

BOARD OF THE METROPOLITAN SEWERAGE DISTRICT

April 19, 1995

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, April 19, 1995. Chairman Post presided with the following members present: Bryson, Casper, Holcombe, Joyner, Pace, Selby, Slosman, and Wallace. Those members absent were: Kelly and Sobol.

Others Present were: W. H. Mull, Engineer-Manager, John S. Stevens, General Counsel, Danny Bridges and Gary McGill of McGill Associates, P.A., Jim Brewer and H. Singh Kahlon of Hendon Engineering Associates, Inc., Deana Cooper and Frank Weber with the North Carolina League of Municipalities - Risk Management Services, Jim Fatland, Jim Eckert, Stan Boyd, Linda Mazingo, Wayne Watkins, Ann Sutton, Sharon Walk and Sondra Honeycutt, MSD.

2. Approval of the Minutes of the March 15, 1995 meeting;

With regard to page three (3), paragraph 10.f.1, Ms. Wallace requested that the wording be changed to read recommendation of "a" instead of "the". In addition, that the sentence "Congressman Taylor to discuss the fish habitat" be deleted from paragraph b., page seven (7). With no further additions or corrections, Ms. Wallace moved that the minutes of the March 15, 1995 meeting be approved as amended. Mr. Selby seconded the motion. Voice vote was unanimous in favor of the motion.

At 2:10 p.m., Mr. Holcombe moved that the Board go into closed session to consult with and give instructions to Counsel concerning handling a claim against Lee Construction and Enviroquip regarding MSD's Incinerator. Ms. Wallace seconded the motion. Voice vote was unanimous in favor of the motion.

At 2:53 p.m., Mr. Casper moved that the Board reconvened the regular meeting. Ms. Wallace seconded the motion. Voice vote was unanimous in favor of the motion.

Mr. Joyner moved that the Board approve paying Lee Construction Company \$250,000.00 of the retainage on the Incinerator. Mr. Pace seconded the motion. Roll call vote was as follows: 9 Ayes; 0 Nays.

3. Annual Inspection Report (Hendon Engineering Associates, Inc.):

Mr. Mull presented Hendon Engineering's Annual Inspection Report for review. Ms. Wallace requested that the report be placed on the agenda for the next Planning Committee meeting for further review, and that the document be dated.

4. Engineer-Manager's Report

CONSOLIDATED MOTION AGENDA

FINANCE COMMITTEE:

Mr. Mull reported that the following Consolidated Motion item was brought before the Finance Committee, April 4, 1995:

a.7. Consideration of the Selection of the Firm, Bitter, Killian, Cole & Marshall for Audit Services:

The Committee recommended approval of staff's recommendation to retain the audit services of Bitter, Killian, Cole & Marshall for the 1995-96 fiscal year. With no discussion, Mr. Casper moved that the Board adopt the recommendation of the Finance Committee. Mr. Slosman seconded the motion. Roll call vote was as follows: 9 Ayes; 0 Nays.

PLANNING COMMITTEE:

Mr. Mull reported that the following Consolidated Motion Items were brought before the joint meeting of the Planning and Right of Way Committees' April 13, 1995:

d.7. Consideration of Allocation and MSD Participation in Rehabilitation of Broadview Drive Sewer Line to Serve the Proposed Broadview Place Subdivision:

The Planning Committee recommended the following: 1. That the Board approve the Developer's contract in the amount of \$22,500.00 with the understanding that the District may not fund any of the improvements. 2. That the developer be advised that any reimbursement would be after July 1, 1995.

Mr. Mull reported that because the developer of the proposed Broadview Place Subdivision could not obtain a right-of-way or permission from the adjoining property owner to place a gravity sewer off his property in the opposite direction, he plans to pump up into a different sewer line. However, due to the condition of the existing sewerline, capacity is not available and needs rehabilitation. Also, that according to the District's rating factors, the project costs, (estimated at \$45,000.00) is eligible for fifty percent (50%) participation, subject to availability of funds. Mr. Mull stated that following an inquiry by Mr. Mark Ledford of Ledford Engineering, as to why was he being asked to participate in rehabilitation at this time, since repair to the line was made in 1991 when the allocation was approved, staff investigated the related issues and found that, (1.) At the time the allocations were made, the City of Asheville maintained the sewers under contract with the District, but some repairs were made. (2.) The allocation expired. (3.) When the development began to show activity, staff determined that additional problems existed on the sewerline which resulted in the present situation. With no further discussion, Mr. Slosman moved that the Board adopt the recommendation of the Planning Committee. Ms. Wallace seconded the motion. Roll call vote was as follows: 9 Ayes; 0 Nays.

