

**BOARD OF THE METROPOLITAN SEWERAGE DISTRICT
FEBRUARY 12, 1997**

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, February 12, 1997. Chairman Post presided with the following members present: Bryson, Casper, Graham, Holcombe, Kelly, Pace, Selby, Solomon and Sobol. Mr. Joyner was absent.

Others present were: W.H. Mull, Engineer-Manager, William Clarke, MSD Attorney, Jack Ferguson with The Ferguson Employee Benefits Agency, Con Dameron and William Langdon of Langdon & Associates, Inc., Bill Morris of Hendon Engineering Associates, Inc., Patti Beaver of CIBO, Jim Fatland, Larry Turner, Chuck Young, Tom Tarrant, Marsha Kiser, John Sainato, Scott Monroe, and Sondra Honeycutt, MSD.

2. Approval of the Minutes of the January 15, 1997 meeting.

Ms. Bryson moved that the Board approve the minutes of the January 15, 1997 meeting as presented. Mr. Holcombe seconded the motion. Voice vote was unanimous in favor of the motion.

3. Appointments/Reappointments to the Board:

Mr. Post welcomed Ms. Elizabeth C. Graham who is a County appointee to the District Board and announced the reappointment of Ms. Jackie Bryson representing Woodfin Sanitary Water and Sewer District.

4. Engineer-Manager's Report

CONSOLIDATED MOTION AGENDA

a. Paving Contract Change Order:

Mr. Mull reported that the original paving contract in the amount of \$259,719.85, was approved by the Board November 29, 1995. The contract is for the restoration of streets and highway rights-of-way following maintenance performed by the District. However, since more work has been accomplished during the year than anticipated, a change order in the amount of \$30,000 is required to complete current work until a new contract can be advertised and awarded. Mr. Kelly asked if the original contract was put out for bid on the basis of unit price. Mr. Mull stated that the contract went through the original bid process.

b. Consideration of Take Home Vehicle Policy:

Mr. Mull presented a copy of the Vehicle Policy Resolution, which authorizes the following staff as designated Emergency Response Personnel: Director of Collections, the Assistant Superintendent of Collections/Maintenance, the On-call Collections Crew and Capital Improvements Program Manager. He reported that the Internal Revenue Service requires the policy in order to use the Commuting Valuation Rule to calculate the benefit to employees. Mr. Post asked why Mr. Cunningham receives an automobile allowance. Mr. Mull stated that Mr. Cunningham was given an allowance several years ago instead of a salary increase, because he was required to check on remote pump stations. Mr. Post suggested that Mr. Cunningham receive a salary increase for the same

amount in lieu of a car allowance since he no longer is required to check remote pump stations. Mr. Mull stated that he will look into the matter and bring a recommendation back to the Board. A brief discussion was held regarding whether the resolution needs to be amended to reflect this change. Mr. Mull reported that this issue is not included in the resolution. Mr. Slosman moved that the Board approve the Consolidated Motion Agenda. Mr. Kelly seconded the motion. As a matter of information, Mr. Sobol reported that since the Director of Collections does not live in Buncombe County, she will reimburse the District for any miles traveled over the twenty (20) mile radius limit. With no further discussion, roll call vote was as follows: 9 Ayes; 0 Nays. Mr. Pace was absent during the vote.

5. Consideration of Approval of Employee Medical/Dental Internal Service Fund Finance Plan:

Mr. Fatland reported that the Board retained the services of Kanawha Benefit Administrators and the Hartford Company in an attempt to become self-funded. He further reported that the self-funded employee medical/dental costs will be incorporated into the 1997-98 budget recommendations at the same funding level as the 1995-96 and 1996-97 fiscal years. Mr. Fatland introduced Mr. Ferguson who reported that last year's claims were up approximately 16%. However, during the last three (3) months this trend has improved, and if it continues, the District will realize a savings in the coming year. He further reported that the District was able to lock in a three (3) year rate guarantee on fixed costs and feels the coming year will be relatively stable. A discussion followed regarding reasons for the 16% increase; the 10% savings the District will realize from physician and hospital discounts by retaining Mountain Health Care and Western Carolina Health Delivery, and if the District has considered an HMO insurance plan. With no further discussion, Mr. Holcombe moved that the Board approve the Employee Medical/Dental Internal Service Fund Finance Plan as presented. Mr. Selby seconded the motion. Roll call vote was as follows: 9 Ayes; 0 Nays. Mr. Pace was absent during the vote.

