Jefferson County Public Service District
Regular Board Meeting
June 7, 2010

The monthly meeting of the Jefferson County Public Service District was held at 7:00PM on Monday, June 7, 2010 in the meeting room at the Districts office in Kearneysville. Those in attendance included: Secretary, Jim Cummins; Treasurer, Peter Appignani; General Manager, Susanne Lawton; Administrative Assistant, Ashley Wilt; Pentree Engineer, Zane Summerfield; District Legal Counsel, Jim Kelsh (by speakerphone), and Commission Liaison to the Public Service District, Commissioner Lyn Widmyer. Mr. Hankins was absent from the meeting.

Secretary Cummins called the meeting to order at 7:00PM.

Public Comments
Ellen May, John Rissler Road: Commented on Highland Farm Permit Transfer item.
Katherine Smith, John Rissler Road: Commented on Highland Farm Permit Transfer item.
Kelly Betty, Kabletown Road: Commented on Highland Farm Permit Transfer item. (gave written comments)
Jacqueline Milliron, Breckenridge: Commented on Highland Farm Permit Transfer item.
Jennifer Miller, Avon Bend: Commented on Highland Farm Permit Transfer item.
Richard Latterell, Molers Crossroads: Commented on Highland Farm Permit Transfer item.
Jim Surkamp, Jefferson County Commission: Commented on Highland Farm Permit Transfer item.
Roy Fry, John Rissler Road area: Commented on Highland Farm Permit Transfer item.
Beth Haney, Harpers Ferry: Commented on Highland Farm Permit Transfer item.

OLD BUSINESS

Review Minutes of May 3, 2010 Regular Board Meeting
The minutes of the May 3, 2010 regular Board meeting were approved as presented.

Action: **Motion made by Mr. Appignani and seconded by Mr. Cummins to accept the May 3, 2010 minutes as presented. Approved 2-0.**

Update on Joint Applications to West Virginia Infrastructure and Jobs Development Council (IJDC) with Jefferson Utilities Incorporated for Mountain Water Project
On May 21st, the IJDC returned the application and issued its letter of explanation with comments to the District. The Board decided that before they take any action they would like to wait for the results of the County Commission's Westridge Hills test wells study. Ms. Widmyer reported to the Board that the County Engineer gave a presentation at last weeks County Commission meeting on the status of the project. Two firms remain in the running to complete the study using the approved $30,000. Ms. Widmyer will know more on the status within the next two weeks.

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

Approval of the Memorandum of Understanding with Jefferson Utilities with Additional Language from the May 26th PSC Order in PSC Case # 09-2030-PWD-W-PC
At this point in the meeting, the Board called Mr. Kelsh to join the meeting by speakerphone.

The District received a Recommended Decision on May 24th approving the agreement between the District and Jefferson Utilities for the Mountain Water Project. Mr. Kelsh informed the Board that in that decision the Public Service Commission (PSC) indicated that they would like additional language added to the agreement clarifying one of the terms. Mr. Kelsh recommended that the Board sign the agreement with the additional language. Mr. Appignani clarified that the Recommended Decision was given by the Administrative Law Judge not the Public Service Commission. Mr. Cummins questioned if additional language could be added to the agreement other

than what the PSC had requested. Mr. Kelsh stated if additional language was added, the agreement would have to go through the approval process again, which could take months. The Board decided to table approving the agreement until next month, after the 15 day period that parties have to file written exceptions. If no exceptions are filed, the Recommended Decision will become the order of the PSC.

Action: **Motion made by Mr. Appignani and seconded by Mr. Cummins to table this item until next month. Approved 2-0.**

Consider Approval of Contract with Engineering Firm for Inspection Services

Mr. Appignani updated the Board. After interviewing 3 engineering firms last month, the interview committee (Mr. Appignani, Ms. Lawton, and Mr. Castaldo) decided to move forward with Specialized Engineering and met with them to negotiate a contract. Members of the committee and Specialized have agreed on terms of a contract and would like to get Board approval. Mr. Kelsh added language to the contract regarding conflict of interest issues.

Action: **Motion made by Mr. Appignani and seconded by Mr. Cummins to approve the contract as presented with Specialized Engineering. Approved 2-0.**

Update on WV Funding Stakeholder Group Workshop

Mr. Cummins gave a brief overview on the status. DEP chose 3 of the 7 white papers, the Table Games Contribution, Toilet Paper Tax, and Flush Fee, which were prepared by the Stakeholders Group as most promising. They presented them to the Legislature on June 1st.

