

BOARD OF THE METROPOLITAN SEWERAGE DISTRICT
May 12, 1993

1. Call to Order and Roll Call:

The regular monthly meeting of the Board of the Metropolitan Sewerage District was held in the Boardroom of MSD's Administration Building at 2:00 p.m. on Wednesday, May 12, 1993. Chairman Ivey presided with the following members present: Bryson, Casper, Dent, Joyner, Penny, Post, Slosman and Wallace. Those members absent were: Frizzell and Selby.

Others present were: W. H. Mull, Engineer-Manager, John Stevens, General Counsel, Dean Huber and Bill Morris of Hendon Engineering Associates, Inc., John Maxwell and H. Wayne Richard of Municipal Advisors, Inc., Doyle Freeman and Jim Erwin of Henderson County, Dale Pennell of McGill Associates, Patty Beaver of CIBO, Ann Sutton, Stan Boyd, Angel Craven, Bob Ensley, Alan Jacobson, Sharon Walk, Susan Presley, Dale Traister and Linda Dickson MSD.

2. Minutes of the April 21, 1993 Board Meeting:

Mr. Ivey stated that the wording with regard to approval of the minutes should read "be adopted as corrected". There being no further corrections, Mr. Dent moved that the minutes of the April 21, 1993 meeting be adopted as corrected. Ms. Wallace seconded the motion. Voice vote was unanimous in favor of the motion.

3. Consideration of Resolution Adopting the Preliminary Fiscal Year 1993-94 Operation & Maintenance Budget:

Ms. Bryson reported that the Budget Committee met May 3, 1993 and May 10, 1993 to consider the proposed budget for fiscal year 1993-94. Ms. Bryson further reported that at the May 3, 1993 meeting the Committee directed the Engineer-Manager to schedule a Personnel Committee meeting to recommend a salary and wage increase. As a result of that meeting, the Budget Committee at its May 10, 1993 meeting instructed the Engineer-Manager to revise budget line item expenditures to accommodate those increases (3% cost of living increase and 2% merit increase totaling approximately \$191,000.00) in order that the total amount of the budget would not be changed. Mr. Mull reported that the salaries in each section of the budget were increased by the amount authorized by the Personnel and Budget Committees and taken from other line items in the budget. Mr. Mull explained reductions in each of the line items and presented a summary of major increases in the budget. Mr. Mull further reported that new positions considered by the Personnel Committee and shown in each section of the budget would be approved contingent upon completion of the Management Consultant's study with the exception of the Safety Officer. A lengthy discussion followed regarding the reduction in the line item for chemicals in relation to the time frame for start up of both the alkaline stabilization facility and incinerator.

Mr. Mull presented the Preliminary Budget and a Resolution adopting the Preliminary 1993-94 Operation and Maintenance Budget totaling \$8,594,406. In addition, Mr. Mull presented an Alternative 4 MSD Cash Flow Analysis prepared by Hendon Engineering Associates, Inc., (based on the fiscal year 1993-94 budget and projected to future years with a 4% growth factor) and stated that this analysis, along with the CIP budget should be presented at the same time each year when the Operation and Maintenance Budget is being considered. Following a lengthy discussion regarding the analysis, Mr. Joyner read a statement he prepared regarding the budget process requesting comparative information between the way funds are currently raised; the benefits of raising funds through taxation and that the record show that he is abstaining on the vote for approval of the proposed budget with the understanding that his abstention be counted in the affirmative.

Mr. Slosman raised questions about the responsibilities of a Safety Officer and Assistant to the Engineer-Manager and whether these positions could possibly be combined

and whether revenues, to be charged to the municipalities, are part of the billings and collections portion of the budget. A lengthy discussion followed regarding the immediate need for a Safety Officer and MSD's liability for negligence in the event of an emergency. Mr. Stevens stated that if the MSD takes on, and assumes the responsibility of looking after something, it presumes to do so in a safe manner, and if someone is hurt or a regulation is violated and damages occur as a result, then MSD's failure to meet its responsibility through itself or its agents could subject the District to liability. The Board agreed that the Engineer-Manager should proceed with advertising for a Safety Officer. There being no further discussion, Mr. Dent moved that the Board approve the Resolution adopting the Preliminary Fiscal Year 1993-94 Operation and Maintenance Budget. Mr. Slosman seconded the motion. Roll call vote was as follows: 9 Ayes; 0 Nays; 1 Abstention (Mr. Joyner).

4. Report of Engineer-Manager;

Mr. Mull reported that as a result of Hendon Engineering Associate's Annual Report and recommendations to the Board on April 21, 1993, an in-house study is being prepared on actions to be taken with regard to the abandoned Weaverville and Crescent Hills plant sites and that Carolina Power & Light Company has agreed to perform an energy audit, free of charge, in August or September.

a. Status of Report on Construction Projects;

Mr. Mull reported that there is no change in the status of the following projects: Montreat CIP, Phase 1; Sweeten Creek Interceptor Sewer and North Swannanoa Interceptor Sewer.

