

BOARD OF THE METROPOLITAN SEWERAGE DISTRICT

August 20, 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., Wednesday, August 20, 1997. Chairman Post presided with the following members present: Bryson, Casper, Graham, Joyner, Holcombe, Kelly, Pace, Selby, Slosman and Sobol.

Others present were: W.H. Mull, General Manager, John S. Stevens, General Counsel, Bett Stroud, Mayor of Weaverville, Michael Morgan and V.A. Parsons representing the Town of Weaverville, Doug Spell with the City of Asheville, Kenneth O. Pankow, of Pankow Engineering, Larry New with Vaughn & Melton, Jeff Peek with the Home Builders Association, Danny Bridges with McGill Associates, Karen Cragolin, Director of RiverLink, Patti Beaver with CIBO, Larry Turner, Jim Fatland and Sondra Honeycutt, MSD.

2. Approval of Minutes of the July 16, 1997 Meeting:

Ms. Bryson moved that the Board approve the minutes of July 16, 1997 meeting as presented. Mr. Holcombe seconded the motion. Voice vote was unanimous in favor of the motion.

3. Consolidated Motion Agenda:

a. Consideration of Proposed Facility Fee Revisions:

Mr. Mull reported that the Planning Committee recommends approval of the new Facility Fee Revisions and, to develop a plan to assist with affordable housing by reduction of fees from \$750.00 to \$300.00 for residences requiring government agencies to certify qualification of applicants.

b. Discussion of the District's Liquidated Damages Policy:

Mr. Mull reported that due to a situation that occurred on the Sweeten Creek Project, where a local subcontractor to Ruby-Collins, Inc. delayed the project, damages in the range of \$27,600.00 accrued. He further reported that following review of the circumstances, the Construction Committee recommended waiver of ½ of the liquidated damages, with instruction to staff for strict enforcement of the clause on future projects.

c. Consideration of Selection of Consultants - Professional Surveying Services - Manhole Location:

Mr. Mull reported that in order to complete mapping of the sewer system, the 1997-98 CIP Budget includes funding for Professional Surveying Services for manhole location. He further reported that staff recommends award of the Surveying Services contracts to the following firms: Webb Morgan & Associates, Ray E. Anders & Associates, and Corn & Hendrick. He stated the these firms have agreed to enter into a contract to perform work up to the annual budget limit of \$40,000.00, based on the hourly rates submitted.

d. Consideration of Selection of Consultant - Professional Engineering Services - Miscellaneous Sewer Rehabilitation Projects:

Mr. Mull reported that the 1997-98 CIP Budget includes funding for engineering services for rehabilitation of approximately 7,150 linear feet of

Miscellaneous Sewer Projects. He further reported that staff recommends award of the Engineering Services Contract to Vaughn and Melton in the amount of \$153,000.00.

e. Consideration of Selection of Consultants - Professional Engineering Services - Asheville Master Plan:

Mr. Mull reported that the 1997-98 Budget includes funding for Phase I of the City of Asheville's Sewer Master Plan projects as listed in the Consolidation Agreement. He further reported that staff recommends dividing the projects between Vaughn & Melton and McGill Associates in the amount of \$11,540.00 and \$19,600.00 respectively. He presented maps showing the location of the projects in question.

f. Consideration of Revisions to Administrative Section of Personnel Policy Manual:

Mr. Mull reported that the Personnel Committee recommends approval of Chapter - 3, Section B. (Recruitment Process) of the Personnel Policy Manual. He presented proposed wording revisions, which clarify lateral transfer or promotion of positions where the District does not advertise. He further reported that the Committee will continue to review the Drug Policy Section of the Manual.

g. Consideration of Employer Contribution to 401-K:

Mr. Mull reported that the Personnel Committee recommends the District contribute .5% to a 401 (k) program for all employees. Mr. Joyner voted against the recommendation.

h. Consideration of Construction Bids for Sulpher Springs Creek Sewer Rehabilitation:

