

METROPOLITAN SEWERAGE DISTRICT BOARD

June 19, 1984

The regular monthly meeting of the Metropolitan Sewerage District Board was held in the Boardroom of MSD's Administration Building at 2:15 p.m., Tuesday, June 19, 1984. The meeting was delayed fifteen minutes to allow time for Mr. Dent to arrive from an earlier meeting, thereby having enough members present to constitute a quorum.

Vice-Chairman Williams called the meeting to order, and Mrs. Crowe called the roll. In addition to the Vice-Chairman, the following members were present: Messrs. Batts, Boggs (arrived at 3 p.m. from earlier commitment), Clark, Dent, Pope, and Smith.

Also attending the meeting were Engineer-Manager W. H. Mull, MSD Attorneys John S. Stevens and Walter L. Currie, and Consulting Engineers Dean Huber and Don Berryhill. Mr. John Watson, bonding agent for Hobson Construction Company, also attended a portion of the meeting.

Mr. Clark moved that the minutes of May 15 stand approved as written, and Mr. Batts seconded the motion. Voice vote was unanimous in favor of the motion.

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

- a. Resolution commending Mr. Warlick for his tenure on the MSD Board: Mr. Smith moved that the Board adopt this resolution, and Mr. Clark seconded the motion. Voice vote was unanimous in favor of the motion. The resolution is as follows:

WHEREAS, Paul W. Warlick has been a member of the Metropolitan Sewerage District Board since April 18, 1967; and

WHEREAS, Paul W. Warlick has rendered conscientious and distinguished service to the Board, to the Town of Biltmore Forest, and to the citizens of Buncombe County; and

WHEREAS, Paul W. Warlick has been a faithful member of the Board during his seventeen years of service and has been of a great help to the Board because of his familiarity with the Town of Biltmore Forest and his attendance at and work with various committees of the Board.

NOW, THEREFORE, BE IT RESOLVED:

ONE: That Paul W. Warlick be and he hereby is congratulated and thanked by the Board for his seventeen years of dedication to the work of the Board and on behalf of the citizens of Buncombe County and of the Town of Biltmore Forest.

TWO: That the Original of this Resolution be placed in the permanent records of the Board and copies be transmitted to Paul W. Warlick and to the Town of Biltmore Forest.

Duly adopted this 19th day of June, 1984.

/s/ M. Leon Williams
M. Leon Williams
Vice-Chairman

- b. Request authorization to readvertise for bids for Section 6, South Buncombe Interceptor Sewer: Three bids were received May 31, those bids being: CFW Construction Company, \$527,907.00; Taylor & Murphy Construction Company, \$505,362.50; Hobson Construction Company, \$453,440.00. Mr. Currie told the Board the three bids were reviewed and that the bids and bid bonds of Taylor & Murphy Construction Company and CFW Construction Company were in acceptable form; however, the low bid of Hobson Construction Company and bid bond were not in acceptable form

Minutes
Page Two
June 19, 1984

in that an American Institute of Architect's form of bid bond was used rather than the North Carolina bid bond form which was included in the specifications for the project. The AIA bid bond form does not provide for the payment of a 5% penalty as required by North Carolina General Statutes Section 143-129. The AIA form obligates the bidder and its surety to pay the difference between the bid submitted and the amount MSD may have to pay another party to perform the work, up to a maximum of 5% of the bid. Since Hobson's bid bond contained in his bid was unacceptable, MSD is in a position of not having three acceptable bids. Mr. Dent moved that the Board reject all the bids and readvertise, and Mr. Batts seconded the motion. Roll call vote was unanimous in favor of the motion. The bid opening date is scheduled for 2 p.m., July 24.

- c. WPCF Conference, New Orleans, October 1-4, 1984: Mr. Pope moved that Mr. Mull be authorized to make all arrangements necessary for registration for those Board members wanting to attend this conference. Mr. Clark seconded the motion, and roll call vote was unanimous in favor of the motion.
- d. Update on Blue Ridge Plating: Mr. Stevens told the Board that this matter is scheduled for a hearing before a Superior Court judge on July 2, no set time; received as information by the Board.
- e. Industrial Pretreatment Program: This item pertains to Sayles Biltmore Bleacheries and a letter written to the District by their president, Mr. Sheffield Novik, in connection with delinquent sewer service charges owed by the company. Mr. Batts, an employee of Sayles, excused himself and left the Board meeting when this matter came up for discussion.

