

**BOARD OF THE METROPOLITAN SEWERAGE DISTRICT
NOVEMBER 13, 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, November 13, 1996. Chairman Post presided with the following members present: Casper, Holcombe, Joyner, Kelly, Pace, Selby, Slosman, Sobol and Wallace. Ms. Bryson was absent.

Others present were: W.H. Mull, General Manager, William Clarke, MSD Attorney, Danny Bridges of McGill Associates, Inc., Jim Fatland, Larry Turner, and Sondra Honeycutt, MSD.

2. Approval of the Minutes of the October 16, 1996 meeting.

Mr. Joyner noted a spelling error in Mr. Slosman's name on page four (4), paragraph two (2). Also, Mr. Selby stated that he was not present at the October 16 meeting as shown in the minutes. With no further additions or corrections, Mr. Joyner moved that the minutes be approved as amended. Mr. Pace seconded the motion. Voice vote was unanimous in favor of the motion.

3. General Manager's Report

CONSOLIDATED MOTION AGENDA

• **Stoner Avenue Rehabilitation:**

Mr. Mull reported that the Right of Way Committee recommended proceeding with construction of the Stoner Avenue Rehabilitation project without a recorded easement or condemnation for the following parcels: (9648-20-90-3355), (9648-20-90-2352), and (9648-20-90-6020). Following a brief discussion as to the location of the project, Mr. Holcombe moved that the Board approve the recommendation of the Right of Way Committee. Mr. Pace seconded the motion. Voice vote was unanimous in favor of the motion.

4. Easements for Existing Sewerlines:

Mr. Mull reported that following research by Mr. Clarke, Attorney for the District, the Right of Way Committee recommended adoption of a policy stating that the District is the holder of an easement for existing sewer lines more than two (2) years old with no recorded easement where the line was originally installed by the District or a governmental predecessor in interest. Further, it is understood that the District only claims an easement for the line in its current location and the easement extends in either direction from the center line of the existing line to a width necessary to operate, maintain, repair and replace, if necessary, the existing sewerline together with a reasonable right of ingress and egress from the nearest public road.

Mr. Selby questioned why the recommendation refers to a two (2) year Inverse Condemnation Statute instead of the twenty (20) year Adverse Possession Statute. Mr. Clarke stated that there could be cases where a line was installed by a private developer and later taken over by a governmental body, and the District might want to rely on the twenty year Adverse Possession Statute, but by using the two year period, the District would be relying on the Inverse Condemnation Statute that states where there is a governmental taking without condemnation, the landowner has two years from the end of the project

to bring an action. Mr. Clarke further stated that he recommends adoption of the policy in an effort to simplify the issue and reduce costs and fees incurred in connection with acquiring rights of way. Following a brief discussion with regard to educating staff in dealing with landowners and the importance of presenting this policy to the public, Ms. Wallace moved that the Board approve the recommendation of the Right of Way Committee. Mr. Sobol seconded the motion. Voice vote was unanimous in favor of the motion.

5. Bond Order Authorized Officers:

Mr. Mull reported that the Bond Order currently designates the Chairman of the Board and the General Manager as "authorized officers" to sign requisitions certifying payments out of the Construction Fund, and to approve engineering and other reports with respect to the issuance of new bonds. He further reported that the purpose of the resolution is to authorize the Deputy General Managers of Administration and Operations as Authorized Officers. With no discussion, Mr. Holcombe moved that the Board approve the resolution as presented. Mr. Selby seconded the motion. Voice vote was unanimous in favor of the motion.

6. 457 Deferred Compensation Plan:

Mr. Mull reported that in addition to participation in the North Carolina Employees Retirement System and Social Security System, District employees have the option to contribute to the BB&T 401(K) program. He further reported that recently staff has met with representatives from the National Association of Counties (NACo) to discuss the benefits of establishing a 457 Deferred Compensation Program for District employees, which will provide two (2) voluntary retirement investment options. As a result, staff recommends approval of a resolution establishing a Deferred Compensation Program with the National Association of Counties and to authorize the Chairman to execute contractual agreements subject to District Legal Counsel approval. A brief discussion followed regarding BB&T's involvement in the 401(K) program; whether employees can participate in both the 401(K) and 457 programs at the same time; the cost if any to the District, and benefits of the North Carolina Employees Retirement System. With no further discussion, Mr. Pace moved that the Board approve the resolution as presented. Mr. Joyner seconded the motion. Voice vote was unanimous in favor of the motion.

