

**BOARD OF THE METROPOLITAN SEWERAGE DISTRICT
OCTOBER 15, 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, October 15, 1997. Chairman Post presided with the following members present: Bryson, Casper, Graham, Holcombe, Joyner, Kelly, Pace, Selby, Slosman and Sobol.

Others present were: W. H. Mull, General Manager, John S. Stevens, General Counsel, Ben Morgan with Ruby-Collins, Inc., Danny Bridges with McGill Associates, Inc., Patti Beaver with CIBO, Larry Turner, Art Mandler and Sondra Honeycutt, MSD.

2. Approval of Minutes of the September 17, 1997 Meeting:

Mr. Holcombe requested that the minutes be amended to show that he was not present at the September 17, 1997 meeting, therefore, did not move for adjournment. With no further additions for corrections, Mr. Pace moved that the minutes be approved as amended. Ms. Bryson seconded the motion. Voice vote was unanimous in favor of the motion.

3. Consideration of Amendment of Out of District Agreement - Cane Creek Water & Sewer District:

Mr. Mull reported that amendment of the Out of District Agreement between the Cane Creek Water & Sewer District (CCW&SD) and the MSD was reviewed extensively by the Planning Committee October 1, 1997. He further reported that the Committee, at its September meeting, requested additional cost information on the amount Henderson County contributed to the South Buncombe Interceptor Sewer and instructed Mr. Clarke, MSD Attorney, to investigate the legal nature of the Agreement. Mr. Mull presented information regarding the amount contributed by Henderson County and a memorandum from Mr. Clarke regarding the Agreement, which specifically states that "Any allocation to Cane Creek is subject to the District's right to limit the sewage from Cane Creek if accepting the sewage would unreasonably burden the efficient operation of the District Sewerage System". Mr. Selby questioned whether the Board can go into closed session to report on a meeting held with Buncombe County officials regarding this issue. Following review of the Statutes, Mr. Stevens quoted two specific exceptions for calling a closed session meeting, which did not, in his opinion, apply to Mr. Selby's request.

Mr. Selby reported that he and Mr. Pace met with Buncombe County officials to discuss expansion of the CCW&SD boundary, in order to accommodate new industry in the area that would otherwise be required to pay a substantial facility fee. He further reported that Buncombe County requested that the District not extend the CCW&SD boundary, but are willing to meet with Henderson County to discuss this issue. Mr. Pace stated that the main issues of concern are Henderson County's allocation and Buncombe County's request that the District not extend the CCW&SD boundary and to proceed with charging a facility fee. In addition, Mr. Selby stated that Henderson County, in its planning, requested that Buncombe County consider adding a member to the District Board. Mr. Post stated that the District received an informal request from CCW&SD three months ago, and if Buncombe County has a concern, they need to meet with Cane Creek and/or Henderson County Commissioners and come to an understanding, otherwise the District needs to make a decision regarding amendment of the Agreement. A lengthy discussion followed regarding the process for bringing CCW&SD into the District; the possible costs that could

be incurred as a result, and a clarification of the wording in the Agreement between the MSD and CCW&SD regarding the District's right to regulate effluent discharge into the system. No action was taken.

4. Consideration of Award of Construction Bids - North Swannanoa Phase 2, Section 1A:

Mr. Mull reported that bids for construction of the North Swannanoa Phase II, Section 1A Sanitary Sewer Interceptor Project were opened October 14, 1997 as follows: Ruby-Collins, Inc. with a total base bid of \$2,887,976.60; Bryant Electric with a total base bid of \$2,893,472.50; J.S. Haren Company with a total base bid of \$3,257,911.00; W. L. Hailey & Co., with a total base bid of \$3,698,835.00 and Don Moorhead Construction with a total base bid of \$3,920,235.00. He further reported that staff recommends that the contract be awarded to Ruby Collins, Inc. in the amount of \$2,887,976.60, with a \$500,00.00 contingency for unforeseen changes in the work as authorized by the General Manager, and contingent upon attorney review and approval of the bid documents. Mr. Mull presented a letter from Walter L. Currie, Attorney for the District, stating that the bid documents of all five (5) bidders are in acceptable form. In addition, he presented a written objection to the District's award of the contract for the North Swannanoa Sanitary Sewer Interceptor Project, Phase II, Section 1A-MSD Project No. 200056 to the apparent low bidder in the form of a letter from Kay D. Wall, CEO, Secretary-Treasurer of Bryant Electric Company, Inc. to Wayne J. Watkins, Capital Projects Manager of the District dated October 15, 1997. Mr. Stevens referenced page 2 of 6 of the Bid Tabulation of Ruby-Collins, Inc., which shows a dash under both the Unit Bid Price and Total for items 5.51 (Pipe Foundation Material) and 5.52 (Select Backfill Material). However, Mr. Stevens pointed out that the actual bid shows 0's to do the work. Mr. Turner stated that it is a common practice to include these charges in the pipe price.