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

Update on Berkeley County Capital Improvement Fee Case

Mr. Kelsh updated the Board. The WV Supreme Court will hear the petition for appeal in September after the summer break. Mr. Kelsh hasn't filed an amicus brief in support of the PSD's yet, but will do so by the end of June. The Public Service Commission has filed a motion to intervene in the case.

Last month the Board directed Mr. Kelsh to contact the attorney from the Jefferson County Commission to discuss the Capital Improvement Fee case. Mr. Kelsh stated he will make this contact soon and Ms. Widmyer suggested setting up a work session with the County Commission and PSD Board and staff to discuss this.

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

Discuss Status of S.1816 & H.R.3852: To Amend the Federal Water Pollution Control Act to Improve and Reauthorize the Chesapeake Bay Program

Mr. Hankins was absent from the meeting to give an update on the progress of this issue. Mr. Cummins stated that NACWA submitted a letter of support to Mr. Cardin on the Chesapeake Bay bill. The Board commended the letter.

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

NEW BUSINESS

Consider Transfer of Highland Farms NPDES Permit to Jefferson County Public Service District

Highland Farms LLC approached the District for consideration of transferring the NPDES permit for a MBR 50,000 gpd wastewater treatment plant, which could be expanded to a 225,000 gpd plant. The developer has chosen not to renew the permit, which is set to expire June 15, 2010. The District currently owns a 5 acre piece of ground on Rt. 9 near the Shenandoah River where the plant is planned to be built. Mr. Jonkers, Managing Member of Highland Farms LLC, was present in the audience for comments. He stated the current PSC approved agreements the District has with Highland Farms are set to expire in November 2010. Mr. Jonkers stated the permit can be transferred to the District for about $400.00. He will also give the District complete use of all plans, and allow us to retain ownership of the land that he previously gave to us. Mr. Jonkers stated that in 2006, an appeal of the Highland Farms permit caused the design of the plant to provide for treatment at 3 mg/l total nitrogen and 0.1 mg/l total phosphorous, which will exceed very stringent Chesapeake Bay requirements. Currently there are only 179 lots recorded and bonded out of the 600 total for the Thornhill development which is

one of the developments the plant is planned to serve, but nothing is yet constructed so flows would have to go to the Charles Town Plant if the Highland Farms plant isn't constructed.

Public comments included:
Marty Freemon, John Rissler Road
Jacqueline Milliron, Breckenridge
David Hammer, Legal Counsel for many residents in John Rissler Road area
Jim Surkamp, Jefferson County Commission
Alegra Wright, Avon Bend
Lyn Widmyer, Jefferson County Commission Liaison to PSD

Mr. Appignani stated he was not in favor of this permit transfer or any further projects given the Districts current financial hardships. He stated this was more than just a transfer of a permit and he will not support. Mr. Cummins agreed with Mr. Appignani, also stated that it would have been better if the transfer offer was made with more advance notice, that additional information and time was needed to fully consider the offer. Mr. Cummins expressed thanks to the public for their comments, which were valuable to his consideration.

Action: **Motion made by Mr. Cummins to not accept the transfer at this time. The motion died due to a lack of a second. No action taken by the Board.**

Consider Approval of Estimate Billing Policy

Mr. Appignani updated the Board. At last months Board meeting, 2 customers had concerns with the District's estimate billing policy. District staff further investigated and corrected all customer bills that had been billed incorrectly. Staff has prepared a policy clarifying how estimates are handled in the future.

Action: **Motion made by Mr. Appignani and seconded by Mr. Cummins to approve the Estimate Billing Policy as presented. Approved 2-0.**

Consider Approval to Advertise for Bids for Tank Flushing, Inspection, Cleaning, and Recommendations for the 17,800 gal Clearwell at Glen Haven

The District received the results of the Sanitary Survey for Glen Haven completed by the WV Department of Health and Human Resources last month. One of the items the survey recommended to maintain compliance with the primary drinking water regulations was to drain, clean, and inspect the 17,800 gallon clearwell tank. The District would like the Boards approval to advertise for bids for this tank work.

Action: **Motion made by Mr. Appignani and seconded by Mr. Cummins to approve staff to advertise a request for bids for the draining, cleaning and inspection of the clearwell tank. Approved 2-0.**

Discuss DEP Compliance Report

On May 10th, a DEP inspector showed up at the Districts office to do a surprise inspection. The inspector found 3 items out of compliance with the Districts current NPDES permit. Ms. Lawton responded to the noncompliance letter with actions the District will take to resolve each noncompliant item. The Board commended Ms. Lawton's resolutions and felt they seemed appropriate.