Mr. Slosman asked what Committee, (Finance or Personnel) is responsible for determining the District's agent, and whether the broker service is put out for bid on a regular basis. Mr. Mull reported that the Personnel Committee considered this issue a number of times, but it is now referred to the Finance Committee. With regard to broker services, Mr. Fatland reported that he is not aware of any selection process. Mr. Post suggested that the District submit Request for Proposals for next year.

6. Consideration of Approval of Budget Calendar:

Mr. Mull presented the Budget Calendar for approval. With no discussion, Mr. Selby moved that the Board approve the calendar as presented. Ms. Bryson seconded the motion. Voice vote was unanimous in favor of the motion.

7. Investments:

a. Accept Quarterly Investment Report and Adopt amended Investment Policy:

Mr. Fatland presented the Quarterly Investment Report for the period ending December 31, 1996, which complies with NC General Statutes and the District's Investment Policy. He reported that as a result

of the Investment Policy, the District now utilizes First Citizens Bank & Trust company for its Revenue Fund deposits at an interest rate of 4.65%, and that all construction accounts are being paid in-house. Mr. Casper asked how much of the \$35,965,031 fund balance is not committed. Mr. Fatland reported that the entire balance is allocated to capital improvements, however, following meetings of the CIP and Personnel Committees, the Finance Committee will address the issue of cash flow at its March meeting.

With regard to amendment of the Investment Policy, Mr. Fatland reported that the only revision to the Policy is the transfer of the District's Revenue Fund from Wachovia Bank to First Citizens Bank & Trust, which was approved by the Board October 16, 1996. Therefore, staff recommends that the Board adopt the amended Policy. With no further discussion, Mr. Slosman moved that the Board accept the Quarterly Investment Report and adopt the amended Investment Policy as presented. Mr. Selby seconded the motion. Voice vote was unanimous in favor of the motion.

8. Accept Six Month Budget Report:

Mr. Fatland reported that the District has received 54.1% of its budgeted revenue and expended 34.8% of its budgeted expenditures through December 31, 1996. The District has expended 48.7% of its Operations and Maintenance Fund; 20.3% of its Construction Fund and 62.5% of its obligation for principal and interest. Mr. Holcombe asked why the District spent so little on construction during the year. Mr. Mull stated that staff will prepare this information and present it to the CIP Committee. A discussion followed regarding reasons for the delay in construction projects; sewer user rates, and the need for revenue bonds in the future. Mr. Fatland reported that in setting sewer rates, the Bond Order requires the District to fully fund the O&M fund regardless of the balance.

With regard to accounts payable processing, Mr. Mull reported that he met with staff to develop internal procedures to correct the problem of late payment on vendor invoices. He presented a listing of vendors and finance charges that were imposed. He stated that a letter will be sent to each vendor advising that the District is rectifying the problem and to assure that future payments will be made on time. Mr. Slosman asked whether invoices are discounted for early payment, and if the District takes advantage of this. Mr. Young reported that there is a line item in the budget showing discounts and late charges. A discussion followed regarding the amount of sales tax due on invoices for out-of-state vendors and why there is a decrease in revenues from domestic sewer users. Mr. Mull requested that the Asheville-Buncombe Water Authority make a comparison of the decrease in water and sewer revenues during the past six months. With no further discussion, Mr. Slosman moved that the Board adopt the Six Month Budget Report. Mr. Kelly seconded the motion. Voice vote was unanimous in favor of the motion. Mr. Holcombe requested that staff prepare a report on the amount of funds encumbered as of December 31, 1996.

9. Presentation on New Maintenance Facility:

Mr. Dameron reported that the design documents on Phase I are approximately 60-70% complete, which includes the service building maintenance facility and warehouse, as well as temporary offices, yard storage and sheds for flammable material. He further reported that they plan to advertise for bid

February 20, 1996; release documents and hold a pre-bid conference April 8, and receive bids May 1. Mr. Dameron presented site plans for the Maintenance Facility and stated that the Conditional Use Permit has been approved by the Town of Woodfin. Mr. Slosman asked whether they have considered using sod instead of blacktop on the front parking lot, since the area is close to the river. Mr. Dameron reported that this alternative is a possibility, but does not comply with the American Disability Act, (ADA) requirements for accessibility. He then presented schematics for the vehicle maintenance and warehouse buildings. A lengthy discussion followed regarding underground fuel storage; what the temporary offices will be used for; the total square footage of both buildings; whether the design phase is within the budgeted amount, and whether single or multi prime bids will be used.