Mr. Mull told the Board that the District has been billing Sayles by calculation based on the price to treat 2 MGD multiplied by a seven-day workweek during the period from July, 1981, through April, 1984, with total calculated sum owed of \$469,940.96. He said Sayles' calculation as set forth in Mr. Novik's letter and accompanying chart was based on the price to treat 1.5 MGD multiplied by the number of days they said they actually operated, with total calculated sum owed of \$304,468. Sayles has paid \$102,468 of the disputed amount to the District, and Mr. Novik offered in his letter to settle the delinquent account for a sum of \$202,000. A study conducted by American Digital Service of Sayles' flow between May 15 and June 13, 1983, tends to indicate that Sayles operates on a five-day-week schedule and that discharge on the weekends is between 1/5 and 1/10 of the discharge during the week. In addition, except for one month in 1981, MSD crews have not monitored on weekends; therefore, MSD has no evidence to refute Sayles' statement about five-day-week operation.

Mr. Smith moved that the Board accept Sayles Biltmore Bleacheries' offer of \$202,000 in settlement of their delinquent sewer usage bills and consider them paid up at least through April, 1984; that the Board instruct the engineer-manager to reach an agreement between Sayles and MSD so that Sayles is billed at a rate so that they do not build up a deficit in the future; that the engineer-manager instruct Sayles that their offer to settle the billings for this period is acceptable to the Board with the following two conditions: (1) That Sayles Biltmore Bleacheries agrees to have installed and operational adequate metering equipment with which to measure the total discharge to the MSD system on or before January 1, 1985, with said metering equipment to be used to be approved by the District prior to installation;

Minutes
Page Three
June 19, 1984

(2) In the absence of evidence which would justify otherwise, billings for the discharge of wastewaters between the end of April, 1984, and the installation of metering equipment by Sayles will be based upon the volume of 1.5 MGD times the number of dates worked at Sayles. Mr. Dent seconded the motion, and roll call vote was unanimous in favor of the motion. (With Mr. Batts excused from the meeting during discussion and Board action on this matter, there were only five members present; however, Mr. Stevens instructed the Board that this constituted a quorum because Mr. Warlick's resignation left only nine Board members.)

- f. Request to move July Board meeting from 17th to 31st: Since Mr. Mull will be going to France with the AFS Adult Exchange Family program for the first three weeks of July, he requested that the July meeting of the Board be changed. Mr. Pope moved that the meeting be moved from the 17th to the 31st, and Mr. Smith seconded the motion. Voice vote was unanimous in favor of the motion. News media will be notified of the change.
- g. Resolution with respect to the construction of improvements to the Wastewater Treatment Plant: Mr. Mull told the Board that this resolution is in connection with the District's application for Federal grant funds for Phase I of the plant expansion and that such a resolution must be submitted with each phase. Mr. Smith moved adoption of this resolution, and Mr. Pope seconded the motion. Roll call vote was unanimous in favor of the motion. The resolution in its entirety is as follows:

RESOLUTION OF THE METROPOLITAN SEWERAGE DISTRICT OF
BUNCOMBE COUNTY, NORTH CAROLINA, WITH RESPECT TO THE
CONSTRUCTION OF IMPROVEMENTS TO THE
WASTEWATER TREATMENT PLANT

WHEREAS, the North Carolina Clean Water Bond Act of 1971 has authorized the making of grants to aid eligible units of government in financing the cost of construction of wastewater treatment works, wastewater collection systems, and water supply systems, and

WHEREAS, Resolution 74-31 of the North Carolina Board of Water and Air Resources established a policy for approving State grants from the Pollution Control Account of the Clean Water Fund for Step grants for wastewater treatment works projects, and

WHEREAS, Title II of the Federal Water Pollution Control Act Amendments of 1972 (P.L. 92-500 U.S.C. 1251 et. seg.) authorized the award of step Federal Construction Grants for waste treatment works, and

WHEREAS, the Metropolitan Sewerage District of Buncombe County intends to request State and Federal Grant assistance to aid in Phase 1 of 4 Step 3 construction of improvements to the Wastewater Treatment Plant as set forth in the Section 201 Facilities Plan;

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF THE METROPOLITAN SEWERAGE DISTRICT OF BUNCOMBE COUNTY, hereinafter called "The Board":

That The Board will arrange financing for all remaining costs of the project if approved for State and Federal grant awards.