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

Consider Payment of $29,100 for Railroad Crossing Easement for Flowing Springs Wastewater Treatment Plant

The District had received the contract for the Norfolk Railroad Crossing easement that is needed for the 36 inch line for the proposed Flowing Springs plant, which will cost $29,100. Mr. Kelsh recommended that the Board get a Title Search done by Mr. Crawford. Mr. Appignani had concerns with a clause in the contract stating "the railway can terminate the license if its superintendent determines that the District's facilities interfere with the operations of the railway". He was curious of what the Districts options are if this should happen. Mr. Summerfield and Mr. Kelsh assured Mr. Appignani that this is standard language in the contract and if it should happen, the District would need to find another route. Mr. Appignani would like to table the approval of this item so he can think about this clause in the contract.

Action: **Motion made by Mr. Appignani and seconded by Mr. Cummins to direct staff to get a title search completed by Mr. Jim Crawford for the railroad crossing for the Flowing Springs wastewater treatment plant. Approved 2-0.**

Public Comments
Jacqueline Milliron, Breckenridge: Commented on several items on the agenda.

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. Approved 2-0.**

Action: **Motion made by Mr. Cummins and seconded by Mr. Appignani to return to public session. Approved 2-0.**

Action: **Motion made by Mr. Cummins and seconded by Mr. Appignani to designate Peter Appignani as the Acting Chairman for the purpose of signing Bond documents. Approved 2-0.**

Consider Authorization by Board to Pay the Jefferson County Public Service District Sewer Bill When Printed to Avoid Late Fees
Ms. Lawton informed the Board of a billing issue the District staff has been having concerning the Districts own sewer bill. District staff would like the Board to authorize staff to pay the sewer bill when the bills are printed each month instead of waiting until after approval at the monthly Board meetings to avoid late fees on the Districts account.

Action: **Motion made by Mr. Appignani and seconded by Mr. Cummins to approve authorization to allow the staff to pay the District's sewer bill when received. Approved 2-0.**

Discussion of any expenses over budget
There were no expenses over budget.

Disbursements

Action: **Motion made by Mr. Appignani and seconded by Mr. Cummins to approve disbursements for Cavaland water expenses in the amount of $1,716.06. Approved 2-0.**

Action: **Motion made by Mr. Appignani and seconded by Mr. Cummins to approve disbursements for Glen Haven water expenses in the amount of $2,843.67. Approved 2-0.**

Action: **Motion made by Mr. Appignani and seconded by Mr. Cummins to approve disbursements for the Public Service District expenses in the amount of $251,780.67. Approved 2-0.**

Approve Transfer of $46,710.00 from Renewal & Replacement into Sewer Operating for New Godwin Diesel Pumpset for Pump Station 4-5

Approve Transfer of $10,215.00 from Renewal & Replacement into Sewer Operating for 2 New Pumps at Pump Station 4-3

Approve Transfer of $5,150.00 from Renewal & Replacement into Sewer Operating for New Pump at Pump Station 2-13

Action: **Motion made by Mr. Appignani and seconded by Mr. Cummins to approve the transfer of $46,710.00 from Renewal & Replacement Account into Sewer Operating Account for a new Godwin Diesel Pumpset for pump station 4-5; to approve transfer of $10,215.00 from Renewal & Replacement into Sewer Operation for 2 new pumps at pump station 4-3; and to approve transfer of $5, 150.00 from Renewal & Replacement into Sewer Operation for new pump at pump station 2-13. Approved 2-0.**

Approve Transfer of $3,605.47 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 $3,605.47 from Sewer Security Deposit Account into Sewer Operating Account for Security Deposit Refunds. Approved 2-0.**

Approve Transfer of $64.42 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 $64.42 from Glen Haven Security Deposit Account into Glen Haven Operating Account for Security Deposit Refunds. Approved 2-0.**

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.

Action: **Motion made by Mr. Appignani and seconded by Mr. Cummins to adjourn. Approved 2-0.**

There being no further business at this time, the meeting was adjourned at 9:57PM

The next regular meeting is scheduled for July 6, 2010 at 7:00pm at 340 Edmond Road, Suite A at the Districts office in Kearneysville.

Respectfully Submitted,

James D. Cummins
Secretary

Peter L. Appignani
Treasurer