

Adopted in Open Session
December 13, 2000
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February 15, 2006

BYLAWS
OF
THE METROPOLITAN SEWERAGE DISTRICT
OF BUNCOMBE COUNTY, NORTH CAROLINA

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BYLAWS
OF
THE METROPOLITAN SEWERAGE DISTRICT
OF BUNCOMBE COUNTY, NORTH CAROLINA

PREAMBLE

The District Board (hereafter "Board") of the Metropolitan Sewerage District of Buncombe County, North Carolina, (hereafter "District") was created under the authority provided by the North Carolina Metropolitan Sewerage Districts Act, which currently is set forth in Article 5, North Carolina General Statutes Chapter 162A. The prior Bylaws of the District were adopted in Regular Session of the Board on July 17, 1990. Article IX of those Bylaws provided that they may be amended by majority vote of the members of the Board present and voting at a meeting at which a quorum is present. The Board has determined that it would be in the best interest of the District to amend and restate its Bylaws to reflect the evolution of the functioning of the Board. These revised and restated Bylaws, duly adopted by the Board of the District, at a regular meeting of the Board on the 13th day of December, 2000 in Open Session at which a quorum was present and amended at a regular meeting of the Board on February 15, 2006 in Open Session at which a quorum was present consist of the statements, rules and procedures that follow this preamble.

ARTICLE I

THE DISTRICT BOARD

1.01. General Powers. The business and affairs of the District shall be governed by the members of the Board, who are appointed as provided in Chapter 162A of the North Carolina General Statutes (as may be recodified or amended from time to time). The Board of the District shall exercise the powers generally prescribed to it under Chapter 162A, subject to all limitations and regulations specified therein, or as otherwise provided by law.

1.02. Oath of Office. Persons who are appointed as members of the Board shall take and subscribe an oath or affirmation as prescribed in North Carolina General Statutes Section 162A-67(d).

1.03. Name of Board. The name of the Board shall be the Board of the Metropolitan Sewerage District of Buncombe County, North Carolina.

1.04. Office of the Board. The office of the Board shall be in the Administrative Building of the District, located at 2225 Riverside Drive, Asheville, North Carolina, or at such other place as the Board may, by resolution, designate. The Board may have offices at such other places, either in or outside the State of North Carolina, as the Board may designate or as the affairs of the District may require from time to time.

1.05. Fiscal and Administrative Year. The fiscal and administrative year of the District shall commence on the first day of each July and end on the 30th day of June of the following year, and all accounts shall be kept on that basis. This fiscal year is mandated by North Carolina General Statutes, and shall be changed effective with any amendment to such statutes.

1.06. Seal. The Seal of the District shall be in the form of a circle and shall bear the name of the District.

ARTICLE II

ANNUAL ORGANIZATIONAL MEETING

2.01. Designation of Meeting. At the first regularly scheduled meeting of the Board following the end of each fiscal year of the District, a portion of such meeting shall include attention to the matters specified in this Article II. This meeting shall be referred to as the "Annual Organizational Meeting."

2.02. Election of Officers. At the Annual Organizational Meeting, as its first order of business, the Board shall elect a Chair and Vice-Chair from the members of the Board. The Chair and Vice-Chair shall serve for a one-year term of office and until their successors are duly elected and qualified. The Annual Organizational Meeting shall be presided over by the Chair of the previous fiscal year until the new Chair is selected, at which point the new Chair shall preside. After election, the Chair shall recommend from among the members of the Board the appointment of the Secretary and a Treasurer, and may recommend the appointment of an Assistant Secretary and Assistant Treasurer. The recommended appointment of the Chair is subject to approval by a majority vote of the Board at the Annual Organizational Meeting. The offices of Secretary and Treasurer may be combined in one person and, likewise, offices of the Assistant Secretary and Assistant Treasurer may be combined in one person. The Assistant Secretary and Assistant Treasurer may be, but need not be, members of the Board. These officers shall serve for one year and until their successors have been duly elected and qualified. Any vacancy among the officers elected by the Board shall be filled by the Board within a reasonable time which time shall not exceed sixty (60) days from the date of the vacancy. Any election to fill a vacancy among the officers shall be for the unexpired portion of the term of such office. In the event of a vacancy in the office of Chair, the Vice-Chair shall preside at meetings and perform the duties of Chair until such time as the vacancy is filled. There is no restriction on the number of times an officer of the Board may succeed himself or herself in office.

