

BOARD OF THE METROPOLITAN SEWERAGE DISTRICT

August 21, 1996

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, August 21, 1996. Chairman Post presided with the following members present: Bryson, Casper, Holcombe, Joyner, Kelly, Pace, Selby, Slosman, Sobol and Wallace.

Others present were: W. H. Mull, Engineer-Manager, John S. Stevens, General Counsel, Bill Morris and Ed Byas of Hendon Engineering Associates, Inc., David Cabe and Len Jones of Killian, Cole & Marshall, Jim Fatland, Larry Turner, Bob Ensley, Charles Young, Wayne Watkins, Stan Boyd, Jon van Hoff, Neal Klimek, Maria Player, Lance Stewart, Micky Lewis, Teresa Gilbert and Sondra Honeycutt, MSD.

2. Approval of the Minutes of the July 17, 1996 meeting.

As a matter of clarification, Mr. Joyner requested that the wording, "for Lake Julian" be added to the end of paragraph one (1), item e.IV.a., page two (2). With no further additions or corrections, Mr. Holcombe moved that the minutes be approved as amended. Mr. Pace seconded the motion. Voice vote was unanimous in favor of the motion.

3. Engineer-Manager's Report

Mr. Mull introduced Mr. Larry Turner, the new Deputy General Manager of Operations for the District.

Mr. Mull recognized and congratulated the following staff and audit firm for their input in the preparation of the Comprehensive Annual Financial Report (CAFR) Award of Excellence from the Government Finance Officers Association (GFOA): Deputy General Manager of Administration Jim Fatland, Accounting Manager, Charles Young, Administrative Secretary Teresa Gilbert, and David Cabe and Len Jones of Killian, Cole & Marshall. Mr. Fatland gave a brief overview on the contents of the report and stated that the District will receive a Certificate of Achievement Plaque within a few weeks. Mr. Holcombe expressed his appreciation to staff for their work in achieving this award. Mr. Selby requested that a press release be prepared. Mr. Mull advised this had already been done.

Mr. Mull recognized and congratulated the following recipients of the North Carolina Pretreatment Professionals Honor Roll Award in recognition of outstanding service, received at the Annual Pretreatment Coordinator's Workshop in Asheville, August 12 and 13: Director of Industrial Waste, Robert C. Ensley; Industrial Waste Coordinator, Monty Payne; Chief Industrial Waste Inspector, Jon H. van Hoff, and Inspector II, Neal Klimek. Mr. Mull gave a brief report on the criteria for receiving the award and stated that a plaque with MSD's name inscribed on it will be placed in the office of the NC Department of Environment, Health and Natural Resources in Raleigh.

Mr. Ensley read a statement from the recipients acknowledging their appreciation for the work and support from the following staff: Pam Thomas, Maria Player, Micky Lewis, Lance Stewart and Steve Rector. In addition, he recognized the following Laboratory staff: Neil Hall, Tamara Dawsey, Cliff Cunningham and Wayne Tipton.

CONSOLIDATED MOTION AGENDA

Planning Committee Item:

Mr. Mull reported that the following item was brought before the Planning Committee, July 25, 1996.

d.1. Consideration of Participation of Project Costs - Transitional Housing at Eliada Home for Children.

The Committee recommended cost participation in an amount not to exceed \$7,500.00

Construction Committee Items:

Mr. Mull reported that the following items were brought before the Construction Committee, July 25, 1996.

g.1. Consideration of Change Order Review Policy:

The Committee recommended acceptance of the Change Order Review Process according to the matrix.

g.2. Consideration of Construction Contract Change Order #6 - North Swannanoa Interceptor, Phase 1 - Ruby Collins:

The Committee recommended approval of the Construction Contract Change Order #6 - North Swannanoa Interceptor in the amount of \$213,451.44, contingent upon review by the MSD Attorney as to form only, and in concurrence with the Change Order Review and Approval Process.

With no discussion, Mr. Joyner moved that the Board adopt the recommendations of the Planning and Construction Committees. Ms. Bryson seconded the motion. Roll call vote was as follows: 11 Ayes; 0 Nays.

REGULAR AGENDA ITEMS:

h. Consideration of Acceptance of Developer Constructed Sewer Systems:

a. Burnside at Biltmore Park - Phase 1.

