Jefferson County Public Service District
Regular Board Meeting
April 6, 2010

The monthly meeting of the Jefferson County Public Service District was held at 7:00PM on Tuesday, April 6, 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; District Legal Counsel, Jim Kelsh, and Commission Liaison to the Public Service District, Commissioner Lyn Widmyer.

Chairman Hankins called the meeting to order at 7:06PM.

Public Comments
None.

OLD BUSINESS

Review Minutes of March 1, 2010 Regular Board Meeting
The minutes of the March 1, 2010 regular Board meeting were approved as presented.

Action: **Motion made by Mr. Cummins and seconded by Mr. Appignani to accept the March 1, 2010 minutes as presented. Unanimously approved.**

Review Minutes of March 22, 2010 Special Board Meeting
Since the March 22nd meeting took place in Executive Session, the Board gave a brief overview of the issue discussed at that meeting before voting on whether to approve these minutes. Due to a misplaced decimal point in Charles Town's water billing software, Uniwest was overcharged for water and sewer for 20 months. As a result, the District sewer bill to Uniwest was $97,499.43 too much. The District was also overcharged by Charles Town for the same number of gallons to be treated at the Charles Town Wastewater Treatment Plant, resulting in an overpayment by the District to Charles Town in the amount of $31,349.50. Charles Town has reimbursed the District for this amount. The District's Board and Uniwest approved a payment agreement where the $31,349.50 the District received from Charles Town would immediately be paid to Uniwest and the balance due to Uniwest of $66,149.93 would be paid to them over the next 20 months.
The minutes of the March 22, 2010 special Board meeting were approved as presented.

Action: **Motion made by Mr. Appignani and seconded by Mr. Cummins to accept the March 22, 2010 minutes as presented. Unanimously approved.**

Consider Revised Project Related Rule 42
Mr. Kelsh informed the Board of a similar case at the Public Service Commission (PSC) relating to the submission of Rule 42 Exhibits, upon which the final order was placed last Friday. The PSC is now requiring the Rule 42 to perfectly comply with their new rules/standards or it will be sent back. Chuck Young from Cox Hollida Price prepared the draft Rule 42 prior to this case which has made the rules more stringent. If approved by the Board, Mr. Young will need to revise the document according to the new standards, but the rates will remain similar. This revised Rule 42 is based upon the District meeting its debt service requirements entirely from volumetric rate revenue therefore proposing slightly higher rates than in previous Rule 42s the board has reviewed. Rates have also increased in this Rule 42 due to the Berkeley County Capital Improvement Fee (CIF) case which may prevent the issuance of any bonds in the state where the repayment method is the use of CIF's. Mr. Young presented the revised 42 Exhibit to the Board and gave examples of what the District's rates would be with or without using CIF's. The District's rates could increase to $19.80 per 1000 gallons, but since the District is a bulk rate customer of Charles Town and they have filed for an increase, the rates could increase more to cover Charles Town's increase. Mr. Hankins suggested filing a dual Rule 42 Exhibit, one using CIF's and one without. Mr. Appignani suggested applying for more grants to help cover some of the costs instead of the rate payers either from the Infrastructure Council or State Revolving Fund (SRF). Mr. Summerfield informed him that the Infrastructure Council forwarded the application to the SRF due to the rates shown on the application not supporting grants because of the

median household income of the County, so the SRF will now decide on grants and loans the District can acquire.

Action: **Motion made by Mr. Cummins and seconded by Mr. Appignani to approve and file the Rule 42 Exhibit showing $19.80 as the proposed rate with the understanding that Chuck Young will redraft the document to meet the Public Service Commission's new format requirements and also make an express request for grant consideration. Unanimously approved.**

Update on Joint Applications to West Virginia Infrastructure and Jobs Development Council (IJDC) with Jefferson Utilities Incorporated for Mountain Water Project

Mr. Kelsh updated the Board. At the IJDC Funding Committee Work Session on March 30th the application was referred to the funding committee, but at the funding committee meeting on April 2nd the application was recommended to be returned. The project was listed as a project to be returned to the applicant on the Infrastructure Council's April 7th meeting agenda. The District is now waiting for comments from the IJDC.