d.9. Consideration of Bids for Miller Beer Sewer Rehabilitation:

The Committee recommended that the contract be awarded to Hobson Construction Company with a low bid of \$31,362.00, plus a contingency of 15%, (\$4,704.30) for a total of \$36,066.30.

Mr. Mull reported that the following bids were received March 21, 1995: Hobson Construction Company, (apparent low bidder) with a total base bid of \$31,362.00; Terry Brothers Construction with a total base bid of \$39,914.00, and Buckeye Construction with a total base bid of \$34,843.60. In addition, that the bids were reviewed by staff and the MSD Attorney, and all bids are within the budgeted amount and have the appropriate bid bonds and other required documentation. With no discussion, Ms. Wallace moved that the Board adopt the recommendation of the Planning Committee. Mr. Slosman seconded the motion. Roll call vote was as follows: 9 Ayes; 0 Nays.

RIGHT OF WAY COMMITTEE

Mr. Mull presented the following Consolidated Motion Items brought before the joint meeting of the Planning and Right-of-Way Committee' April 13, 1995:

e.II.4.A. Consideration of Sulphur Springs Creek Compensation Chart, Phase I:

The Right of Way Committee recommended approval of the base compensation limit in the amount of \$19,300.00 with a contingency in the amount of \$15,000.00, for a total compensation budget established in the amount of \$34,300.00. Following a brief discussion regarding the contingency amount, Mr. Slosman moved that the Board adopt the recommendation of the Right-of-Way Committee. Mr. Pace seconded the motion.

In the description regarding this issue, Mr. Holcombe requested a clarification on the following statement: "Staff asked if compensation dollars should be left in the budget to reflect time incurred regarding those negotiations." Mr. Mull reported that those funds would be in the project budget, not included in what the District is paying for rights-of-way it acquires. With no further discussion, roll call vote was as follows: 8 Ayes; 0 Nays. Mr. Selby was absent during the vote.

e.II.5.A. Compensation Limit:

Deferred to closed session.

e.II.6.A. Compensation Limit:

Deferred to closed session.

REGULAR AGENDA

Planning Committee Items:

d.8. Consideration of Chemical Stabilization Change Order - Hendon Engineering Associates, Inc.:

Mr. Mull reported that Mr. Boyd and Mr. Walter Currie, Attorney for the District, met with Hendon Engineering Associates, Inc. regarding change orders on the Chemical Stabilization process. Also, the Board approved the change order for construction costs at its March 15, 1995 meeting, but requested that the items for additional concrete footings and columns, and the Engineer's fee be referred back to the Planning Committee for further review. Mr. Currie reported that he met with staff to review the plans and specifications, and subsequently with the Planning Committee, April 13, 1995, to review the status of the Change Orders, and the Committee recommended payment of the difference between what has already been paid to Hendon Engineering, up to the \$30,000.00 fee cap. Mr. Post presented a list of Hendon Engineering's contracts, which includes: Miscellaneous; Sewer Rehabilitation Projects and Treatment.

Mr. Selby stated that the contract with Hendon Engineering is an open-ended contract billable by the hour at a rate previously decided by the Board. He further stated that because Hendon Engineering felt they had a total of \$53,000.00 in billable hours, and because there are some deliverables that are yet to be complete, (operation/training manuals, blueprints, etc.), it was the intention of the Committee and Hendon Engineering to work with a fixed amount of \$30,000.00 and close the design contract out. Also, the Planning Committee discussed expenses incurred as a result of a design or contract management error. Mr. Currie reported that at the January 5, 1995 Planning Committee meeting, Hendon Engineering indicated that they anticipated \$45,000.00 in additional fees, above the amount already paid. It was later indicated that this amount could go as high as \$52,000.00. However, following negotiations, the Committee made a recommendation to cap the contract amount at \$30,000.00.

