

BOARD OF THE METROPOLITAN SEWERAGE DISTRICT
MARCH 18, 1998

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, March 18, 1998. Chairman Casper presided with the following members present: Aceto, Bryson, Field, Graham, Kelly, Pace, Selby, Sobol. Mr. Joyner was absent.

Other present were: W. H. Mull, General Manager, John S. Stevens, General Counsel, William Langdon and Con Dameron of Architectural Resource Collaborative, Diane Delafield, Marketing Consultant, Mike Shuck of Market Insight, Ginny Liles and Tammy Bostick representing the League of Women Voters, Patti Beaver of CIBO, Brenda Fullick of Mountain Express, Jim Fatland, John Kiviniemi and Sondra Honeycutt, MSD.

2. Approval of Minutes of the February 18, 1998 Meeting:

Mr. Selby moved that the Board approve the minutes of the February 18, 1998 meeting as presented. Ms. Bryson seconded the motion. Voice vote was unanimous in favor of the motion. Ms. Field was absent during the vote.

3. Consolidated Motion Agenda:

a. Consideration of Architectural Contract for Consolidated Office Facility:

Mr. Mull reported that the Planning Committee recommends entering into a contract with the Architects for design and construction of Phase II, Administration offices in an amount not to exceed \$226,375.00, contingent upon changes made to the contract pursuant to the District's Attorney. Additionally, management of this project is to be transferred to the Construction Committee and Ms. Field will act as liaison for information between Mr. Mull and the Architects to the Planning Committee and Board. He further reported that Mr. Fatland will meet with the Engineer of Record to look at the economic feasibility of an operating lease, bond financing proposal, and getting historical designation for the CP&L building. Also, an addition to the Contract for an energy analysis/consultant and alternatives with the Architect (other services) will be brought to the Board for approval.

b. Consideration of Variance to Allow Use of Low Pressure Sewage Pump System in Proposed Subdivision:

Mr. Mull reported that the developer of a proposed subdivision has requested that the District consider a variance to allow use of a low pressure sewage pump system, which would not be a public system and is not allowed in the District's current regulations. He further reported that the Planning Committee recommends disapproval of the project, but that the policy be reviewed in the future to consider alternative methods of connection to the system so as not to restrict growth.

c. Consideration of Bids for Carrier Bridge Pump Station Grinders:

Mr. Mull reported that the following bids were received March 12, 1998 for the Carrier Bridge Pump Station Grinders: J.S. Haren Company, Inc. with a total base bid of \$121,850.00; R.T. Construction Company, Inc. with a total base bid of \$129,000.00; Kemp Construction Company, Inc. with a total base

bid of \$129,450.00 and Central Builders, Inc. with a total base bid of \$133,994.00. He further reported that staff recommends approval of the bid of Haren Company, Inc. in the amount of \$121,850.00, with a contingency of \$10,000.00, subject to attorney review and approval. He stated that funds for the project are available out of the \$250,000.00 Pump Station Upgrade items in the CIP budget.

d. Consideration of Change Orders for New Maintenance Facility:

1. Time Extension

Mr. Mull reported that Cooper Enterprises has asked for a time extension of 113 days due to relocation of the AT&T Fiber Optic Cable and weather delays. He further reported that the Construction Committee recommends that the Change Order for a time extension be approved.

2. Revisions to Drainage System

Mr. Mull reported that during construction of the gabion retaining walls, drainage pipes not shown on the survey were encountered. He further reported that because it is necessary to relocate these pipes, the Construction Committee recommends approval of the Change Order in the amount of \$5,446.00.

3. Authorize General Manager to Approve Change Order for Contingency:

Mr. Mull reported that the Construction Committee recommends authorizing the General Manager to approve a Contingency Change Order in the amount of \$40,000.00 for unforeseen changes in project.

e. Consideration of Amendment to Agreement for Design Service - Old Haywood Road - Misc. Sewer Rehabilitation - Vaughn & Melton:

Mr. Mull presented a map showing the location of the Old Haywood Road project and reported that Vaughn & Melton submitted a proposal requesting an increase of \$53,200.00 for design fees to be added to the current contract. He stated that the increase is due to the need for extending the limits of the line by a total of 6,750 feet. He further reported the Construction Committee recommends approval of \$36,000.00 for the additional design work, with the unused design fees from Sweeten Creek @ Edgewood and Long Shoals Road to be used toward design of this project. A discussion followed regarding the reason for extending the line and whether the line is shown on SSES maps.