10. Consideration of Approval of Change Order for Time Extension on Sweeten Creek Rehabilitation Project:

Mr. Mull reported that the Construction Committee met today to consider a Change Order for a 90-day Time Extension on the Sweeten Creek Project due to weather related factors. He further reported that because staff does not feel there is adequate justification for a 90-day extension, the Committee recommended approval of the Change Order with a 38-day extension instead. Following a brief discussion regarding the amount of the liquidated damages penalty clause, Mr. Kelly moved that the Board approve the recommendation of the Construction Committee. Mr. Slosman seconded the motion. Voice vote was unanimous in favor of the motion.

11. Consideration of Approval of Contract Amendment for Engineering Services on the US 74 Widening Project:

Mr. Mull reported that the Construction Committee recommends that the Board approve a Contract Amendment on the US 74 Project for an increase in the design fee by \$12,748.00 to \$58,500.00, and an increase for assistance during right of way acquisition by \$5,000.00 to a new ceiling amount of \$22,000.00. He presented a letter from Vaughn & Melton, which outlines the engineering costs for each function of the project. Mr. Mull further reported that this is a lengthy project involving the Department of Transportation, (DOT) the Historic Preservation Society, and others. He stated that the DOT has requested that the District allow sewerline construction to commence under its contract for highway widening, in order to avoid having to coordinate two separate projects. With no discussion, Mr. Slosman moved that the Board approve the recommendations of the Construction Committee. Mr. Casper seconded the motion. Roll call vote was as follows: 10 Ayes; 0 Nays.

12. Committee Reports:

a. Personnel Committee (Chain of Command Document):

Mr. Sobol reported that the Chain of Command Document was set up under the General Manager's purview in accordance with the By-laws and Bond Order of the District. He further reported that the only exception to the document is an amendment to the By-laws authorizing the hiring and dismissal of the Deputy General Managers, (DGM's) by the General Manager. Mr. Kelly moved that the Board adopt the recommendations of the Personnel Committee to amend the By-laws and adopt the Chain of Command Document. Mr. Pace seconded the motion.

Mr. Clarke stated that in order to revise the By-laws, Article VII (b) will need to be amended by deleting the following phrase "except that the responsibility of selection, employment and discharge of the Deputy General Manager of Administration and of the Deputy General Manager of Operations shall rest with the District Board." He further stated if this sentence is removed then the Engineer-Manager would be authorized to select, employ, and discharge, should it become necessary, such clerical, and other subordinate personnel as may be required to do the work of the District as provided for in the Metropolitan Sewerage Districts Act. Mr. Sobol further reported that the Committee requested that the Engineer-Manager conduct an annual review of the Deputy General Managers, which will then be reviewed by the Personnel Committee in the presence of the Engineer-Manager. A discussion followed regarding reasons for amendment to the By-laws; whether the DGM's agree with the recommendations of the Personnel Committee, and if they still have a right to appeal to the Executive Committee of the Board. With no further discussion, voice vote was unanimous in favor of the motion.

b. Construction Committee:

No further Report:

12. New Business: (Accept Administration Department Annual Report)

Mr. Fatland reported that the Administration Department consists of the following sections: Administrative Management, Maintenance Support Services, Finance Management, Human Resource Management and Purchasing and Special Projects. In addition to the Annual Report, Mr. Fatland introduced the following staff for presentations on their respective departments: Art Mandler, MIS Analyst; Chuck Young, Accounting Manager; John Sainato, Safety Director, and Scott Monroe, Building Trades Expeditor. The Board expressed appreciation to staff for their presentations.

Mr. Selby announced that a meeting will be held regarding regional sewer needs at 7:00 p.m., February 27, 1997 at Asheville-Buncombe Technical College.

13. Adjournment:

With no further business, Mr. Pace moved for adjournment at 4:15 p.m. Mr. Slosman seconded the motion. Voice vote was unanimous in favor of the motion.


Jackie W. Bryson, Secretary/Treasurer

RESOLUTION ESTABLISHING A POLICY REGARDING THE USE OF VEHICLES
AND
DEISGNATING CERTAIN INDIVIDUALS
TO RESPOND TO EMERGENCY SITUATIONS

WHEREAS, the Metropolitan Sewerage District of Buncombe County, North Carolina(MSD) has over 800 miles of sewer lines, 17 pump stations, 20,000 manholes and a multi-million capital improvements program; and

WHEREAS, the MSD must have certain of its employees use MSD vehicles to respond quickly to any emergency sewer line break, pump station failure or problem occurring during construction; and

WHEREAS, the MSD desires to have certain supervisory personnel in the field as quickly as possible to respond to any such emergencies; and

WHEREAS, the Internal Revenue Service requires a written policy concerning the use of vehicles in order to utilize the Commuting Valuation Rule in determining employee benefit of using MSD vehicles in commuting to and from work.


