

**BOARD OF THE METROPOLITAN SEWERAGE DISTRICT**  
**MARCH 10, 1999**

**1. Call to Order:**

A meeting of the Board of the Metropolitan Sewerage District was held in the Boardroom of MSD's Administration Building at 10:24 a.m., Wednesday, March 10, 1999. Chairman Selby presided with the following members present: Aceto, Blackburn, Graham, Kelly, Pace, Sobol, Spell and Venable. Those members absent were: Bryson and Field. Ms. Field was absent due to inclement weather.

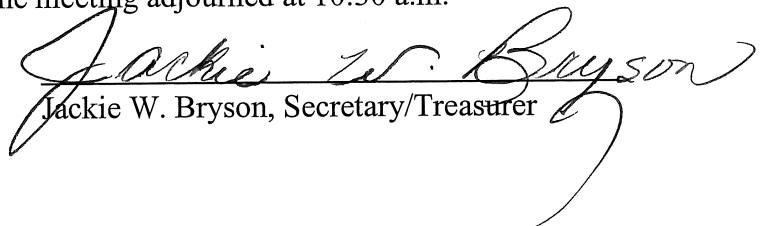
Others present were: W. H. Mull, General Manager, William Clarke, District Attorney, Jim Fatland, Tom Hartye and Sondra Honeycutt.

**2. Consideration of Resolutions to Direct Application to the Local Government Commission for Issuance of \$30.3 Million in Sewer Revenue Bonds and Authorize \$14 Million in Cash Defeasance:**

Mr. Selby presented a copy of the resolutions attached hereto. Mr. Clarke explained that the Resolution to direct application to the Local Government Commission includes the findings that the District Board needs to make under the existing Bond Order to incur additional indebtedness. He further explained that the Resolution for the Cash Defeasance of outstanding bonds authorizes the General Manager, or his designee, to select the bonds to be defeased in order to maximize savings to the District. With no discussion, Mr. Kelly moved that the Board adopt the recommendation of the Finance Committee and approve the Resolutions as presented. Ms. Graham seconded the motion. Roll call vote was as follows: 9 Ayes; 0 Nays.

**3. Adjournment:**

With no further business, the meeting adjourned at 10:30 a.m.

  
Jackie W. Bryson, Secretary/Treasurer

RESOLUTION AUTHORIZING THE DISTRICT TO APPLY CERTAIN MONEYS TO THE PAYMENT AT MATURITY OR REDEMPTION OF CERTAIN OUTSTANDING METROPOLITAN SEWERAGE DISTRICT OF BUNCOMBE COUNTY, NORTH CAROLINA SEWERAGE SYSTEM REVENUE REFUNDING BONDS AND SEWERAGE SYSTEM REVENUE BONDS AS DETERMINED BY THE DEPUTY GENERAL MANAGER FOR ADMINISTRATION OF THE DISTRICT PURSUANT TO THE BOND ORDER ADOPTED BY THE DISTRICT BOARD OF SAID DISTRICT ON MAY 23, 1985, AS AMENDED.

WHEREAS, the Metropolitan Sewerage District of Buncombe County (the "District"), a public body and body politic and corporate in the County of Buncombe, State of North Carolina, is authorized under the provisions of the North Carolina Metropolitan Sewerage District Act, as amended (the "MSD Act"), and The State and Local Government Revenue Bond Act, as amended (the "Revenue Bond Act" and, together with the MSD Act, the "Enabling Act") to acquire, lease, construct, reconstruct, improve, extend, enlarge, equip, repair, maintain and operate any sewerage system or part thereof within and without the District, to issue revenue bonds of the District to pay the cost of a sewerage system and to issue revenue bonds; and

WHEREAS, the District has heretofore issued (a) \$14,710,000 principal amount of its Sewerage System Revenue Refunding Bonds, Series 1991A, which are currently outstanding in the principal amount of \$1,335,000, (b) \$20,845,000 principal amount of its Sewerage System Revenue Refunding Bonds, Series 1992A, which are currently outstanding in the principal amount of \$12,105,000, (c) \$22,500,000 principal amount of its Sewerage System Revenue Bonds, Series 1992B, which are currently outstanding in the principal amount of \$8,200,000, and (d) \$33,130,000 principal amount of its Sewerage System Revenue Refunding Bonds, Series 1993A, which are currently outstanding in the principal amount of \$32,415,000 (such outstanding Sewerage System Revenue Refunding Bonds and Sewerage System Revenue Bonds being referred to collectively herein as the "Outstanding Sewerage System Bonds") pursuant to the Enabling Act and a bond order adopted by the District Board of the District (the "Board") on May 23, 1985, as amended on June 4, 1985 and July 21, 1993 (collectively, the "Order"); and