Staff recommended acceptance of the developer constructed sewer system, contingent upon developer providing a copy of the annexation ordinance and finalization of the annexation process for Burnside at Biltmore Park, Phase 1.

b. Glen Oaks - II (Glen Oaks - Phase 3)

Staff recommended acceptance of the developer constructed sewer system.

c. North Branch Ducker Creek Interceptor

Staff recommended acceptance of the developer constructed sewer system, contingent upon the developer providing to the District evidence of timely annexation of surrounding subdivision phases.

Mr. Boyd presented a map showing the location of the sewer systems. Mr. Mull reported that although there were minor problems with the documents, they were not significant enough for a delay. With no discussion, Mr. Holcombe moved that the Board adopt the recommendations of staff. Mr. Pace seconded the motion. Roll call vote was as follows: 11 Ayes; 0 Nays.

4. Report of Committees

d. Planning Committee - Mr. Slosman

No further report

e. Right-of-Way Committee - Mr. Selby

No further report.

g. Construction Committee - Mr. Holcombe

Mr. Holcombe complimented staff and Mr. Currie, MSD Attorney for development of the Change Order Review Process.

5. Unfinished Business:

a. Consideration of Overtime Policy Amendment:

Mr. Fatland reported that at the Board's request, a fiscal impact analysis was developed before a final decision was made on revisions to the overtime policy as follows:

- 1) Include holidays in actual hours worked.
- 2) Include sick and annual leave only for emergency or unplanned overtime. An emergency overtime report must be completed and approved by Division Heads and Department Heads.
- 3) Do not include sick or annual leave in the overtime calculation for planned overtime. Planned overtime is any overtime scheduled 24 hours or more in advance.

Mr. Turner stated that he felt this is a good middle of the road policy. Ms. Bryson moved that the Board approve the Overtime Policy as revised. Mr. Slosman seconded the motion. A brief discussion followed regarding the total annual fiscal impact; whether this amount is covered in the current budget, the difference in unplanned/emergency overtime and planned overtime, and the effect stand-by-pay has on the overtime policy. With no further discussion, roll call vote was as follows: 11 Ayes; 0 Nays.

6. New Business:

a. Consideration of Condemnation - North Swannanoa - II, Section 1-A.

Deferred to Closed Session

b. Receive and File Investment Report for Period Ended June 30, 1996.

Mr. Fatland presented a copy of the District's Investment Report for a three month period. He reported that the District continues to earn interest on monies deposited, and that he will explore with Bond Counsel the possibility of switching the revenue account with Wachovia Bank, currently earning 2.18% interest, to First Citizens Bank with earnings at 4.64%, which will generate an additional \$28,000 per year. In addition he will look at investments the Trustee has to insure they are doing the best job they can on behalf of the District. A discussion followed regarding whether the District can designate a different Trustee, Mr. Stevens reported that this issue is under consideration by Bond Counsel.

e. Consideration of RFP-Investment Bids on Revenue Bond Debt Service Fund:

Mr. Fatland reported that currently the District's Trustee has a balance of \$5,215,000 in the Debt Reserve Fund, and that staff has been reviewing the District's investment program with the Trustee to enable a better rate of return. As a result, it is recommended that the Board authorize staff to solicit investment bids on the Revenue Bond Debt Reserve Service Fund, with a recommendation to accept or reject the bids at the September 18 meeting of the Board. Following a brief discussion, Mr. Selby moved that the Board approve the recommendation of staff. Mr. Pace seconded the motion. Voice vote was unanimous in favor of the motion. A copy of the Resolution is attached.

In other business, Mr. Joyner read a statement he prepared with regard to the Board's duties and obligations in the day to day operation of the District. The Board was in agreement that since major staff changes have been made, and procedures are in place, the Board can refrain from getting personally involved.

With regard to the Informational Memorandum, Mr. Mull brought the Board's attention to the update on the District's landfill gas utilization. In addition, he gave a brief report on correspondence received regarding the District's recent rate increase.

