

BOARD OF THE METROPOLITAN SEWERAGE DISTRICT

July 20, 1994

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, July 20, 1994. Chairman Post presided with the following members present: Dent, Casper, Joyner, Kelly, and Sobol. Those Members absent were: Bryson, Holcombe, Selby, Slosman and Wallace.

Others Present were: W. H. Mull, Engineer-Manager, Jim Fatland, Director of Administration, Sheryl Williams, Attorney, Bob Holbrook, of Hendon Engineering Associates, Inc., Gary McGill of McGill Associates, P.A., Mike Calhoun of Vaughn & Melton, Wayne Watkins, Linda Mazingo and Sondra Honeycutt, MSD.

2. Approval of the Minutes of the June 14, 1994 meeting;

Mr. Dent moved that the minutes of the June 14, 1994 meeting be approved as presented. Mr. Joyner seconded the motion. Voice vote was unanimous in favor of the motion.

3. Election of Officers:

a. Election of Chairman and Vice Chairman

Chairman Post called for nominations for Chairman and Vice Chairman for 1994-95. With no objections from the Board, Mr. Kelly moved that the Board re-elect Chairman Post and Vice Chairman Slosman. Mr. Joyner seconded the motion. Voice vote was unanimous in favor of the motion.

b. Consideration of Resolution Regarding the Appointment of Assistant Secretary and Assistant Treasurer

Mr. Mull presented a Resolution with regard to the appointment of Assistant Secretary and Assistant Treasurer. Mr. Mull reported that there are two reasons behind the Resolution. First, that a Board member not be required to come to the office to sign checks, and second that two people will sign all checks. Mr. Mull further reported that the Resolution complies with the actual By-laws, which authorizes the appointment of Secretary, Assistant Secretary, Treasurer and Assistant Treasurer. The By-laws require that the Secretary and Treasurer must be members of the Board, but not the Assistant Secretary and Assistant Treasurer. There being no further discussion, Mr. Kelly moved that the Resolution be adopted as presented. Mr. Casper seconded the motion. Voice vote was unanimous in favor of the motion.

Appointment of Secretary and Treasurer

Following a brief discussion as to whether the appointment of Secretary and Treasurer should be separate or combined, Chairman Post reappointed Ms. Bryson to the office of Secretary/Treasurer. The Board ratified the appointment of Ms. Bryson by unanimous vote. Ms. Williams pointed out that all persons authorized to sign checks must be added to the fidelity bond.

4. Engineer-Managers Report:

Planning Committee Items

a. Introduction of CIP Project Engineer:

Mr. Mull introduced the District's CIP Project Engineer, Mr. Wayne Watkins.

Mr. Watkins reported that prior to this position, he was the District's Chief Construction Inspector, and that in assuming this position, he looked forward to helping the District realize a cost savings, by administering some of the District's contracts in-house. Mr. Watkins further stated that the District currently has 15 contracts being administered by outside firms, but hopes to take over one or two of these contracts within the next couple of months. Mr. Watkins stated that they are located in a building owned by the Department of Transportation and have been working to make the office useable. A brief discussion followed with regard to the number of projects this office will handle. Mr. Watkins reported that they are looking to start on the Sweeten Creek Interceptor Sewer in August, and are currently working on the closeout of the Beaverdam North Fork project, being administered by Vaughn & Melton. Mr. Mull reported that once the office is fully operational, a report will be developed showing the costs savings to the District through in-house contract administration.

b. Consideration of Bids for Uniform Service for Collection Sewer Maintenance Personnel.

Mr. Mull reported that the following bids were received June 15, 1994 for Uniform Rental Services for Collection Sewer Maintenance personnel: Rental Uniform Service, Inc., with a total base bid of \$27,300.00; Swannanoa Cleaners with a total base bid of \$29,038.40 and Aratex Services, Inc. with a total base bid of \$31,090.80. Mr. Mull further reported that in review of the bids, Walter L. Currie, Attorney for the District recommended that the bid of Rental Uniform Service, Inc. be rejected due to the fact that the bid was not complete at the time of opening. Therefore, Mr. Currie recommended that the second low bid of Swannanoa Cleaners be accepted for a two year contract in the amount of \$29,068.00. Mr. Joyner moved that the Board adopt the recommendation of the Planning Committee and approve the two-year Contract with Swannanoa Cleaners. Mr. Sobol seconded the motion. A brief discussion followed as to whether the uniforms will be provided by the District, and the number of uniforms to be cleaned each week. There being no further discussion, roll call vote was as follows: 6 Ayes; 0 Nays.