That The Board will adopt and place into effect on or before completion of the project a schedule of fees and charges which will provide adequate funds for proper operation, maintenance, and administration of the system.

That The Board will provide for efficient operation and maintenance of the project on completion of construction thereof.

That W. H. Mull, Engineer-Manager, and successors so titled, is hereby authorized to execute and file Step II and III applications on behalf of The Board with the Environmental Protection Agency and the State of North Carolina for grants to aid in the construction of the project described above.

That W. H. Mull, Engineer-Manager, and successors so titled, is hereby authorized and directed to furnish such information as the appropriate Federal or State agencies may request in connection with such applications or the project, to make the assurances as contained above, and to execute such other documents as may be required in connection with the applications.

That The Board has substantially complied or will substantially comply with all Federal, State, and local laws, rules, regulations, and ordinances applicable to the project and to Federal and State grants and loans pertaining thereto, and hereby authorized the above designated representative to execute an affidavit so stating.

Adopted this the 19th day of June, 1984, at Asheville, North Carolina.

M. Leon Williams

M. Leon Williams
Vice-Chairman

Minutes
Page Four
June 19, 1984

- h. The 1st Annual Land O' Sky Energy Festival: Mr. Mull presented to the Board copies of a letter received by the District inviting anyone who would like to be a guest speaker at this festival to be held Saturday, July 14. This was received as information by the Board.

Mr. Mull presented to the Board a letter from Mr. Stevens requesting that MSD consider an upward revision of the hourly rate paid for legal services to Mr. Stevens and his firm. The firm is presently paid \$50 an hour for attorney time and \$25 for paralegal time, with no charge for stenographic or other personnel costs. The current rate was established several years ago. Mr. Stevens proposed that hourly rates to be paid his firm by MSD be set at \$60 per hour for all attorney time and \$30 per hour for all paralegal time, effective July 1, 1984. Mr. Smith moved that the Board set a rate of \$60 an hour for attorney time and \$30 an hour for paralegal time, effective July 1, 1984. Mr. Pope seconded the motion, and roll call vote was unanimous in favor of the motion.

Mr. Batts, Chairman of the Hydro Bond Referendum Committee, reported to the Board regarding the committee's breakfast meeting on June 6 which was attended by Hampton Frady, Garrett AIDerfer, Chuck Tessier, Gene Ochsenreiter, Mayor Larry McDevitt, Jack Stevens, Roy Robinson, Diane Sciara, Bill Mull, and Mr. Batts.* The purpose of the meeting, according to Mr. Batts, was to explore possibilities, get advice, and gather general input from those in attendance on how to proceed in regard to a bond referendum for the hydroelectric project. He said Mr. AIDerfer (Chamber of Commerce) offered his assistance in planning, public education, and providing data to which MSD could not otherwise have access. One of the major issues discussed was whether MSD should join forces with other political entities who are planning bond referendums and have one large bond referendum or whether the MSD should hold its referendum alone. Mr. Stevens told the Board the cost will be approximately \$15,000 to \$16,000 to conduct such an election. Mr. Batts said he recommends that the committee and the MSD listen to people and continue with efforts to keep the project from falling apart. He said Chuck Tessier suggested that a Task Force be formed from all the public entities who plan bond referendums to try to plan all the activities so that everything can be coordinated. Mr. Boggs moved that Mr. Batts serve as MSD representative if such a Task Force is formed, and Mr. Smith seconded the motion. Voice vote was unanimous in favor of the motion. It was the consensus of the Board that Mr. Stevens begin work on a Public Notice of Intent.

Date of the next regular meeting of the MSD Board will be July 31, 1984.

There being no further business, the meeting was adjourned at 3:35 p.m.

*Mr. Williams also attended this meeting.


Secretary

RESOLUTION OF THE METROPOLITAN SEWERAGE DISTRICT OF
BUNCOMBE COUNTY, NORTH CAROLINA, WITH RESPECT TO THE
CONSTRUCTION OF IMPROVEMENTS TO THE
WASTEWATER TREATMENT PLANT

WHEREAS, the North Carolina Clean Water Bond Act of 1971 has authorized the making of grants to aid eligible units of government in financing the cost of construction of wastewater treatment works, wastewater collection systems, and water supply systems, and

WHEREAS, Resolution 74-31 of the North Carolina Board of Water and Air Resources established a policy for approving State grants from the Pollution Control Account of the Clean Water Fund for Step grants for wastewater treatment works projects, and