f. Consideration to Classify Equipment as Surplus Property:

Mr. Mull reported that the District currently has on hand two (2) MSA model 401 air packs with pressure demand regulators, which were purchased prior to its contract with the City of Asheville HAZMAT team for emergency chemical response. He further reported that because the equipment is 15 years old and has no market value, staff recommends that the District donate this equipment to a local emergency volunteer fire department for use in training and response procedures. He presented a letter from the District's Consulting Engineers approving the disposal of this equipment as surplus property.

g. Consideration of Historic Preservation Resolution for CP&L Building:

Mr. Mull reported that the Woodfin Town Board adopted a resolution in support of the District's effort in pursuing an historic designation for the CP&L building. He further reported that staff recommends approval of a resolution to prepare an application to the North Carolina Department of Cultural Resources, Division of Archives and History for nomination of inclusion of the CP&L building on the National Register of Historic Places.

With regard to item f. (Surplus Property) Mr. Pace recommended that the equipment be donated to the nearest fire department. Mr. Kelly requested that item a. (Architects Contract) be pulled from the consolidated motion agenda for further consideration. With no further discussion, Mr. Kelly moved that the Board approve items b. through g. of the Consolidated Motion Agenda. Mr. Pace seconded the motion. Roll call vote was as follows: 8 Ayes; 0 Nays. Ms. Field was absent during the vote.

Regarding Item a. (Architectural Contract), Mr. Kelly asked if the Attorney reviewed and considered the ten (10) contract items with the Architects. Mr. Mull stated the these items were discussed with the Architects and as a result, an acceptable contract was reached. Mr. Kelly further questioned whether the contract can be called prior to completion and if it includes the costs of application for payment and approval. Mr. Dameron stated that the contract can be called at any time, and that it covers the cost of administration. Mr. Casper asked about the length of contract and whether any changes have been made to Article 4., which the MSD Attorney stated was "weighted heavily in favor of the architect". Mr. Dameron stated that the contract will take approximately eight (8) months and presented a contract timeline for Board review. With regard to Article 4 of the contract, Mr. Dameron stated that the contract is an American Institute of Architects contract, which is in his opinion fair and never had a claim against.

Mr. Casper asked for Ms. Field's opinion regarding the percentage of the Architectural fee compared to the total cost of construction. Ms. Field stated that she is satisfied that 8.5% of the total cost is reasonable. He also asked whether the cost of \$145,000.00 for Architectural Design and \$90,000.00 for Contract Administration is correct. Mr. Dameron stated that this is the base contract amount and that the energy proposal in the amount of \$20,000.00 is a separate contract for items the District may choose to pursue. Mr. Kelly moved that the Board approve the Architectural Contract in the amount of \$226,375.00. Mr. Pace seconded the motion. A brief discussion followed regarding whether the Contract for an Energy Analysis/Consultant was included in the motion. Mr. Sobol moved that the motion be amended to include the Energy Contract in an amount not to exceed \$20,000.00. Ms. Field seconded the motion. Roll call vote was as follows: 9 Ayes; 0 Nays.

4. Consideration of Acceptance for Ownership and Maintenance of Developer Constructed Sewer Systems: Woodland Gardens and The Midlands:

Mr. Mull presented a map showing the location of Woodland Gardens and The Midlands sewer systems. He reported that Woodland Gardens is located off Sweeten Creek Road in South Asheville and included installation of 82 linear feet of 8" ductile iron pipe at an approximate cost of \$6,150.00. He further reported that The Midlands is located off Merrimon Avenue in North Asheville and

included installation of 1,926 linear feet of 8" line at an approximate cost of \$43,934.50. He stated that all MSD requirements have been met on these projects and that staff recommends acceptance for ownership and maintenance of the developer constructed sewer systems. 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.

5. Report on Financing Options for Renovation of Burlington Property:

Mr. Fatland reported that the Planning Committee approved a recommendation to authorize staff and the Engineer of Record to review revenue bond financing, an operating lease and historical preservation grants for the Burlington Property. He stated that the alternative of using 160A-20 installment financing and having the Developer do a turnkey operation without bidding, violates the North Carolina General Statutes. He further reported that Mr. Denny Martin of McGill Associates will assist staff in evaluating the financial alternatives, with a report to the Board in April. A discussion following regarding the various aspects of an Operating Lease, and Revenue Bond Financing.