c. Consideration of Bids for Janitorial Services

Mr. Mull reported that eleven (11) bids were received on June 15, 1994 for Janitorial Services for the Maintenance Facility. Mr. Mull further reported that in review of the bids, the Planning Committee recommended that the contract be awarded to James I. Whitaker in the amount of \$7,200.00 per year and be automatically renewable for a like period upon written agreement of both parties. Mr. Mull stated that the contract specifies cleaning five (5) times a week, and includes the following: carpets, furniture, wax floors, wash exterior windows and cutting grass. Mr. Mull further stated that Mr. Whitaker provided excellent references, and that the District plans to go out for bids for the Administration building and Plant. There being no further discussion, Mr. Casper moved that the Board adopt the recommendation of the Planning Committee. Mr. Dent seconded the motion. Roll call vote was as follows: 6 Ayes; 0 Nays.

d. Report on 7 Cogswood Road Sewer

Mr. Mull reported that an alternate route for sewer across the property at 7 Cogswood Road was reviewed by the Planning Committee at a cost of approximately \$50,000.00, (\$2,000.00 below the initial cost) and that an easement from Mr. Meyer would need to be acquired. Mr. Mull further reported that the Committee recommended offering Mr. Meyer a choice of, (1) the District replacing the line in the existing right of way, with Mr. Meyer having to remove the portion of his house affected by the easement, or (2) asking for a Deed of Trust on the Meyer property for reimbursement of the cost of relocation of the line around his property. A lengthy discussion followed

regarding other alternatives in replacing the line; what Mr. Meyer's share of the cost would be; the cost to the District, and wording in the letter drafted by Mr. Mull. With regard to a statement in the letter, which refers to a promissory note and deed of trust, Mr. Kelly stated that the District should decide whether the note will bear interest, if so, at what rate, and provide that the note is payable when the title of the property is transferred. Mr. Kelly stated that instead of asking for a lien, the recommendation should read as follows: that the debt be secured by a Promissory Note to bear interest at a rate of 6%, secured by a Deed of Trust, due 10 years from the date of signing the Promissory Note and Deed of Trust, or upon the transfer of the property, whichever comes first. A brief discussion followed with regard to replacing the line below the property and whether Mr. Meyer's line is shown on a plat. With no further discussion, Mr. Kelly moved that the Board adopt the Planning Committee's recommendation with regard to alternate #1, but change alternate #2 to provide that the amount spent to construct the sewer line be secured by Promissory Note, payable at the time the title is transferred or not later than 10 years from date of execution and that the Promissory Note bear interest at 6% per annum, and that the Promissory Note be secured by Deed of Trust on the real property. Mr. Sobol seconded the motion. Voice vote was unanimous in favor of the motion.

As a matter of information, Mr. Mull reported that in recent court rulings on the Satterfield case, it was determined that the District does have a 20 foot easement for the replacement and repair of the sewer line on the Satterfield property. However, the District would not be entitled to a temporary construction easement and would be liable for the replacement of trees, shrubs, etc. within the construction easement. This ruling could be of great benefit to the District in the future where the same circumstances exist.

e. Consideration of Bids for Construction of Fair Oaks Road Private Sewer Rehabilitation.

Mr. Mull reported that bids were received on June 30, 1994 for Construction of the Fair Oaks Road private sewer rehabilitation, and that the CIP construction budget for this project is \$60,000.00. The bid tabulation is as follows: Hobson Construction Company with a total base bid of \$59,595.00, Buckeye Construction Company with a total base bid of \$69,130.63; Wheeler Construction Company with a total base bid of \$75,728.00 and Neo Corporation with a total base bid of \$83,518.00. Mr. Mull further reported that in review of the bid documents, Mr. Walter Currie, Attorney for the District, stated that the bid of Hobson Construction, Inc. is not acceptable since the bidder submitted a bid bond in the amount of \$2,500 rather than in the amount of \$2,979.75 (5% of the bid). In addition, the bids of NEO Corporation, Wheeler Construction and Hobson Construction were not accompanied by non-collusive affidavits. However, the bid of Buckeye Construction Company, Inc. is in acceptable form. Therefore, Mr. Currie recommended rejecting the bid of Hobson Construction and award the contract to the next low bidder, waiving the requirement of the non-collusive affidavit for NEO and Wheeler, or reject all bids and readvertise the project. Mr. Mull stated that following review of the bids and recommendation of Mr. Currie, the Planning Committee recommended awarding the contract to Buckeye Construction Company in the amount of \$69,130.63. Following a lengthy discussion regarding the laws that apply to bid bonds; why the District is funding the construction of a private line, and the cost of readvertisement, Mr. Kelly moved that the Board adopt the recommendation of the Planning Committee. Mr. Joyner seconded the motion. Roll call vote was as follows: 6 Ayes; 0 Nays.