Mr. Selby moved that the Board adopt the recommendation of the Planning Committee with the intention of receiving those deliverables not yet complete. Mr. Joyner seconded the motion. A brief discussion followed regarding the process used by the District in the selection of a consulting engineer, and if the selection is tied to the District's current Bond Order; what commitments the District has with Hendon Engineering, and why Hendon Engineering is involved in financial projections. Mr. Currie stated that he and Mr. Stevens are currently in the process of preparing a report that will address these questions.

Mr. Fatland introduced Mr. Jim Eckert from Fishkill, New York, who was recently hired by the District to fill the position of Accounting Manager. Mr. Joyner stated that it would be well worth the Board Members' time to set up an appointment

with Mr. Kahlon of Hendon Engineering to review the history of what has taken place with Hendon Engineering during the past 18 years. Mr. Post suggested that since Mr. Brewer will be at the plant for a couple of days, he encouraged Board Members to visit the incinerator site to investigate first hand problems that are being encountered. In addition, he asked the Engineer-Manager to set a date when Members can meet with Mr. Kahlon. With no further discussion, Roll call vote was as follows: 9 Ayes; 0 Nays.

d.12. Consideration of Proposal for Testing for Dioxin Emissions on Sludge Incinerator:

Mr. Mull reported that the District received a proposal from International Technology Corporation (ITC) in the amount of \$15,500 for testing for dioxin emissions on the sludge incinerator. Since that time, a proposal was received from Entropy, Inc. to perform tests for approximately \$10,000.00. Ms. Wallace stated that testing for dioxin is a great concern of the community and wants to make sure that any testing done will have the kind controls that insure and satisfy the public that the incinerator is safe. In addition, she asked how the proposal of Entropy, Inc. compares with the ITC proposal. Mr. Kahlon reported that the reason for the difference in cost is that the proposal from ITC is more expensive since they would be coming from New York to perform the test, but the standards, methods and criteria of both proposals are the same. Mr. Joyner questioned why the District is testing for dioxin, since it was previously told by Hendon Engineering that there would be no dioxin emissions. Mr. Post reported that because there was some question in a recent article about the fact that there is no dioxin in a fluidized bed incinerator, the District decided to have this test performed in order to make absolutely sure. Following a brief discussion regarding the tests and possible outcome if the tests come up positive, Ms. Wallace moved that the Board approve the proposal of Entropy, Inc. in the amount of \$9,600.00 for dioxin testing. Mr. Pace seconded the motion. Mr. Mull stated that since testing is scheduled for the third week in May, it would be appropriate to approve a comparable amount to cover testing of furans, as requested by Mr. Sobol. With no further discussion, Ms. Wallace amended her motion to approve the proposal of Entropy, Inc. at an amount up to \$20,000.00 to perform dioxin and furan analyses. Roll call vote was as follows: 8 Ayes; 0 Nays. Mr. Selby was absent during the remainder of the meeting.

5. Report of Officers:

None

6. Report of Committees:

a. Finance Committee - April 4, 1995 - Mr. Casper:

Mr. Casper reported that the Finance Committee reviewed the Guardian Group Insurance Plan with Mr. Jack Ferguson and discussed whether Board Members are eligible for coverage under the plan. Mr. Casper further reported that the Committee reviewed the Capital Improvement Program, Capital Equipment, (new) and the Equipment Replacement Fund, all of which will be considered further by the Committee at its next meeting scheduled for April 26, 1995. Mr. Casper stated that the Committee approved the Annual Audit recommendation to retain the audit services of Bitter, Killian, Cole & Marshall for the 1995-96 fiscal year. Mr. Post reported that the Finance and Personnel Committees' are beginning the budget process and requested that all members of the Board attend these meetings when possible. Mr. Joyner commended Mr. Fatland for his recommendations regarding the deposit of MSD funds.

b. Personnel Committee - April 3, 1995 - Mr. Sobol:

In the absence of Mr. Sobol, Mr. Post reported that the Personnel Committee met April 13, 1995 to discuss the District's Personnel Pay Plan prepared by Griffith-Archer. In addition, there was considerable discussion regarding the Engineer-Manager's job

description and salary range. The Committee agreed that the Engineer-Manager's salary range was in line with his current salary and recommended forwarding to the Finance Committee and the Board acceptance of the salary range (\$68,768.00 [low] - \$84,237.00 - [mid] \$99,710.00 - [high]) for the Engineer-Manager. With no discussion, Mr. Slosman moved that the Board adopt the recommendation of the Personnel Committee. Ms. Wallace seconded the motion. Voice vote was unanimous in favor of the motion.