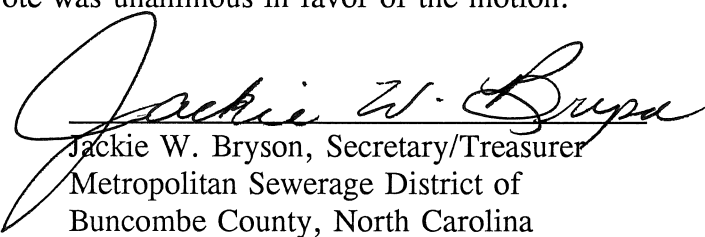
At 2:50 p.m., Mr. Casper moved that the Board go into closed session to consider the acquisition of real property and the condemnation of real property. Mr. Holcombe seconded the motion. Voice vote was unanimous in favor of the motion.

At 2:55 p.m., Ms. Wallace moved that the Board reconvened the regular meeting. Mr. Pace seconded the motion. Voice vote was unanimous in favor of the motion.

Mr. Pace moved that the Board approve the recommendation of the Right-of-Way Committee. Mr. Holcombe seconded the motion. Roll call vote was as follows: 11 Ayes; 0 Nays.

9. Adjournment:

With no further business, Ms. Wallace moved for adjournment at 2:56 p.m. Ms. Bryson 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

**RESOLUTION APPROVING THE ACQUISITION OF THE SEWERAGE SYSTEM FACILITIES
OF THE NORTH BRANCH DUCKER CREEK SEWER INTERCEPTOR**

WHEREAS, the Metropolitan Sewerage District ("District") has been asked to acquire the sewerage system facilities constructed to serve various planned future development within the Biltmore Park Development in Buncombe County, and more particularly described on a plat dated February 14, 1996 made by Webb A. Morgan and Associates, P.A. and recorded in the Office of the Register of Deeds for Buncombe County, in Plat Book 64, at Page 173;

WHEREAS, the District Board is bound by certain covenants in its Bond Order and cannot acquire additional sewerage system facilities unless such provisions are satisfied;

WHEREAS, the District Board has determined the North Branch Ducker Creek Interceptor Sewer facilities are not subject to any lien or other encumbrance which is materially adverse;

WHEREAS, the District Board has determined the acquisition of the North Branch Ducker Creek Interceptor Sewer system and the responsibility to operate and maintain it will preserve and maintain the public health and welfare within the District;

WHEREAS, Biltmore Farms, Inc. has tendered appropriate instruments transferring complete ownership of the system from its point of connection with the Ducker Creek Interceptor Sewer and delegating to the District the responsibility for operation and maintenance;

WHEREAS, the appropriate instruments have been prepared and executed by Biltmore Farms, Inc. and have been duly recorded;

WHEREAS, the District has determined that it has reasonable access to and over related public rights of way and easements necessary to operate and maintain the system;

WHEREAS, the District Board has determined that adequate funding will be available for the acquisition and for the operation and maintenance of the system and that the District Board will have the authority to determine the need and priority for the operation and maintenance, improvement and reconstruction of the additional sewerage system facilities.

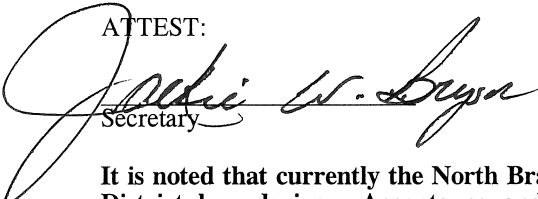
BE IT NOW HEREBY RESOLVED: The District Board of the Metropolitan Sewerage District hereby accepts the North Branch Ducker Creek Interceptor Sewer together with all easements therefor, said sewerage system being more particularly described on a plat map dated February 14, 1996 prepared by Webb A. Morgan and Associates, P. A. and recorded in Plat Book 64, at Page 173, Buncombe County Registry with contingency as noted below.

This the 21st day of August, 1996.

METROPOLITAN SEWERAGE DISTRICT OF
BUNCOMBE COUNTY, NORTH CAROLINA

By: 
Chairman

ATTEST:


Secretary

It is noted that currently the North Branch Ducker Creek Interceptor is physically located outside the District boundaries. Acceptance and execution of this resolution is contingent upon the timely completion of annexation by the City of Asheville of all areas surrounding the North Branch Ducker Creek Interceptor thereby causing same to become incorporated into the District.

