Jefferson County Public Service District
Regular Board Meeting
August 2, 2010

The monthly meeting of the Jefferson County Public Service District was held at 7:00PM on Monday, August 2, 2010 in the meeting room at the Districts office in Kearneysville. Those in attendance included: Chairman, Joe Hankins; Secretary, Jim Cummins; Treasurer, Peter Appignani; General Manager, Susanne Lawton; Administrative Assistant, Ashley Wilt; Pentree Engineer, Zane Summerfield; and District Legal Counsel, Jim Kelsh.

Chairman Hankins called the meeting to order at 7:00PM.

Public Comments
-Jacqueline Milliron, Breckenridge resident: opposed submission of Flowing Springs Wastewater Treatment Plant application (Ms. Milliron read her comments into record; she had numerous questions for the Board.)
-Jim Surkamp, Jefferson County Commission: requested Old Standard documents
-Heidi Parker, Breckenridge resident: opposed submission of Flowing Springs Wastewater Treatment Plant application

OLD BUSINESS

Review Minutes of July 6, 2010 Regular Board Meeting
The minutes of the July 6, 2010 regular Board meeting were approved as presented.
Action: **Motion made by Mr. Cummins and seconded by Mr. Appignani to accept the July 6, 2010 minutes as presented. Unanimously approved.**

Update on WV Funding Stakeholder Group Workshop
Ms. Lawton updated the Board. The Department of Environmental Protection has received WV's allocations for Phosphorous & Nitrogen as required in the Legislation, but is still working on distribution of allocations among all West Virginia sources. They must submit a draft Chesapeake Bay Watershed Implementation Plan to EPA by September 1, 2010.
Action: **No action taken by the Board.**

Update on Berkeley County Capital Improvement Fee Case
Mr. Kelsh gave the Board and members of the audience a brief overview on the case. He has filed an amicus brief with the Supreme Count on behalf of the District in support of the PSD's. No hearing date has been set yet. Mr. Kelsh explained to the members of the public the importance of this case to the District and its' customers and how it will effect the District gaining revenue for debt service.
Action: **No action taken by the Board.**

Update on Flowing Springs Wastewater Treatment Plant Project
Mr. Kelsh updated the Board. The application for the certificate of convenience and necessity is currently pending at the Public Service Commission (PSC) for the approval of $26,484,000 WV DEP loan. The PSC has granted intervener status to numerous District customers including Roger Forshee, Heidi Parker, Jacquelyn Milliron, and Roland Bass. Rick Pescitani filed for intervener status, but the PSC has not yet granted it. Mr. Kelsh informed the Board of the two hearings coming up at the end of the month for this case. The Public Hearing will be held on August 26th at 7:00PM and the Evidentiary Hearing will be held on August 27th at 9:30AM. Mr. Kelsh stated the judge should make a decision on the case by October 6th.

The Board addressed some of the questions raised by Ms. Milliron at the beginning of the meeting. Mr. Hankins informed Ms. Milliron the total cost of the project is $27 million which will be paid for by customer rates and a $1 million commitment from the Development Authority. The project will install new collection lines, extended the current collection system, eliminate numerous pump stations and service costs, and transfer about 1400 existing customers from the Charles Town wastewater treatment plant to the new Flowing Springs plant. The plant will operate with a new technology and offer a global benefit by treating the effluent to the highest standards. Mr. Hankins informed the audience that if the Flowing Springs plant does not go through, it will force Charles Town to

make upgrades to their treatment plant which will cause the District rates to increase anyway. He stated that years ago the District had developers in line waiting to pay for capacity, but with the current economic conditions and the Berkeley County capital improvement fee (CIF) case, the District's debt service must be paid entirely from existing and future rate payers revenue without the use of CIF's from developers. Mr. Cummins agreed with Mr. Hankins statements. Mr. Appignani read a memo he prepared into record. He disagrees with Mr. Hankins and Mr. Cummins. He suggested the Board allow the public and Board ample time to review the IJDC application, to hold off on submitting to after the Berkeley County CIF case, and apply for more grant funding to help pay for the debt service.