RIGHT OF WAY COMMITTEE ITEMS

a. Consideration of Possible Condemnation Action on the Sweeten Creek Interceptor Sewer Project

Mr. Mull presented a list of fourteen (14) property owners on the Sweeten Creek Interceptor Sewer project, which may require condemnation action for various reasons. Mr. Mull reported that following review, the Right of Way Committee recommended approval to obtain appraisals on the properties where compensation or equivalent services will exceed the previously approved compensation chart or a \$500.00 limit, whichever is higher. A lengthy discussion followed regarding the appraisal costs; who will do the appraisals, and if the limit of \$500.00 applies to each parcel or is a combined cost. Ms. Williams explained that based on the request of the Right of Way Committee Ms. Craven will have the right to negotiate with the property owners up to the approved compensation limit or \$500.00, whichever is more. With no further discussion, Mr. Casper moved that the Board adopt the recommendation of the Right-of-Way Committee. Mr. Joyner seconded the motion. Roll call vote was as follows: 6 Ayes; 0 Nays.

b. Consideration of Compensation Chart for Additional Easements - Beaverdam Creek Interceptor Sewer - McGill Associates, P.A.

Mr. Mull presented a compensation chart for twelve (12) additional easements on the Beaverdam Creek Interceptor Sewer, due to re-design work and scheduling issues related to Lakeview Park and the County Club of Asheville Golf Course. Mr. Mull reported that following review of the chart, the Right-of-Way Committee recommended approval of the compensation chart, (total budget increase in the amount of \$8,479.69) to accommodate the additional parcels. A lengthy discussion followed with regard the reason for compensation and why the District is funding rehabilitation for the four (4) owners along Fairway Drive, who have requested repair of problem lines through their property. Mr. McGill reported that this is not a private line and because the area will be under construction, the four (4) owners have requested that the District replace the lines over their properties. Mr. McGill further reported that upon investigation, the lines are in bad shape and need attention and that the line is apparently owned by the District.

Ms. Craven reported that between two (2) of the four (4) properties, there is quite a bit of landscaping area that will be disturbed by very deep cuts, therefore, from staff's viewpoint, it is better to have these properties incorporated in the compensation chart and have it available in the event compensation is necessary. Ms. Williams reported that of the four (4) who have requested line replacement, one (1) has granted a right-of-way without compensation. Of the remaining eight (8), four (4) owners have granted rights-of-way without compensation. Ms. Craven further reported that in looking at the results of the District's recent court case, the ruling was that the District has an obligation to replace and restore anything in the temporary easement area, even if it could be proven that the District had a permanent easement. In this particular case, the District will be removing a large amount of landscaping due to deep cuts, and she felt that compensation will be necessary. Mr. McGill stated that it would not be practical to replace the line in the same trench on some of the properties. Mr. Sobol questioned whether the Lakeview Park Commission has asked for compensation. Ms. Craven stated that they have talked about replacement of trees and loss of income if the project is extended beyond the expected completion date. Ms. Craven further stated that if the District does not negotiate these rights-of-way, it will possibly face an injunction by one or more property owner, thereby stopping construction of the project, which in turn would result in contractor claims. A lengthy discussion followed regarding the difference between a temporary and permanent easement. Ms. Craven stated that in order to save the Right-of-Way Committee and the Board time, there needs to be some kind of field limit set that she can operate under. With no further discussion, Mr. Casper moved that the Board approve a budget not to exceed \$11,000.00 for staff to negotiate for the twelve (12) parcels of land for rights-of-way and other damages. Mr. Sobol seconded the motion. Roll call vote was as follows: 5 Ayes; 1 Nay (Mr. Kelly)

c. Consideration of Contract Amendment - Beaverdam Creek Interceptor - McGill Associates, P.A.

