

BOARD OF THE METROPOLITAN SEWERAGE DISTRICT
JULY 21, 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, July 21, 1999. Chairman Selby presided with the following members present: Blackburn, Bryson, Field, Kelly, Pace, Sobol, Spell and Venable. Mr. Aceto was present for a portion of the meeting. Ms. Graham was absent.

Others present were: W. H. Mull, General Manager, William Clarke, General Counsel, Gary McGill and Danny Bridges of McGill Associates, David Herbert with Clean Water Fund of North Carolina; Dan Harris, Ray Baily and Mark Lethbridge of ARCADIS, Dave Brown and Tom Nabors of Byrd-Forbes, Tom Hartye, Ann LeMieux, Mike Butler, Angel Banks, Sharon Walk and Sondra Honeycutt, MSD.

2. Approval of Minutes of the June 9 and June 16, 1999 Meetings:

Mr. Spell noted that the date of May 5, 1999, on page 1, first paragraph of the June 9 minutes was incorrect. With no further additions or corrections, Mr. Spell moved that the minutes of the June 9 and June 16, 1999 meetings be approved as amended. Mr. Venable seconded the motion. Voice vote was unanimous in favor of the motion.

3. Election of Officers:

Chairman

Mr. Selby opened the floor for nominations for Chairman. Mr. Sobol nominated Mr. Selby as Chairman. Mr. Venable seconded the nomination. Mr. Spell moved that the nominations be closed. Ms. Bryson seconded the motion. Voice vote was unanimous in favor of the motion. Mr. Selby was elected Chairman by acclamation.

Vice Chairman

Mr. Selby called for nominations for Vice Chairman. Ms. Field nominated Mr. Sobol. Ms. Bryson seconded the nomination. There being no further nominations, voice vote was unanimous in favor of the nomination. Mr. Sobol was elected Vice Chairman by acclamation.

4. Consolidated Motion Agenda:

a. Consideration of Buncombe Co./Developer Constructed Sewer Systems:

Emma Industrial Park

Mr. Mull reported that construction included installation of 1,524 linear feet of 8" gravity sewer and 3,376 linear feet of 12" gravity sewer at an approximate cost of \$285,104.00. He further reported that staff recommends acceptance of the Buncombe County constructed sewer system. (All MSD requirements have been met).

MR Motorsports

Mr. Mull reported that the project included relocation of approximately 445 linear feet of existing 8" gravity sewer to accommodate a new building at an approximate cost of \$22,250.00. He further reported that staff

recommends acceptance of the developer constructed sewer system. (All MSD requirements have been met).

Wright's Carpet

Mr. Mull reported that the project included an 8" sewer extension of 700 linear feet at an approximate cost of \$30,000.00. He further reported that staff recommends acceptance of the developer constructed sewer system. (All MSD requirements have been met).

b. Status Report on Developer Constructed Sewer Systems, January 1, 1999 through June 30, 1999:

Presented as information only.

c. Consideration of Amended Compensation Chart, North Swannanoa Phase II, Section 3-CIP:

Mr. Mull reported that the Right of Way Committee recommends approval of the Compensation Chart.

d. Consideration of Compensation Chart, Campground Road, AMP:

Mr. Mull reported that the Right of Way Committee recommends approval of the Compensation Chart.

e. Consideration of Proposals for Easement Acquisition Services for Smith Mill Creek, AMP, London Road, AMP and Shiloh Road, MSD:

Mr. Mull reported that the Right of Way Committee recommends acceptance of Martin/McGill's proposal for easement acquisition services for Smith Mill Creek, AMP; London Road, AMP and Shiloh Road, MSR.

f. Private Sewer Lines Crossing the Lands of Others:

Mr. Mull reported that the Right of Way Committee recommends approval of a brochure to be made for use as a hand out at municipal and district offices at an approximate cost of \$150.00.

g. Monthly Investment Report - Period Ended May 31, 1999:

Mr. Mull noted that the percent yield for the \$30,563,000.00 T-Note is 5.215% instead of 4.20%.

Regarding item g. (Monthly Investment Report) Mr. Venable questioned the maturity dates of the T-Notes listed. Mr. Mull pointed out that this investment report was as of 5/31/99 and that some of the notes have matured and were reinvested. A brief discussion was held regarding the interest the District pays on the bonds, and the amount the District is allowed to collect in interest on bond funds.