Mr. Post further reported that the Committee reviewed a brief synopsis presented by Mr. Fatland of the primary duties and reasons for requesting eight (8) new positions for the 1995-96 budget year.

d. Planning Committee - April 13, 1995 - Mr. Slosman:

Mr. Mull reported that a joint meeting of the Right-of-Way and Planning Committees' met to discuss the implementation of an efficient structure for Committee meetings in order to free Committee time for policy issues; directing the Engineer-Manager to provide guidance for staff, and authorizing staff to make decisions with respect to CIP Project Administration, Allocations; Extension of Sewer Systems, and Change Orders. As a result, the Committee recommended several changes in the procedures. Ms. Wallace questioned whether Item two (2) under Extension of Sewer System was changed to read, "Projects with circumstances which vary from established policy". Mr. Mull confirmed that the wording was changed in a subsequent paragraph. Following a brief discussion, Mr. Slosman moved that the Board adopt the Committees' recommendations with regard to procedures as amended. Mr. Pace seconded the motion.

Regarding the District's selection of a Consulting Engineer, Mr. Holcombe asked how the selection works and if an RFP process is used. Mr. Mull stated that he would provide Board Members with a copy of the qualifications; fee schedules, etc. As a matter of information, Mr. Holcombe reported that State law permits exempting the estimated fee requirement for RFP's for Engineers on certain projects that are not ultra technical or repetitive in nature, and that he would like to see the District move toward that end. With no further discussion, voice vote was unanimous in favor of the motion.

With regard to item d.10, (Discussion of Right of Way Cut Permit Fees - City of Asheville) and item d.11, (Discussion of Tap Installation Costs), Mr. Slosman recommended that these items go back to the Planning Committee for further consideration.

e. Right of Way Committee - April 13, 1995 - Mr. Selby:

In the absence of Mr. Selby, Mr. Mull reported that the Right-of-Way Committee agreed that a mission statement was needed to define Committee duties and matters for staff to present for review. It was recommended that staff prepare a draft mission/procedure statement along with a brief summary of current condemnations broken down by project and property owners to be presented at the next meeting. Mr. Mull further reported that the Committee considered a recommended policy change for a contingency to be added to the easement compensation budget, which is based on 10% of the total number of parcels included on the project times \$5,000.00. The Committee requested that staff present compensation matters to them if the estimated number of parcels for condemnation is exceeded by (10%); if the \$5,000.00 per parcel contingency is exceeded, or when the total contingency for the project is exceeded. Mr. Pace pointed out that the Committee also discussed that if any individual parcel is over \$5,000.00 it would be brought to the attention of the Committee. Mr. Mull stated that there was some discussion regarding this and that it needs to be clarified. With no further discussion, Mr. Pace moved that the Board approve the revised Compensation Policy to include a per project contingency. Ms. Bryson seconded the motion. Voice vote was unanimous in favor of the motion.

Mr. Mull further stated that the Committee discussed the Easement Policy regarding Trenchless Construction, but no formal recommendation was made. The Committee will re-visit the issue upon determination of the status of existing easement and opinion from Counsel.

7. Unfinished Business:

a. Report on Lee Construction Company Project:

Discussed in closed session following Item 2.