1. Beaverdam Interceptor Improvements:

Mr. Mull reported that the design and easement surveying on the Beaverdam Creek Interceptor Sewer is 70% complete.

2. Asheville Streets and Sidewalk Sewer Rehabilitation:

Mr. Mull reported that Contract 6-Section II of the Asheville Street/Sidewalk Sewer Rehabilitation project is 61% complete and Contract 11-Section II, 92% complete with change orders pending.

3. Phase IV & V Sludge Handling Facilities:

Mr. Mull reported that as of April 25, 1993, 98% of Phase IV, Section 1-General Contract is complete including authorized change orders and a time extension to July 1, 1993. In addition, 99% of Section 1A-Electrical is complete; 95% of Section 1B-HVAC is complete and 80% of Section 1C-Plumbing is complete. Mr. Mull further reported that Phase V construction has started with 3.5% of Section 1-General Contract complete and that no work has started on the Electrical or HVAC portions of the contract. Mr. Mull stated that the revised construction cost on this project is \$4,010,500.00.

b. Consideration of Bids for Construction of Weaverville CIP:

Mr. Mull presented a letter and bid tabulation from McGill Associates, P.A. for sanitary sewer line construction in the Town of Weaverville. Mr. Mull reported that the following bids were opened at 2:00 p.m. on Tuesday, April 27, 1993: Huntley Construction Company (Apparent low bidder) with a total base bid of \$471,042.01; NEO, Incorporated with a total base bid of \$475,406.55; Terry Brothers Construction Company, Inc. with a total base bid of \$476,363.70 and Wheeler Construction Company, Inc. with

a total base bid of \$485,625.00. Mr. Mull further reported that the apparent low bid of Huntley Construction Company is \$144,423.91 below the revised construction cost estimate of \$615,466.00 and that MSD's contribution to this project is \$211,260.00 (\$14,660.00 above the CIP budget). Mr. Post moved that the Board approve the apparent low bid of Huntley Construction Company in the amount of \$471,042.01 subject to review and approval of the bid documents by the MSD Attorney and the Town of Weaverville's approval of its share of the funds. Mr. Penny seconded the motion. Roll call vote was as follows: 9 Ayes; 0 Nays.

c. Consideration of Proposal for Construction Contract Administration, North Swannanoa Interceptor Sewer, (Hendon Engineering Associates, Inc.):

Mr. Mull presented a memorandum from Stan Boyd providing an estimate for the MSD to hire staff and acquire equipment and office space to administer in-house the North Swannanoa Interceptor Sewer Construction project at a cost of \$303,800.00. Mr. Mull reported that the cost estimate is based on one (1) of the five (5) CIP projects and includes compensation to the Consulting Engineers in the amount of \$16,000.00 to \$20,000.00 for services during the bidding process and approximately the same amount over the lifetime of the project. Mr. Mull further reported that Hendon Engineering Associates, Inc. recommended a budget cost ceiling of \$457,300.00 to perform these same services. Following a lengthy discussion regarding the estimated cost of \$65,000,000.00 for the five (5) CIP projects, Mr. Penny moved that the Board defer Hendon Engineering Associate's proposal until additional comparative information is prepared and that this information be hand delivered to all Board members prior to the next meeting of the Sewer System Consolidation Committee. Mr. Dent seconded the motion. Voice vote was unanimous in favor of the motion. A discussion followed regarding committee meetings and the fact that agendas should be attached to all notices and mailed to the entire Board prior to each meeting. A Sewer System Consolidation Committee meeting was scheduled for June 7, 1993 at 1:00 p.m.

d. Consideration of Contract Change Order - Street Repairs - Sewer Maintenance:

Mr. Mull presented a Contract Change Order with APAC-Carolina, Inc. for asphalt street replacement in the amount of \$35,000.00, based on current expenditure levels. Mr. Mull reported that the change order is a result of having to respond to more calls than anticipated and that following review by the Sewer System Consolidation Committee on May 3, 1993, the Committee recommended approval. Following a discussion on the original contract amount, Mr. Dent moved that the Board approve the Change Order in the amount of \$35,000.00. Ms. Wallace seconded the motion. Roll call vote was as follows: 9 Ayes; 0 Nays.

e. Report on Status of Insurance Claim (Rusty Pulliam - 707 Merrimon Avenue):

Mr. Boyd reported that an insurance claim has been filed on behalf of Mr. Rusty Pulliam, however, the insurance agent is not optimistic that the claim will be paid.

5. Report of Officers:

None

6. Report of Committees:

a. Capital Improvement Plan Committee - April 28, 1993 - Mr. Post

Mr. Post reported that the Capital Improvement Plan Committee (CIP) met April 28, 1993 to discuss the following items: CIP Project Status; Five to Twenty Year Capital

Improvement Plan; Claims for Sewerage Backups; Rights-of-Way Issues and Standards for Sewer Construction. Mr. Post further reported that the next meeting is scheduled for May 13, 1993 at 2:00 p.m.