Mr. Mull reported that the 1997-98 CIP Budget includes funding for construction of the Sulpher Springs Creek Sewer Rehabilitation project. He further reported that the following bids were received August 13, 1997: Wheeler Construction Company with a total base bid of \$976,575.00; Ruby-Collins, Inc. with a total base bid of \$980,681.10, and Buckeye Construction Company with a total base bid of \$1,347,555.00. He stated that staff recommends award of the contract to Wheeler Construction Company in the amount of \$976,575.00, with a contingency of \$200,000.00 for unforeseen changes in the work as authorized by the General Manager and contingent upon review and approval by the District attorney.

As requested, Items b., c., d., f., and g. were pulled for further consideration. Mr. Sobol moved that the Board approve items a., e., and h. as presented. Mr. Pace seconded the motion. Roll call vote was as follows: 10 Ayes; 0 Nays. Mr. Selby was absent during the discussion on these items.

Regarding Item b., (Liquidated Damages Policy), Mr. Holcombe reported that the Construction Committee discussed this issue at length, with varying opinions on the best method of enforcing the policy. He further reported that this is the first time the District has attempted to impose liquidated damages on a contractor and feels strongly that the entire amount should be imposed on Ruby-Collins, Inc. Mr. Casper questioned whether the damages were incurred by Ruby-Collins or the sub-contractor. Mr. Holcombe stated that Ruby-Collins is

responsible for liquidated damages. He further stated that because of potential EPA Sewer System Overflows (SSO's) regulations, the District needs to send a strong message to local contractors that its serious about getting projects done on time. Mr. Selby reported that Ruby-Collins claims the penalty is punitive; hurting small contractors who will then avoid bidding on MSD projects for fear of being put out of business. A discussion followed with regard to where the responsibility lies; how contractors will be notified about the District's change in policy; if the District can legally impose liquidated damages, and how they are calculated. Mr. Kelly pointed out that the damages are not punitive, but liquidated; an agreed upon figure with the contractor.

With no further discussion, Mr. Holcombe moved that the Board impose liquidated damages against Ruby-Collins in the full amount as specified. Mr. Casper seconded the motion. Roll call vote was as follows: 3 Ayes; 8 Nays (Ms. Bryson, Ms. Graham, Mr. Joyner, Mr. Pace, Mr. Selby, Mr. Slosman, Mr. Sobol and Mr. Post.)

Mr. Sobol moved that the Board approve the recommendation of the Construction Committee. Mr. Pace seconded the motion. Roll call vote was as follows: 8 Ayes; 3 Nays, (Mr. Casper, Mr. Holcombe and Mr. Kelly.)

Regarding Item c., (Professional Surveying Services for Manhole Location) Mr. Casper questioned the total cost involved. Mr. Mull reported that \$120,000.00 is budgeted for the work, which will be divided equally between the three (3) firms. However, there is a possibility that all the work will be done by one firm, depending on the lowest hourly rate and availability. A discussion followed regarding the number of manholes located to date; the length of the project, and whether the selection of consultants is based on the District's new policy for the procurement of professional services. With no further discussion, Mr. Slosman moved that the Board approve the recommendation of staff. Ms. Graham seconded the motion. Roll call vote was as follows: 11 Ayes; 0 Nays.

Regarding Item d., (Professional Engineering Services for Miscellaneous Sewer Rehabilitation Projects) Mr. Holcombe questioned the total estimated construction costs for the six (6) projects. Mr. Turner reported that the cost is \$1,045,000.00 for approximately 8,000 liner feet. Mr. Casper questioned whether this included the engineering costs and if these services were put out for competitive bid. Mr. Turner further reported that the total project costs are approximately \$1,500,000.00, which includes preliminary engineering, surveying, design, preparation of easements and assistance during easement acquisition. Also, that award of services is based on qualifications and negotiated fees, rather than competitive bids. A discussion followed regarding the design fee; the complexity of the projects, and whether this issue went before the Construction Committee. With no further discussion, Mr. Slosman moved that the Board approve the recommendation of staff, but that future projects be reviewed by the Construction Committee prior to Board consideration. Ms. Graham seconded the motion. Roll call vote was as follows: 8 Ayes; 3 Nays (Mr. Casper, Mr. Holcombe and Mr. Selby.)