The Board considered and discussed the written objection and found that the apparent low bidder, Ruby-Collins, Inc., did submit unit prices for Items No's. 5.51 and 5.52 by entering 0's in each space and by entering 0's in each extended total space in its bid for these two Items. The Board concluded that the foregoing entries were in compliance with Section II-Instructions to Bidders - Article 1, Paragraph 3, and found that the bid of Ruby-Collins, Inc., was properly prepared in compliance with Article VI-Discrepancy in Bids, and that there was no discrepancy in the Ruby-Collins bid. Thereupon Mr. Kelly moved and Mr. Holcombe seconded that the bid for the North Swannanoa Sanitary Sewer Interceptor Project, Phase II, Section 1A-MSD Project No. 200056 be awarded to Ruby-Collins, Inc. Roll call vote was as follows: 11 Ayes; 0 Nays.

A brief discussion was held regarding the total costs and contingency reporting on projects.

5. Consideration of Award of Construction Bids - Miscellaneous & Private Sewer Rehabilitation Projects:

Mr. Mull reported that three (3) bids were received October 14, 1997 for four (4) miscellaneous & Private Sewer Rehabilitation Projects, but were not opened because one of the bidders did not acknowledge receipt of the addendum, which changed the quantities in the bid, therefore, the contract will be readvertised.

6. Consideration of Acceptance of Developer Constructed Sewer Systems:

a. Sleep Inn West

Mr. Mull reported that the Sleep Inn West sewer system extension consists of approximately 1,074 feet of eight inch pipe installed within a public right of way. He further reported that staff recommends acceptance of the Sleep Inn West sewer extension, contingent on receipt of facsimile evidence of recordation of Warranty Deed.

b. Hamburg Mountain, Phase 1 (a/k/a Le Perrion)

Mr. Mull reported that the Hamburg Mountain, Phase 1 sewer system is an eight inch line with manholes, which was initiated prior to the adoption of formal MSD standards and specification. He further reported that staff recommends acceptance of the system and that the requirement of as-built recordation has been met.

c. Eden Glen Subdivision

Mr. Mull reported that the Eden Glen Subdivision sewer system consist of approximately 2,037 linear feet of eight inch gravity sewer to serve 51 homes located in the Black Mountain Township. He further reported that staff recommends acceptance of the system contingent on items shown on right of way audit. Mr. Turner stated that the items on the audit have been satisfied.

d. Laurel Bridge/Mountain Housing Opportunities

Mr. Mull reported that the Laurel Bridge project was initiated in 1995 with the permit issued to Mountain Housing Opportunities, Inc. for the construction of approximately 266 linear feet of eight inch gravity sewer (public portion) to serve ten two bedroom apartments. He further reported that staff recommends acceptance of the system with contingencies as noted on the document audit. Mr. Turner stated that the contingencies have been satisfied. Mr. Slosman questioned whether the Owner's Certificate of Completion is applicable on this project. Mr. Turner reported that in lieu of the aforementioned Certificate, a combination Easement/Transfer document was used, and that the current audit form will be corrected to include this document.

With no discussion, Mr. Holcombe moved that the Board approve staff's recommendations with regard to the above projects. Mr. Slosman seconded the motion. Roll call vote was as follows: 11 Ayes; 0 Nays.

7. Consideration of Contract for Relocation of Fiber Optic Cable at the Burlington Site.

Mr. Mull reported that prior to construction of the new building at the Burlington site, a fiber-optic phone line must be relocated at an estimated cost of \$42,590.00. He presented a letter and agreement from AT&T for review. Mr. Slosman questioned whether the cost of relocation was included in the original construction contract and if the District was aware of the line when the property was purchased. Mr. Mull stated that this work was pulled from the contract because the contractor could not obtain a quote. Mr. Turner reported that the line was shown on the survey and title policy, and there is a recorded easement. Following a brief review of the survey, Mr. Turner stated that although the survey

does not show the actual line, reference to the line is made in the notes. A discussion followed regarding whether the Board was made aware that this work was deleted from the contract and how it would be funded. Mr. Mull reported that this may not have been relayed back to the Board, but funds are available in the contingency to cover the cost. Ms. Graham moved that the Board adopt staff's recommendation to approve \$43,000.00 to complete the fiber-optic line relocation work. Mr. Pace seconded the motion. Roll call vote was as follows: 10 Ayes; 0 Nays. Mr. Holcombe was absent during the vote.

