

**BOARD OF THE METROPOLITAN SEWERAGE DISTRICT**  
**JUNE 9, 1999**

**1. Call to Order and Roll Call:**

The regular monthly meeting of the Board and Public Hearing on the Budgets and Sewer User Charges of the Metropolitan Sewerage District was held in the Boardroom of MSD's Administration Building at 2:00 p.m., Wednesday, June 9, 1999. Chairman Selby presided with the following members present: Aceto, Blackburn, Bryson, Field, Graham, Pace, and Venable. Those members absent were: Kelly, Sobol and Spell.

Others present were: W. H. Mull, General Manager, William Clarke, MSD Attorney, Danny Bridges of McGill Associates, Carl Ricker, Jr. and Benson Slosman with River Creek LLC, Jim William with Anvil Knitwear, Inc., Patti Beaver with CIBO, Tom Hartye, Jim Fatland, Stan Boyd, Ann LeMieux, John Kiviniemi, Sharon Walk and Sondra Honeycutt, MSD.

**2. Approval of Minutes of the May 5, and May 19, 1999 Meetings:**

Ms. Bryson moved that the minutes of the May 5 and May 19, 1999 meetings be approved as presented. Mr. Pace seconded the motion. Voice vote was unanimous in favor of the motion.

**3. Public Hearing for Consideration of Resolution for Budget & Sewer User Charge for FY 1999-2000:**

**MINUTES OF PUBLIC HEARING**

At 2:05 p.m., Chairman Selby declared a Public Hearing open for comments on the District's Budget and Sewer User Charge for Fiscal Year 1999-2000.

Mr. Mull presented a copy of the Resolution adopting the Budget and Sewer User Charges for FY 1999-2000. Also included was a Statement of Income & Debt Coverage, the various Budget Funds and Domestic and Industrial Sewer User Charges. He reported that the 4% Domestic User Charge increase brings the rate to \$2.64 per ccf, with no change in billing or meter charges. He further reported that the Industrial User Charge was set in accordance with a 20-year phase-in of increases, which involve rates for Flow per ccf; BOD per pound and Total Suspended Solids per pound. He stated that the proposed industrial rates this year are: \$0.643 for flow per ccf; \$0.401 for all BOD greater than 20 mg/l, and \$0.273 for all TSS greater than 26 mg/l. Mr. Selby explained that the 20-year phase-in strategy was adopted in order that industrial users will pay the same ccf rate as domestic users at the end of the 20-year period. Mr. Williams of Anvil Knitwear, stated that from a budget standpoint, its easier to deal with consistent rate increases each year and that industry representatives have indicated that they generally prefer predictability. With no further comment from the public, Mr. Selby declared the public hearing closed at 2:12 p.m.

Mr. Venable asked if the Budget would be approved prior to making changes to the final document. Mr. Fatland explained that the changes Mr. Venable is referring to is in the Goals and Objectives; Maintenance Reserve Fund, which must be 6% of the O&M Budget; Rate Resolution and Wastewater Treatment Plant Replacement Fund. He stated that the customary \$200,000.00 was not budgeted for this fund, since the goal is to come in under budget and apply any savings to replace the remaining difference of \$95,000.00 that is needed, rather than asking ratepayers to fund the \$200,000.00. He further stated that these changes will be made during the final printing of the Budget.

Mr. Venable questioned the Maintenance Reserve Fund ending balance of \$696,725.00 as shown on page 102 of the Budget. He stated that if \$105,623.00 is taken from this balance, the District will not meet the 6% requirement of the Bond Order. Mr. Mull referenced page 5 of the Resolution and stated that the Board is adopting the Maintenance Reserve Fund ending balance of \$613,742.00, which is equal to 6% of the O&M Fund. Mr. Fatland stated that the ending balance shown on page 102 of the Budget is incorrect, but the O&M Budget total of \$10,229,028.00 is correct. Mr. Pace moved that the Board adopt the Budget and Sewer User Charge Resolution as presented. Mr. Blackburn seconded the motion. Mr. Venable questioned the asterisked footnote on page 8 of the Resolution. Mr. Fatland stated that the footnote was inserted in order to give the District more flexibility with its funds. With no further discussion, roll call vote was as follows: 8 Ayes; 0 Nays.

**4. Consolidated Motion Agenda:**

**a. Investment Report for the Period Ended April 30, 1999:**

Presented as information only.

**b. Series 1999 Sewer System Revenue Bonds:**

Presented as information only.

**c. Resolution Approving Annual Audit Contract:**

Staff recommends that the Board approve the annual audit contract with Gould Killian CPA Group, P.A. in the amount of \$19,100.00 and authorize the Chairman and Finance Officer to execute the agreement on behalf of the Metropolitan Sewerage District of Buncombe County, North Carolina.

**d. Consideration of Developer Constructed Sewer Systems for: Devonshire, Phase 1-5; Clare Bridge Extension; Elk Mountain Road Office Park and Winterhill Extension:**

Staff recommends acceptance of developer constructed sewer systems.  
(All MSD requirements have been met)

**e. Consideration of Bids for Powerhouse Trash Rake Addition:**

Mr. Mull reported that the following bids for the Powerhouse Trash Rake Addition were received June 2, 1999: Kemp Construction with a total bid of \$329,900.00; J.S. Haren Company with a total bid of \$338,000.00; Ray Smith Construction with a total bid of \$339,000.00; Taylor & Murphy Construction with a total bid of \$346,600.00 and Crowder Construction with a total bid of \$434,000.00. He further reported that staff recommends that the District award the contract to Kemp Construction Company in the amount of \$329,900.00, contingent upon attorney and Arcadis review and approval. He explained that the budget estimate for this project was \$300,000.00 without contingency, but that the additional money required is available under the CIP contingency for FY 99-2000. Mr. Clarke stated that following review of the proposals and bid bonds, he recommends award of the contract to the lowest responsible bidder.