Regarding Item f., (Revisions to Administrative Section of the Personnel Policy Manual) Mr. Sobol questioned whether all employees will have an opportunity to apply for vacant positions as they come open. Mr. Mull stated that all vacancies are advertised. With no further discussion, Mr. Sobol moved that that the Board approve the recommendation of the Personnel Committee. Mr. Joyner seconded the motion. Voice vote was unanimous in favor of the motion.

Regarding Item g., (Employer Contributions to 401(k) Plan) Mr. Casper questioned whether the District currently contributes to this plan. Mr. Mull reported that the District does not contribute, however, the City of Asheville contributes 2%; Buncombe County 2%; the Town of Biltmore Forest 3%, and the Town of Montreat 5%. He further reported that originally .5% was set aside in the 1997-98 budget for an insurance benefit program, which the Personnel Committee voted not to accept, therefore, this amount is being considered for the 401 (k) plan. Mr. Selby questioned the number of employees currently enrolled in the 401 (k) plan. Mr. Fatland reported that twenty-five (25) employees are enrolled in the 401 (k) plan and fifty-three (53) in the 457 deferred compensation plan.

Mr. Joyner stated that he voted against the recommendation because the program is for one year only, and those employees in a higher pay scale will benefit the most by this contribution. He further stated that it would be more beneficial for the District to bring someone in to counsel employees on how to save. Mr. Holcombe stated that he is in favor of the program, and that possibly, the District can increase the amount of its contribution next year. He further stated that the Personnel Committee will consider an Employee Assistance Plan, which will offer a variety of counseling services. Mr. Slosman moved that the Board defer this issue back to the Personnel Committee to consider a better plan. Mr. Selby seconded the motion. A discussion followed regarding the District's total benefits package; It's involvement in offering counseling to employees; the need to define the issues in dealing with the .5% contribution, and in treating employees equally. With no further discussion, roll call vote was as follows: 11 Ayes; 0 Nays.

4. Consideration of Reimbursement Contract with the North Carolina Department of Transportation (NCDOT) for US Hwy 74 Sewer Rehabilitation:

Mr. Mull reported that the NCDOT has agreed to include sewer construction in its highway project. In addition, it will reimburse the District for a portion of the work, since some of the existing sewer is in the highway right of way. He further reported that the District will pay 81.6% of the entire cost of the sewer work and the NCDOT 18.4%, with reimbursement to the NCDOT upon completion of construction. Mr. Mull presented a copy of the Utility Agreement and stated that the total estimated cost in upgrading the sewer line is \$1,061,475.00, with an estimated cost to the District of \$866,163.60; well within the amount budgeted. Following a brief discussion with regard to obtaining rights-of-way for this project, Mr. Selby moved that the Board approve the recommendation of staff. Mr. Sobol seconded the motion. Roll call vote was as follows: 11 Ayes; 0 Nays.

5. Consideration of Award of Annual Chlorine Bids:

Mr. Mull reported that currently the District consumes 120 tons of chlorine annually at a cost of \$361.00 per ton. He further reported that the following bids for the District's annual contract were received and opened at 11:00 a.m., August 12, 1997: Prillaman Chemical Corporation with a total base bid of \$461.00 per ton and Jones Chemical Company with a total base bid of \$349.00 per ton. The bid of Van Waters & Rogers, Inc. was received at 12:00 p.m., therefore was not opened. Mr. Mull stated that staff recommends award of the bid to Jones Chemical Company in the amount of \$349.00 per ton; an estimated annual cost of \$41,880.00. With no discussion, Ms. Bryson moved that

the Board approve the recommendation of staff. Mr. Slosman seconded the motion. Roll call vote was as follows: 11 Ayes; 0 Nays.