7. Award of Uniform Rental Contract:

Mr. Mull reported that bids for the District's Uniform Rental Contract were received October 31, 1996 as follows: Rental Uniform Service, with a total base bid of \$29,354.00; Cintas Uniform Rental Service, Inc., with a total base bid of \$ 28,194.40, and National Linen Service, with a total base bid of \$26,468.00. He further reported that although National Linen Service is the apparent low bidder, the sample uniforms submitted were sub-standard. Staff recommends that the contract be awarded to the second low bidder, Cintas Uniform Rental Service, Inc. in the amount of \$28,194.40; a two year contract with an option for a third year contract at the same rate. With no discussion, Mr. Holcombe moved that the Board award the bid to Cintas Uniform Rental Service, Inc. Mr. Pace seconded the motion. Roll call vote was as follows: 10 Ayes; 0 Nays.

Mr. Slosman questioned why it was necessary for the Board to approve budgeted items of this type. Mr. Mull stated that he plans to meet with the

Deputy General Managers to establish a list of items with maximum dollar amounts that can be purchased without Board approval.

8. Payment to Silverman:

Mr. Mull reported that since certain material was ordered from Silverman and Company without complying with public bid laws, staff recommends the Board approve a purchase order to Silverman and Company in an amount not to exceed \$19,059.05. With no discussion, Ms. Wallace moved that the Board approve the purchase order to Silverman and Company. Mr. Slosman seconded the motion. Roll call vote was as follows: 10 Ayes; 0 Nays.

9. Acceptance of Developer Constructed Sewer System - Highland Pointe:

Mr. Mull reported that Highland Pointe is located in the Reems Creek Golf Course area and is a system that was installed in 1989 prior to the establishment of formal District guidelines for construction and transfer. He further reported that because the Town of Weaverville's construction criteria did not have bedding requirements for plastic pipe, some stretches of pipe were not properly encased, causing some damage. Mr. Mull stated that following the final right of way document audit and inspection, staff recommends acceptance of the sewer system. Mr. Pace moved that the Board approve the recommendation of staff. Mr. Holcombe seconded the motion. Mr. Selby questioned whether there is a warranty period and who the warranty is with. Mr. Clarke stated that the warranty period is one year from the date of transfer and is with Appalachian Financial Services, a subsidiary of Asheville Federal. With no further discussion, voice vote was unanimous in favor of the motion.

10. Committee Reports:

• **Planning (Biosolids Management)**

Mr. Mull reported that the Planning Committee met November 11, 1996 to discuss the Biosolids Management Policy, and after careful consideration, the Committee recommended that staff be tasked to continue development of the Nutri-Lime product utilizing current operating practices and to initiate an ash disposal process.

Mr. Slosman stated that the District utilizes two systems; incineration and alkaline stabilization. However, the incinerator is the primary source of disposal until a market is found for the District's Nutri-Lime product. He further stated that running the incinerator presents some problems in the disposal of ash, which will need to be addressed in the near future. Also, the District needs to develop new outlets for the Nutri-Lime; possibly blending it with the County's yard waste, making it a better product.

Mr. Casper questioned the cost of disposal for both processes. Mr. Slosman reported that the cost to dispose of the alkaline stabilized product is \$245/D.T. The cost to dispose incineration ash into the lagoon is \$196/D.T., and approximately \$264/D.T. for other alternatives. Mr. Selby reported that the Planning Committee recommends that along with guidance to proceed with continued development of the Nutri-Lime market, staff come back with an Ash Disposal process with dates. With no discussion, Mr. Holcombe moved that the

Board approve the recommendation of the Planning Committee. Mr. Pace seconded the motion. Voice vote was unanimous in favor of the motion.

- **Right of Way Committee:**

No further report.

11. **Unfinished Business: (None)**

12. **Old Business:**

- **Status Report on CAFR:**

Mr. Fatland stated that the District will be submitting its Comprehensive Annual Financial Report (CAFR) to the Board on December 18 and recommended a Finance Committee meeting be held on December 12 at 3:00 p.m.