**f. Consideration of Compensation Chart, London Road, Asheville Master Plan (AMP):**

The Right of Way Committee recommends approval of the Compensation Chart for London Road, Asheville Master Plan (AMP).

**g. Consideration of Compensation Chart, Smith Mill Creek, AMP:**

The Right of Way Committee recommends approval of the Compensation Chart for Smith Mill Creek, AMP.

**h. Consideration of Amendment to Compensation Budget, Adding General Manager's Contingency, North Swannanoa Phase II, Section 1B, CIP:**

The Right of Way Committee recommends approval of a General Manager's contingency in the amount of \$34,500.00 for North Swannanoa Phase II, Section 1B, CIP.

**i. Consideration of Contract Amendment for Easement Acquisition Services, North Swannanoa, Phase II, Section 3, CIP - Martin/McGill, Inc.:**

The Right of Way Committee recommends approval of the contract amendment for easement acquisition services for North Swannanoa, Phase II, Section 3.

Regarding item c. (Annual Audit Contract) Mr. Venable asked whether the contract with Gould Killian CPA Group, PA to perform audit services needs to be approved each year since the Board previously approved a three-year extension. Mr. Mull stated that the dollar amount must be approved each year. Regarding staff's recommendation to authorize the Chairman and Finance Officer to execute the agreement, Mr. Clarke stated that the "Finance Officer" should be changed to "General Manager" in order to meet the requirements of the Bond Order. With no further discussion, Mr. Pace moved that the Board approve the Consolidated Motion Agenda as amended by Billy Clarke. Ms. Graham seconded the motion. Roll call vote was as follows: 8 Ayes; 0 Nays.

**5. Consideration of Bids for Bankstown Road and Brook Street Miscellaneous Sewer Rehabilitation Projects:**

Mr. Mull reported that because of design changes in the Bankstown Road project and traffic control issues with the Brook Street project there was an increase in bid prices. The following bids were received June 3, 1999: Ivey Construction with a total base bid of \$499,999.40; Terry Brothers Construction with a total base bid of \$784,049.00, and Bryant Electric Company with a total base bid of \$976,892.50. He further reported that staff recommends that the District award the contract to Ivey Construction Company in the bid amount of \$499,999.40, contingent upon attorney review and approval. He stated that following review of the proposals and bid bonds, Mr. Clarke recommends award of the bid to the lowest responsible bidder. With no further discussion, Mr. Pace moved that the Board approve the recommendation of staff. Ms. Graham seconded the motion. Roll call vote was as follows: 8 Ayes; 0 Nays.

**6. Consideration of Proposals-Major Rehabilitation -Preventative Maintenance Line Cleaning:**

Mr. Mull reported that the contract for this project includes cleaning and TV inspection of approximately 530,000 linear feet of 6" - 24" pipe for the entire year, and that prior to the next fiscal year, staff will evaluate how much of this work can be done in-house. The following proposals were received June 1, 1999: Compliance EnviroSystems at a total cost of \$955,075.00; Video Industrial Services at a cost of \$972,070.00; Southeast Pipe at a cost of \$994,432.00; Underground Camera at a cost of \$1,362,115.00 and ADS Environmental Services at a cost of \$1,588,690.00. He further reported that staff recommends that the project be awarded to Compliance EnviroSystems in the amount of \$955,075.00, contingent upon attorney review and approval. Mr. Clarke stated he reviewed the proposals and recommends awarding the contract to the lowest responsible firm. With no discussion, Mr. Blackburn moved that the Board approve the recommendation of staff. Ms. Field seconded the motion. Roll call vote was as follows: 8 Ayes; 0 Nays.

**7. Committee Reports:**

**Finance Committee**

Mr. Aceto stated that his reason for presenting the Finance Committee report is because Mr. Blackburn disclosed that he had a prior business relationship with a member of the River Creek, LLC. He further stated that Mr. Blackburn requested that he be excused from participating in the deliberation and vote on the sale of the Thompson Street property. On behalf of Mr. Blackburn, Mr. Aceto moved that he be excused from participating. Mr. Pace seconded the motion. Voice vote was unanimous in favor of the motion.

As a matter of record, Mr. Selby requested that the Finance Committee give a report on the following: the appraisal; when and how the property was offered for sale; the closing date for receipt of proposals; the amount of the bid received and the Committee's recommendation. Mr. Mull reported that the property was appraised at \$930,000.00 and that the bid from River Creek LLC was in the amount of \$651,500.00. He further reported that the property was marketed in early April, with brochures sent to the Chamber of Commerce, Advantage West and Advantage Asheville. Mr. Clarke stated that the Board passed a resolution in December, 1998 authorizing the sale of the property and directed the Finance Committee to oversee its disposal. He further stated that in the spring, the Finance Committee came up with a method for advertising the property with a May 14<sup>th</sup> deadline, and at that time, the Committee decided not use the upset bid procedure.