6. Consideration of Increase in Billing Charges:

Mr. Mull presented resolutions from the City of Asheville, Town of Montreat, Woodfin Sanitary Water & Sewer District, Town of Weaverville and the Town of Black Mountain requesting the District increase payment for billing services from the current charge of \$1.30 per bill to \$1.55 per bill. Mr. Mull reported that following review, the Finance Committee recommends that the Board approve the increase to \$1.55 per bill effective July 1, 1998, and that the Committee revisit the issue again in three years. Mr. Holcombe moved that the Board approve the recommendation of the Finance Committee. Mr. Slosman seconded the motion.

Mr. Joyner stated that reading water meters or cost of living increases should not be part of the cost to the MSD, however, the costs of auditing as a result of transfer of monies by the municipalities to the District is a legitimate expense. He further stated that the decision to increase the fee was done by the municipalities without adequate input from the District. Also, the Consolidation Agreement does not say municipalities have the right to collect on all expenses, but "shall retain the right to levy additional rates, fees or charges in order to meet its responsibilities to construct new collector and interceptor sewers and for any other lawful purpose." Mr. Pace agreed that the increase needs to be looked at, and that each municipality should consider its own expenses apart from the City of Asheville. Mr. Holcombe questioned whether Mr. Turner was involved in these discussions, with not only representatives from the City of Asheville, but other municipalities as well. Mr. Turner reported that he represented the District in a task force, but a consensus was not reached. Mr. Holcombe stated that this was a joint effort by all municipalities. Mr. Casper recommended that staff determine what it would cost the District to do its own billing. Mr. Holcombe explained that the District's current arrangement with the City of Asheville is on a prorated basis, and if the District decides to do its own billing, the City may be faced with an enforcement problem in termination of water service. A discussion followed regarding the total annual increase; wording in the Consolidation Agreements with regard to billing fees, and the need to revisit this issue again in three years. Mr. Holcombe moved that the Board approve the recommendation of the Finance Committee. Mr. Sobol seconded the motion. Roll call vote was as follows: 6 Ayes; 5 Nays (Mr. Joyner, Mr. Kelly, Mr. Pace, Mr. Selby, Mr. Slosman.)

Regarding the list of 1600 water customers who are not receiving sewer bills, Mr. Post instructed staff to contact each municipality prior to the effective date of the increase, to insure that the District is only being charged for those customers who have sewer charges on their bills. Mr. Slosman suggested that before this issue is revisited, that an open discussion be held between the municipalities and the District to determine what the actual costs are.

Regarding Item a., (Proposed Facility Fee Revisions) of the Consolidated Motion Agenda, Mr. Selby stated that since he was not present during the vote on this issue, he moved that the Board postpone implementation of the fee revisions until the September meeting of the Board. Mr. Sobol seconded the motion. Following a brief discussion, voice vote was as follows: 9 Ayes; 2 Nays (Casper, Kelly.)

7. Consideration of Selection of Engineer-of-Record:

Mr. Mull reported that as instructed by the Board, staff reviewed the Request for Qualifications received by the District for the selection of Engineer of Record. As a result, staff recommended retaining McGill Associates. However, because these qualifications were not thoroughly reviewed, Mr. Mull suggested that this issue be deferred back to the Committee for further consideration. Mr. Selby stated that the entire Board should be included in deliberations regarding the selection of Engineer of Record. Mr. Holcombe agreed with Mr. Selby and suggested that the Board also be involved in the interview process. With no further discussion, the issue was deferred back to the Planning Committee.