Mr. Hankins discussed the initial certificate of convenience and necessity and approved funding the District had received about a year ago. The project funding included stimulus money, the reliance of CIF's and much lower District rates than what is proposed now. The District lost the stimulus funding and the ability to use CIF's. Mr. Hankins stated the District currently has an offer from WV DEP for a loan through the Clean Water State Revolving Fund program committing the amount of $26,484,817 to be issued at 0% interest, 0.5% annual administrative fee, for a term of 40 years. Mr. Hankins stated the District is not revising the certificate application to the WV IJDC, only the change in funding asking for $6 million in grant funds. If the PSC approves the DEP loan and the IJDC approves the grant funds, the District can go back to the PSC for approval of whatever grants the District receives and make a downward adjustment of the Districts rates. Some of the members in the audience questioned the calculation of rates which uses the median household income of the County. The IJDC standard metric for figuring the rates is based on the County's median household income (MHI) from the 2000 consensus which will have the rates at 2.48% of the MHI.

Mr. Kelsh stated the Chesapeake Bay standards will take effect in June 2011 and without the Flowing Springs plant, the Charles Town wastewater treatment plant would have to be upgraded immediately resulting in the District's rates to increase. These rates could be more expensive to the District customers than the Flowing Springs wastewater treatment plant rates.

Mr. Appignani stated that Mr. Kelsh's monthly memo clearly explained the Flowing Springs Wastewater Treatment Plant Project and that he would like that part of the memo to be made public.

Action: **Motion made by Mr. Appignani and seconded by Mr. Cummins to make the section on page 4 of Mr. Kelsh's monthly report to the Board members regarding the Flowing Springs wastewater treatment plant, with the exception of the last, public.**

A brief discussion took place. Mr. Appignani thought this section was very useful information that could be released to the public and give to the County Commission when Mr. Hankins updates them. Mr. Hankins felt this memo is privileged information and should remain confidential. Mr. Cummins stated that "parts" of the memo could be made public, but not the entire document. Ms. Lawton suggested that maybe Mr. Kelsh could create a separate fact sheet from the information that is in the Board memo relating to the Flowing Springs Project that could be released to the public instead of compromising the Attorney-Client privilege.

Action: **A friendly amendment was made by Mr. Cummins and accepted by Mr. Appignani to have Mr. Kelsh prepare a new public memo as background information on the Flowing Springs wastewater treatment plant project for the County Commission update. Mr. Hankins proposed a friendly amendment and Mr. Appignani accepted to attach the table in Mr. Kelsh's memo to the new memo he is preparing. The original motion by Mr. Appignani, as modified above, was unanimously approved.**

Action: **Motion made by Mr. Appignani and seconded by Mr. Cummins to approve the re-application back to the WV IJDC for the Flowing Springs wastewater treatment plant project.**

Mr. Summerfield suggested the Board amend the motion to direct the Chairman to sign after staff makes minor corrections to the application.

Action: **Mr. Appignani amended the motion and Mr. Cummins seconded to direct the Chairman to sign the WV IJDC application after all corrections are made by staff. Approve 2-1. (Mr. Appignani opposed.)**

NEW BUSINESS

Presentation by Chester Engineers on Water Reuse Study

Larry Johnson and Jerry Wolfe from Chester Engineers gave a PowerPoint presentation on the Water Reuse Study for the Flowing Springs wastewater treatment plant project. The water reuse study addressed alternatives for using the treated effluent discharges in the Chesapeake Bay watershed area. Mr. Johnson listed several alternatives the discharge could be used for the watering of sports fields, wetlands, golf courses, subdivision green spaces, etc. He also discussed the costs involved with this project. In the audience was Paul Marshall from Parks and Recreation and Marshall Glenn from Sleepy Hallow Golf Course who were both very interested in this project. Mr. Johnson had to tweak a couple items in the final report, but would have a copy to the Board by Wednesday. The Board would like to review the final report before making any decisions on the use of the report, but they did agree that the study met the requirements of the project specifications and that Staff was to pay Chester Engineers for the work done on the study.