Public comments received by:
Kay Moore, Keyes Ferry Acres resident
Jacqueline Milliron, Breckenridge resident
Commission Lyn Widmyer (read a letter from the County Commission regarding Small Cities Block Grant)
John Maxey, Harpers Ferry resident

Mr. Cummins stated one of the constraints the District faces is the limited known facts for water sources it has at this time. There are a number of potential sources, but no facts yet to back them up. He was also surprised the PSC staff recommendation did not note any public opposition to the Valley Water source, which he thinks needs to be corrected. Mr. Appignani stated that all of the options should have been included in the application. The Board would like to see all comments before taking any further action.

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

Consider Proposals from Engineering Firms for Inspection Services (first step in 5G process; choose who to interview)

This item was discussed in Executive Session.

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

Update on WV Funding Stakeholder Group Workshop

The group met in February and assigned several members of the group to develop white papers on various concepts including a flush tax, a toilet paper tax, a license plate fee, excess lottery revenue, a fertilizer tax, and dedicated money from the Department of Environmental Protection (DEP) State Revolving Fund (SRF) program. Mr. Kelsh was assigned the task of preparing the fertilizer tax paper, Joe Hankins and Andy Blake, Ranson Attorney, were assigned the toilet paper tax paper, and John Tuggle and Mr. Kelsh were assigned the funds from DEP SRF paper. The papers were submitted to DEP for review and they will finalize their recommendations and forward to the Legislature by April 30th. Mr. Cummins commended Mr. Hankins and Mr. Blake on the toilet paper tax they developed. Ms. Widmyer agreed with Mr. Cummins and thought all the papers were great. Mr. Appignani questioned if there were any discussions on stormwater funding. Mr. Hankins stated that stormwater funding was not included in the discussions of the group at this time.

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

Discussion and Consideration of the Purchase of Nutrient Offsets to Meet WV NPDES Permitting Requirements for Flowing Springs Project

Last month the Board directed staff to pursue a contract with Red Barn for nutrient offset credits to help fulfill the requirements of the NPDES Permit for the Flowing Springs plant. Mr. Kelsh sent the draft agreement to Red Barn, but hasn't received any comments back. The District is unsure of DEP's thoughts on this type of agreement, but the Board felt this was a reasonable strategy and critical for the NPDES permit application. Mr. Hankins informed the Board that there has been interest in the local community and the agriculture community, but they are not ready at this time for negotiations.

Action: **Motion made by Mr. Cummins and seconded by Mr. Appignani to accept and approve the agreement with Red Barn, as submission for the Department of Environmental Protection NPDES permit application to indicate how the**

District plans move forward with the nutrient offset issue. Unanimously approved.

NEW BUSINESS

Discussion of any expenses over budget

Mr. Hankins stated the Brickstreet Mutual expense under the Administrative and General Insurance line item will be putting the District over budget this month and for the fiscal year. The Board also acknowledged the Bad Debt line item is over budget for the year, but the District will be not be approving any immediate expenses this evening for that item.

Action: **Motion made by Mr. Appignani and seconded by Mr. Cummins to approve the over budget expenses for Brickstreet Mutual totaling $3,804.40 and acknowledge this payment will put the District over budget for the Administrative and General Insurance line item.**

Disbursements

Action: **Motion made by Mr. Appignani and seconded by Mr. Cummins to approve disbursements for the Public Service District expenses in the amount of $155,320.81, which includes the above approved expenses for Brickstreet Mutual. Unanimously approved.**

Action: **Motion made by Mr. Appignani and seconded by Mr. Cummins to approve disbursements for Cavaland water expenses in the amount of $1,431.76 and Glen Haven water expenses in the amount of $1,754.35. Unanimously approved.**

Approve Transfer of $2,685.71 from Sewer Security Deposit Account into Sewer Operating for Security Deposit Refunds

Action: **Motion made by Mr. Appignani and seconded by Mr. Cummins to approve the transfer of $2,685.71 from Sewer Security Deposit Account into Sewer Operating Account for Security Deposit Refunds. Unanimously approved.**

Update on Water Reuse Project from Jerry Wolfe, Chester Engineers

Jerry Wolfe from Chester Engineers updated the Board on the progress being made regarding the water reuse study for the Flowing Springs wastewater treatment plant. The water reuse study will address alternatives for using the treated effluent discharges. The District received a $60,000 source water protection grant from the Bureau of Public Health to fund the study. Mr. Wolfe informed the Board that Chester Engineering has completed 90 % of the study, just needing to finish the sources of funding section. Ms. Widmyer, along with the Board thought it would be worth looking into to expand the use of the effluent to a nearby nature site or plant site. Mr. Wolfe gave a copy of the draft study to the Board members for their review.