Mr. Mull requested that the Board review the Annual Report on Operation, Maintenance, Repair, Rehabilitation and Extensions of the District Sewer System attached to the CIP minutes and offer any suggestions for change.

b. Sewer System Consolidation Committee - May 3, 1993 - Mr. Dent

Mr. Dent reported that the Sewer System Consolidation Committee met May 3, 1993 to review those items previously discussed in the Engineer-Manager's report.

c. Budget Committee - May 3, 1993 and May 10, 1993 - Ms. Bryson

There being no further report, Mr. Ivey expressed his appreciation to those Board members who participated in the Budget process.

d. Personnel Committee - May 10, 1993 and May 12, 1993 - Mr. Ivey

Mr. Ivey reported that the Personnel Committee met May 10, 1993 to discuss a schedule of salaries currently paid to all MSD employees and to consider a recommendation to the Budget Committee for salary adjustments to begin July 1, 1993. Mr. Ivey further reported that the Personnel Committee met May 12, 1993 to interview Municipal Advisors, Inc. regarding its proposal to perform an organizational study.

Mr. Penny gave a brief overview of the Personnel Committee's actions during the past few months with regard to proposals for a study of the MSD; assessing its organization, staffing and financial needs. Mr. Penny reported that following review of the three (3) proposals received, the Committee invited Municipal Advisors, Inc. to attend today's meeting of the Personnel Committee and make a presentation. Following a brief discussion, Mr. Penny moved that based on the presentation made and questions answered that the Board approve awarding the contract to Municipal Advisors, Inc. in the amount of \$13,500.00 as outlined in its proposal. Mr. Post seconded the motion. Roll call vote was as follows: 9 Ayes; 0 Nays.

Mr. Ivey stated that interim reports will be presented to the Board as the study progresses.

e. Right-of-Way Committee - April 2, 1993 and April 19, 1993 - Mr. Dent

To be discussed in Executive Session.

7. Unfinished Business:

Mr. Ivey asked Mr. Stevens to address the Board regarding the following issues discussed at the April 21, 1993 meeting of the Board:

a. Sewer Extension Policy:

Mr. Stevens presented a section taken from the Consolidation Agreement for the various municipalities and reported that the agreement clearly states that following the completion of those projects set forth in Exhibit "D", the MSD has no further obligation under these contracts to construct extensions but that the municipalities may request the MSD to construct or finance the cost of additional extensions. Mr. Stevens further reported that the MSD can legally construct sewer extensions except in those areas outside the

District and that such extensions can be funded through a sewer use charge and/or taxes. In addition, Mr. Stevens stated that recent legislation makes it possible to acquire those areas outside of the District.

b. Free Sewer Service:

Mr. Stevens presented a page from the Bond Order addressing free service and stated that it speaks for itself.

c. Election of District Board Members:

Mr. Stevens presented a section from an existing State statute that governs appointments and reported that the law currently provides that any member of a Metropolitan Sewer District is appointed by the various cities, towns and county that comprise the District and can only be changed through legislative action and that no change can be made in such a way that damages the bonds. Mr. Stevens further reported that this circumstance is addressed in Statute GS 159-93 which states in part that the State of North Carolina pledges to agree not to take any action that will impair the ability of anyone who has sold a revenue bond to pay that revenue bond. However, Mr. Stevens stated that the structure of the Board could be changed by doing away with the Metropolitan Sewerage District and turning the responsibility over, for example, to the County of Buncombe or to any other public entity. Mr. Stevens further stated that if the legislature took such action, they would have to make a provision to pay for the bonds. In addition, Mr. Stevens reported that the Metropolitan Sewerage District law is not unique to Buncombe County since there are two other Metropolitan Sewerage Districts in North Carolina. Mr. Stevens then briefly discussed the formation of public authorities.

8. New Business:

Mr. Post presented a letter of appreciation from McLean Insurance Agency addressing the efforts of Ann Sutton in her work with various claims people at The Travelers Insurance Company.

Mr. Mull presented a letter from Hendon Engineering Associates, Inc. regarding its announcement of a contract with the U.S. Department of the Navy and two recently received awards of excellence.

At 3:55 p.m. Mr. Ivey moved that the Board go into Executive Session to consider Rights-of-Way matters.

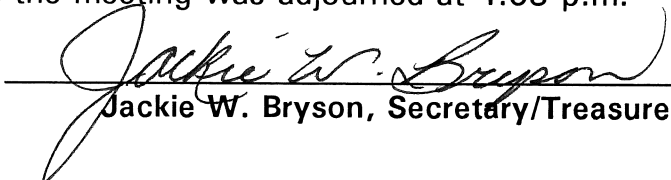
At 4:05 p.m. Mr. Ivey moved that the Board reconvene the regular meeting.

Mr. Dent moved that the Board approve an additional payment of \$1,000.00 to Mr. Roberts toward paving a drive and parking area. Mr. Post seconded the motion. Roll call vote was as follows: 9 Ayes; 0 Nays.

9. Date of Next Regular Meeting: Tuesday, June 15, 1993

10. Adjournment:

There being no further business the meeting was adjourned at 4:08 p.m.



Jackie W. Bryson, Secretary/Treasurer