Mr. Mull reported that due to an increase in the Right of Way Department's work load, staff is requesting temporary help in obtaining fourteen (14) outstanding easements for the Beaverdam Creek Interceptor Sewer around Beaver Lake. Mr. Mull further reported that following review of the request, the Right-of-Way Committee recommended approval of the contract amendment with McGill Associates, P.A. in an amount not to exceed \$9,000.00, to provide easement acquisition services. A brief discussion followed regarding the possible reduction in the contract amount since five (5) of the fourteen (14) easements have been obtained. Mr. McGill stated that since McGill Associates was involved in the five easements, he felt that the contract amount should not be reduced, however, McGill Associates will bill the District on actual costs expended, which in his opinion will be less than expected. Mr. Casper moved that the Board adopt the recommendation of the Right-of-Way Committee. Mr. Joyner seconded the motion. Roll call vote was as follows: 6 Ayes; 0 Nays.

5. Report of Officers

For the benefit of Mr. Joyner, who was not present at the Retreat, Mr. Post briefly reported on the highlights of the meeting.

Mr. Post reported that the Regional Water & Sewer Authority group met July 17, 1994 to discuss the Water Agreement between the Asheville-Buncombe Water Authority and Henderson County. In addition, the group discussed the District's Retreat, with regard to proposals from Hendersonville to Henderson County, (involving Hendersonville, Henderson County and the MSD) and the upcoming meeting of the District's Planning Committee, scheduled for July 28, 1994. A brief discussion followed regarding a recent news article stating that Hendersonville has taken an option on property to build a treatment facility. Mr. Joyner questioned whether another treatment plant would handle its own sludge. Mr. Mull stated that the sludge could be handled by the MSD, but this is an issue that would need to be looked at again when a second facility is built. Mr. Joyner expressed his concern about discussions that took place at a recent meeting of the Asheville-Buncombe Water Authority. A lengthy discussion followed regarding events that have taken place between the MSD, Hendersonville and Henderson County since the Retreat, and the fact that the MSD has not committed itself to anything.

6. Report of Committees:

None

7. Unfinished Business - Consideration of RFP Form for Sludge Marketing Consultants

Mr. Mull presented a Request For Proposal (RFP) Form for Sludge Marketing Consultants, recently prepared by staff. Mr. Mull reported that the RFP form defines the objectives, preliminary scope of services, hourly rate schedule, minimum firm qualifications, selection process and evaluation criteria. Mr. Mull further reported that in order that a contract can be awarded by the next meeting of the Board, the submission date was scheduled for August 5, 1994. Following a brief discussion, Mr. Casper moved that the Board authorize the Engineer-Manager to submit RFP's in the form presented. Mr. Kelly seconded the motion. Voice vote was unanimous in favor of the motion.

8. Old Business - Update on Insurance Cost for 1994-95

As a matter of information, Mr. Mull presented a status report on the District's insurance cost; comparing the 1993-94 with the 1994-95 cost, along with a detailed explanation of the increases. Mr. Mull stated that workman's compensation has increased substantially; from \$74,000.00 to \$105,000.00, along with an increase in NC State rates. Mr. Fatland reported that in the past, the MSD has paid its insurance premium, in its entirety, up front. However, after speaking to both insurance carriers, they agreed to accept 1/4 down with no finance cost. Mr. Sobol asked if other agencies were given the opportunity to bid. Mr. Mull reported that Mr. John Miall, the City of Asheville's Risk Manager, went through a lengthy review of the District's insurance policies last year, which resulted in a substantial savings to the District. Mr. Miall stated that company's should retain policies for a period of three years before re-submitting RFP's.

9. New Business - Consideration of a Proposed Contract with Land of Sky Regional Council.

Mr. Mull reported that the proposed contract with the Land of Sky Regional Council is for facilitation services in connection with negotiations and discussions between the various political bodies that are looking at the concept of regionalization. Mr. Mull further reported that the \$10,000.00 contract would be shared between the MSD, City of Asheville, Buncombe County, the Asheville-Buncombe Water Authority, Hendersonville and Henderson County for a not to exceed cost of \$2,000.00 each. A brief discussion followed with regard to the entities that are participating. Mr. Post reported that although some entities may not participate in the cost, they will be eligible to attend. With no further discussion, Mr. Joyner moved that the Board approve the proposal in an amount not to exceed \$2,000.00. Mr. Dent seconded the motion. Roll call vote was as follows: 6 Ayes, 0 Nays.