- **Planning and Right of Way Committee Meeting Schedule:**

Mr. Turner announced that the Planning and Right of Way Committee meetings scheduled for November 21 have been rescheduled for December 13 at 8:30 a.m. and 10:00 a.m. respectively.

- **Treasurer's Report on Investments:**

Mr. Fatland reported that in October staff requested investment bids on the District's \$21 million general fund monies. He further reported that the District continues to show improvement on its investment returns, which comply with investment policies adopted by the Board. Mr. Post questioned whether these returns can be placed in the general fund to limit an increase in sewer rates. Mr. Fatland stated that the investment earnings accrue to the principal balance of each respective fund and that most of the earnings are general fund monies. He added that interest earnings have been programed into MSD's cash flows and sewer rate projections. A sewer rate increase would be needed if construction estimates were higher. Mr. Mull noted that approximately half of the sewer service charges go into the CIP budget. With no further discussion, Mr. Selby moved that the Board accept and file the Treasurer's Report for the quarter ended September 30, 1996. Mr. Holcombe seconded the motion. Voice vote was unanimous in favor of the motion.

- **Bond Order Accounting Policies:**

Mr. Fatland reported that currently the District's Bond Trustee withdraws monies from the Revenue Fund to make principal and interest payments and transfers monies to the Operation and Maintenance and General Funds. However, the Bond Order allows the District to administer this fund, which would be an in-house procedural change. Therefore, staff recommends that the Board authorize the Secretary/Treasurer, General Manager and Deputy General Manager of Administration to make wire transfers from the Revenue Fund to the Trustee for Bond Principal and Interest payments and transfers from the Revenue Fund to the Operations and Maintenance and General Funds in accordance with the Bond Order. Ms. Wallace moved that the Board approve

the recommendation of staff. Mr. Selby seconded the motion. Voice vote was unanimous in favor of the motion.

Mr. Selby questioned who the Trustee is for the District's Bonds and whether the District is continuing to pursue a change. Mr. Fatland reported that the Bank of New York is the Trustee and that a change is being researched. He added that currently the Trustee pays contractors with cashier checks from the Construction III Fund causing the District to lose several days interest in transferring monies to the Bank of New York. Therefore, staff will recommend to the Board at the December 18 meeting that authorization be approved to allow staff to write Construction III Fund checks in-house in accordance with the Bond Order. Mr. Fatland stated that if the recommendation is approved, he will request that the District consider sending out a Request for Proposals for a new Trustee.

13. New Business:

Mr. Post presented a letter from Mr. Stevens, General Counsel, for the District regarding Mr. Gundars Aperans, District Bond Counsel. Mr. Post reported that Mr. Aperans is no longer affiliated with Brown & Wood, and is now with Robinson Brandshaw Hinson law firm in Charlotte, North Carolina. He further reported that Mr. Aperans has indicated a willingness to continue as Bond Counsel for the District and that Mr. Stevens strongly recommends that the District change the Bond Attorney to Robinson Bradshaw Hinson in Charlotte and continue to employ Mr. Aperans. Mr. Selby stated that because Bond Counsel plays an intricate role in the District's bonds, he recommends that this issue go before the Finance Committee for consideration. Mr. Clarke stated that from the District's perspective, it's important to have a Bond Counsel that is good in this position because of the tax exempt nature of the bonds. With no further discussion, the Board deferred this issue to the Finance Committee, requesting that Mr. Clarke or Mr. Stevens be present to represent Mr. Aperans. In addition, Mr. Casper requested that a history of fee information be made available at the time of the meeting.

Mr. Slosman suggested that the Board plan a retreat prior to the replacement of Ms. Wallace, possibly the first week of February.

In other business. Mr. Slosman stated that since Avery Creek is still not part of the District he requested that this issue continue to be explored. Mr. Post suggested that this be placed on the agenda for the retreat. Mr. Mull reported that Mr. David Lawrence with the Institute of Government will be in Asheville November 21 to discuss changing legislation regarding the extension of the District's Boundary and the possibility of a training session for Board Members. Mr. Post encouraged Board Members to attend this meeting.

Mr. Turner announced that a presentation will be held at the Planning Committee meeting on December 13 at 8:30 a.m. regarding the conceptual design of the new maintenance facility.