Mr. Aceto reported that the Finance Committee met May 19, 1999 to consider the proposed bid from River Creek, LLC. He stated that because the Committee was concerned that the bid came from a former Board Member and was substantially under the appraised price, it was recommended that the proposed bid be rejected and re-advertised for sale. He further reported that on June 7, 1999, the Committee met again to discuss the appraisal and to reconsider the previous recommendation. At the June 9, 1999 meeting the Finance Committee approved staff's recommendation to reject the original sealed bid, to negotiate up to 30 days for purchase and/or lease, and if nothing results, look at listing the property with a commercial/industrial realtor for an appropriate time frame. He stated that the Committee heard a presentation by Mr. Ricker of River Creek, LLC with regard to how the partnership arrived at the bid amount and arguments against the property appraisal. He further stated that Ms. Graham

expressed a concern that there may not have been enough publicity or marketing of the property and suggested re-advertisement with the idea of a broader promotional campaign. Ms. Graham stated that if the District wants an offer closer to the appraised price, it will need to broaden the pool of possible buyers. A discussion followed regarding the appraisal. Mr. Selby presented an analysis prepared by staff showing the sales price for the pending offer, compared to sale with commission and appraised value less commission.

Mr. Ricker stated because there seems to be conflict of interest issue, he wanted to make the Board aware that Mr. Slosman's actual ownership in River Creek, LLC is less than 2% (.0125%).

Mr. Slosman read a prepared statement regarding the bid requirements and process; his percent of interest in the partnership and discrepancies in the appraisal, which were presented to the Finance Committee. He concluded his statement by saying "if the Board chooses to delay awarding the building to our legitimate bid, or puts it out for re-bid, we respectively withdraw our offer." Mr. Slosman reviewed the differences in his appraisal and the original appraisal prepared by Tom Steitler. He stated that in his opinion the property was properly advertised and since the District is spending ratepayers money, it needs to be careful how it is used. A lengthy discussion followed regarding the property and its location in the floodplain and floodway; whether staff has talked to Mr. Steitler regarding the appraisal; when the appraisal was done, and why River Creek, LLC is interested in the property. Ms. Field recommended that staff talk to Mr. Steitler about the appraisal, noting comments made in today's meeting. She stated that she has a problem with selling the property for \$300,000.00 less than the appraisal, and instead of debating this issue in a Board meeting, set up a committee of the appropriate people to come back with a recommendation to the Board after talking to Mr. Steitler.

Mr. Aceto stated that because the District has some credibility, which is not worth risking for any amount of money, it should be concerned about the cynicism of the voting public. Therefore, he is of the opinion that the District has no other choice than to treat the appraisal as being correct. Mr. Slosman agreed that staff should discuss the appraisal with Mr. Steitler, but requested that he be present, since it's a matter of his appraisal as a buyer against Mr. Steitler's appraisal as an appraiser. He further stated that any criticism directed at the Board could be as great, or greater, if the property is sold for less than what they offered. Mr. Aceto stated he is not worried about being criticized, but about feeding the perception that this community is locked up in the hands of a few people who would receive the benefit at the expense of the rest. He further stated that he certainly does not feel this is the intent of Mr. Slosman, or Mr. Ricker, but it could affect the Board and community adversely. Mr. Selby stated that since he continues to have a problem with the appraisal, he suggested that the Committee or Board reconvene to reconsider the appraisal. Mr. Aceto presented the recommendation of the Finance Committee in the form of a motion. Following a discussion regarding the motion, the recommendation of the Finance Committee was rephrased to read: "to reject the original sealed bid and allow staff to negotiate up to 30 days for purchase and/or lease, and if nothing results, look at listing the property with a commercial/industrial realtor for an appropriate time frame." With no further discussion, roll call vote was as follows: 6 Ayes; 1 Nay (Mr. Selby). Mr. Blackburn was excused from voting

Mr. Blackburn expressed his appreciation to the Finance Committee (Mr. Aceto, Ms. Bryson, Ms. Graham and Mr. Kelly) for their work on the building, the bonds and the budget.

**Right of Way Committee:**

Mr. Pace reported that in other business, the Committee heard a report from Mr. Mull regarding notice of a moratorium on any new connections in the Avery's Creek Sanitary District. Mr. Mull reported that the purpose of the moratorium, effective July 1, 1999, is to do a study on the capacity of the sewer lines in that area and that the study will be complete in September.

As a matter of information, Mr. Selby stated that a status report listing all active acquisition projects for the Third Quarter of FY 98-99 is attached.

Mr. Venable questioned the Committee's action with regard to the Paly settlement. Mr. Clarke reported that pursuant to discussions with Mr. Paly and MSD engineers, Mr. Paly suggested that it might make sense to tunnel across his property rather than going around the river. As a result, the project was bid both ways, with the tunnel bid being considerably cheaper. He further reported that the District filed a condemnation and an appraisal was done. The before and after valuation of his property was found to be approximately \$9,900.00, which was deposited in court. After the tunnel was decided on, the appraisal was updated with a difference of approximately \$27,000.00, which was not deposited with the court. However, following lengthy negotiations, the District settled for \$38,000.00. He stated that an additional \$13,000.00 was deposited for the Fortune property, but since his property is no longer involved, the District will get this money back. As a matter of clarification, Mr. Clarke showed the location of the property and where the tunnel is located.

**8. Report of Officers:**

**□ Discussion of District Counsel:**

Mr. Mull provided background information with regard to representation of the District by Roberts & Stevens, P.A., as is currently named. He stated that Mr. Clarke joined the firm in 1983 and has represented the District since 1984. He reported that Mr. Clarke worked with the District's Pre-treatment section extensively in developing Industrial Pre-treatment Regulations; the Sewer Use Ordinance; Sewer Extension Policy, NPDES Compliance Issues; Purchasing Procedures; Contract documents and Construction issues; Easement Acquisition and Condemnations; Bond Issues and Sewer Consolidation. He further reported that Mr. Clarke is a member of the NC Bar Association, the American Bar Association and related sections. He served on the Board of Pisgah Legal Services; WNC Group Home for Autistic Persons and currently serves on the Board of Carolina Environmental Programs and is a member of the Asheville Buncombe Chamber of Commerce Legislative Affairs Committee. Also, Mr. Clarke graduated from Princeton in 1979 and UNC in 1982 and was recognized as one of the "Best (Environmental) Lawyers in America", 1997-98. On a personal note, Mr. Mull stated that he has found Mr. Clarke to be very responsive to the needs of the District and that staff is exceptionally pleased with his service.