WHEREAS, Section 301 of the Order provides that the Bonds (as defined in the Order) of any Series (as defined in the Order) shall be subject to redemption, both in whole and in part and at such times and at such prices, as may be provided in the Series Resolution for such Bonds; and

WHEREAS, the District has determined to apply certain moneys on deposit to the credit of the General Fund (as defined in the Order) and to direct the Trustee (as defined in the Order) to apply certain available moneys deposited to the credit of the Interest Account (as defined in the Order) in the Bond Service Fund (as defined in the Order) to the payment at maturity or upon redemption of certain of the Outstanding Sewerage System Bonds, to be determined by the Deputy General Manager for Administration of the District in accordance with the provisions of

the Order, the applicable Series Resolutions (as defined in the Order) and this Resolution; now, therefore,

BE IT RESOLVED by the District Board of the Metropolitan Sewerage District of Buncombe County, as follows:

Section 1. Definitions. All capitalized terms used herein and not otherwise defined herein shall have the meanings given to them in the Order.

Section 2. Delegation and Standards. The Board hereby delegates to the Deputy General Manager for Administration of the District, subject to the limitations contained in the Order, the applicable Series Resolutions and this Resolution, the power to determine and carry out the following with respect to the payment at maturity or upon redemption of certain of the Outstanding Sewerage System Bonds:

(A) Amounts to be Used from the General Fund. To determine the amount of moneys on deposit to the credit of the General Fund which shall be applied by the District to the payment at maturity or upon redemption of certain of the Outstanding Sewerage System Bonds and to direct the Trustee to apply certain amounts deposited to the credit of the Interest Account in the Bond Service Fund to the payment at maturity or redemption of certain of the Outstanding Sewerage System Bonds; provided, however, that the aggregate amount of such moneys to be so used shall not exceed \$14,000,000.00; and

(B) Maturities and Maturity Amounts. To select which maturities and maturity amounts of the Outstanding Sewerage System Bonds shall be paid at maturity or redeemed so that the District achieves the greatest possible amount of net present value savings, subject to the provisions of the Order and the applicable Series Resolutions; and

(C) Redemption Price and Notices. To pay such Redemption Price and to publish such notices of redemption as are required by the Order and the applicable Series Resolutions relating to the Outstanding Sewerage System Bonds to be redeemed, if any; and

(D) Escrow Deposit Agreement. To execute and deliver an escrow deposit agreement, by and between the District and the Trustee, acting as escrow agent (in such capacity, the "Escrow Agent") (the "Escrow Deposit Agreement"), providing for the custody and application of the moneys and Government Obligations which will be used for the payment at maturity or upon redemption of certain of the Outstanding Sewerage System Bonds; and

(E) Verification Agent. To select a verification agent to confirm (i) the sufficiency of the moneys and Government Obligations deposited with the Escrow Agent pursuant to the Escrow Deposit Agreement to pay when due the debt service requirements and redemption premium, if any, on the Outstanding Sewerage System Bonds being paid at maturity or redeemed in accordance with this Resolution and (ii) the yield on the Government Obligations deposited with the Escrow Agent pursuant to the Escrow Deposit Agreement.

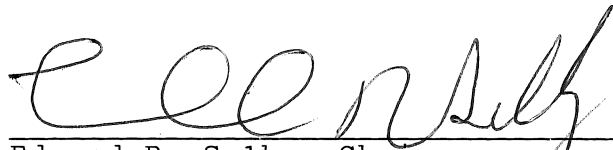
(F) Date of Deposit. To determine the date on which the moneys referred to in Section 1(A) of this Resolution shall be deposited with the Escrow Agent pursuant to the Escrow Deposit Agreement; provided, however, that no such date shall extend beyond May 31, 1999; and

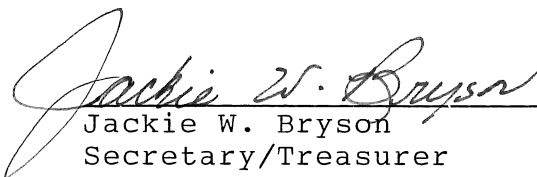
(F) Other Provisions. To determine any other provisions deemed advisable and not in conflict with the provisions of the Order, the applicable Series Resolutions and this Resolution.

Section 3. Defeasance Certificate. The Deputy General Manager for Administration of the District shall execute a Certificate or Certificates evidencing determinations or other actions taken pursuant to the authority granted in this Resolution, and any such Certificate shall be conclusive evidence of the action taken.