Regarding item c. (North Swannanoa Phase II, Section 3) Mr. Venable questioned the \$90,000.00 contingency for the project compared to the compensation budget of \$154,000.00. Mr. Mull reported that the contingency is based on the number of parcels calculated to reflect the 1999 tax valuations. Ms. Field asked if there is a statutory limitation on the amount the District will pay for an easement. Mr. Selby stated that there is a certain amount the District will pay,

however, if an owner asked for more than the amount calculated, the Right of Way Committee has the authority to proceed with condemnation. Mr. Clarke stated that when property is condemned the District is required to pay the difference in the fair market value before and after the taking, but there is no statutory limit on what the District can pay.

With no further discussion, Mr. Blackburn moved that the Board approve the Consolidated Motion Agenda as presented. Mr. Pace seconded the motion. Roll call vote was as follows: 9 Ayes; 0 Nays.

5. GFOA Recognition:

Mr. Mull presented two awards received for Excellence in Financial Reporting and Distinguished Budget Presentation from the Government Finance Officers Association. He reported that out of 100 participating counties, only 11 received both awards and the MSD is the only Water & Sewer District out of 15 that received awards. He further reported that this is the first year the District has received the Distinguished Budget Presentation award, and the fourth year it received the Excellence in Financial Reporting award. He expressed his appreciation to Jim Fatland, Teresa Gilbert, Sharon Walk and the engineering staff for their work in achieving these distinguished awards. In the absence of Mr. Fatland, Mr. Selby stated that with the Board's endorsement, he will formally present these awards to Mr. Fatland at the next meeting.

6. Presentation on Status of Computer Model Sewer System - ARCADIS and Byrd-Forbes:

Mr. Lethbridge of Arcadis, introduced Mr. Brown of Byrd-Forbes, Flow Monitoring Project Manager; Mr. Harris of Arcadis, who developed the hydraulic model for the program; Mr. Nabors, President of Byrd-Forbes, and Mr. Baily of Arcadis, who is the Rehab Program Project Manager.

Mr. Brown gave a slide presentation regarding the Work Performed; Objectives of the Project and Results of the Study (Hydrographs, RDI/I Rankings and Observations).

Mr. Baily explained that during the Phase I report, they looked at available historical information and came up with 10 different criteria, which were given a weighted score based on the importance of each. He further explained that a cumulative scoring was developed identifying 13 basins as being the highest scored basins. He presented maps of the various basins showing the flow monitoring data collected (dry/wet weather infiltration). He reported that the importance of flow modeling along major interceptors is to identify whether the impact to a particular basin is due to discrete problems within the basin itself or whether it is contributed to by upstream and downstream hydrologic conditions. He further reported that the purpose of the modeling is to identify structural problems, both in capacity and storage requirements that can be used to alleviate problems without spending a lot of money.

Mr. Harris, gave a report on accomplishments to date; the overall objectives; where they are now, and what the subsequent tasks are that will bring the project to completion. He presented models of the entire system broken out into five major submodels showing the various components of the flow monitoring data. In summary, Mr. Harris stated that they will be completing the calibration process for each catchment throughout the system; evaluating existing conditions; prioritizing problems with MSD staff; developing alternatives and

presenting a number of scenarios to the Board for consideration, and training key MSD staff to use some of the fundamental components of the model.

Mr. Baily answered several questions regarding whether a comparison of the District's Master Plan, with the results of the modeling, were done; whether pipe simulations will be possible when modeling is complete; the possibility of purchasing permanent meters and collecting data in-house; when the modeling will be complete and what other cities are doing about inflow and infiltration into their systems.

7. Discussion of Public Comment Item:

Mr. Selby reported that the District received a letter from Mr. Mike Morgan of C&T News Service requesting that the Board consider adding public comment to the regular agenda. He further reported that he has asked members of the Board (Mr. Aceto, Ms. Field, Mr. Spell and Mr. Venable) to review the By-laws and to review this request and come back to the Board with a report.

8. Committee Reports:

Finance Committee:

Mr. Blackburn stated that the Finance Committee has not met since June 16, therefore there is no further report. Mr. Venable questioned the status of the Thompson Street Property. Mr. Mull reported that River Creek LLC, has signed a letter of intent to purchase the property with a closing scheduled for September 1, 1999.