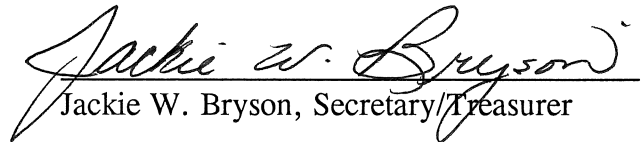
Mr. Post called the Board's attention to the District's project status reports.

Mr. Joyner recognized Mr. Fatland for his efforts in handling the District's investments.

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14. Adjournment:

With no further business, Mr. Slosman moved for adjournment. Mr. Holcombe seconded the motion. Voice vote was unanimous in favor of the motion.


Jackie W. Bryson, Secretary/Treasurer

RESOLUTION DESIGNATING AUTHORIZED OFFICERS

WHEREAS, The District Board adopted its Bond Order on May 23, 1985, and amended said Bond Order on June 4, 1985; and

WHEREAS, The District's Bond Order places certain responsibilities on Authorized Officers; and

WHEREAS, The Bond Order designates the Chairman and the Engineer-Manager as Authorized Officers and authorizes the District Board, by Resolution, to designate other persons as Authorized Officers; and

WHEREAS, The District Board desires to designate its Deputy General Managers for Administration and Operations to serve as Authorized Officers to administer the responsibilities as Authorized Officers under its Bond Order; and


NOW, THEREFORE BE IT RESOLVED:

That the Deputy General Managers for Administration and Operation are hereby designated as additional Authorized Officers under the District's Bond Order.

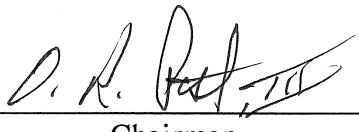
Approved at a regularly scheduled meeting of the Metropolitan Sewerage District of Buncombe County on the 13th day of November, 1996.

APPROVED AS TO FORM:

APPROVED:

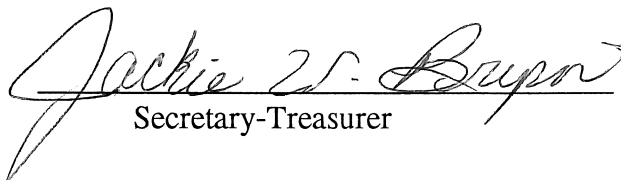


District Counsel



Chairman

ATTEST:



Secretary-Treasurer

**RESOLUTION APPROVING THE ACQUISITION OF THE SEWERAGE SYSTEM
FACILITIES OF THE HIGHLAND POINTE SUBDIVISION**

WHEREAS, the Metropolitan Sewerage District ("District") has been asked to acquire the sewerage system facilities constructed to serve portions of the development known as Highland Pointe, located off Union Chapel Road and Lakeview Circle, (Reems Creek), Buncombe County, North Carolina and more particularly described on a plat bearing an initial date of April 13, 1994 prepared by Wallace S. McAbee, RLS and recorded in the Office of the Register of Deeds for Buncombe County, in Plat Book 66, at Page 61;

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 Highland Pointe Subdivision 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 Highland Pointe Subdivision sewer system and the responsibility to operate and maintain it will preserve and maintain the public health and welfare within the District;

WHEREAS, Asheville Savings Bank, S.S.B., et al, have tendered appropriate instruments transferring complete ownership of the system from its point of connection with the existing sewer line on Reems Creek Golf Course and delegating to the District the responsibility for operation and maintenance;

WHEREAS, the appropriate instruments prepared and executed by Asheville Savings Bank, S.S.B., et al 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.

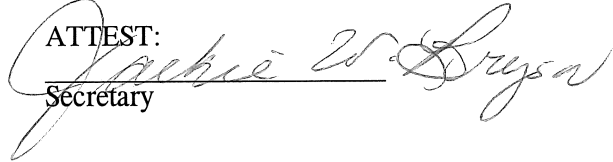
BE IT NOW HEREBY RESOLVED: The District Board of the Metropolitan Sewerage District hereby accepts the Highland Pointe Subdivision sewer system together with all easements therefor, said sewerage system being more particularly described on a plat map last dated April 13, 1994 prepared by Wallace S. McAbee, RLS and recorded in Plat Book 66, at Page 61 of the Buncombe County Registry.

This the 13 day of November, 1996.

METROPOLITAN SEWERAGE DISTRICT
OF BUNCOMBE COUNTY, NORTH CAROLINA

By: 
Chairman

ATTEST:


Secretary