Section 4. Other Actions Authorized. The General Manager of the District and the Deputy General Manager for Administration of the District are hereby authorized to take such actions and to deliver such documents, agreements and certificates, as they may, in their discretion, deem necessary or useful in connection with the payment at maturity or redemption of the Outstanding Sewerage System Bonds, subject to and upon the advice of counsel.

Adopted March 10, 1999

  
Edmund R. Selby, Chairman  
Metropolitan Sewerage District of  
Buncombe County, North Carolina

  
Jackie W. Bryson  
Secretary/Treasurer

**BOARD OF THE METROPOLITAN SEWERAGE DISTRICT**  
**MARCH 17, 1999**

**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 17, 1999. Chairman Selby presided with the following members present: Aceto, Blackburn, Bryson, Field, Graham, Kelly, Pace, Sobol, Spell and Venable.

Others present were: W. H. Mull, General Manager, William Clarke, MSD Attorney, Gary McGill and Danny Bridges of McGill Associates, Patti Beaver with CIBO, Mark Barrett with the Asheville Citizen Times, Virginia Liles with the League of Women Voters, Mike Morgan with Morgan Enterprises, Tom Hartye, Jim Fatland, Stan Boyd, Sharon Walk and Sondra Honeycutt, MSD.

**2. Approval of Minutes of the February 17 and March 10, 1999 Meetings:**

Regarding the minutes of the February 17, 1999 meeting, Mr. Selby suggested that the word "it" on page 4, paragraph 4, line 2, be changed to read "MSD". Mr. Kelly suggested that the date at the top of page 3 be changed from February 27 to February 17, 1999. With regard to the March 10 meeting, Ms. Field requested that the minutes show that she was unable to attend because of inclement weather. With no further additions or corrections, Ms. Bryson moved that the minutes of the February 17 and March 10, 1999 meetings be approved as amended. Ms. Field seconded the motion. Voice vote was unanimous in favor of the motion.

**3. Consolidated Motion Agenda:**

**a. Consideration of Construction Without Easement - State Street MSR:**

Mr. Mull reported that because the location of the owners of the vacant property is not know, the Right of Way Committee recommends proceeding with construction without an easement or condemnation action at this time. If owners or heirs do come forth, staff will negotiate or condemn if necessary for the taking at that time.

**b. Consideration of Construction Without Easement - North Swannanoa, Phase II, Section 2 (CIP):**

Mr. Mull reported that the parcels in question were subdivided from a larger tract and granted to heirs upon the death of the original owners. However, some of the heirs have died leaving little and very unclear information as to their heirs. Also, attempts have been made through a former executor and estate attorney to locate owners and appropriate heirs. He further reported that the Right of Way Committee recommends proceeding with construction without an easement or condemnation action at this time. If owners or heirs do come forth, staff will negotiate or condemn if necessary for the taking at that time.

**c. Consideration of Condemnations - North Swannanoa Interceptor, Phase II, Section 2 CIP Project:**

Mr. Mull gave a brief report on negotiations with the property owners and stated that the Right of Way Committee made the following recommendations with regard to these parcels:

**PARCEL #1:** Staff to revise the design bringing one section of the line closer to the river and adding one additional manhole and present to the owner. If the owner refuses, then proceed with appraisal of damages for the taking and if not accepted, proceed with condemnation.

**PARCEL #2:** 1.) Delete proposed lateral shown as "L-20" on page 106-02-17 of plans. 2.) Bore from new interceptor to MH #19334, replacing MH #19334. 3.) Notify owner of possible effects of overflows on lateral and that there will be a future project to replace it. 4.) Notify owner that we will not bore under bridge. If owner does not accept, staff will construct lateral as proposed and obtain appraisal of damages for the taking and if not accepted, proceed with condemnation.

**PARCELS # 3, 4, 5, 6 and 7.** Appraisal of damages for the taking and if not accepted, proceed with condemnation.

**d. Consideration of Condemnation - Dula, Miscellaneous Sewer Rehabilitation:**

Mr. Mull reported that condemnation was considered due to a lack of response by the property owners with three deadlines passed. He further reported that the Right of Way Committee recommends appraisal of damages for the taking and if not accepted, proceed with condemnation.

**e. Consideration of Treasurer's Report for Period Ended January 31, 1999:**

Presented as information only.