Mr. Aceto stated that Roberts & Stevens, P.A. has done a quality job with good value, but in the interest of having an open operation and being above criticism, he questioned whether it was time to get a request for proposal for legal services. Mr. Clarke stated that Roberts & Stevens would be happy to

participate in a request for proposal. Mr. Pace pointed out that the issue before the Board is a recommendation to approve Mr. Clarke as General Counsel. Mr. Aceto moved that the Board retain William Clarke as General Counsel of Record upon the resignation of Mr. Stevens. Mr. Pace seconded the motion.

Regarding legal services, Ms. Field stated that as long as the District is getting the best person for the job, which in her opinion Mr. Clarke is, she does not feel a need to discuss this issue further unless there is good reason. She further stated that it makes sense to make a choice based upon the person that can do the most for the District. Mr. Venable asked whether the District has a contract with Roberts & Stevens. Mr. Clarke stated that his firm does not have a formal contract with the District, but a written agreement specifying fees for General Counsel, Attorneys and Paralegals for services provided. He further stated that he enjoys doing work for the District and in being involved in what he sees as the public good. Also, as appropriate, he would like to discuss the needs of the District with the Board and General Manager. With no further discussion, roll call vote was as follows: 8 Ayes; 0 Nays.

**9. Unfinished Business:**

**□ Agreement with Avery's Creek Sanitary Water & Sewer District:**

Mr. Mull stated that to date, Avery's Creek has not responded to the letter and contract, mailed March 26, 1999, from District to treat waste and that the notice regarding the moratorium apparently has nothing to do with the MSD. A discussion was held with regard to whether Avery's Creek Sanitary District holds public meetings on a regular basis, if minutes are kept, who elects it's members and who they are accountable to. Ms. Field suggested that the Board direct Mr. Clarke to look into these questions. Mr. Selby requested that a report on this issue be given at the next meeting of the Planning Committee.

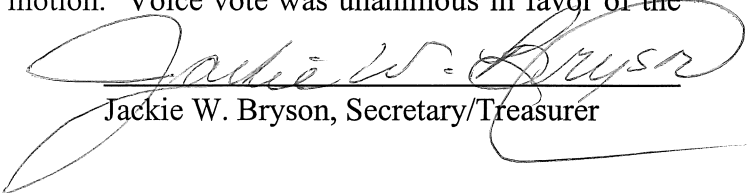
**10. Old Business:**

**□ Consideration of New Maintenance Building at the WWTP:**

Mr. Blackburn moved that the Board approve the recommendation of the Planning Committee to proceed with the design and construction of a new 12,000 sq. ft. WWTP Maintenance Building on Riverside Drive for Treatment Maintenance and Building Trades Division. Ms. Field seconded the motion. Voice vote was unanimous in favor of the motion.

**11. Adjournment:**

With no further business, Mr. Venable moved for adjournment at 4:30 p.m. Mr. Pace seconded the motion. Voice vote was unanimous in favor of the motion.

  
Jackie W. Bryson, Secretary/Treasurer

# RESOLUTION

## RESOLUTION APPROVING THE ACQUISITION OF THE SEWERAGE SYSTEM FACILITIES OF DEVONSHIRE SUBDIVISION PHASES 1-5

**WHEREAS**, the Metropolitan Sewerage District ("District") has been asked to acquire the sewerage system facilities constructed to serve Devonshire Subdivision Phases 1 through 5 located off Hendersonville Road, Buncombe County, North Carolina, and more particularly described on plats as recorded in plat book 60 at page 151 (Phase 1), plat book 60 at page 199 (Phase 2), plat book 64 at page 29 (Phase 3), plat book 66 at page 193 (Phase 4) and plat book 68 at page 184 (Phase 5), all prepared by Wallace S. McAbee and recorded in the Office of the Register of Deeds for Buncombe County, North Carolina;

**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 Devonshire Subdivision Phases 1 through 5 are not subject to any lien or other encumbrance which is materially adverse;

**WHEREAS**, the District Board has determined the acquisition of the Devonshire Subdivision Phases 1 through 5 sewerage system and the responsibility to operate and maintain it will preserve and maintain the public health and welfare within the District;

**WHEREAS**, Grant Development Company, 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 Grant Development Company, 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 Devonshire Subdivision sewerage system, Phases 1 through 5, together with all easements therefor, said sewerage system being more particularly described on plats as recorded in plat book 60 at page 151 (Phase 1), plat book 60 at page 199 (Phase 2), plat book 64 at page 29 (Phase 3), plat book 66 at page 193 (Phase 4) and plat book 68 at page 184 (Phase 5), all prepared by Wallace S. McAbee and recorded in the Office of the Register of Deeds for Buncombe County, North Carolina;

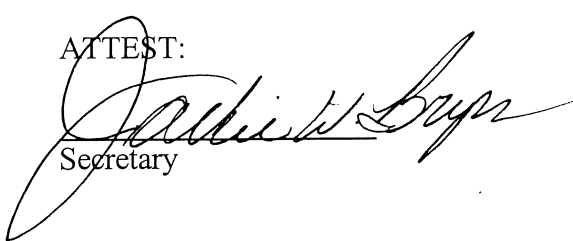
This the 9th day of June, 1999.