6. Report on Customer Survey by Market Insight:

Mr. Mike Shuck of Market Insight presented a copy of the results of the Customer Survey and briefly reviewed the Executive Summary which included the following topics:

- Awareness and knowledge of MSD
- Value of sewer service
- MSD sewer rates
- Sewer Rehabilitation/Expansion
- MSD Personnel
- MSD's Impact on the area's quality of life
- Interest in soil supplements (Nutri-Line)
- MSD vehicle fleet

A discussion followed regarding MSD's overall rating.

7. Committee Reports:

Planning Committee

Mr. Selby reported that the Planning Committee recommends that management of the Administration building project be transferred to the Construction Committee and asked that Ms. Field serve as liaison for information between Mr. Mull and the Architects to the Planning Committee and Board. He further reported that the Committee discussed a request from a developer to allow use of a low pressure sewage pump system in a proposed subdivision. He stated that the Committee did not feel the Board would agree to take over such a system, but decided to revisit alternative methods of connection to the system and to consider standards that developers can build and design to.

In other business, he reported that the District has applied to be a certifying agent for the State for sewer plans. However, in order to get Permit Delegation from the State, the Sewer Use Ordinance needs to be amended to

include enforcement procedures. Also, the Committee discussed it's objectives for the next twelve months and asked for suggestions from the Board on specific items it would like the Planning Committee to address. A discussion followed regarding the role of the Construction Committee.

Construction Committee

No further report.

8. Unfinished Business:

Report on Smoking Policy

Mr. Mull presented a copy of the Smoking Policy, which was reviewed by the MSD Attorney and Safety Director, to ensure compliance with the State Statutes in providing 20% equivalent space for smoking and 80% for non-smoking. He stated that each facility is being looked at to determine where smoking will be allowed. A discussion followed regarding the portion of the Administration building that has been designated as a smoking area; if separate ventilation systems are required and whether the Buncombe County Ordinance declared non-smoking in all municipal buildings. Ms. Field reported that the Ordinance was adopted prior to the State Statute.

9. Old Business:

a. Report on Meeting with Congressman Taylor:

Mr. Selby reported that on March 2 Congressman Taylor met with Board representatives, the County Manager, Assistant County Manager and staff to present the District's funding needs for sewer rehabilitation projects, Hydro-Electric and Methane Gas generation. He further reported that Congressman Taylor toured the Hydro Dam and was very pleased with the District's funding request; stating that because of the Hydro-Electric aspect of the plant, combined with Buncombe County's methane gas handling need, he felt a funding need for this specific purpose could be justified. A discussion followed regarding steps the District can take to steer this issue through the Appropriations Sub-committee.

As a matter of information, Mr. Mull reported that the District is burning landfill gas in one generator at a steady rate of 450 btu's.

b. Discussion on Cane Creek Agreement:

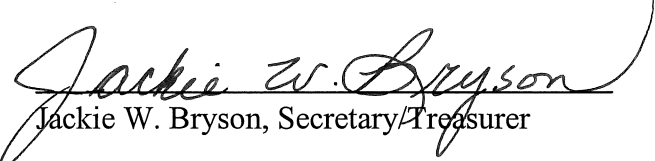
Mr. Casper reported that he received a letter from Robert D. Eklund, Chairman of the Henderson County Board of Commissioners requesting that the District amend it's agreement with the Cane Creek Water and Sewer District ("CCWSD") to extend the 1.35 MGD allocation to the entire CCWSD, including all areas which are annexed. He stated that approval of this request would mean that until the 1.35 MGD allocation were exhausted, no one located within the CCWSD would have to pay a capacity depletion fee or system development charge to MSD. He further stated that approval of this request would allow the ITT industrial facility to locate in the northern portion of Henderson County without having to pay a substantial fee. In addition, the Henderson County Board of Commissioners are requesting equalization of requirements for all persons located within the CCWSD, regardless of whether they are located in the original boundaries of CCWSD, or an area which has been annexed into the CCWSD.

Mr. Mull gave a brief history of the agreement, which specifies that the 1.35 MGD allocation applies only within the current District and not any annexed areas or areas outside the CCWSD. He stated that if the agreement is amended to include these areas, the 1.35 MGD would be used up sooner, and no allocation fees would be paid by those connecting to it. A discussion followed regarding the capacity of the line; the number of gallons currently going into the system, and who is connected on the Buncombe County portion of the line. Mr. Selby stated that he feels MSD and Buncombe County should be protective of the capacity of the line by looking at the needs of Buncombe County in addition to the request of Henderson County. In addition, he stated that the letter is asking MSD to consider this area as an industrial basin, which could benefit Henderson County, Buncombe County and the City of Asheville. He further stated that he is not in favor of allowing ITT or anyone to connect without paying a capacity depletion fee, but that the request merits serious consideration.