**RESOLUTION APPROVING THE ACQUISITION OF THE SEWERAGE SYSTEM FACILITIES
OF THE BURNSIDE SUBDIVISION, PHASE I AT BILTMORE PARK**

WHEREAS, the Metropolitan Sewerage District ("District") has been asked to acquire the sewerage system facilities constructed to serve the Burnside Subdivision, Phase I at Biltmore Park in Buncombe County, and more particularly described on a plat dated June 4, 1996 made by Webb A. Morgan and Associates, P.A. and recorded in the Office of the Register of Deeds for Buncombe County, in Plat Book 66, at Page 21;

WHEREAS, the District Board is bound by certain covenants in its Bond Order and cannot acquire additional sewerage system facilities unless such provisions are satisfied;

WHEREAS, the District Board has determined the Burnside Subdivision, Phase I at Biltmore Park Sewer facilities are not subject to any lien or other encumbrance which is materially adverse;

WHEREAS, the District Board has determined the acquisition of the Burnside Subdivision, Phase I at Biltmore Park Sewer system and the responsibility to operate and maintain it will preserve and maintain the public health and welfare within the District;

WHEREAS, Biltmore Farms, Inc. has tendered appropriate instruments transferring complete ownership of the system from its point of connection with the North Branch Ducker Creek Interceptor Sewer and delegating to the District the responsibility for operation and maintenance;

WHEREAS, the appropriate instruments have been prepared and executed by Biltmore Farms, Inc. and have been duly recorded;

WHEREAS, the District has determined that it has reasonable access to and over related public rights of way and easements necessary to operate and maintain the system;

WHEREAS, the District Board has determined that adequate funding will be available for the acquisition and for the operation and maintenance of the system and that the District Board will have the authority to determine the need and priority for the operation and maintenance, improvement and reconstruction of the additional sewerage system facilities.

BE IT NOW HEREBY RESOLVED: The District Board of the Metropolitan Sewerage District hereby accepts the Burnside Subdivision, Phase I at Biltmore Park Sewer System together with all easements therefor, said sewerage system being more particularly described on a plat map dated June 4, 1996 prepared by Webb A. Morgan and Associates, P. A. and recorded in Plat Book 66, at Page 21, Buncombe County Registry.

This the 21st day of August, 1996.

METROPOLITAN SEWERAGE DISTRICT OF
BUNCOMBE COUNTY, NORTH CAROLINA

By: _____

Chairman

ATTEST:


Secretary

**RESOLUTION APPROVING THE ACQUISITION OF THE SEWERAGE SYSTEM
FACILITIES OF GLEN OAKS II, PHASE 3 AT BILTMORE PARK**

WHEREAS, the Metropolitan Sewerage District ("District") has been asked to acquire the sewerage system facilities constructed to serve Glen Oaks II at Biltmore Park (a/k/a Glen Oaks at Biltmore Park Phase 3), located off Overlook Road and south of Pinchot Drive in Asheville, Buncombe County, and more particularly described on a plat bearing an initial date of February 14, 1996 and last revised April 30, 1996 prepared by Webb A. Morgan & Associates, P.A. and recorded in the Office of the Register of Deeds for Buncombe County, in Plat Book 64, at Page 174;

WHEREAS, the District Board is bound by certain covenants in its Bond Order and cannot acquire additional sewerage system facilities unless such provisions are satisfied;

WHEREAS, the District Board has determined that the Glen Oaks II at Biltmore Park (a/k/a Glen Oaks at Biltmore Park Phase 3) sewerage system facilities are not subject to any lien or other encumbrance which is materially adverse;

WHEREAS, the District Board has determined the acquisition of the Glen Oaks, Phase 3 sewerage system and the responsibility to operate and maintain it will preserve and maintain the public health and welfare within the District;

WHEREAS, Biltmore Farms, Inc. has tendered appropriate instruments transferring complete ownership of the system to the District and delegating to the District the responsibility for operation and maintenance;

WHEREAS, the appropriate instruments have been prepared and executed by Biltmore Farms, Inc. and have been duly recorded;

WHEREAS, the District has determined that it has reasonable access to and over related public rights of way and easements necessary to operate and maintain the system;

WHEREAS, the District Board has determined that adequate funding will be available for the acquisition and for the operation and maintenance of the system and that the District Board will have the authority to determine the need and priority for the operation and maintenance, improvement and reconstruction of the additional sewerage system facilities.