ARTICLE III

REGULAR AND SPECIAL MEETINGS OF THE BOARD

3.01. Regular Meetings. The Board shall hold a regular monthly meeting, which shall be pursuant to a schedule distributed to the Board at the Annual Organizational Meeting. Upon notice to the members of the Board, the schedule of Regular Meetings may be amended by the Chair, or the time or place of any particular meeting may be altered by the Chair, provided that no such change in schedule shall occur upon a shorter notice than that required for any Special Meeting of the Board. Regular Meetings of the Board (including notices thereof) shall be in compliance with the North Carolina Statutes regulating the meetings of governmental bodies. G.S. 143-318.9 et seq.

3.02. Special Meetings. A Special Meeting of the Board may be called by the Chair on his or her own initiative and shall be called by the Chair upon request of two or more members of the Board. A Special Meeting may be called by giving written notice to each member of the Board at least forty-eight (48) hours in advance of such meeting. Such notice shall contain the subject(s) to be considered at the Special Meeting. Only those items of business contained in the notice may be transacted at the meeting. Special Meetings of the Board (including notices thereof) shall be in compliance with the North Carolina Statutes regulating the meetings of governmental bodies. G.S. 143-318.9 et seq.

3.03. Quorum. A majority of the number of members of the Board shall constitute a quorum for the

transaction of business at any meeting of the Board.. Any vacancies in memberships on the Board shall not be counted in constituting a quorum. A member who has withdrawn from a meeting without being excused by the Chair shall be counted as present for the purposes of determining whether a quorum is present. Board members must be physically present to be counted for purposes of a quorum at a regular meeting of the Board unless the regular meeting is held by telephone conference call. If the Chair of the Board determines that members may attend , participate and vote via telephone at a Special or Emergency Meeting of the Board, then attendance by telephone shall suffice for the purpose of constituting a quorum at such Special or Emergency Meeting.

3.04. Place of Meetings. All meetings of the Board shall be held in the Administrative Offices of the District, but, in the discretion of the Chair, may be held at such other places, either in or outside the State of North Carolina, that shall be designated by the Chair in notice of the meeting. A change in meeting place may also be made by vote of a majority of members of the Board at any properly called meeting of the Board. The Board may meet by telephone conference call so long as such a meeting is held in accordance with North Carolina Statutes regulating the meetings of governmental bodies.

3.05. Agenda. The Secretary to the Board shall prepare or shall delegate to the General Manager the preparation of an agenda for each Regular and Special Board Meeting. A request to have an item of business placed on the agenda for a Regular Meeting shall be made to the General Manager and must be received at least seven working days prior to the meeting. Working days shall include Monday through Friday. Saturdays, Sundays, and holidays shall not be included in the calculation of Working Days. The agenda for a Regular Meeting shall be distributed to Board Members at least three working days prior to the Regular Meeting. Any member of the Board may, by a timely request, have an item placed on the agenda for a Regular Meeting. The agenda for a Special Meeting shall be distributed with the written notice of the meeting.

3.06. Order of Business. Items shall be placed on the agenda according to the order of business. The order of business for each Regular Meeting shall be as follows:

1. Call to order and roll call.
2. Public Hearing (if scheduled).
3. Approval of minutes of previous meeting.
4. Discussion and adjustment of agenda.
5. Informal discussion and public comment as required and approved by the Board.
6. Report of General Manager.
7. Report of Committee Chairs.
8. Consolidated Motion Agenda.
9. Old business.
10. New business raised by the General Manager or a member of the Board.
11. Adjournment.

By general consent of the members of the Board, items may be considered out of order. The Board may, by majority vote, add an item that is not on the agenda.

3.07 Consolidated Motion Agenda. The Consolidated Motion Agenda shall contain routine, non-controversial items requiring Board action but needing little or no deliberation and Committee Recommendations

supported by a unanimous vote in Committee.

The Consolidated Motion Agenda shall be given to Board Members at least seven working days prior to each Regular Meeting and shall be comprised of, but not limited to, the following items:

1. Awarding of bids;
2. Authorization for the General Manager, District Counsel, or staff to perform specific tasks, draft ordinances and/or resolutions, etc;
3. Setting public hearing dates and authorizing the advertisement of ordinances;
4. Approval of leases and contracts;
5. Approval of minutes.

The Consolidated Motion Agenda shall be placed on the Board agenda as an item of general business.

A motion to approve the Consolidated Motion Agenda shall not be debated or discussed.

At the request of any Board Member, an item shall be removed from the Consolidated Motion Agenda and placed upon the regular agenda for discussion.