As a matter of information, Mr. Holbrook reported that the incinerator is now burning at the design capacity of 33,000 pounds of sludge per hour and that performance testing is scheduled to begin in two weeks.

Mr. Post reported that a letter was drafted on July 12, 1994 to Mayor Russ Martin informing him that at his request, representatives from the District Board were appointed, and that the District is willing to meet anytime after he appoints representatives from the City of Asheville to meet and discuss the sewer user fees and other concerns. Mr. Slosman, Mr. Selby, Mr. Post and Ms. Wallace have been appointed, with Mr. Stevens to be the legal counsel.

It was announced that the next Board meeting is scheduled for August 17, 1994.


At 3:50 p.m., Mr. Kelly moved that the Board go into Executive Session to discuss contract personnel. Mr. Casper seconded the motion. Voice vote was unanimous in favor of the motion.

At 4:25 p.m., Mr. Sobol moved that the Board reconvene the regular meeting. Mr. Joyner seconded the motion. Voice vote was unanimous in favor of the motion.

Mr. Joyner moved that the MSD talk to Mr. Miall with the City of Asheville about insurance. Mr. Sobol seconded the motion. It was discussed that the District would need to compensate Mr. Miall for his services. Roll call vote was as follows: 6 Ayes; 0 Nays.

10. Adjournment:

At 4:35 p.m., Mr. Casper moved for adjournment. Mr. Kelly seconded the motion. Voice vote was unanimous in favor of the motion.



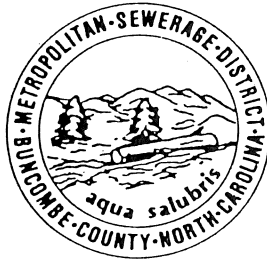
Jackie W. Bryson, Secretary/Treasurer
Metropolitan Sewerage District of
Buncombe County, North Carolina

MSD Metropolitan Sewerage District of Buncombe County, North Carolina

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John S. Stevens, General Counsel



O. R. Post, Chairman
E. Benson Slosman, Vice-Chairman
Jackie W. Bryson
Larry Casper
Charles M. Dent
Kenneth E. Frizzell
Joe Joyner
E. Glenn Kelly
Charles W. Penny
Bob Selby
Carolyn R. Wallace

RESOLUTION OF THE METROPOLITAN SEWERAGE DISTRICT BOARD

OF

BUNCOMBE COUNTY, NORTH CAROLINA

WHEREAS, the District has received bids for a two (2) year Uniform Rental Service Contract to supply cleaned uniforms for the Collection's Division maintenance staff;

WHEREAS, the District Board finds that the bid of Swannanoa Laundry, Inc. is the lowest responsive bid;

NOW, THEREFORE BE IT RESOLVED by the District Board of the Metropolitan Sewerage District of Buncombe County, North Carolina that the two (2) year Uniform Rental Service Contract is hereby awarded to Swannanoa Laundry, Inc. in accordance with the terms and conditions of the specifications and for the amount bid of \$29,068778.00.

Adopted this 20th day of July, 1994.

O.R. Post, III
Chairman
Metropolitan Sewerage District
of Buncombe County, North Carolina

ATTEST:

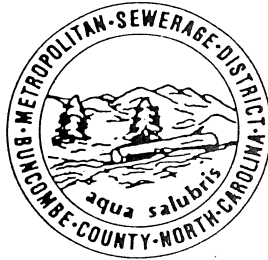
Jackie W. Bryson
Secretary-Treasurer

MSD Metropolitan Sewerage District of Buncombe County, North Carolina

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RESOLUTION OF THE METROPOLITAN SEWERAGE DISTRICT

OF

BUNCOMBE COUNTY, NORTH CAROLINA

WHEREAS, the District has received bids for a renewable one (1) year Janitorial Service Contract to clean the offices of the Collection Division at 81 Thompson Street five (5) times per week;

WHEREAS, the District Board finds that the bid of James I. Whitaker is the lowest responsive bid;

NOW, THEREFORE BE IT RESOLVED by the District Board of the Metropolitan Sewerage District of Buncombe County, North Carolina that the renewable one (1) year Janitorial Service Contract is hereby awarded to James I. Whitaker in accordance with the terms and conditions of the specifications and for the amount bid of \$7,200.00 per year.

Adopted this 20th day of July, 1994

O. R. Post, III
Chairman
Metropolitan Sewerage District of
Buncombe County, North Carolina

ATTEST:

Jackie W. Bryson
Secretary-Treasurer