METROPOLITAN SEWERAGE DISTRICT OF  
BUNCOMBE COUNTY, NORTH CAROLINA

By: 

Chairman

ATTEST:

  
Secretary



# RESOLUTION

## RESOLUTION APPROVING THE ACQUISITION OF THE SEWERAGE SYSTEM FACILITIES OF CLARE BRIDGE ASSISTED LIVING FACILITIES

WHEREAS, the Metropolitan Sewerage District ("District") has been asked to acquire the sewerage system facilities constructed to serve the Clare Bridge Assisted Living Facility located off Walden Ridge Drive, Asheville, North Carolina, and more particularly described on a plat bearing an initial date of November 13, 1998, prepared by Robert C. Brown, RLS and recorded in the Office of the Register of Deeds for Buncombe County, in Plat Book 72 at Page 125;

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 Clare Bridge Assisted Living Facility are not subject to any lien or other encumbrance which is materially adverse;

WHEREAS, the District Board has determined that acquisition of the Clare Bridge Assisted Living Facility sewerage system extension and the responsibility to operate and maintain it will preserve and maintain the public health and welfare within the District;

WHEREAS, Pulliam Investment & Kasey Properties, et al 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 Pulliam Investment & Kasey Properties, et al 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 Clare Bridge Assisted Living Facility sewerage system extension together with all easements therefor, said sewerage system being more particularly described on a plat map dated November 13, 1998, prepared by Robert C. Brown, RLS and recorded in the Office of the Register of Deeds for Buncombe County, in Plat Book 72 at Page 125;

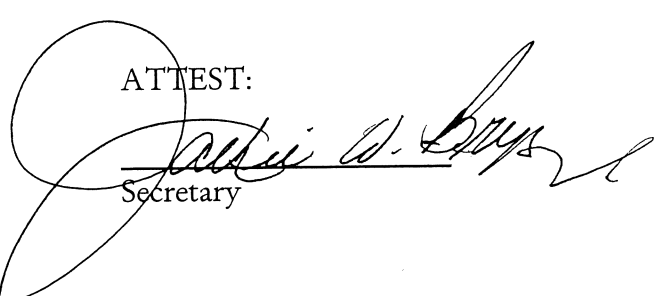
This the 9th day of June, 1999.

METROPOLITAN SEWERAGE DISTRICT OF  
BUNCOMBE COUNTY, NORTH CAROLINA

By: 

Chairman

ATTEST:

  
Secretary

# RESOLUTION

## RESOLUTION APPROVING THE ACQUISITION OF THE SEWERAGE SYSTEM FACILITIES OF ELK MOUNTAIN ROAD OFFICE PARK

**WHEREAS**, the Metropolitan Sewerage District ("District") has been asked to acquire the sewerage system facilities constructed to serve the Elk Mountain Road Office Park located off Elk Mountain Road, Buncombe County, North Carolina, and more particularly described on a plat map prepared by Wallace S. McAbee, RLS, dated November 20, 1996 and recorded in plat book 66 at page 140 in the Office of the Register of Deeds for Buncombe County, North Carolina;

**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 Elk Mountain Road Office Park are not subject to any lien or other encumbrance which is materially adverse;

**WHEREAS**, the District Board has determined the acquisition of the Elk Mountain Road Office Park sewerage system and the responsibility to operate and maintain it will preserve and maintain the public health and welfare within the District;

**WHEREAS**, N. Ellis Cannady, Jr., et al 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 N. Ellis Cannady, Jr., et al and have been duly recorded;

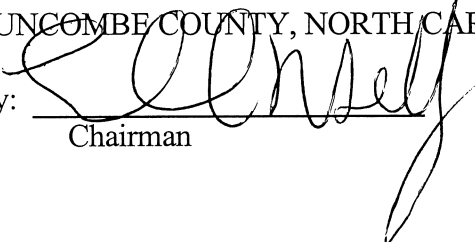
**WHEREAS**, the District has determined that it has reasonable access to and over related public rights of way and easements necessary to operate and maintain the system;

**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.

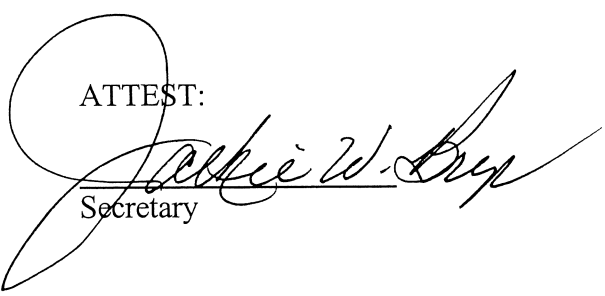
**BE IT NOW HEREBY RESOLVED:** The District Board of the Metropolitan Sewerage District hereby accepts the Elk Mountain Road Office Park sewerage system facilities located off Elk Mountain Road, Buncombe County, North Carolina, and more particularly described on a plat map prepared by Wallace S. McAbee, RLS, dated November 20, 1996 and recorded in plat book 66 at page 140 in the Office of the Register of Deeds for Buncombe County, North Carolina;

This the 9th day of June, 1999.