Mr. Aceto moved that the entire issue be referred to the Planning Committee. Mr. Pace seconded the motion. Mr. Casper stated that two issues are involved; the planning concept and ITT's payment of the fee, which is an unfair advantage. Mr. Selby suggested that Henderson County be approached with the idea that the District will consider the request if they consider amending the agreement to forego the 1.35 MGD allocation. Mr. Aceto stated that his motion is not to waive the capacity depletion fee for ITT. He further stated that when the agreement was approved by the Board there was no capacity depletion fee, therefore, he would like the opportunity to revisit the entire issue with the Planning Committee. Mr. Casper stated that because a response is necessary, he suggested that the Planning Committee prepare to make a recommendation, with regard to ITT at the next meeting of the Board. With no further discussion, voice vote was as follows: 7 Ayes; 2 Nays (Mr. Casper and Mr. Kelly).

10. Adjournment:

With no further business, Ms. Graham moved for adjournment at 3:08 p.m. Mr. Pace seconded the motion. Voice vote was unanimous in favor of the motion.


Jackie W. Bryson, Secretary/Treasurer

RESOLUTION
FOR THE
METROPOLITAN SEWERAGE DISTRICT BOARD

WHEREAS, the District Board of the Metropolitan Sewerage District has purchased the old CP&L Steam Generating Plant at 2024 Riverside Drive, (Highway 251), at the intersection of Elk Mountain Road in Woodfin, North Carolina for the purpose of restoration and renovation for centralized office space; and

WHEREAS, said structure was built by "William Trotter Weaver" and made operational July 1, 1916, the same month of the "flood of 1916" and was the only source of power for residential, industrial and trolley car transportation until November, 1916, when the hydroelectric plants could be rebuilt; and


WHEREAS, since historic preservation construction costs are generally greater than new construction, the District should avail itself of every opportunity for assistance to preserve this historic structure; and

WHEREAS, to be eligible for Federal or State Grants or low interest loans, the CP&L structure must be listed on the National Register of Historic Places; and

WHEREAS, application for nomination for the listing on the National Register of Historic Places must be made to the North Carolina Department of Cultural Resources, Division of Archives and History,

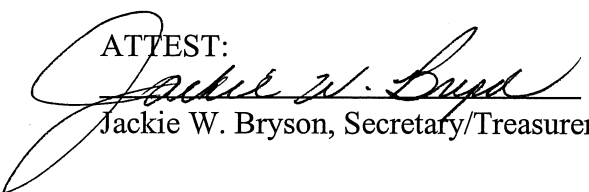
NOW, THEREFORE, BE IT RESOLVED by the District Board of the Metropolitan Sewerage District of Buncombe County, North Carolina that staff prepare application to the North Carolina Department of Cultural Resources, Division of Archives and History for nomination of inclusion of the CP&L building as a listed facility on the National Register of Historic Places.

ADOPTED this 18th day of March, 1998.



Larry Casper, Chairman
Metropolitan Sewerage District of
Buncombe County, North Carolina

ATTEST:


Jackie W. Bryson, Secretary/Treasurer

Coy F. Rice, *Mayor*
Charles G. Bradley, *Mayor Pro-Tem*
Willis K. Banks, *Alderman*
W.D. Garland, *Alderman*
John B. Maney, *Alderman*
Donald W. Penland, *Alderman*
John C. Young, *Alderman*



Ron Nalley
Town Administrator

Cheryl Mears
Town Clerk

TOWN OF WOODFIN

90 Elk Mountain Road • Woodfin, North Carolina 28804 • (704) 253-4887 • Fax (704) 253-4700

RESOLUTION ENDORSING THE EFFORTS OF METROPOLITAN SEWERAGE DISTRICT TO PRESERVE THE OLD CP&L STEAM GENERATING PLANT.

