the purpose of the hearing was to consider and to review the protest by Carlon and to make a determination on Carlon, manufacturers of a certain type of pipe, polyvinyl chloride (PVC). He told the Board that a letter was delivered to Mr. Mull on March 5, approximately two hours before the time set for the opening of the bids, which was a protest to bidding in accordance with EPA's ruling which deals with construction grant funds. Mr. Stevens then read a letter of protest to the Board as presented by Keith S. Snyder, attorney for Carlon, and Mr. Mull's reply to same, addressed to some 40 construction companies, one State official, and F. W. Dodge. He then read a position paper (formal complaint) in its entirety from Mr. Snyder as prepared for Carlon. Mr. Stevens then presented letters received by the District in reply to Mr. Mull's letter from Harrison Construction Company, Hobson Construction Co., Inc., Taylor & Murphy Construction Co., Inc., Metromont Materials, and CFW Construction Co., Inc., stating their respective position regarding the Carlon protest. Mr. Huber, according to engineering requirements, presented a report prepared as a technical response to the protest filed by Carlon, after which Mr. Hammontree of Carlon spoke briefly to the Board concerning Carlon's position.

After discussion, Mr. Pope moved that based upon the evidence presented to the Board orally and in writing at this meeting and based upon the lateness of the filing of the protest that the protest of Carlon filed March 5, 1981, be denied and that a more detailed written statement of this decision be developed by staff and counsel. Mr. Black seconded the motion, and roll call vote was unanimous in favor of the motion. To conclude the hearing at 3:05 p.m., Mr. Stevens told the Board that MSD staff and counsel must reduce the Board's determination to writing and present same to Carlon. Carlon will be given a specific period of time (seven days) in which to appeal to the EPA, if they desire to do so, after which EPA has ten days in which to review the protest and the MSD Board's action, schedule a hearing, and make a ruling on the protest and whether or not MSD can proceed with procurement.

- (e) Resolution concerning the responsibilities of the Metropolitan Sewerage District of Buncombe County under the 208 Areawide Water Quality Management Plan with respect to sewage collector and interceptor lines: Mr. Mull gave a copy of this resolution to each Board member and asked that they study it carefully; the resolution will be presented to the Board for consideration at the April 21 meeting.
- (f) Vulcan Materials' response to and Mr. Stevens' memorandum on a meeting held with Vulcan officials on March 11 in Winston-Salem regarding a right-of-way over Vulcan's property on the proposed Hominy Valley Interceptor sewer project: Mr. Huber told the Board that a quarry expert, Mr. Jim Reed of Crushed Stone Consultants in Raleigh, will meet with Mr. Mull and Stan Boyd of Harry Hendon and Associates on Vulcan's property Saturday, March 21, at 9 a.m., to conduct an appraisal of said property, this being authorized by the Board, after which MSD counsel will try again to reach an agreement with Vulcan for the right-of-way. This item received as information by the Board.

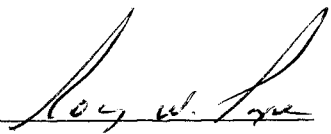
- (g) Ratification of action taken by Right-of-Way Review Committee:  
After a brief discussion, Mr. Pope moved that the Board ratify these actions and Mr. Black seconded the motion to accept the total report of the committee, which was to authorize monetary payment for easements over the following parcels: Hominy Valley: #95A, Czarnecki, up to \$1,000; #95B, Duquenne, up to \$1,000. South Buncombe: #15B, Shuford, up to \$1,000; #36, Angell, \$2,250. Roll call vote was unanimous in favor of the motion.

Chairman Robinson appointed Messrs. Boggs, Pope, Smith, and Warlick to the Budget Committee for Fiscal Year 1981-82. Mr. Smith will chair the committee.

Chairman Robinson reminded the Board of the second public hearing on the POTW Pretreatment Program scheduled for March 24, 1981, at 2 p.m., in the City Council Chambers.

Date of the next regular meeting of the MSD Board will be April 21, 1981.

There being no further business, the meeting was adjourned at 3:30 p.m.

  
Secretary