8. Old Business:

a. Status Report on Biosolids Product and Marketing Study:

Mr. Bridges reported that a draft copy of the Biosolids Distribution and Marketing Program report will be delivered this week, with a meeting scheduled the first week in May to discuss the draft report in detail. The final report will be available prior to the May 10, 1995 meeting of the Board. Mr. Bridges further reported that tentative arrangements have been made with the N.C. Department of Transportation for the I-240 demonstration project to take place the first week in May. A meeting with staff has been scheduled for April 28, 1995 to discuss the media notification outline; to develop a fact sheet with questions and answers, and to set a date for the demonstration. Mr. Mull, encouraged Board Members to attend the event. A brief discussion followed regarding what is to be planted in the project. Mr. Bridges reported that the product will be spread on the grass.

b. Report on North Swannanoa Sewer Problems:

Mr. Mull reported that two (2) public meetings were held, (March 31, and April 11) to hear the concerns of business owners regarding the closing of a section of Highway 81 in both directions as a result of work being done on the North Swannanoa Interceptor Sewer. A number of suggestions were made by those business owners present on how to improve public relations. Mr. Mull further reported that as a result of these meetings, staff recommends that the Board consider the recruitment of a Public Information Officer to keep the public better informed prior to the onset of projects. Several comments were made by those Board Members in attendance, and it was agreed that communication is the key to the public's perception of the MSD and its operations. Mr. Pace suggested that when similar problems are apparent that a registered letter be sent to business owners.

In other business, Ms. Wallace asked for a clarification on Congressman Taylor's involvement in the Fish Habitat requirements. Mr. Stevens explained that the District has struggled with the requirements of maintaining a minimum flow to the main channel, and the District has had ongoing discussions with the U.S. Fish & Wildlife of North Carolina regarding this issue. In addition, Mr. Selby contacted Congressman Taylor's office to enlist their help in this matter. Mr. Mull reported that Congressman Taylor is on the Committee that oversees the Fish & Wildlife budget, and as a result, he recently met with Ms. Deborah Strum, who is the District Representative, and she agreed to pursue the matter. However, since that meeting, no word has been received. Ms. Wallace expressed her concern that the District be very clear in what it is asking for, and requested that the Board be kept apprised of any action that occurs.

9. New Business:

a. Authorization to Recruit Public Information Officer:

Mr. Mull presented background information and a job description, prepared by Griffith-Archer Associates, for the position of a Public Information Officer. Mr. Post questioned whether the position needs to be funded prior to July 1, or whether the Board

only needs to give authorization to recruit for the position. Mr. Mull stated that the reason staff has requested to proceed with the recruitment process is because this person will need to become familiar with the various projects that require getting information to the public. Mr. Joyner moved that the Board authorize staff to proceed with the recruitment process for a Public Information Officer at a paygrade of 20 (\$25,616.00 - \$35,852.00). Ms. Bryson seconded the motion. A lengthy discussion followed with regard to why the Public Information Officer for Pitt County was selected to serve on the interview panel; whether the position is full time; why this position is being funded out of the Finance Budget when eight (8) other positions are being considered; why the work could not be done by the senior management team, and the need to be proactive in building a relationship with the media and community in order to improve the image of the District. With no further discussion, Mr. Slosman moved to table the motion and take it back to the Finance Committee for consideration in next year's budget. Mr. Holcombe seconded the motion. Voice vote was unanimous in favor of the motion.

b. Selection of Insurance Broker/Administrator:

Mr. Fatland reported that he retained three (3) outside insurance risk managers from other North Carolina public entities to coordinate interviews with four (4) insurance brokers, and that following review of the proposals and presentations, the panel unanimously recommended that the District select the firm of Risk Management Services, who is the insurance provider and administrator for the North Carolina League of Municipalities (NCLM). Mr. Fatland further reported that in the past the District approached the NCLM for assistance, but because the dues were excessive, (approximately \$4,000.00) the District did not join. Mr. Weber reported that the person who heads up the insurance pool for the league, is trying to negotiate the fee down. Mr. Fatland gave a brief overview of the firm's qualifications and introduced Ms. Cooper and Mr. Weber.