WHEREAS, the Mayor of Woodfin has received a letter from the Chairman of the Metropolitan Sewerage District Board requesting support of the District's efforts to have the old CP&L building nominated to be listed on the National Register of Historic Places; and

WHEREAS, said structure was built by "William Trotter Weaver" and made operational July 1, 1916, the same month of the "flood of 1916" and was the only source of power for residential, industrial and trolley car transportation until November, 1916 when the hydroelectric plants could be rebuilt; and

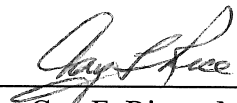
WHEREAS, the CP&L building has been vacant since 1964; and

WHEREAS, given the historical significance of this first steam generating plant (in the region) has played in the origins of the Town of Woodfin; and

WHEREAS, the Board of Aldermen supports the MSD's efforts to restore and preserve this historic structure; and

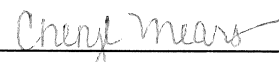
NOW, THEREFORE, BE IT RESOLVED, that the Town of Woodfin Board of Aldermen, endorses the efforts of the Metropolitan Sewerage District to preserve this part of our history.

ADOPTED, this 17th day of March 1998.



Coy F. Rice, Mayor

ATTEST:



Cheryl Mears, Clerk

RESOLUTION

RESOLUTION APPROVING ACQUISITION OF THE SEWERAGE SYSTEM FACILITIES OF WOODLAND GARDENS

WHEREAS, the Metropolitan Sewerage District ("District") has been asked to acquire the sewerage system facilities constructed to serve Woodland Gardens located off Sweeten Creek Road in Asheville, North Carolina, Buncombe County. Said sewerage system facilities consisting of approximately 82 linear feet of public sewer line more particularly described on a plat bearing an initial date of May 29, 1997 and last revised September 23, 1997 prepared by J. Glenn Haynes, RLS and recorded in the Office of the Register of Deeds for Buncombe County, in Plat Book 69, at Page 87;

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 Woodland Gardens 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 Woodland Gardens sewerage system and the responsibility to operate and maintain it will preserve and maintain the public health and welfare within the District;

WHEREAS, Michael R. and Sally J. McLeod have 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 Michael R. and Sally J. McLeod 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.

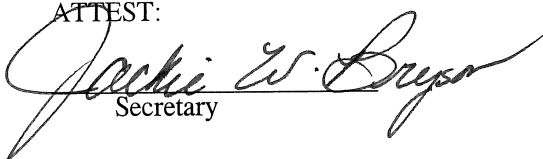
BE IT NOW HEREBY RESOLVED: The District Board of the Metropolitan Sewerage District hereby accepts the public portion of Woodland Gardens Sewerage System together with all easements therefor, said sewerage system being more particularly described on a plat map dated May 29, 1997 and last revised September 23, 1997 prepared by J. Glenn Haynes, RLS and recorded in the Office of the Register of Deeds for Buncombe County, in Plat Book 69, at Page 87.

This the 18th day of March, 1998.

METROPOLITAN SEWERAGE DISTRICT OF
BUNCOMBE COUNTY, NORTH CAROLINA

By: _____
Chairman

ATTEST:


Secretary

RESOLUTION

**RESOLUTION APPROVING THE ACQUISITION OF THE
SEWERAGE SYSTEM FACILITIES
OF THE MIDLANDS**

WHEREAS, the Metropolitan Sewerage District ("District") has been asked to acquire the sewerage system facilities constructed to serve The Midlands located off Merrimon Avenue, Asheville, North Carolina, Buncombe County, and more particularly described on a plat bearing an initial date of August 10, 1994, prepared by Ray E. Anders & Associates, Inc. and recorded in the Office of the Register of Deeds for Buncombe County, in Plat Book 62 at Page 134;

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

WHEREAS, Stratford Properties, 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 Stratford Properties, 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.

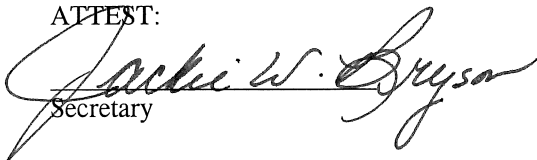
BE IT NOW HEREBY RESOLVED: The District Board of the Metropolitan Sewerage District hereby accepts the Midlands Sewerage System together with all easements therefor, said sewerage system being more particularly described on a plat map dated August 10, 1994, prepared by Ray E. Anders & Associates, Inc. and recorded in Plat Book 62 at Page 134, Buncombe County Registry.

This the 18th day of March, 1998.

METROPOLITAN SEWERAGE DISTRICT OF
BUNCOMBE COUNTY, NORTH CAROLINA

By:  _____
Chairman

ATTEST:


Secretary