Action: **Motion made by Mr. Appignani and seconded by Mr. Cummins to accept the Water Reuse Report from Chester Engineer as sufficient for the purpose of final payment for the study. Unanimously approved.**

Discuss and Consider Acceptance and Next Steps of Water Reuse Study

This item was discussed in the above agenda item.

Action: **No action taken by the Board.**

Consider Approval of Alternate Mainline Extension Agreement for Breckenridge East

Mr. Kelsh discussed the revised Alternate Mainline Extension Agreement (AMEA) for the Breckenridge East development. This agreement is similar to the Thornhill AMEA, but it includes the entire development instead of just the first phase as the Thornhill agreement did. The only revision to the Breckenridge East agreement is Article 5 on page 9; the phasing is more clearly outlined giving more specifics, which is beneficial to both the District and the developer.

Action: **Motion made by Mr. Appignani to approve the form of the Alternate Mainline Extension Agreement and direct staff to submit the agreement to the Public Service Commission. Unanimously approved.**

Consider Approval of WV Infrastructure and Jobs Development Council Application for Flowing Springs Wastewater Treatment Plant

This item was discussed earlier in the meeting. The Board felt the discussion was very positive with a lot of useful information for the Board and the public.

Action: **Motion made by Mr. Appignani and seconded by Mr. Cummins to appoint the Chairman to represent the District Board for the Flowing Springs wastewater treatment plant certificate hearing and give the Chairman settlement authority on behalf of the Board. Unanimously approved.**

Action: **Motion made by Mr. Cummins and seconded by Mr. Appignani to appoint the Chairman to represent the District Board for the Flowing Springs wastewater treatment plant update at the Jefferson County Commission meeting. Unanimously approved.**

Discuss West Virginia American Water Presentation

Mr. Kelsh discussed the presentation given by West Virginia American Water at the Districts July 9th work session. West Virginia American Water is a water utility that partnerships with water and sewer utilities and municipalities to operate and maintain the water and sewer systems. Currently West Virginia American Water serves mostly water customers with a small portion of sewer customers, but they are looking into expanding their sewer customer base. The City of Ranson was also involved in the discussions. The Board felt it was a very positive discussion and with the emerging relationship with the City of Ranson it will be worth continuing to have discussions.

Action: **No action taken by the Board.**

Discussion of any expenses over budget

There were no expenses over budget.

Action: **No action taken by the Board.**

Disbursements

Action: **Motion made by Mr. Appignani and seconded by Mr. Cummins to approve disbursements for Cavaland water expenses in the amount of $1,157.47 and Glen Haven water expenses in the amount of $1,194.08. Unanimously approved.**

Action: **Motion made by Mr. Appignani and seconded by Mr. Cummins to approve disbursements for the Public Service District expenses in the amount of $171,585.61. Unanimously approved.**

Approve Transfer of $3,667.23 from Sewer Security Deposit Account to Sewer Operating for Security Deposit Refunds

Action: **Motion made by Mr. Appignani and seconded by Mr. Cummins to approve the transfer of $3,667.23 from Sewer Security Deposit Account into Sewer Operating Account for Security Deposit Refunds. Unanimously approved.**

Approve Transfer of $128.09 from Cavaland Security Deposit Account to Cavaland Operating for Security Deposit Refunds

Action: **Motion made by Mr. Appignani and seconded by Mr. Cummins to approve the transfer of $128.09 from Cavaland Security Deposit Account into Cavaland Operating Account for Security Deposit Refunds. Unanimously approved.**

Approve Transfer of $64.14 from Glen Haven Security Deposit Account to Glen Haven Operating for Security Deposit Refunds

Action: **Motion made by Mr. Appignani and seconded by Mr. Cummins to approve the transfer of $64.14 from Glen Haven Security Deposit Account into Glen Haven Operating Account for Security Deposit Refunds. Unanimously approved.**

Approve Transfer of $14,684.00 from Renewal & Replacement into Sewer Operating for Control Panel at Pump Station 4-3

Action: **Motion made by Mr. Appignani and seconded by Mr. Cummins to approve the transfer of $14,684.00 from Renewal & Replacement into Sewer Operating for control panel at pump station 4-3. Unanimously approved.**

General Manager's Report

Ms. Lawton updated the Board on activities since last month's meeting.