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

Consider Berkeley County PSD Courtesy Request to Allow Berkeley County to Provide Water Service to Hospice of the Panhandle

The Berkeley County Public Service Water District and Sewer District contacted the Jefferson County PSD (PSD) to request a release to serve the proposed Hospice of the Panhandle on Route 9. This new facility will be located on 2 parcels of land next to the Jefferson-Berkeley County line. The access road to the property is located in Berkeley County, but the facility will be located in Jefferson County. The architect for the project, Mr. Robert Eckels, was present in the audience to inform the Board of the boundary situation. The Berkeley County water and sewer districts requested from the Jefferson County PSD to serve the proposed facility since they have infrastructure in the area and the Jefferson County PSD does not. The Board agreed with this request and will send a letter to the Berkeley County water and sewer districts confirming this.

Action: **Motion made by Mr. Cummins and seconded by Mr. Appignani to direct staff to send a courtesy letter back to the Berkeley County water and sewer**

districts confirming the Jefferson County PSD has no infrastructure in the area and release the parcels for them to serve. Unanimously approved.

Consider Berkeley County PSSD Courtesy Request to Allow Berkeley County to Provide Sewer Service to Hospice of the Panhandle

This item was discussed above.

Action: No action taken by the Board.

Discussion of Affordable Housing with Cambridge LLC

Mike Cassell, Attorney representing Cambridge LLC, gave a presentation to the Board requesting that Cambridge be permitted to pay the Capital Improvement Fee for numerous lots, but delay getting the building permit beyond the 10 business day policy. Mr. Cassell informed the Board that Cambridge was the only development in the County to offer new affordable manufactured homes. He stated the homes sell anywhere from $30,000-$80,000, but are required to pay the extra fees of a $13,500 impact fee and a $1,127 Capital Improvement Fee (CIF) which could soon go up to $5,500. The District currently has an agreement with Cambridge that is set to expire in June requiring them to pay Charles Town's CIF, which is at the Public Service Commission to increase to $5,500. After June 30th they will be subject to pay the District's current CIF of $7,500. The District's current policy states that when a developer pays the CIF, they have 10 business days to apply for a building permit. Cambridge felt the added increased costs having to be paid around the same time would affect their ability to see the new units. The Cambridge developers requested that they be permitted to pay the current CIF of $1,127 for up to 27 lots that are ready to be developed, but delay getting the building permits and paying the impact fees to the County until they actually have the units sold. Mr. Hankins pointed out that if the County wanted to follow through on their desire to support low income housing that they may wish to consider a fund to pay these fees for the few affordable homes that are constructed each year. After much discussion, Mr. Kelsh stated he cannot advise the Board on any actions until he reviews all the associated agreements.

Action: Motion made by Mr. Cummins and seconded by Mr. Appignani to direct staff and Mr. Kelsh to review all the options for Cambridge and review PSC regulations with a sense of urgency due to an order on the Charles Town CIF case. Unanimously approved.

Consider Intervention in Berkeley County Capital Improvement Fee Case

This item was discussed in Executive Session.

Action: No action taken by the Board.

To Consider and Act Upon on the Proposed Bond Resolution for the Issuance of the SEWER REFUNDING REVENUE BONDS, 2010 SERIES A in the Aggregate Principal Amount of Not More Than $1,975,000, Together with Other Funds of the District, for the Purposes of Currently Refunding the Sewer Refunding Revenue Bonds, Series 1998 A, Fund a Debt Service Reserve Fund and Paying the Costs of Issuance Thereof (the "Bonds")

Mr. Kelsh informed the Board of the updated version of the Bond Resolution document that he received prior to the Board meeting. He stated most of the changes were technical details and he recommends the Board approve the resolution. Jim Kelsh informed the Board that the Public Service Commission has issued no orders or memos relating to the bond refinance.