WHEREAS, Title II of the Federal Water Pollution Control Act Amendments of 1972 (P.L. 92-500 U.S.C. 1251 et. seg.) authorized the award of step Federal Construction Grants for waste treatment works, and

WHEREAS, the Metropolitan Sewerage District of Buncombe County intends to request State and Federal Grant assistance to aid in Phase 1 of 4 Step 3 construction of improvements to the Wastewater Treatment Plant as set forth in the Section 201 Facilities Plan;

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF THE METROPOLITAN SEWERAGE DISTRICT OF BUNCOMBE COUNTY, hereinafter called "The Board":

That The Board will arrange financing for all remaining costs of the project if approved for State and Federal grant awards.

That The Board will adopt and place into effect on or before completion of the project a schedule of fees and charges which will provide adequate funds for proper operation, maintenance, and administration of the system.

That The Board will provide for efficient operation and maintenance of the project on completion of construction thereof.

That W. H. Mull, Engineer-Manager, and successors so titled, is hereby authorized to execute and file Step II and III applications on behalf of The Board with the Environmental Protection Agency and the State of North Carolina for grants to aid in the construction of the project described above.

That W. H. Mull, Engineer-Manager, and successors so titled, is hereby authorized and directed to furnish such information as the appropriate Federal or State agencies may request in connection with such applications or the project, to make the assurances as contained above, and to execute such other documents as may be required in connection with the applications.

That The Board has substantially complied or will substantially comply with all Federal, State, and local laws, rules, regulations, and ordinances applicable to the project and to Federal and State grants and loans pertaining thereto, and hereby authorized the above designated representative to execute an affidavit so stating.

Adopted this the 19th day of June, 1984, at Asheville, North Carolina.



M. Leon Williams
Vice-Chairman

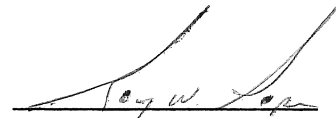
CERTIFICATE OF RECORDING OFFICER

The undersigned, duly qualified and acting Secretary of the Metropolitan Sewerage District of Buncombe County, does hereby certify:

That the attached resolution is a true and correct copy of the resolution authorizing the filing of Step II and Step III applications with the Environmental Protection Agency and the State of North Carolina, as regularly adopted at a legally convened meeting of the Metropolitan Sewerage District of Buncombe County duly held on the 19th day of June, 1984; and

Further, that such resolution has been fully recorded in the minutes of proceedings and records in my office.

IN WITNESS WHEREOF, I have hereunto set my hand this 19th day of June, 1984.

A handwritten signature in black ink, appearing to read "Roy W. Pope", is written over a horizontal line.

Roy W. Pope
Secretary

RESOLUTION

WHEREAS, Paul W. Warlick has been a member of the Metropolitan Sewerage District Board since April 18, 1967; and

WHEREAS, Paul W. Warlick has rendered conscientious and distinguished service to the Board, to the Town of Biltmore Forest, and to the citizens of Buncombe County; and

WHEREAS, Paul W. Warlick has been a faithful member of the Board during his seventeen years of service and has been of a great help to the Board because of his familiarity with the Town of Biltmore Forest and his attendance at and work with various committees of the Board.

NOW, THEREFORE, BE IT RESOLVED:

ONE: That Paul W. Warlick be and he hereby is congratulated and thanked by the Board for his seventeen years of dedication to the work of the Board and on behalf of the citizens of Buncombe County and of the Town of Biltmore Forest.

TWO: That the original of this Resolution be placed in the permanent records of the Board and copies be transmitted to Paul W. Warlick and to the Town of Biltmore Forest.

Duly adopted this 19th day of June, 1984.



M. Leon Williams
Vice-Chairman

AFFIDAVIT OF COMPLIANCE WITH FEDERAL, STATE, AND LOCAL
LAWS, RULES, REGULATIONS, AND ORDINANCES

W. H. Mull, being duly sworn, deposes and says that the Metropolitan Sewerage District of Buncombe County, North Carolina, has substantially complied or will substantially comply with all Federal, State, and local laws, rules, regulations, and ordinances to improvements to the Wastewater Treatment Plant Project and to Federal and State grants and loans pertaining thereto.



W. H. Mull
Engineer-Manager

Sworn to and subscribed
before me this the 14th
day of June, 1984.



Notary Public

My commission expires:

October 2, 1988