Action: **No action taken by the Board.**

Correspondence

None discussed.

Public Comment

None.

Discuss the Flowing Springs Certificate Case #09-0347-PSD-PS-CN

This item was discussed earlier in the meeting.

Action: **No action taken by the Board.**

Authorize the Filing of Condemnation Actions for Unacquired Easements for the Flowing Springs Wastewater Treatment Plant Project

Mr. Kelsh informed the Board that Mr. Crawford did not have the resolutions ready for Board approval. Mr. Crawford will have them prepared for next month.

Action: **No action taken by the Board.**

Discuss Charles Town's Certificate and Municipal Appeal Cases Related to Tuscawilla

Mr. Kelsh informed the Board that the Public Service Commission recommended decision became the final order approving the joint stipulation which granted Charles Town a certificate of convenience and necessity for its Phase I Tuscawilla treatment plant project. This deferred the increase to Charles Town's capital improvement fee until the completion of this project.

Action: **No action taken by the Board.**

Update on City of Martinsburg NPDES Permit Appeal Before WV EQB
Mr. Kelsh informed the Board that the case had been appealed to the Circuit Court of Kanawha County, but a procedural order has not yet been issued.

Action: **No action taken by the Board.**

Consider Joint Participation with WV Rural Water Association in Filing Amicus Brief to WV Supreme Court in Berkeley County Capital Improvement Fee Matter
Mr. Kelsh informed the Board that the West Virginia Rural Water Association has asked him to file an amicus brief on their behalf for the Berkeley County CIF case. He will be filing the amicus brief on their behalf even though it will be late and my not be accepted. Mr. Hankins commended Mr. Kelsh on the amicus brief he filed on behalf of the District. He felt his amicus brief was very well written and he forwarded it onto Ms. Widmyer at the County Commission since they have become interested in this case. Mr. Kelsh is still trying to set up a meeting with the County Commission for a briefing on this case.

Action: **No action taken by the Board.**

Discuss Acceptance of Old Standard Wastewater Treatment Plant
Mr. Kelsh had no changes from last month. The District staff and Board has been in talks with Herb Jonkers, one of the owners of the Old Standard Plant, but no offers had been put on the table. The Board discussed the recent news of the Old Standard property becoming a rownfield re-development project which could affect the agreements the District currently has with the owners of the Old Standard Plant. The Board took comments from the audience. Kay Moore, who is against the Old Standard Plant and development of the property, questioned who would pay for the upgrades to the plant before the District would buy it if they indeed choose to do so. Mr. Hankins replied by stating the District has a series of agreements with the owners of the plant and the District currently owns the property on which the Old Standard Plant is built on. The District had certain expectations for acquiring it, which have not yet been fulfilled. Currently the operation of the plant costs more than the revenue provided by the existing customer base so the District would be operating at a loss if it took over. The plant is currently operating very well, but isn't treating many homes from the Sheridan development. With upgrades to some internal equipment and the addition of membrane cartridges the plant has the capacity to treat up to 125,000 gallons per day with the existing basins.

Action: **No action taken by the Board.**

Action: **Motion made by Mr. Appignani and seconded by Mr. Cummins to convene in executive session for the purpose of discussing litigation and contract negotiations. Unanimously approved.**

Action: **Motion made by Mr. Appignani and seconded by Mr. Cummins to return to public session. Unanimously approved.**

Action: **Motion made by Mr. Appignani and seconded by Mr. Cummins to adjourn. Unanimously approved.**

There being no further business at this time, the meeting was adjourned at 11:20PM

The next regular meeting is scheduled for September 7, 2010 at 7:00pm at 340 Edmond Road, Suite A at the Districts office in Kearneysville.

Respectfully Submitted,

Joseph A. Hankins
Chairman

James D. Cummins
Secretary