Mr. Stevens ask if this was a risk retention pool, or if the firm was a broker for admitted companies; whether there is a possibility of assessment; who the actuaries are, and who the reinsurance carriers are. Mr. Weber reported that the firm administers the program for the pool, which is formed by the NCLM, and although there is a possibility of assessment, the probability is slim, since they have a \$20 million surplus and have reinsurance that attaches at a half million dollars per accident. Mr. Weber further reported that the actuaries are Tillinghast, and the reinsurance carriers are General Reinsurance and American Reinsurance, both of which are accredited in North Carolina. With regard to a question about how much savings the District would realize, Mr. Fatland stated this information will be presented to the Board at the May 10 meeting. In addition, the firm will do an appraisal of the District's property and provide in-house training for employees on worker's compensation and other areas. Mr. Holcombe moved that the Board select the firm of Risk Management Services contingent on the District joining the NCLM. Mr. Slosman seconded the motion. Mr. Casper inquired as to how much it will cost the District to join. Mr. Weber reported that it was his understanding that because of who the District serves, and because several of the municipalities served by the District are members, there is a strong possibility the District can join at no cost. With no further discussion, roll call vote was as follows: 8 Ayes; 0 Nays.

c. Board Member Attendance and Compensation:

Mr. Mull reported that discussions have taken place regarding the possibility of allowing Board Members to participate in the District's health insurance program, and that Mr. Fatland has asked the District's Attorney to investigate whether this can be done. As a matter of clarification, Mr. Mull stated that it was the intent of Mr. Kelly in his letter of April 4, 1995, that the additional compensation, (an increase to \$100.00 per meeting with a limit of \$300.00 per month) would allow Board Members to purchase their own insurance as opposed to being added to the District's plan. Mr. Stevens stated that if the District chooses to approve Board Member participation in its Plan, there may be a potential conflict of interest issue in the selection of a carrier. In addition, he

felt the insurance carrier would take the position that these people are just insured and tack them on. However, if there is a catastrophic loss, the insurance company may change it's position. Mr. Post stated that the current policy is that Board Members are not eligible, however, if the District wants to change the policy it can.

With regard to Board Member Compensation, Mr. Post stated that because of the increased time required for Members to be present at various meetings, he felt that the input Committee Members are giving is worth more than what the District is currently paying. A lengthy discussion followed regarding the need for additional compensation in order to insure more public input into the public process; the time involved in serving; a concern about Board Members approving an increase for themselves, and whether an increase should be limited to regular and special meetings, and be given to members of Committees' only. With no further discussion, Mr. Slosman moved that the Board table the discussion on increased compensation until further consideration by the Personnel Committee. Ms. Wallace seconded the motion. Voice vote was unanimous in favor of the motion.

d. WEF & AWWA Residuals/Biosolids Conference - July 23-26, 1995.

Mr. Mull reported that a joint WEF&AWWA Residuals/Biosolids Conference will be held in Kansas City, July 23-26, 1995 and recommended that the Board authorize the expense for those Members who wished to attend. Following a brief discussion, Mr. Slosman moved that the Board authorize the expense for Board Members to attend the Conference. Mr. Joyner seconded the motion. Roll call vote was as follows: 7 Ayes; 1 Nay (Mr. Casper).

In other business, Mr. Mull reported that in working on the Marketing Program for the Biosolids product the Board needs to decide on a name for the product. There followed a discussion concerning the matter.

Mr. Mull congratulated Mr. Fatland for his successful completion of the Institute of Government course.

At 5:20 p.m. Mr. Casper moved that the Board go into closed session to hear a status report on the Sludge Management Study and to consult with and give instructions to Counsel concerning the acquisition of real property. Mr. Pace seconded the motion. Voice vote was unanimous in favor of the motion.

At 5:40 p.m., Mr. Casper moved that the Board reconvene the regular meeting. Ms. Wallace seconded the motion. Voice vote was unanimous in favor of the motion.


Mr. Casper moved that the Board adopt the recommendation of the Right-of-Way Committee with regard to Item e.II.6.a., (Earl Capps Hollow). Mr. Pace seconded the motion. Roll call vote was as follows: 6 Ayes; 0 Nays. Mr. Holcombe and Mr. Slosman were absent during the vote.

Mr. Casper moved that the Board adopt the recommendation of the Right-of-Way Committee with regard to Item e.II.5.a., (Sweeten Creek Interceptor). Mr. Pace seconded the motion. Roll call vote was as follows: 6 Ayes; 0 Nays. Mr. Holcombe and Mr. Slosman were absent during the vote.

10. Date of Next Regular Meeting, May 10, 1995.

11. Adjournment:

At 5:42 p.m. Mr. Casper moved for adjournment. Ms. Wallace 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