The Consolidated Motion Agenda shall be adopted by a majority vote of Board Members present at the meeting.

3.08. Public Comment to the Board. An individual or group wishing to address the Board shall make a request to the General Manager at or prior to the commencement of a Regular Meeting. The Board shall determine at the meeting whether it will hear the individual or group. Presentation to the Board on matters not included on the Agenda shall be limited to five minutes or less except where time extensions may be granted by the Chair and shall be in accordance with District Policy.

3.09. Public Notices. The General Manager, or his or her designee, shall be responsible for providing all notices to the public of meetings of the Board consistent with North Carolina Statutes regulating the meetings of governmental bodies. G.S. 143-318.9, et seq.

ARTICLE IV

MEETING PROCEDURES AND MANNER OF VOTING

4.01. Presiding Officer. The Chair shall preside at Board meetings. In order to address the Board, a member must be recognized by the Chair. As presiding officer the Chair, or any officer presiding in lieu of the Chair, shall have the following powers:

1. To rule motions in or out of order, including the right to rule out of order any motions patently offered for obstructive or dilatory purposes;
2. To determine whether a speaker has gone beyond reasonable standards of courtesy in his or her remarks and to entertain and rule on objections from other members on this ground;
3. To entertain and answer questions of parliamentary law or procedure;
4. To call a brief recess at any time;
5. To adjourn the meeting in an emergency.

4.02. Presiding Officer when the Chair is in Active Debate. In the event the Chair is actively engaged in debate of a particular proposal, the Chair, in his or her discretion, may designate another Board Member to preside

over the debate. The Chair shall resume the duty to preside as soon as action on the matter is concluded.

4.03. Action by the Board. The Board shall proceed by motion. Any member of the Board, including the Chair, may make a motion. Prior to debate upon a motion, a second of such motion shall be required. A member may make only one motion at a time.

4.04. Debate on Motions. Motions made and duly seconded may be discussed or debated, and shall be resolved as provided hereafter.

1. Substantive motions. A substantive motion is out of order while another substantive motion is pending. "A substantive motion" is any motion, other than the procedural motions hereafter defined, that concerns any matter within the Board's legal powers, duties and responsibilities. Adoption of a motion shall require the affirmative vote of a majority of the members present, a quorum being present, unless otherwise required under the laws of the State of North Carolina.

2. Course of Debate. Upon a motion being made and duly seconded, the Chair shall restate the motion and then open the floor to debate on it. The Chair shall preside over the debate according to the following general principles:

- (a) The member who made the motion is entitled to speak first;
- (b) A member who has not spoken on the issue shall be recognized before someone who has already spoken;
- (c) To the extent possible, the debate shall alter between the opponents and proponents of the measure.

3. Procedural Motions. During debate on a substantive motion, the following procedural motions, and no others, shall be in order. Unless otherwise noted, each motion is debatable, may be amended, and requires a majority vote for adoption:

- (a) To take a recess;
- (b) To divide a complex motion and consider it by paragraph;
- (c) To defer consideration;
- (d) To call the question. This motion is not in order until there has been one opportunity to speak by every member of the Board, provided, however, the Board may, by majority vote, set a time limit for discussion on a motion.
- (e) To postpone the question to a certain time or day;
- (f) To refer the motion to a committee;
- (g) To amend the motion. An amendment to a motion must be pertinent to the subject matter of the motion, although it may be opposed in intent to the motion being considered. The motion to amend may be amended, but no further amendments may be made.

4.05. Other Procedural Motions. The following other procedural motions may be made after the conclusion of consideration of a substantive motion.

- 1. To adjourn the meeting.
- 2. To revive consideration of a motion. This motion is in order, without the necessity of a second, at any time during the meeting after a vote to defer consideration has been made.
- 3. To reconsider a motion made at the same meeting. This motion must be made by a member who voted with the prevailing side. It must be made at the same meeting as the vote was taken.
- 4. To rescind or repeal a motion (unless otherwise prevented by law).

5. To ratify any previous legal actions made on behalf of the District.

6. To renew a previous motion. A motion that is defeated may be renewed at any subsequent meeting.

7. To compel consideration of a matter referred to committee. This motion is in order only after the failure of a committee to report on a matter after three months following referral, or upon such report. It may be made by any member, without the necessity of a second.

4.06. Withdrawal of Motion. A motion may be withdrawn by the introducer any time before a vote.

4.07. Manner of Voting. A vote on a motion requiring a majority vote is normally taken by voice unless the question upon which the vote is taken commits the District to the expenditure of any money in which event the vote shall be by roll call. If there is any doubt as to the result of a vote taken by voice, the Chair or any member may request a vote by show of hands or roll call.