METROPOLITAN SEWERAGE DISTRICT OF  
BUNCOMBE COUNTY, NORTH CAROLINA

By:   
Chairman

ATTEST:

  
Secretary

# RESOLUTION

## RESOLUTION APPROVING THE ACQUISITION OF THE SEWERAGE SYSTEM FACILITIES SERVING WINTERHILL SUBDIVISION

**WHEREAS**, the Metropolitan Sewerage District ("District") has been asked to acquire the sewerage system facilities constructed to serve the Winterhill Subdivision located off Glen Bridge Road, consisting of one segment of sewer pipe and two manholes as shown the referenced plat table as SL-1, located in Buncombe County, North Carolina and more particularly described on a plat bearing an initial date of January 15, 1998, prepared by Mark D. Freeman, RLS and recorded in the Office of the Register of Deeds for Buncombe County, in Plat Book 68 at Page 95;

**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 Winterhill Subdivision (extension) 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 Winterhill Subdivision (extension) sewerage system facilities and the responsibility to operate and maintain it will preserve and maintain the public health and welfare within the District;

**WHEREAS**, Antoinette Wall and Gary Cowan have tendered appropriate instruments transferring complete ownership of the system described herein to the District and delegating to the District the responsibility for operation and maintenance;

**WHEREAS**, the appropriate instruments have been prepared and executed by Antoinette Wall and Gary Cowan 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;

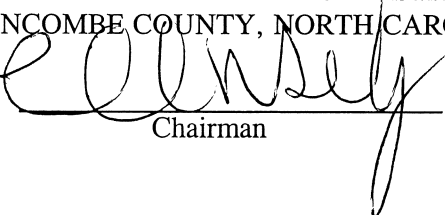
**WHEREAS**, the District Board has determined that adequate funding will be available for the acquisition and for the operation and maintenance of the system and that the District Board will have the authority to determine the need and priority for the operation and maintenance, improvement and reconstruction of the additional sewerage system facilities.

**BE IT NOW HEREBY RESOLVED:** The District Board of the Metropolitan Sewerage District hereby accepts the Winterhill Subdivision (extension) sewerage system facilities together with all easements therefor, consisting of one segment of sewer pipe and two manholes as shown the referenced plat table as SL-1, located in Buncombe County, North Carolina and more particularly described on a plat bearing an initial date of January 15, 1998, prepared by Mark D. Freeman, RLS and recorded in the Office of the Register of Deeds for Buncombe County, in Plat Book 68 at Page 95;

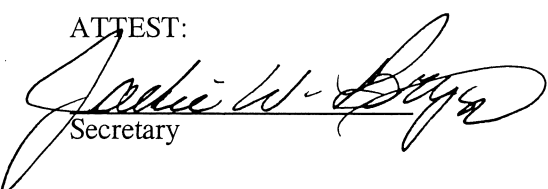
This the 9<sup>th</sup> day of June, 1999.

METROPOLITAN SEWERAGE DISTRICT OF  
BUNCOMBE COUNTY, NORTH CAROLINA

By:

  
Chairman

ATTEST:

  
Secretary

**RESOLUTION ADOPTING BUDGET AND SEWER USE CHARGES  
FOR THE  
METROPOLITAN SEWERAGE DISTRICT  
OF BUNCOMBE COUNTY, NORTH CAROLINA  
FOR THE FISCAL YEAR JULY 1, 1999 THRU JUNE 30, 2000**


**WHEREAS**, the Board of Directors has reviewed the Operations and Maintenance, Bond, Reserves, and Construction Expenditures of the District and the sources of revenue and allocations (uses) of expenditures for the 1999-2000 fiscal year; and

**WHEREAS**, the District will have a Reserve for Encumbrances at June 30, 1999, which in accordance with generally accepted accounting principles should be reflected in the 1999-2000 Budget Resolution.

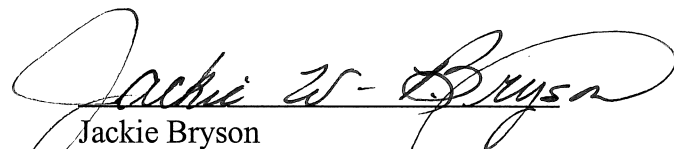
**NOW, THEREFORE, BE IT RESOLVED:**

1. That pursuant to the provisions of North Carolina G.S. 159-13 the attached sheets marked 1 through 14 be, and they hereby are, adopted as the Official Budget and Sewer Use Charges of the Metropolitan Sewerage District of Buncombe County, North Carolina for the fiscal year July 1, 1999 through June 30, 2000; and
2. That the Board of the Metropolitan Sewerage District of Buncombe County does hereby approve an increase in the Budgets to the amount necessary to reflect the amount of the Reserve for Encumbrances at June 30, 1999.
3. That this resolution shall be entered in the minutes of the District and within five (5) days after its adoption, copies thereof are ordered to be filed with the Finance and Budget Officer and Secretary of the Board as required by G.S. 159-13 (d).

Adopted this 9<sup>th</sup> day of June 1999.

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

Attest:

  
\_\_\_\_\_  
Jackie Bryson  
Secretary/Treasurer

METROPOLITAN SEWERAGE DISTRICT  
STATEMENT OF INCOME & DEBT COVERAGE

Operating Revenue:		
Domestic User Fees	15,725,882	
Industrial User Fees	3,358,741	
Billing & Collections	400,000	
Total Operating Revenue		19,484,623
Operating Expenses:		
Operations & Maintenance Fund	10,229,038	
Total Operating Expenses		10,229,038
Operating Income		9,255,585
Non-operating Revenue:		
Interest		1,390,000
Total Net Revenue		10,645,585
Debt Service:		
Principal & Interest Payments		(5,051,906)
Net Revenue Less Debt Service		5,593,679
Debt Coverage		2.11

METROPOLITAN SEWERAGE DISTRICT  
OPERATIONS & MAINTENANCE FUND

Estimated Fund Balance July 1, 1999	0
Transfers:	
Transfer from Revenue Fund	10,229,038
Expenditures:	
Operations & Maintenance (See note below)	(10,229,038)
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Estimated Fund Balance June 30, 2000	0
	=====