**f. Consideration of Bids Asheville Master Plan Projects - West Avon, Midland Drive, E. Euclid and W. Euclid:**

Mr. Mull reported that the cost estimate for the Asheville Master Plan Projects is estimated at approximately \$735,000.00 with a contingency of \$50,000.00, and that the following bids were received March 10, 1999: Ivy Construction with a total base bid of \$420,622.00; T&K Utilities with a total base bid of \$525,092.25; Hobson Construction with a total base bid of \$525,746.00; Terry Brothers with a total base bid of \$536,348.55; Buckeye Construction with a total base bid of \$541,093.00; Tennoca Construction with a total base bid of \$604,784.50 and Trans-state Construction with a total base bid of \$698,908.00. Mr. Mull presented a letter from Mr. Clarke, MSD Attorney stating that he reviewed the bids received by the District for the Asheville Master Plan Projects and all of the proposals and bid bonds are in acceptable form. The letter further stated that although the corporate seal of Ivy Construction appears to have been hand drawn on its proposal, the proposal is still acceptable. The proposal was signed by an authorized officer of the corporation, and that North Carolina law does not require a printed seal. Therefore, the District may award the contract to the lowest responsible bidder.

Mr. Mull further reported that staff recommends that the District award the contract to Ivy Construction Company in the amount of \$420,622.00, with a contingency of \$50,000.00 to be used as authorized by the General Manager. A brief discussion followed regarding the difference in the bid amounts; whether Ivy Construction Company has done work for the District in the past, if it was a comparable project and if the company is local.

**g. Consideration of Bids - U.S. 74, Phase II - MSD:**

Mr. Mull reported that the following bids for the U.S. 74, Phase II project were received March 9, 1999: Buckeye Construction with a total base bid of \$362,246.25; Hobson Construction with a total base bid of \$394,675.00; Wateree Construction with a total base bid of \$460,450.00; Wheeler

Construction with a total base bid of \$513,550.00; Haren Construction with a total base bid of \$680,025.00 and Tran-state Construction with a total base bid of \$598,440.00. He further reported that in a letter from Mr. Clarke, MSD Attorney, he stated that all of the bids and bid bonds are in acceptable form. He further stated that one of the lines for a date on the Buckeye Construction proposal was left blank, but the form itself indicates it is "dated" 3/9/99. Therefore, he was of the opinion that the District can waive the blank line on the bid bond form as an informality and proceed with award of the contract to the lowest responsible bidder. As a result, staff recommends that the District award the contract to Buckeye Construction Company in the bid amount of \$362,246.25, with a contingency of \$50,000.00 to be used as authorized by the General Manager.

**h. Consideration of Letter to Avery Creek Sanitary Water & Sewer District Concerning Operation Agreement:**

Pulled from the Consolidated Agenda for further consideration.

**i. Consideration of Acceptance of Developer Constructed Sewer System Schenck Parkway - Biltmore Park:**

Mr. Mull reported that the project is located off of Long Shoals Road adjacent to Interstate 26 and included installation of approximately 2,223 linear feet of 8" sanitary sewer pipe at an approximate cost of \$122,000.00. He further reported that staff recommends acceptance of the developer constructed sewer system and that all MSD requirements have been met.

**j. Consideration of Acceptance of Developer Constructed Sewer System - Stonebridge Subdivision:**

Mr. Mull reported that the project is located off of Old Haw Creek Road in Asheville and included installation of approximately 2,600 linear feet of 8" sanitary sewer pipe at an approximate cost of \$50,000.00. He further reported that staff recommends acceptance of the developer constructed sewer system and that all MSD requirements have been met.

Mr. Spell moved that the Board approve the Consolidated Motion Agenda items a. through j., with the exception of item h. Mr. Pace seconded the motion. Mr. Sobol asked whether the cost per linear feet is correct on item j. (Stonebridge Subdivision). Mr. Mull stated that the figure quoted is an approximate cost. With no further discussion, roll call vote was as follows: 11 Ayes; 0 Nays.

With respect to item f. (Asheville Master Plan Projects) Mr. Mull presented a proposed resolution regarding statewide bond funds. He stated that since the City of Asheville's median family income, compared to the sewer service charge is (1.69%), just above the required 1.5%, the District is qualified to apply for grant funds. Mr. Spell asked how much the District is applying for. Mr. Mull stated that the maximum amount that can be applied for is \$3 million. He further stated that in addition to Asheville Master Plan Projects, system rehabilitation projects would be included in the application. Mr. Pace moved that the Board approve the Resolution as presented. Mr. Blackburn seconded the motion. Mr. Spell asked whether active projects could be included in the application. Mr. Hartye stated Asheville Master Plan Projects previously mentioned (West Avon, Midland Drive, E. Euclid and W. Euclid) would not be included in the application. However, other Master Plan Projects identified for this summer, which have been designed and the acquisition of rights-of-way are in progress, will be included. Mr. Kelly asked if any of the Bond Issues passed

last fall impact on this at all, since no reference is made to the 1998 Act. Mr. Mull explained that the North Carolina Clean Water Revolving Loan and Grant Act was started in 1987 when the State ran out of Federal grant funds. With no further discussion, voice vote was unanimous in favor of the motion.