Right of Way Committee:

Mr. Pace reported that although the East Kenilworth Lake Sanitary Sewer Project was not on the agenda for the June 30 meeting, property owners were present to express their opinions on this issue. He further reported that he voted against the Committee's recommendation to allow sixty days instead of thirty days to continue negotiations, since he felt that a further delay would push completion of the project into the winter months. Ms. Banks reported that the additional time was given in order to negotiate with three of the eleven property owners. She further reported that staff has been in negotiations with the owners who have received special conditions and revised alignments and have been offered the maximum amount of compensation. To date the District has not received a response.

Regarding tree protection, Mr. Mull presented a copy of the Tree Protection Guidelines prepared by Mr. William P. Hill, Arborist with the Tree and Greenway Commission. He stated that these guidelines have been included in the construction specifications for this project.

Mr. Blackburn asked if property owners were given a time frame to respond. Ms. Banks stated that the time frame differs according to the number of property owners the District is dealing with, and was originally set at six weeks. Mr. Spell expressed a concern that consideration is being given to changing the time frame from sixty to thirty days, which gives a negative perception. He stated that another issue was that the engineers were looking at other alternatives, but he felt the Committee was focused on the alternative that the line must go in proximity to the lake, therefore, their main focus at the meeting was dealing with the technical issues. He further stated that Mr. Mull indicated that the additional thirty days would not interfere with construction, and would allow property

owners to talk with any technical representatives. Also, it was made clear that after the sixty days, the District would proceed with condemnation. Ms. Field asked whether staff evaluated the alternatives presented. Mr. Mull stated that the Consulting Engineers met with staff to consider the alternatives. He then gave a brief description of each alternative. Ms. Field stated that she agreed with Mr. Spell in that the Board would appear to be untrustworthy to change the time frame after the Committee voted to increase it. Mr. Venable questioned whether delay in the project would affect other areas upstream. Mr. Mull stated that the District would be remiss in not rehabilitating the line and issuing additional connections, knowing that a rain event will cause overflow problems.

Mr. Spell stated that this project is a City of Asheville Master Plan project, which is part of the Consolidation Agreement and that nothing was done on the project in five years until the City initiated the work in 1998. A lengthy discussion followed regarding whether the thirty day extension will set a precedent; if completion of the project will be affected by wet weather problems; if property appraisals can be initiated prior to condemnation; the need for better public relations; the pipe size for this project, and the need to develop standard procedures. Mr. Kelly stated that the public should be informed that recommendations voted on at the Committee level are not binding on the Board. Secondly, he was visited unannounced by a resident of Kenilworth who expressed concerns about the Asheville Mall expansion, lake fill-up and saving trees and were asking for more time to file an environmental impact statement. Mr. Sobol moved that the Board approved the recommendation of the Right of Way Committee to give an additional thirty days to August 30, 1999 to continue negotiations for the East Kenilworth Lake Sewer Project. Mr. Spell seconded the motion. Mr. Venable asked whether the Board has given the Right of Way Committee the authority to extend the time frame. Mr. Selby stated that typically right of way issues are handled by staff unless proper procedures are not followed. By a show of hands the motion was carried. Mr. Selby, Ms. Bryson, Mr. Pace and Mr. Kelly voted against the motion.

Mr. Selby stated that the District will have staff get a standard procedure in place for the Asheville Master Plan projects and will notify the Coalition of Asheville Neighborhoods of the procedure. Ms. Field requested that she be provided with information regarding the process for an Environmental Impact Statement.

Mr. Spell asked if it was proper to request an amendment to minutes of the Right of Way Committee meeting. Mr. Clarke stated that since Committee meetings are subject to the Open Meeting Laws the only requirement is to report any action taken. Mr. Selby suggested that following adoption of the minutes of the previous Board meeting any amendments to Committee minutes could be made and approved at that time. He called for any corrections to the minutes of the Right of Way Committee meeting. Mr. Spell requested that page two, last paragraph be changed to read: "Mr. Spell stated he appreciated the concerns that relate to staff issues, but since these are personnel issues, they should be handled in a separate arena." Mr. Venable stated that it would help to receive the minutes of the Board meeting within 10 days as stated in the By-laws.