NOW, THEREFORE, BE IT RESOLVED:

- 1) That the following employee positions are to be designated as Emergency Response Personnel:
 - a) Director of Collections
 - b) Assistant Superintendent Collections/Maintenance
 - c) On-call Collections Crew
 - d) Capital Improvements Program(CIP) Manager
- 2) That each employee designated herein as Emergency Response Personnel are required to use an MSD vehicle in order to meet the MSD's obligation to respond quickly to any emergency sewer line break, pump station failure or emergency situation occurring . Since Emergency Response Personnel are expected to respond quickly, they will be expected to reside within a twenty(20) mile radius of the Buncombe County Courthouse.
- 3) That each employee designated herein as Emergency Response Personnel using an MSD vehicle is not allowed to use the vehicle for personal purposes other than commuting or de minimis personal use(such as a personal errand on the way between home and a MSD work site).

- 4) That the IRS Commuting Valuation Rule shall be used in determining the employee benefit of any Emergency Response Personnel in using a MSD vehicle in commuting to and from work.

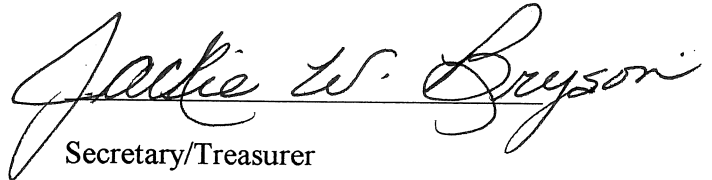
PASSED AND ADOPTED at a regularly scheduled meeting of the Board on the 12th day of February, 1997.

APPROVED:



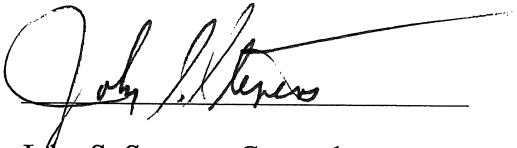
Chairman

ATTEST:



Secretary/Treasurer

APPROVED AS TO FORM:



John S. Stevens, Counsel

RESOLUTION

WHEREAS, the natural drainage basin of the French Broad River and its tributaries pass through Henderson, Madison and Buncombe Counties; and

WHEREAS, these three Counties are, in actuality, linked economically; and

WHEREAS, in each of these Counties there is an expanding demand for sewer infrastructure to support industry, economic growth, and to protect the water quality of the French Broad River and its tributaries; and

WHEREAS, the boundaries of the Madison, Henderson and Buncombe Counties and the MSD District do not necessarily follow the geography of the drainage basin nor the areas of economic development; and

WHEREAS, MSD has, in an example of farsighted regional cooperation, joined with Henderson County to provide some of its treatment capacity for sewer infrastructure in northern Henderson County; and

WHEREAS, the capacity of the existing MSD plant could be fully utilized in approximately ten (10) years; and

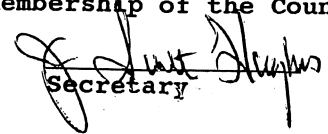
WHEREAS, the need for economic development, quality of life, and the water quality of the French Broad River and its tributaries call for broad based regional cooperation to develop additional waste water treatment facilities and related infrastructure for the future needs of the region.

NOW, THEREFORE, BE IT RESOLVED that the Council of Independent Business Owners call upon the elected and appointed leaders of Madison County, Henderson County, Buncombe County, and the Metropolitan Sewerage District to cooperate to provide regional solutions to the need for additional sewer infrastructure to support economic growth and water quality in Henderson, Madison and Buncombe Counties and to provide future capacity for the sewer treatment. Further, we urge these officials to consider:

1. A source of funding or support that provide coordination, planning, engineering, and identification of issues that should be addressed over the long term.
2. The advisability or necessity of creating a new sewer district or expanding the current jurisdiction of MSD.
3. The creation of intergovernmental agreements to provide a framework for future regional cooperation and leadership.

Adopted this day Feb 27, 1997, 1997 by the General Membership of the Council of Independent Business Owners


President


Secretary