Regarding item h. (Avery's Creek Sanitary District Agreement) Mr. Clarke reported that approximately two (2) years ago a letter was sent to Avery's Creek stating that the District needs a written agreement and requesting that a meeting be set to discuss this issue. He further reported that since there was no response, the Planning Committee at its last meeting, recommended that another letter be written to Avery's Creek Sanitary District asking that an Agreement be entered into by July 1, 1999 and stating that if a contract is not entered into, the District may not be in a position to allow any additional connections. He stated that three (3) original copies of the Agreement would be forwarded along with the letter. Ms. Graham asked whether Avery's Creek would continue to operate and maintain its collector sewer system. Mr. Clarke explained that MSD currently treats waste from Avery's Creek, but is not taking over the system. He further explained that MSD has individual contracts with a number of users in Avery's Creek who pay a fee, but there is no written agreement.

Mr. Spell asked whether these users are customers of the Water Authority. Mr. Clarke stated that to his knowledge, they are. Mr. Spell requested that the reference to "The Asheville Buncombe Water Authority" on page six of the Agreement be changed to read "Regional Water Authority". A discussion followed regarding fees collected by Avery's Creek to connect to the system; repair problems; whether Avery's Creek has an elected Board; how waste water was treated in the past, and if MSD has plans to take over the system in the future. Ms. Field moved that the Board proceed with drafting a letter to Avery's Creek accompanied by an amended Agreement for wastewater treatment, contingent upon Attorney review and approval. Mr. Pace seconded the motion.

Mr. Kelly questioned the number of gallons per day to be treated, which was left blank on page 4, paragraph 3. Mr. Mull suggested that this paragraph be changed to read "The District will receive and accept for collection, treatment and disposal wastewater currently originating in Avery's Creek and additional wastewater as approved on a case by case basis in the sole discretion of the District".

Mr. Spell asked whether the District maintains the pump stations and if any reference is made to the standards that Avery's Creek must extend lines to meet the District's minimum standards. Mr. Mull stated that the District does maintain the pump station, but if growth demands expansion of the pump station, Avery's Creek is responsible to pay for that expansion. Regarding Mr. Spell's question on the standards and extension of lines, Mr. Clarke referenced page 4, paragraph 1, line 3, which states "The Collector Sewer System will be operated and maintained in full compliance with all applicable laws and regulations and in full compliance with any ordinances, regulations, directives or standards issued or adopted from time to time by the District". Mr. Spell suggested that the beginning of the paragraph be changed to read "The Collector Sewer System or extensions thereof will be constructed, operated and maintained"---etc. Mr. Aceto asked how the District is compensated for maintaining the interceptors and pump stations. Mr. Mull stated that the users pay a sewer service charge. With no further discussion, voice vote was unanimous in favor of the motion.

#### **4. Committee Reports:**

##### Right of Way Committee:

Mr. Pace stated that there was no further report.



Ms. Bryson asked Mr. Selby whether he is comfortable with the way the Committee handles the issue of condemnations. Mr. Selby stated that as a former Chairman of the Right-of-Way Committee, the Board voted on every condemnation, but he felt that before the Board voted on condemnations for up to eight properties, that they fully understand what they were voting on. A brief discussion followed regarding the condemnation procedure.

Planning Committee:

Mr. Aceto reported that the Planning Committee met on March 3 to consider the following items: Review of the new maintenance building - WWTP; Southside Village; 6" sewer lines; Agreement with Avery's Creek Sanitary Water & Sewer District, and response to the letter from the City Manager. He gave a brief report on each of the items considered.

Regarding the letter from the City Manager, Mr. Selby asked how the Committee planned to respond. Mr. Aceto stated that the Committee has not yet determined whether the response should be an invitation to a larger discussion, or a line-by-line response. Mr. Selby suggested that the Committee broaden its response audience by having an MSD representative attend meetings hosted by the City and County, which addresses concerns similar to those of the City Manager, i.e., sewer standards, extensions, etc. Mr. Mull pointed out that the standards the District originally adopted as well as those modified were mailed in their entirety to each municipality and no response was received. In addition, meetings were held with developers, engineers and contractors to discuss these issues.

Finance Committee:

Mr. Blackburn reported that the Finance Committee met March 10 to discuss the proposed Bond Issue. He further reported that the Committee adopted staff's recommendation to approve a Bond Issue for \$30.3 million, which includes \$16.3 million in new projects and \$14 million from the general fund to defease outstanding bonds. Also, the Committee recommended that the Board approve a resolution to direct application to the North Carolina Local Government Commission and a resolution authorizing \$14 million in cash defeasance.