8. Committee Reports:

Planning Committee

Mr. Slosman reported that in addition to those items previously discussed, the Committee considered the following: the feasibility of a GIS connection with the City and County; when the preliminary final Sewer Master Plan will be available, and the status of the Pentamation Software.

Regarding the GIS cooperative effort, Mr. Selby reported that in February a fly-over of Buncombe County will take place to obtain digital ortho-photos, which will become an integral part of the District's GIS system. He further reported that the estimated cost of \$500,000.00 will be shared, with Buncombe County paying \$300,000.00 and the City of Asheville and the District paying \$100,000.00 each.. Mr. Holcombe reported that the City of Asheville has allocated \$100,000.00 of its share of the cost. Mr. Slosman asked how the systems will tie in to each other. Mr. Holcombe stated that each entity will have a copy of the same information on their individual servers, with each having their own staff and GIS files. Mr. Slosman stated that total cooperation between the entities is important in order to assure proper meshing of the system. He questioned when a meeting with the City and County will take place to discuss this issue.

Mr. Mandler, MSD's MIS Analyst, stated that currently the District has the best data of any of the entities in the GIS area and he felt that the City and County would benefit from connecting to this data. However, standardization of all three systems would be required. He further stated that the actual data benefit to the District as a result of the fly-over is, in his opinion, questionable. A discussion was held regarding the benefit to the District in contributing to the fly-over and who will spearhead this effort. With no further discussion, Mr. Selby moved that the District fund \$100,000.00 toward the GIS effort, with a recommendation that the City of Asheville and Buncombe County meet with the District to continue to develop GIS inner-activity. Mr. Sobol seconded the motion. Roll call vote was as follows: 8 Ayes; 3 Nays (Mr. Casper, Mr. Holcombe and Mr. Kelly)

Regarding completion of the Sewer Master Plan, Mr. Turner reported that a letter was addressed to Hendon Engineering Associates, Inc., October 14, 1997 requesting that their commitment to delivery the Master Plan be fulfilled. He stated that he would contact Hendon Engineering with regard to the above correspondence.

9. Unfinished Business:

None

10. Old Business:

None

11. New Business:

a. Finance Committee Meeting Date

Mr. Mull presented a notice for the Finance Committee meeting tentatively scheduled for November 4, 1997 at 2:00 p.m. and a list of recommended items to be discussed including: Revisions to the Purchasing Policy; Quarterly Investment Report; Quarterly Budget Report, and Pentamation Status Report and System Demonstration.

b. Pentamation Status Report

Mr. Mull presented a detailed Status Report on the District's Pentamation System, and gave a brief overview of its contents. Mr. Mandler reported that the system is a financial management program that allows for multiple users and includes the following modules: Fund Accounting; Budget Manager; Inventory/Purchasing, and Fleet Management, all of which are on-line and implemented in various stages. He further reported that the targeted operational data for the Fixed Assets module is scheduled to be on-line July 1, 1998, and the Financial Job Cost system and Maintenance programs will be two separate systems. Also, that during the next fiscal year, project tracking will be available. He stated that although there has been some minor problems, this system has very good technical support and the company is strong and growing. Mr. Sobol questioned whether this system has the capability to track various problems encountered on the system. Mr. Mandler stated that he wrote a custom data base for this purpose, which has been on-line for approximately six months and that currently 20,000 jobs have been entered.

c. Cane Creek Middle School Sewer Service:

Mr. Selby presented a letter from Dr. Bob Bowers, Superintendent of Buncombe County Public Schools, addressed to Mr. Mull asking if the District can facilitate the funding strategies necessary for a joint effort to accommodate sewer service to a new middle school and recreational facility tentatively planned by the Buncombe County Parks and Recreation Department. Mr. Selby stated that Buncombe County is not asking the District to fund the project, but provide a cost estimate before committing to a package wastewater treatment plant. Following a discussion regarding the cost involved, and how this issue should be addressed, Mr. Mull suggested that a meeting between the District, Buncombe County and Buncombe County Public Schools be scheduled to discuss the options. With no further discussion, the Board agreed that this issue be placed on the Planning Committee agenda for further consideration and that a response be drafted to Dr. Bowers stating the Board's intention.