4.08. Majority Vote Required. Except as otherwise may be required by law, the act of a majority of members present and voting at a meeting at which a quorum is present shall be the act of the Board.

4.09. Duty to Vote. Every member of the Board must vote at each meeting he or she attends unless excused by the Chair. A member shall be excused from voting on matters, the consideration of which may involve a member's financial interests, the financial interest of an immediate family member of the board member, or the board member's official conduct. A member may be excused from voting when a reasonable person could conclude from the circumstances the member would be unable to cast an impartial vote on an issue due to the possibility of the board members judgment being compromised due to personal gain. A member who wishes to be excused from voting on a matter shall so inform the Chair at the beginning of the meeting and shall disclose to the Chair the financial interest or official conduct constituting the reason for the excuse or the circumstances causing the board member to be unable to vote impartially on a matter. The Chair, in consultation with District counsel, shall determine whether or not the member shall be excused from voting. The minutes of the meeting shall reflect the fact that the member made a request to be excused and the Chair's ruling on the request. In all other cases, a failure to vote by a member who is physically present or has withdrawn without being excused by the Chair shall be recorded as an affirmative vote.

4.10 Right to Vote. A member must be physically present to participate and vote at a regular meeting of the board. If a member is physically unable to attend a regular meeting of the Board, the member may listen to the proceedings via telephone or other means, but the member shall not participate in deliberations or vote. In the discretion of the Chairman, Board members may attend, participate and vote via telephone or other means at a Special or Emergency Meeting of the Board.

4.11. Other Matters Concerning Meetings.

1. Closed Session. The Board may hold closed sessions as provided by law. The Board shall commence closed session upon a motion made and adopted at an open meeting by a majority vote of those members of the Board present and voting, and such closed session shall end in the same manner. The motion shall state the purpose of the closed session in accordance with law and such matters as considered in such closed session shall be within such purpose. Minutes of any action taken in closed session shall be kept, but may be withheld from public inspection so long as public inspection would frustrate the purpose

of the closed session. A general account of the closed session shall be prepared so that a person not in attendance would have a reasonable understanding of what transpired.

2. Public Hearings. Public hearings required by law or deemed advisable by the Board shall be organized by special order, adopted by a majority vote of the Board, setting forth the subject, date, place and time of the hearing as well as any rules regarding length of time of each speaker or other rules. At the appointed time, the Chair or his or her designee shall call the hearing to order and then preside over it. When the allotted time expires or when no one wishes to speak who has not done so, the Chair or his or her designee shall declare the hearing ended.

3. Minutes. Minutes shall be kept of all Board meetings, including meetings of closed sessions, and of public hearings. Minutes shall be distributed to each member of the Board in a timely manner following each Board meeting.

4. Reference to Robert's Rules of Order. To the extent not provided for in these Bylaws and to the extent that reference does not conflict with the procedures contained in these Bylaws, meetings and actions of the Board shall be governed by Robert's Rules of Order, Revised.

ARTICLE V

DUTIES OF OFFICERS

The duties of the officers shall be as follows:

5.01. Chair. The Chair shall call and preside at all regular and special meetings of the Board. He or she shall establish and appoint the chair of committees and members of all committees and shall be an ex officio non-voting member of all such committees. He or she shall perform such other duties as may come within the jurisdiction of his or her office. At each meeting, the Chair shall submit such recommendations and information as he or she may consider proper concerning the business, affairs and policies of the Board.

5.02. Vice-Chair. The Vice-Chair shall preside at meetings and perform the duties of the Chair in the absence or incapacity of the Chair. He or she shall perform such other duties as may be assigned by the Chair or the Board.

5.03. Secretary. The Secretary shall keep or shall delegate to the General Manager to keep an accurate and complete record of all meetings, hearings, and other transactions of the Board, and shall perform such other duties as are required by law, any Bond Order or Resolution of the Board, or are assigned by the Board.

5.04. Treasurer. The Treasurer shall attend all meetings of the Board. Subject to any contrary provision of the North Carolina Local Government Finance Act and of any Bond Order or Resolution of the Board: He or she shall have the care and custody of all funds of the Board and shall deposit all funds in the name of the Board in such bank or banks whose deposits are insured by Federal Deposit Insurance Corporation as the Board may select; he or she shall keep regular books or accounts showing receipts and disbursements and shall have available at each Regular Meeting of the Board an account of his or her transactions and also of the financial condition of the District; he or she shall submit a complete financial statement at the first Board meeting after the close of the fiscal year or at the expiration of his or her term of office; he or she shall give such bond as the Board may require, the premiums for which shall be paid out of the District Treasury. At the expiration of his or her term of office the Treasurer shall turn

over to his or her successor all records, books, papers and moneys belonging to the District, taking a receipt therefor.