Mr. Clarke presented an Escrow Deposit Agreement for issuance of the Bond and Resolution directing the General Manager or his designee to execute the Agreement and explained the purpose of the Agreement. With no discussion, Mr. Blackburn moved that the Board approve the execution and delivery of the Agreement. Ms. Graham seconded the motion. Voice vote was unanimous in favor of the motion.

**5. Unfinished Business:**

Mr. Venable questioned the status of the Thompson Street building. Mr. Mull reported that the property is currently being listed with the Asheville Area Chamber of Commerce, who has a free listing service. He further reported that the Chamber will share this information with the North Carolina Department of Commerce and other entities and that the brochure is being mailed to commercial realtors and others upon request. Mr. Selby requested that the Finance Committee review the status of the sale at its next meeting and come back to the Board with a marketing plan.

**6. Old Business:**

Consideration of Proposed Bond Order Revisions

Mr. Selby reported that the Finance Committee met March 10, 1999 to review revisions to the Bond Order. He further reported that the Committee recommended that the Board discuss the issue that the Bond Order currently provides that the Engineer-Manager be a registered professional engineer in the State of North Carolina. He introduced a letter from Bond Counsel, which references omission from his "Top 10" list of proposed amendments to the 1985 Bond Order, a provision amending the definition of the term "Engineer-Manager". A lengthy discussion followed regarding whether or not this requirement should be eliminated from the Bond Order; if eliminating the requirement would affect the salability of the Bonds and possible amendment of the By-laws.

Mr. Clarke stated that the new bonds and bonds issued in the year 2002 will be issued under the 1985 Bond Order and that purchasers of the new bonds will take them subject to the Amended and Restated Bond Order, which would not become effective until sometime after the year 2002. With regard to Bond Counsel's suggestion that the amendment (eliminating the requirement that the Manager be an Engineer) could possibly take effect earlier, Mr. Clarke pointed out that even if the Trustee could be convinced that it would not adversely affect the interest of the Bondholders, this would involve a great deal of work and direction from the Board on how to proceed.

Mr. Mull stated that when the original Bond Order was written, it was their feeling that since it was a new start-up, the District would need an engineer, which would remove the District from political considerations. He further stated that in looking at rating agency comments during the past five bond issues, management of the District, CIP programs and progress were an important aspect of the overall rating. Therefore, his interest in retaining the engineering requirement is in the long-term survival of the District.

Following a clarification as to whether the Board is voting on the Bond Order as a whole, or just the issue of the engineer requirement, Mr. Selby stated that the Finance Committee will consider other revisions to the Bond Order at its next meeting. Mr. Spell moved that the Board approve the Amended and Restated Bond Order requiring that the General Manager be a registered professional engineer in the State of North Carolina. Mr. Kelly seconded the motion. To clarify the motion, Mr. Clarke read from the Bond Order the definition of "Engineer-Manager". Mr. Aceto, Ms. Graham, and Mr. Venable each stated that while they agreed that the General Manager should be a Registered Engineer in the State of North Carolina, they did not feel this requirement should be in the Bond Order. With no further discussion, roll call vote was as follows: 7 Ayes; 4 Nays (Mr. Aceto, Ms. Graham, Mr. Sobol and Mr. Venable).

Regarding possible revisions to the By-laws, Mr. Selby suggested that the Planning Committee review the By-laws and report back to the Board. Mr. Aceto stated that the Committee will review the By-laws, taking into account not only the concerns of this issue, but also the recommendations of Counsel and Staff, with a full report to the Board in six months.

With regard to responding to the letter from Mr. Westbrook and others, Mr. Kelly stated that the Committee should be careful not to indicate that it speaks for the entire Board, especially with regard to the issue of extensions. He cited Gerber as an example of miscommunication. Mr. Aceto stated that it would not be the Planning Committee's point to communicate as a Committee, but strictly follow protocol, returning issues to the Board.

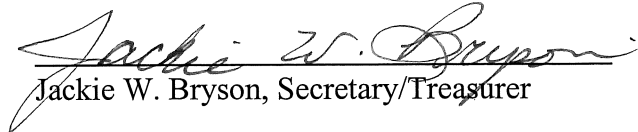
Mr. Pace reported that in a recent meeting attended by representatives of Buncombe County, Black Mountain and Weaverville, the issue of takeover of 4" sewer lines not shown on SSES maps was discussed. He expressed a concern regarding a lack of communication between the District and the municipalities, and an understanding of the contents of the Consolidation Agreements. He suggested that Mr. Mull contact each of the municipalities starting with Black Mountain and Weaverville to address this issue. Mr. Selby stated that since a CIP Committee is in place, that a meeting be scheduled to review the Consolidation Agreements and SSES maps. Ms. Graham stated that she does not support the idea of Mr. Mull contacting the municipalities, but that specific complaints should be put in writing and addressed to Mr. Mull, and if necessary, referred to a Committee of the Board. Mr. Aceto stated that when the District initially developed sewer system standards, they were reviewed by the CIP Committee, which resulted in positive input and changes.