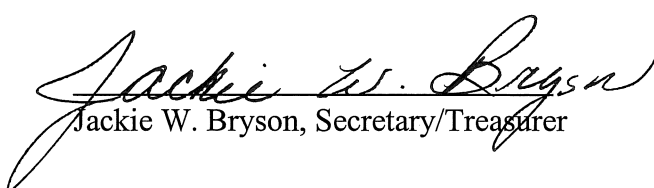
In other business, Mr. Mull gave a brief report on the status of a sewer backup that occurred on the system.

At 4:07 p.m., Mr. Joyner moved that the Board go into closed session to consider a grievance against an employee. Mr. Sobol seconded the motion.

At 4:40 p.m., the regular meeting reconvened.

12. Adjournment:

At 4:42 p.m., Mr. Selby moved for adjournment. Mr. Pace seconded the motion. Voice vote was unanimous in favor of the motion.


Jackie W. Bryson, Secretary/Treasurer

RESOLUTION

APPROVING THE ACQUISITION OF THE SEWERAGE SYSTEM FACILITIES OF EDEN GLEN SUBDIVISION

WHEREAS, the Metropolitan Sewerage District ("District") has been asked to acquire the sewerage system facilities constructed to serve Eden Glen Subdivision, located off Lake Eden Road in Black Mountain Township, Buncombe County, and more particularly described on a plat bearing an initial date of February 24, 1997, prepared by C & R Surveying and recorded in the Office of the Register of Deeds for Buncombe County, in Plat Book 68, at Page 40;

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 Eden Glen Subdivision 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 Eden Glen Subdivision sewerage system and the responsibility to operate and maintain it will preserve and maintain the public health and welfare within the District;

WHEREAS, Big Springs, LLC 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 Big Springs, LLC 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 Eden Glen Subdivision sewerage system together with all easements therefor, said sewerage system being more particularly described on a plat map dated February 24, 1997 prepared by C & R Surveying and recorded in Plat Book 68, at Page 40, Buncombe County Registry.

This the 15th day of October, 1997.

METROPOLITAN SEWERAGE DISTRICT OF
BUNCOMBE COUNTY, NORTH CAROLINA

By: _____

Chairman

ATTEST:

Secretary

Jackie W. Byron
Secretary

RESOLUTION

APPROVING THE ACQUISITION OF THE SEWERAGE SYSTEM FACILITIES OF HAMBURG MOUNTAIN, PHASE I

WHEREAS, the Metropolitan Sewerage District ("District") has been asked to acquire the sewerage system facilities constructed to serve Hamburg Mountain, Phase I (formerly Le Perrion) Subdivision, located off Hamburg Drive in the Town of Weaverville, Reems Creek Township, Buncombe County, and more particularly described on a plat bearing an initial date of January 14, 1997, last revised May 9, 1997 prepared by McMahan & Associates and recorded in the Office of the Register of Deeds for Buncombe County, in Plat Book 66, at Page 157;

WHEREAS, the Hamburg Mountain, Phase I sewerage system was completed prior to the adoption of formal MSD Standards and Specifications;

WHEREAS, the sewer system is contained either within a road right of way accepted by the Town of Weaverville as part of the public road system or within easements retained by the developer;

WHEREAS, the District Board has determined the acquisition of the Hamburg Mountain, Phase I Subdivision sewerage system and the responsibility to operate and maintain it will preserve and maintain the public health and welfare within the District;

WHEREAS, an As-Built and Easement Survey has been placed on the public record transferring ownership of the system to the District and delegating to the District the responsibility for operation and maintenance;

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 Hamburg Mountain, Phase I sewerage system together with all easements therefor, said sewerage system being more particularly described on a plat map dated January 14, 1997, last revised May 9, 1997 prepared by McMahan & Associates and recorded in Plat Book 66, at Page 157, Buncombe County Registry.


This the 15th day of October, 1997.