BE IT NOW HEREBY RESOLVED: The District Board of the Metropolitan Sewerage District hereby accepts the Glen Oaks at Biltmore Park Phase II (a/k/a Glen Oaks at Biltmore Park Phase 3) Sewerage System together with all easements therefor, said sewerage system being more particularly described on a plat map dated February 14, 1996 and last revised April 30, 1996 prepared by Webb A. Morgan & Associates, P.A. and recorded in Plat Book 64, at Page 174, Buncombe County Registry.

This the 21st day of August, 1996.

METROPOLITAN SEWERAGE DISTRICT OF
BUNCOMBE COUNTY, NORTH CAROLINA

By: _____

Chairman

ATTEST:

Jackie W. Bryson
Secretary

RESOLUTION OF THE DISTRICT BOARD OF THE METROPOLITAN SEWERAGE DISTRICT OF BUNCOMBE COUNTY APPROVING A DEBT SERVICE RESERVE FUND AGREEMENT AND A PROVIDER OF ELIGIBLE SECURITIES THEREUNDER

THE DISTRICT BOARD OF THE METROPOLITAN SEWERAGE DISTRICT OF BUNCOMBE COUNTY DOES HEREBY RESOLVE as follows:

Section 1. Findings and Determination. The District Board of the Metropolitan Sewerage District of Buncombe County (the "District") hereby finds and determines that:

a. Yields on investments credited to the Debt Service Reserve Fund created by Section 507 of a Bond Order adopted by the District Board of the District (the "District Board") on May 23, 1985, as amended as June 4, 1985 and July 21, 1993 (the "Debt Service Reserve Fund"), have been substantially lower than yields on longer-term investments.

b. Craigie Incorporated ("Craigie") has recommended that the District enter into a debt service reserve agreement with a qualified financial institution for the investment of the amounts on deposit in the Debt Service Reserve Fund in direct obligations of the United States of America ("Eligible Securities") on terms that will provide for the full and efficient investment of such amounts at a yield higher than the District would otherwise be able to realize in the current market.

c. Craigie has advised the District Board that, although one consequence of the District's entering into such an agreement would be that the District would assure itself of a yield to maturity on the Eligible Securities pursuant to such an agreement in excess of 6.68% per annum (which is more than 138 basis points above the current average yield on the District's investments credited to the Debt Service Reserve Fund) for the term of such agreement, if short term interest rates were to rise and remain substantially above today's interest rate levels, then the District could have realized from the contemporaneous investment of such moneys a greater return than the District would realize from such an agreement and that, if rates were to reach historical peak levels, then such greater return could be substantial.

d. The District Board has received and reviewed the form of a Debt Service Reserve Fund Agreement (the "Agreement") Deputy General Manager of Administration and its counsel and had the opportunity to discuss its contents with them.

e. The District Board, having weighed the yield available pursuant to the Agreement against the opportunity cost and other risks associated with the Agreement, has resolved to approve the Agreement and to authorize and direct the Engineer-Manager of the District to execute and deliver the Agreement.

f. It is within the power of the District to make and enter into the Agreement.

Section 2. Approval of Agreement. The form of the Agreement presented to the District Board is hereby approved, and the Engineer-Manager of the District is hereby authorized and directed to execute and deliver the Agreement in substantially the form so presented, with such minor changes as he, in his discretion, may determine to be in the best interests of the District.

Section 3. Approval of Provider. Lehman Brothers has submitted a proposal to the District Board to provide Eligible Securities pursuant to the Agreement as the Provider (as defined in the Agreement) in response to the District's request for such proposals, such proposal containing a yield to maturity on the Eligible Securities of 6.68% per annum. Such yield to maturity is the highest among all of the yields to maturity in the various responses to the District's request for such proposals, and Lehman Brothers is accordingly hereby approved as such Provider of the Eligible Securities.

Section 4. Effective Date. This resolution shall take effect immediately upon its passage .