**7. New Business:**

None

**8. Adjournment:**

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

  
Jackie W. Bryson, Secretary/Treasurer

**RESOLUTION BY GOVERNING BODY OF APPLICANT**

**WHEREAS,** The Federal Clean Water Act Amendments of 1987 and the North Carolina Clean Water Revolving Loan and Grant Act of 1987 have authorized the making of loans and grants to aid eligible units of government in financing the cost of construction of wastewater treatment works, and/or wastewater collection systems, and;

**WHEREAS,** The Metropolitan Sewerage District has need for and intends to construct Sanitary Sewer Rehabilitation projects described as 1999 Sewer Rehabilitation Projects, and;

**WHEREAS,** The Metropolitan Sewerage District intends to request state grant assistance for the projects.

**NOW THEREFORE BE IT RESOLVED, BY THE DISTRICT BOARD OF THE METROPOLITAN SEWERAGE DISTRICT:**

That the Metropolitan Sewerage District will arrange financing for all remaining costs of the projects, if approved for State grant award.

That the Metropolitan Sewerage District will adopt and place into effect on or before completion of the projects a schedule of fees and charges which will provide adequate funds for proper operation, maintenance, and administration of the system and the repayment of all principal and interest on the debt.

That the governing body of the Metropolitan Sewerage District agrees to include in the loan agreement a provision authorizing the State Treasurer, upon failure of the District to make scheduled repayment of the loan, to withhold from the District any State funds that would otherwise be distributed to the local government unit in an amount sufficient to pay all sums then due and payable to the State as a repayment of the loan.

That the Metropolitan Sewerage District will provide for efficient operation and maintenance of the projects on completion of construction thereof.

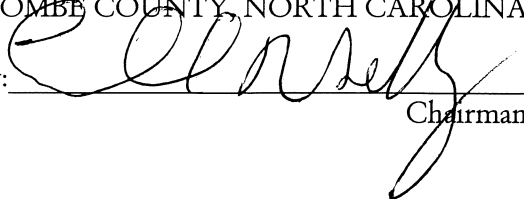
That the General Manager, and successors so titled, is hereby authorized to execute and file an application on behalf of the Metropolitan Sewerage District with the State of North Carolina for a grant to aid in the construction of the projects described above.

That the General Manager, and successors so titled, is hereby authorized and directed to furnish such information as the appropriate State agency may request in connection with such application or the projects: to make the assurances as contained above; and to execute such other documents as may be required in connection with the application.

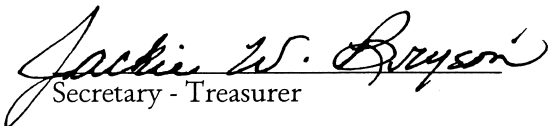
That the Metropolitan Sewerage District has substantially complied or will substantially comply with all Federal, State and local laws, rules, regulations, and ordinances applicable to the projects and to Federal and State grants and loans pertaining thereto.

Adopted this 17<sup>th</sup> of March, 1999 at Asheville, North Carolina.

METROPOLITAN SEWERAGE DISTRICT OF  
BUNCOMBE COUNTY, NORTH CAROLINA

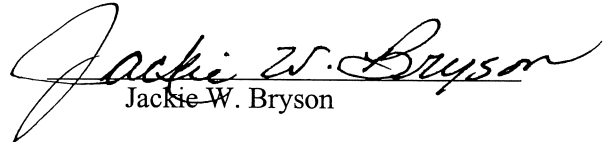
By:   
Chairman

ATTEST:

  
Secretary - Treasurer

**CERTIFICATE OF RECORDING OFFICER**

The undersigned duly qualified and acting Secretary - Treasurer of the Board of the Metropolitan Sewerage District does hereby certify: That the attached resolution is a true and correct copy of the resolution authorizing the filing of an application with the State of North Carolina, as regularly adopted at a legally convened meeting of the Board of the Metropolitan Sewerage District duly held on the 17<sup>th</sup> day of March, 1999; and, further, that such resolution has been fully recorded in the journal of proceedings and records in my office. IN WITNESS WHEREOF, I have hereunto set my hand this 17<sup>th</sup> day of March, 1999.