METROPOLITAN SEWERAGE DISTRICT OF
BUNCOMBE COUNTY, NORTH CAROLINA

By: 

Chairman

ATTEST:


Secretary

RESOLUTION

APPROVING THE ACQUISITION OF THE SEWERAGE SYSTEM FACILITIES OF SLEEP INN WEST

WHEREAS, the Metropolitan Sewerage District ("District") has been asked to acquire the sewerage system facilities constructed to serve Sleep Inn West, located along Old Haywood Road near the intersection of Crowell Road (SR 1455) in Asheville Township, Buncombe County, and more particularly described on as-built drawings dated August 21, 1997, prepared by Ledford Engineering, Inc., said as-built drawings on file in the offices of the Metropolitan Sewerage District of Buncombe County.

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 Sleep Inn West 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 Sleep Inn West sewerage system and the responsibility to operate and maintain it will preserve and maintain the public health and welfare within the District;

WHEREAS, Asheville Hotel Associates Limited Partnership 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 Asheville Hotel Associates Limited Partnership 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 Sleep Inn West sewerage system, said sewerage system being more particularly described on as-built drawings dated August 21, 1997, prepared by Ledford Engineering, Inc., said as-built drawings on file in the offices of the Metropolitan Sewerage District of Buncombe County.

This the 15th day of October, 1997.

METROPOLITAN SEWERAGE DISTRICT OF
BUNCOMBE COUNTY, NORTH CAROLINA

By: _____

Chairman

ATTEST:

Secretary

RESOLUTION

APPROVING THE ACQUISITION OF THE SEWERAGE SYSTEM FACILITIES OF LAUREL BRIDGE HOUSING COMMUNITY

WHEREAS, the Metropolitan Sewerage District ("District") has been asked to acquire the sewerage system facilities constructed to serve Laurel Bridge Housing Community, located off Whitson Road in Asheville Township, Buncombe County, and more particularly described on a plat bearing an initial date of July 24, 1995 and last revised on December 4, 1995, prepared by Blue Ridge Land Surveying, Inc. and recorded in the Office of the Register of Deeds for Buncombe County, in Plat Book 64, at Page 120;

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 Laurel Bridge Housing Community 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 Laurel Bridge Housing Community sewerage system and the responsibility to operate and maintain it will preserve and maintain the public health and welfare within the District;

WHEREAS, Mountain Housing Opportunities, 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 Mountain Housing Opportunities, 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 Laurel Bridge Housing Community sewerage system together with all easements therefor, said sewerage system being more particularly described on a plat map dated July 24, 1995 and last revised on December 4, 1995 prepared by Blue Ridge Land Surveying, Inc. and recorded in Plat Book 64, at Page 120, Buncombe County Registry.

This the 15th day of October, 1997.

METROPOLITAN SEWERAGE DISTRICT OF
BUNCOMBE COUNTY, NORTH CAROLINA

By: _____

Chairman

ATTEST:


Secretary

MSD Metropolitan Sewerage District of Buncombe County, North Carolina

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Telephone: Area Code 704-254-9646

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John S. Stevens, General Counsel



O.R. Post, Chairman
E. Benson Slosman, Vice-Chairman
Jackie W. Bryson
Larry Casper
Elizabeth C. Graham
Michael L. Holcombe
Joe Joyner
E. Glenn Kelly
Ben Pace
Bob Selby
C. Michael Sobol

Resolution Amending 1997-98 *Operation and Maintenance Fund Budget*

WHEREAS, the Board of the Metropolitan Sewerage District of Buncombe County, North Carolina adopted its Operation and Maintenance Fund Budget on June 11, 1997; and

WHEREAS, the District has a Reserve for Encumbrances totaling \$132,629, which in accordance with generally accepted accounting principles should be reflected in a budget amendment; and

NOW, THEREFORE, BE IT RESOLVED:

That the Board of the Metropolitan Sewerage District of Buncombe County does hereby approve an increase in the Operation and Maintenance Fund Budget from \$9,777,662 to \$9,910,291.

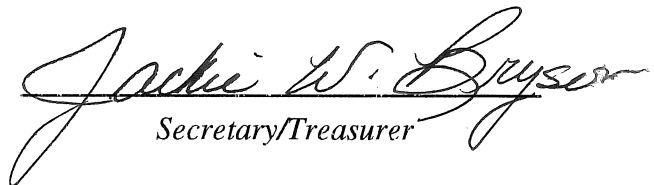
Adopted this 12th day of November, 1997.

Approved:

Attest:




Chairman of the Board



Secretary/Treasurer

Approved As To Form:



District Counsel