5.05. Assistant Secretary-Assistant Treasurer. The Assistant Secretary shall perform the duties of the Secretary in the absence or incapacity of the Secretary. The Assistant Treasurer shall perform the duties of the Treasurer in the absence or incapacity of the Treasurer.

ARTICLE VI
COMMITTEES

The Chair has the authority to create such standing, ad hoc or special committees as he or she deems advisable for the purposes of study, research, investigation, negotiation and reporting to the Board. Any such committee may be composed of persons who may, or may not be, members of the Board, as selected in the discretion of the Chair. No committee shall be authorized to take any action on behalf of the Board, except the Right of Way Committee to which the Board (on June 10, 1998) delegated the authority to authorize the use of eminent domain to acquire easements in particular cases, provided a report of such action is made to the full Board at the next regularly-scheduled meeting. Except as specifically authorized by the Board, Committees shall only provide advice to, or execute action of, the Board. All committee meetings, including notices thereof, shall be in compliance with the North Carolina Statutes regulating the meetings of governmental bodies. G.S. 143-318.9 et seq. Minutes shall be kept of committee meetings including any closed sessions.

ARTICLE VII
ADMINISTRATIVE OFFICER

The Board shall appoint a full-time Administrative Officer designated the "General Manager" who shall serve at the pleasure of the Board as administrative officer of the District. He or she shall be a well qualified engineer licensed as a professional engineer in the State of North Carolina, fully trained and experienced in the field of domestic and industrial wastewater collection and treatment, and shall receive a salary as fixed by the Board. He or she shall supervise the work of the District and perform the following duties in the name of and for the purpose of carrying out the business of the District, excepting such powers as are reserved to the Board itself under the provisions of General Statutes 162A-69 and subject to the approval of the Board, he or she shall have the authority to:

- (a) Have general overall supervision and responsibility of the District and its operations and of carrying out the policies adopted by the Board.
- (b) Select, employ, and discharge, should it become necessary, such clerical, and other subordinate personnel as may be required to do the work of the District as provided for in the Metropolitan Sewerage Districts Act. He or she shall recommend to the Board the employment of special consultants as may from time to time be considered necessary;
- (c) Authorize the payment of employees' salaries and wages and sign travel expense vouchers of the District personnel and members of the Board;
- (d) Consistent with applicable law, authorize the purchase of necessary supplies, apparatus, and equipment for use in performing the work of the District;

(e) Prepare notices of public hearings and other meetings and have such notices published in accordance with the requirements of the North Carolina General Statutes or the policies of the Board;

(f) Prepare for consideration by the Board all forms, reports, recommended budgets, rules and regulations, etc., which may be necessary to the proper operation of the business of the District;

(g) Handle all correspondence, requests for services, and other matters relating to the administration of the affairs of the District;

(h) Keep all records of the District and codify from time to time such ordinances, rules and regulations as may be adopted by the Board;

(i) Perform such other duties as may be delegated to him or her by the Board, and as required by any Bond Order or Resolution of the Board.

ARTICLE VIII

DISBURSEMENT AND HANDLING OF FUNDS

8.01. Disbursement and handling of funds of the District shall be in accord with applicable law and consistent with any Bond Order or Resolution of the Board. Subject to the foregoing and except for checks drawn on its petty cash account which is or may hereafter be established by the Board, checks and orders for disbursement of funds shall be signed by the General Manager and countersigned by the Treasurer, or by such other person or persons to whom such authority may from time to time be given by resolution of the Board.

8.02. All persons from time to time having authority to sign checks and orders for disbursement of funds of the District shall be bonded for the faithful performance of their duties as the Board may prescribe and as provided by any Bond Order or Resolution of the Board and by the North Carolina Local Government Finance Act.

ARTICLE IX

AMENDMENTS

These Bylaws, or any part thereof, may be amended at the pleasure of and by a majority vote of the members of the Board present and voting at any Regular or Special Meeting of the Board, provided a quorum is present. Provided, however, a copy of the proposed amendment(s) must be distributed to all Board members and considered as an agenda item at a Regular Meeting of the Board before adoption at a later Regular or Special Meeting of the Board.

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