In response to a previous newspaper article regarding the East Kenilworth Lake Project, Mr. Selby presented a draft letter from the Chairman of the Board to the Asheville Citizen-Times declaring the District's intent to continue its projects in order to protect the health of the community as a whole, while extending the life capacity of the treatment plant. He stated that the letter will run in the editorial section of the newspaper.

Planning Committee

Mr. Selby reported that the Planning Committee met July 1, 1999 and heard a report from Mr. Mull regarding the Avery Creek Sanitary District. He gave a brief summary regarding this issue and stated that during a meeting with members of the Avery Creek Sanitary District Board, they indicated that they have sewer needs the District needs to address, but those MSD representatives present stated that they did not feel the sewer needs of Avery Creek were a concern of the District. He further stated that the meeting concluded with an understanding that the proposed Agreement between the District and Avery Creek will be signed by November. Also, that the District Board approve a recommendation to lift the moratorium placed on any new connections in Avery Creek, and in return, Avery Creek will decide whether or not to lift their moratorium. Mr. Clarke reported that the Ave-ry Creek Board mentioned getting out of the sewer business and asked that a provision be included in the Agreement transferring ownership of their system to the MSD, providing that their sewer lines would eventually get built. Mr. Sobol stated that he made it clear at the meeting that the District does not do extensions, but suggested a number of ways Avery Creek could receive funding to build these lines. A discussion was held regarding whether Avery Creek can legally sign over their system to the District; the District's extension policy and if Avery Creek can charge a tax on their system.

In other business, the Committee discussed 6" Sewer Lines - Private vs. Public and new permitting requirements proposed by the state for these systems. Also, a discussion was held regarding whether some 4" lines in Black Mountain are public or private. Mr. Sobol stated that he suggested that Mr. Richardson, Black Mountain Town Manager meet with Mr. Mull before the end of August to review the maps to identify what is already agreed to be public lines and those that are private and to discuss the remaining lines that are in disagreement.

Mr. Selby asked that the Planning Committee hear a review of historical information regarding the 140 acre site in Bent Creek, possibly slated for a Henderson County sewage treatment facility; how the City of Asheville acquired the property, what the future could hold for MSD and that the Committee report their findings to the Board. Ms. Field stated that this particular piece of property is the property the Water Authority was going to build a water treatment facility on. She further stated that she was misquoted as saying that "MSD has no intention of ever using that property for a treatment facility", when in fact she stated that "I don't think after reviewing the MSD's long-range planning and looking at the budget that there is any intentions of building a sewerage treatment plant on that particular piece of property." In addition, she stated that "MSD's current facility has adequate capacity and that she doubted it would site a sewer plant without appropriate public participation." Mr. Selby stated that another issue is whether its cheaper to build a plant at this location or to upgrade the lines through the Biltmore Estate property to MSD's current facility.

With regard to the Committee's recommendation to consider an evaluation of the District's strategic growth plan, the Board agreed that a planning retreat be scheduled for November and that the Committee develop a list of issues for discussion at its next meeting.

9. Report of Officers:

Mr. Selby appointed Ms. Bryson to continue her tenure as Secretary/Treasurer to the District, subject to approval of the Board. Voice vote in favor of the appointment was unanimous.

Mr. Mull announced that the District recently received a grant in the amount of \$3 million from the State Clean Water Fund. He stated that these funds will be used for City of Asheville Master Plan Projects. Mr. McGill reported that the District was funded because of the bonus points systems, not because of public health need. He explained that the bonus system deals with planning documents and financial management and recommends that the District reapply for additional grant funds in the fall.

Mr. Selby presented a copy of the 1999 Clean Water Act and noted underlined portions of the Act that affect the District. He requested that Mr. Mull give a brief review at the next meeting of the Planning Committee.

10. Unfinished Business:

None

11. Old Business:

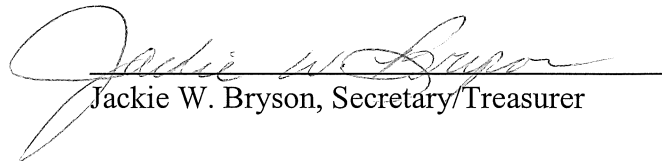
None

12. New Business:

None

13. Adjournment:

With no further business, Mr. Pace moved for adjournment at 4:39 p.m. Mr. Blackburn seconded the motion. Voice vote was unanimous in favor of the motion.



Jackie W. Bryson, Secretary/Treasurer