Note - Includes transfers from Operations & Maintenance Fund to:	
Building Trades Internal Service Fund	657,453
MIS Internal Service Fund	283,083
Fleet Internal Service Fund	530,843
Employee Self-Funded Medical	540,000
Worker's Compensation Insurance	129,100
General Liability Insurance	282,300
Fleet Equipment Replacement	358,000
WWTP Equipment Replacement	0

METROPOLITAN SEWERAGE DISTRICT  
REVENUE FUND

Estimated Fund Balance July 1, 1999		0
Revenues:		
Operating Revenues:		
Domestic User Fees	15,725,882	
Industrial User Fees	3,358,741	
Billing & Collections	400,000	
Total Operating Revenues		19,484,623
Interest on Investments		40,000
Transfers:		
From Bond Service Fund	100,000	
From Debt Service Reserve Fund	250,000	
Total Transfers		350,000
Total Revenue		19,874,623
Transfers:		
To Operations & Maintenance Fund	(10,229,038)	
To General Fund	(4,593,679)	
To Bond Service Fund	(5,051,906)	
Total Transfers		(19,874,623)
Estimated Fund Balance June 30, 2000		0
		0

METROPOLITAN SEWERAGE DISTRICT  
MAINTENANCE RESERVE FUND

Estimated Fund Balance July 1, 1999	689,365
Revenues:	
Interest on Investments	30,000
Transfers:	
Transfer to WWTP Equipment Replacement Fund	(105,623)
Estimated Fund Balance June 30, 2000	613,742

The Bond Order requires the fund balance in the Maintenance Reserve Fund to be 6% of the Operations & Maintenance Fund budget. The District complies with this mandate.



METROPOLITAN SEWERAGE DISTRICT  
BOND SERVICE FUND

Estimated Fund Balance July 1, 1999	0
Revenues:	
Interest on Investments	100,000
Transfers:	
Transfers from Revenue Fund	5,051,906
	-----
Total Revenue	5,151,906
Expenditures:	
Annual Debt Service Payment	(5,051,906)
Transfers:	
Transfer to Revenue Fund	(100,000)
	-----
Estimated Fund Balance June 30, 2000	0
	=====

METROPOLITAN SEWERAGE DISTRICT  
DEBT SERVICE RESERVE FUND

Estimated Fund Balance July 1, 1999	5,404,504
Revenues:	
Interest on Investments	250,000
Transfers:	
Transfer to Revenue Fund	(250,000)
Estimated Fund Balance June 30, 2000	<u>5,404,504</u>

METROPOLITAN SEWERAGE DISTRICT  
GENERAL FUND

Estimated Fund Balance July 1, 1999		9,515,183
Revenues:		
Facility & Tap Fees	850,000	
Interest on Investments	400,000	
	-----	
Total Revenue		1,250,000
Transfers:		
Transfer from Revenue Fund		4,593,679
		-----
Total Fund Balance & Revenue		15,358,862
Expenditures:		
Construction Projects		(7,764,703)*
		-----
Estimated Fund Balance June 30, 2000		7,594,159
		=====

\* - As of the date hereof, the District has not determined whether such amounts from the General Fund will be available as permanent financing for such projects or merely used as temporary financing until all or a portion of such amounts are reimbursed with proceeds of the borrowing.

METROPOLITAN SEWERAGE DISTRICT  
SERIES 1999 REVENUE BONDS (CONSTRUCTION IV)

Estimated Fund Balance July 1, 1999	27,308,000
Revenues:	
Interest on Investments	950,000
	-----
Total Fund Balance & Revenue	28,258,000
Expenditures:	
Construction Projects	(16,412,373)
	-----
Estimated Fund Balance June 30, 2000	11,845,627
	=====

METROPOLITAN SEWERAGE DISTRICT  
FLEET REPLACEMENT FUND

Estimated Fund Balance July 1, 1999	1,286,037
Revenues:	
Interest on Investments	60,000
Transfers:	
Transfer from Operations & Maintenance Fund	358,000
Expenditures:	
Vehicle Replacements	(500,000)
Estimated Fund Balance June 30, 2000	<u>1,204,037</u>

METROPOLITAN SEWERAGE DISTRICT  
WWTP EQUIPMENT REPLACEMENT FUND

Estimated Fund balance July 1, 1999	504,133
Revenues:	
Interest on Investments	24,000
Transfers:	
Transfer from Maintenance Reserve Fund	105,623
Expenditures:	
Equipment Replacements	(140,000)
Estimated Fund Balance June 30, 2000	<u>493,756</u>

DOMESTIC USER CHARGE PER CCF WITHIN DISTRICT:

(Treatment)

\$2.64/ccf

BILLING FEE

\$1.55 (Per Invoice)

BASE METER CHARGE

Size	Fee
5/8"	\$ 4.10/month
3/4"	5.90
1"	10.50
1-1/2"	24.00
2"	42.00
3"	94.00
4"	168.00
6"	380.00
8"	670.00
10"	1,050.00

INDUSTRIAL USER CHARGE WITHIN DISTRICT:

(Treatment)

Flow (Per CCF)- \$0.643

BOD (Per Lb.) - \$0.401 (For all BOD > 20 mg/l)

SS (Per Lb.) - \$0.273 (For all TSS > 26 mg/l)

BILLING FEE

\$1.55 (Per Invoice)

BASE METER CHARGE

Size	Fee
5/8"	\$ 4.10/month
3/4"	5.90
1"	10.50
1-1/2"	24.00
2"	42.00
3"	94.00
4"	168.00
6"	380.00
8"	670.00
10"	1,050.00