8. Committee Reports:

Planning Committee

Mr. Slosman reported that staff gave a report regarding future problems with EPA's SSO policy. Mr. Mull explained that if the SSO regulations are enforced, sewer service charges could double or triple in the future; even more expensive than EPA's prior policy on Combined Sewer Overflows, (CSO's). He reported that the SSO policy means no sanitary sewer overflows, no manhole overflows, and no excuses, therefore, the District must have a rehabilitation program in place. He further reported that the SSO Policy is now in effect in Atlanta, Birmingham, and Miami.

Mr. Slosman further reported that the Committee discussed the list of 1600 customers provided by the City of Asheville.

Construction Committee

Mr. Holcombe reported that in addition to the Liquidated Damages Policy, the Committee discussed the method of notification to property owners who are directly affected by construction projects; an update on a private sewer line in Ridge Crest, and a letter from Avery's Creek concerning a request for assistance with installing a sewer system to serve a subdivision.

Mr. Slosman questioned the status of the Stoner Avenue project, since access in and out of Thompson Street will be limited during the replacement of the Glendale bridge. Mr. Turner stated that he would check on the expected completion date of this project.

Finance Committee

No further report

Personnel Committee

Mr. Sobol reported that in addition to discussion regarding the 401 (k) plan, the Committee discussed the District's Drug Policy and six-month evaluation of the General Manager. Mr. Sobol further reported that the Committee needs to look into the Employee Assistance Program as referenced by Mr. Holcombe.

Mr. Post expressed his appreciation to Board Members who have taken the time to serve on Hearing Committees.

9. Unfinished Business:

Presentation by Karen Cragolin, Director of RiverLink

Ms. Cragolin gave a report regarding RiverLink's endeavor to designate the French Broad River as an American Heritage River. She presented a Resolution in support of this designation and requested that Members sign it individually as well as a Board. She reported that every municipality in the French Broad River area has signed the Resolution including, Asheville City Council, the counties of Buncombe, Henderson, Madison, and Transylvania, the Regional Water Authority, Chamber of Commerces', individuals and companies. Also, it is being distributed in Tennessee and is on the web site. She further reported that this designation will provide resources in the form of programs, technical assistance, better awareness and access to grants. A discussion was held regarding the possibility imposed restrictions or regulations as a result of this designation, and whether building another facility or interceptor sewer along the river will pose a problem for the MSD. Mr. Holcombe moved that the Board adopt the Resolution as presented by RiverLink. Mr. Joyner seconded the motion. Mr. Selby expressed his concern that if the MSD endorses the Resolution, it will have a difficult time in the construction of an interceptor sewer or new facility along the river. Ms. Graham stated that because of previous experience with other designations, she suggested that the MSD endorse the concept and amend the Resolution to include wording with regard to the future need for additional wastewater treatment facilities on the river. Mr. Holcombe moved to amend his motion to include the following wording in the Resolution as recommended by Counsel: The Metropolitan Sewerage District expresses its concern that any future use of the French Broad River take into account the continuing future need for adequate wastewater treatment facilities on the river including sites for additional wastewater treatment plants. Mr. Slosman seconded the motion. Voice vote was as follows: 10 Ayes; 1 Nay, Mr. Selby.

10. Old Business:

None

11. New Business:

Quarterly Financial Report

Mr. Fatland presented a Quarterly Financial Report for the period ending June 30, 1997. He reported that the District's average rate of return for all investments is 5.73%.

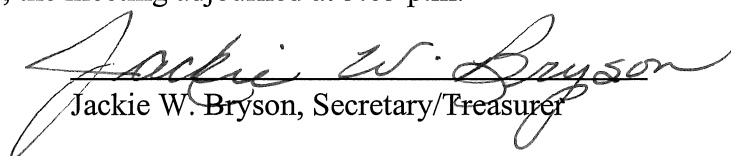
12. Closed Session

At 4:18 p.m., Mr. Holcombe moved that the Board to into closed session to discuss personnel issues.

At 5:04 p.m., the regular meeting was reconvened.

13. Adjourn

With no further business, the meeting adjourned at 5:05 p.m.


Jackie W. Bryson, Secretary/Treasurer