  
Jackie W. Bryson

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Secretary - Treasurer

# RESOLUTION

## RESOLUTION APPROVING THE ACQUISITION OF THE SEWERAGE SYSTEM FACILITIES OF SCHENCK PARKWAY

WHEREAS, the Metropolitan Sewerage District ("District") has been asked to acquire the sewerage system facilities constructed to serve Schenck Parkway located off Long Shoals Road, Buncombe County, North Carolina, and more particularly described on a plat bearing an initial date of January 14, 1999, prepared by John B. Young, RLS and recorded in the Office of the Register of Deeds for Buncombe County, in Plat Book 72 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 sewerage system facilities serving the Schenck Parkway development are not subject to any lien or other encumbrance which is materially adverse;

WHEREAS, the District Board has determined that acquisition of the Schenck Parkway sewerage system and the responsibility to operate and maintain it will preserve and maintain the public health and welfare within the District;

WHEREAS, Biltmore Farms, Inc. 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 Biltmore Farms, 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 Schenck Parkway sewerage system together with all easements therefor, said sewerage system being more particularly described on a plat map dated January 14, 1999, prepared by John B. Young, RLS and recorded in Plat Book 72 at Page 120 of the Buncombe County Registry.

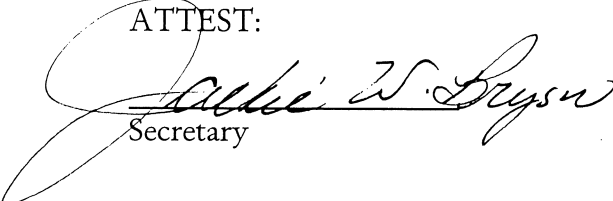
This the 17<sup>th</sup> day of March, 1999.

METROPOLITAN SEWERAGE DISTRICT OF  
BUNCOMBE COUNTY, NORTH CAROLINA

By: 

Chairman

ATTEST:

  
Secretary

**RESOLUTION**  
**RESOLUTION APPROVING THE ACQUISITION**  
**OF THE SEWERAGE SYSTEM FACILITIES OF**  
**STONEBRIDGE SUBDIVISION**

WHEREAS, the Metropolitan Sewerage District ("District") has been asked to acquire the sewerage system facilities constructed to serve Stonebridge Subdivision (formerly Royal Palms) located off Old Haw Creek Road, Asheville, North Carolina, and more particularly described on a plat bearing an initial date of November 13, 1995, prepared by W. Edwin Holmes, RLS and recorded in the Office of the Register of Deeds for Buncombe County in Plat Book 64 at Page 110 and plat bearing an initial date of September 23, 1998, prepared by King & Summey, PA and recorded in the Office of the Register of Deeds for Buncombe County in Plat Book 72 at Page 42;

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 sewerage system facilities serving the Stonebridge Subdivision are not subject to any lien or other encumbrance which is materially adverse;

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

WHEREAS, Stonebridge Associates, LLC 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 Stonebridge Associates, LLC and have been duly recorded;

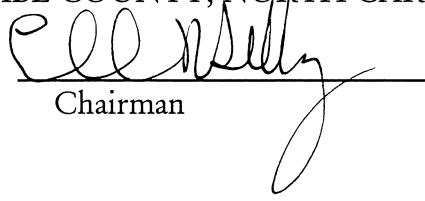
WHEREAS, the District has determined that it has reasonable access to and over related public rights of way and easements necessary to operate and maintain the system;

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.

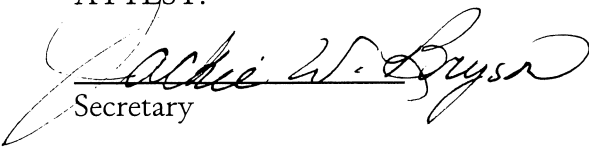
**BE IT NOW HEREBY RESOLVED:** The District Board of the Metropolitan Sewerage District hereby accepts the Stonebridge Subdivision sewerage system together with all easements therefor, said sewerage system being more particularly described on a plat map bearing an initial date of November 13, 1995, prepared by W. Edwin Holmes, RLS and recorded in the Office of the Register of Deeds for Buncombe County in Plat Book 64 at Page 110 and plat bearing an initial date of September 23, 1998, prepared by King & Summey, PA and recorded in the Office of the Register of Deeds for Buncombe County in Plat Book 72 at Page 42.

This the 17<sup>th</sup> day of March, 1999.

METROPOLITAN SEWERAGE DISTRICT OF  
BUNCOMBE COUNTY, NORTH CAROLINA

By:   
Chairman

ATTEST:

  
Secretary