DOMESTIC USER CHARGE PER CCF OUTSIDE DISTRICT:  
(Treatment)  
\$2.65/ccf

BILLING FEE  
\$1.55 (Per Invoice)

BASE METER CHARGE

Size	Fee
5/8"	\$ 4.10/month
3/4"	5.90
1"	10.50
1-1/2"	24.00
2"	42.00
3"	94.00
4"	168.00
6"	380.00
8"	670.00
10"	1,050.00

INDUSTRIAL USER CHARGE OUTSIDE DISTRICT:  
(Treatment)

Flow (Per CCF)- \$0.653  
BOD (Per Lb.) - \$0.401 (For all BOD > 20 mg/l)  
SS (Per Lb.) - \$0.273 (For all TSS > 26 mg/l)

BILLING FEE  
\$1.55 (Per Invoice)

BASE METER CHARGE

Size	Fee
5/8"	\$ 4.10/month
3/4"	5.90
1"	10.50
1-1/2"	24.00
2"	42.00
3"	94.00
4"	168.00
6"	380.00
8"	670.00
10"	1,050.00



# MSD Metropolitan Sewerage District of Buncombe County, North Carolina

W.H. Mull, P.E., General Manager  
P.O. Box 8969, Asheville, N.C. 28814  
Telephone: Area Code (828) 254-9646

Telecopier: (828) 254-3299

John S. Stevens, General Counsel



Edmund R. Selby, Chairman  
C. Michael Sobol, Vice-Chairman  
Jackie W. Bryson, Secretary/Treasurer  
Steven T. Aceto  
Brady Blackburn  
Barbara A. Field  
Elizabeth C. Graham  
E. Glenn Kelly  
Ben Pace  
S. Douglas Spell  
W. Donald Venable

## CERTIFICATION

I, Jackie W. Bryson, Secretary/Treasurer to the Board of the Metropolitan Sewerage District of Buncombe County, North Carolina, do hereby certify that the attached is a true and correct copy of the Resolution adopting the Budgets and Sewer Use Charges for Fiscal Year 1999-2000.

This the 9<sup>th</sup> day of June, 1999.

Jackie W. Bryson, Secretary/Treasurer  
Board of the Metropolitan Sewerage District of  
Buncombe County, North Carolina

**BOARD OF THE METROPOLITAN SEWERAGE DISTRICT**  
**JUNE 16, 1999**

**1. Call to Order and Roll Call:**

A special meeting of the Board of the Metropolitan Sewerage District was held in the Boardroom of the MSD's Administration building at 2:45 p.m., Wednesday, June 16, 1999. Chairman Selby presided with the following members present: Aceto, Blackburn, Bryson, Field, Graham, Pace, Sobol, Spell and Venable. Mr. Kelly was absent.

Others present were: W. H. Mull, General Manager, William Clarke, General Counsel, Mike Morgan, David Herbert, Peter Dawes and Don Yelton, Citizens, Tom Hartye, Angel Banks, Jim Fatland and Sondra Honeycutt, MSD.

**2. Consideration of Proposals for 81 Thompson Street:**

Mr. Selby asked for a report from the Finance Committee. Mr. Blackburn stated the Committee met earlier, but because as Chairman he removed himself from discussion, he asked Mr. Mull to report on the Committee's recommendation. Mr. Mull stated that the Finance Committee recommends that the Board accept the offer of \$837,000 from River Creek, LLC for the purchase of the 81 Thompson Street property, subject to negotiation of an appropriate sales contract with closing to be within 30 to 60 days. Mr. Sobol moved that the Board approve the recommendation of the Finance Committee. Mr. Pace seconded the motion.

Ms. Field asked whether the miscalculation in the appraisal and the 10% commission to be paid to a realtor is satisfied in River Creek's current proposal. Mr. Mull reported that the appraisal of \$930,000 assumed placing the property with a real estate agent to market the property for six month to year with a fee of 10%. Therefore, the offer to purchase directly from MSD (no agent involved) is the appraisal less the assumed real estate agent fee.

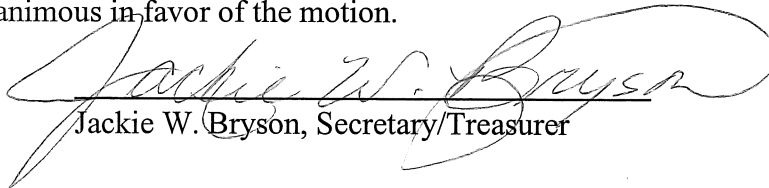
Mr. Venable questioned the language in the proposal from River Creek. Mr. Clarke suggested that a response be drafted to River Creek, LLC and that the response read as follows: "The Board acknowledges receipt of your letter of June 16, 1999. Please be advised that the Board did not, at its June 9, 1999 meeting, offer to sell the property for \$837,000. Notwithstanding that misunderstanding, the Board is treating this letter as an offer by you to purchase the property for \$837,000 and the Board hereby accepts that offer". Mr. Selby requested that this language be part of the motion. Mr. Sobol and Mr. Pace concurred in the amendment to the motion.

Mr. Blackburn asked that he be excused from voting. Mr. Pace moved on behalf of Mr. Blackburn that he be excused from voting. Ms. Graham seconded the motion. Voice vote was unanimous in favor of the motion.

With no further discussion regarding the motion to approve the recommendation of the Finance Committee, roll call vote was as follows: 8 Ayes; 0 Nays.

**3. Adjournment:**

At 3:53 p.m., Mr. Sobol moved for adjournment. Ms. Graham seconded the motion. Voice vote was unanimous in favor of the motion.

  
Jackie W. Bryson, Secretary/Treasurer