Action: Motion made by Mr. Cummins and seconded by Mr. Appignani to adopt the resolution as read into the record:

RESOLUTION OF THE JEFFERSON COUNTY PUBLIC SERVICE DISTRICT AUTHORIZING THE ISSUANCE OF THE SEWER REFUNDING REVENUE BONDS, 2010 SERIES A IN THE AGGREGATE PRINCIPAL AMOUNT OF NOT MORE THAN $1,975,000, FOR THE PURPOSES OF CURRENTLY REFUNDING, TOGETHER WITH OTHER FUNDS OF THE DISTIRCT, THE SEWER REFUNDING REVENUE BONDS, SERIES 1998A AND PAYING THE COSTS OF ISSUANCE THEREOF; AUTHORIZING THE REFUNDING OF SUCH BONDS; PROVIDING AS TO THE TERMS AND PROVISIONS OF THE BONDS; AUTHORIZING THE EXECUTION AND DELIVERY OF AN ESCROW AGREEMENT, A

CONTINUING DISCLOSURE AGREEMENT AND OTHER DOCUMENTS; AUTHORIZING AND APPROVING THE SALE AND DELIVERY OF SUCH BONDS; DESIGNATING A TRUSTEE AND PAYING AGENT; PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS; AND ADOPTING OTHER PROVISIONS WITH RESPECT THERETO.

Unanimously approved.

To Consider and Act Upon Any Measures Related to the Bonds

Action: **Motion made by Mr. Cummins and seconded by Mr. Appignani to direct staff and to act upon any measures related to the Bonds and direct Counsel to review changes made to the Bond Resolution. Unanimously approved.**

Consideration of Memorandum of Understanding with the City of Ranson

Last month Mr. Kelsh stated the City of Ranson has expressed interest in working with the District on the Flowing Springs project and to draft a Memorandum of Understanding (MOU) as the first step. The Board reviewed and approved the drafted MOU. Mr. Kelsh will forward the agreement to Ranson for approval.

Action: **Motion made my Mr. Appignani and seconded by Mr. Cummins to approve the Memorandum of Understanding between the District and the City of Ranson. Unanimously approved.**

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

Last month the Board had approved drafting letters of support to West Virginia Senators and Congresspersons for Senate Bill 1816. The Board would like to postpone sending the drafted letters until concerns are addressed. Mr. Hankins is attending a meeting on April 13th at Senator Cardin's office with representatives of the National Association of Clean Water Agencies, of which the District is a member.

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

Consider Approval of Generator Contract Renewal from AR&E

The past 2 years, the District has approved Apparatus Repair & Engineering, Inc. (AR&E) for an annual preventative program for generator maintenance for each of the pump stations. The contract is up for renewal the Board felt it is worth renewing.

Action: **Motion made by Mr. Cummins and seconded by Mr. Appignani to renew the contract with Apparatus Repair & Engineering, Inc. for generator maintenance with an annual cost of $9,849.00. Unanimously approved.**

Discuss Agenda Topics and Schedule for Work-Session Meetings

Last month Mr. Hankins made the suggestion for the Board to consider holding regular Board Work Sessions supplement to the monthly Board meetings and to work with staff to draft a work session schedule and possible topics to discuss for this months meeting. The Board will have the first work session on Friday, May 21st from 8:00AM – 12:00PM at the District office. Ms. Lawton will send out a draft agenda to the Board before the meeting for posting.

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

General Manager's Report

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

- Easement Acquisition for Flowing Springs wastewater treatment plant – Ms. Lawton updated the Board on a meeting she had with Mr. Summerfield, Mr. Kelsh, Ms. Wilt, and Mr. Crawford. They are continuing to gather easements for the project.

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

Correspondence

None discussed.

Public Comments
None.

Action: **Motion made by Mr. Hankins 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. Cummins and seconded by Mr. Appignani to direct the General Manager to request a proposal from Chuck Young to provide assistance and testimony to Jim Kelsh relating to the Charles Town Certificate and Municipal Appeal Case. Unanimously approved.**

Action: **Motion made by Mr. Appignani and seconded by Mr. Cummins to file an Amicus Brief in the Berkeley County capital improvement fee case. Unanimously approved.**

Action: **Motion made by Mr. Cummins and seconded by Mr. Appignani to interview Alpha Associates, Chester Engineering, and Specialized Engineering for water and sewer inspection services. Unanimously approved.**

The Board formed a committee of Ms. Lawton, Mr. Castaldo (Operations Manager), and Mr. Appignani to complete the interviews.

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

There being no further business at this time, the meeting was adjourned at 11:30PM

The next regular meeting is scheduled for May 3, 2010 at 7:00pm at 340 Edmond Road, Suite A at the Districts office in Kearneysville.

Respectfully Submitted,

Joseph A. Hankins
Chairman

Peter L. Appignani
Treasurer