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

The monthly meeting of the Jefferson County Public Service District was held at 7:00PM on Tuesday, July 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 7:05PM.

Public Comments
Susan Rissler Sheely, John Rissler Road: Commented on the June 7, 2010 PSD Board Meeting minutes and the poor quality of audio she experienced of PSD Board meetings.

OLD BUSINESS

Review Minutes of June 18, 2010 Special Board Meeting
The minutes of the June 18, 2010 special Board meeting were approved as presented. The Board would like to add the discussion of the PSD Board meeting minutes and audio recording to the next work session agenda. Staff will work with the District's IT consultant to investigate and remediate any problems with the recording and taping system.

Action: **Motion made by Mr. Cummins and seconded by Mr. Appignani to accept the June 18, 2010 minutes as presented. Approved 2-0-1. (Mr. Hankins abstained.)**

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
Mr. Kelsh updated the Board. The May 24th Recommended Decision from the Administrative Law Judge that approved the agreement between the District and Jefferson Utilities became the final order of the Public Service Commission as of June 15th. In that Recommended Decision from last month, additional language was added to the agreement clarifying one of the terms. Jefferson Utilities has signed the agreement and Mr. Kelsh recommended that the Board sign the agreement with the additional language.

The Board had a brief discussion on the internal memorandums that were prepared by staff and included in the Board books this month. Mr. Appignani brought up the issue and questioned the memorandums that were included in the Board books, which he did not agree with. Mr. Kelsh explained the reasoning for the new internal memorandums that staff, Mr. Summerfield, and himself have prepared. The memos had a disclosure on the bottom consistent with the WV Freedom of Information Act and may be subject to the Attorney-Client Privileged status so they have been labeled as "internal memorandums". Mr. Hankins stated that these internal memos are part of a process by staff to provide background facts, clarify information, and suggest recommendations to help the Board make better and quicker decisions. Commissioner Lyn Widmyer disagreed with the Board's interpretation of the Freedom of Information Act and thought keeping information from the public is wrong when it is a public meeting.

Action: **Motion made by Mr. Appignani and seconded by Mr. Cummins to authorize the Chairman to execute the revised Memorandum of Understanding with Jefferson Utilities. A brief discussion took place.**

Mr. Kelsh clarified to the Board that the District has previously approved this agreement, but the PSC now would like the Board to approve the agreement with the additional language from the PSC's recommended decision. He stated that by not approving the agreement, it could cause confusion to government agencies and cause Jefferson Utilities to not receive certain design grant money. Mr. Cummins was concerned with some of the outdated language of the agreement and its focus on the valley water supply, but he believes it can be amended at a later

time. Mr. Hankins felt this agreement protects the District and the Districts customers. Mr. Appignani stated the agreement gives the District somewhat more power and control than to not have an agreement at all.

Action: **The original motion was unanimously approved.**

Action: **Motion made by Mr. Appignani and seconded by Mr. Cummins to allow the internal memorandum that was attached as background information for the Memorandum of Understanding agenda item be released as a public document. Approved 2-1. (Mr. Hankins opposed.)**

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

Last month the District had received the contract for the Norfolk Railroad Crossing/AECOM easement that is needed for the 36 inch line for the proposed Flowing Springs plant, which will cost $29,100. Mr. Kelsh spoke with AECOM regarding the Districts concerns of the payment of $29,100 that was due by July 26th. AECOM suggested Mr. Kelsh indicate that the District is not opposed to the agreement, but to just defer the payment to a later time. The Board agreed with that interim strategy and suggested that Mr. Kelsh should stay in contact with AECOM. Mr. Kelsh suggested tabling the item until the District is closer to funding for the wastewater treatment plant.

Action: **Motion made by Mr. Appignani and seconded by Mr. Cummins to take no action and direct Mr. Kelsh to email AECOM letting them know the District will get back with them once the District is further along with the completion process. Unanimously approved.**

Update on Flowing Springs Wastewater Treatment Plant NPDES Permit Application

Mr. Summerfield informed the Board that the plans and specifications for the project have been approved by WV DEP. The next step in the process will be for a notice to be advertised for the permit and a public hearing will take place, which will most likely be held locally.

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

Update on WV Funding Stakeholder Group Workshop

Ms. Lawton had no new updates. Multiple funding source white papers developed by an impacted stakeholders group were presented to the Legislature by WV DEP on June 1st. Mr. Kelsh suggested that he could possibly ask WV DEP to reconvene the funding group or have the group meet without WV DEP to develop a lobbying strategy.

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 has started to prepare an amicus brief in support of the PSD's, which he will have completed by next Board meeting. Mr. Kelsh stated he will make this contact soon with the County's attorney, Stephanie Grove to hold a briefing meeting.

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; and H.R. 5509: Chesapeake Bay Program Reauthorization and Improvement Act

Mr. Appignani updated the Board. He stated these issues are very complicated especially since significant amendments were recently made to S. 1816. Mr. Appignani also noted that H.R. 5509 did not include West Virginia as one of the "priority funding" States and needs time to review more thoroughly. Ms. Widmyer suggested scheduling a local joint meeting on this issue.

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

Update on Refinancing 1998A Bonds

Mr. Kelsh informed the Board that the refinance of the 1998A bond closed on June 25th with an interest rate of 4.16%. Mr. Kelsh along with District staff felt the refinance process was not handled as smoothly as expected and would like to send a letter to Bond Council and Crews & Associates stating their concerns. The Board agreed with sending the letter.

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

NEW BUSINESS

Discussion of any expenses over budget

The Board acknowledged that the Pumping, Treatment, and Administrative Dues and Fee's line items were over budget for the 2010 fiscal year.

Action: **Motion made by Mr. Appignani and seconded by Mr. Cummins to approve the expenses over budget as indicated on the cash disbursement sheet. Unanimously approved.**

Disbursements

Action: **Motion made by Mr. Appignani and seconded by Mr. Cummins to approve disbursements for Cavaland water expenses in the amount of $850.33. Unanimously approved.**

Action: **Motion made by Mr. Appignani and seconded by Mr. Cummins to approve disbursements for Glen Haven water expenses in the amount of $5,093.78. 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 $134,041.72. The Board removed the amount of the transfer for the AECOM payment of $29,100.00 that was not approved. Unanimously approved.**

Approve Transfer of $3,230.97 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 $3,230.97 from Sewer Security Deposit Account into Sewer Operating Account for Security Deposit Refunds. Unanimously approved.**

Approve Transfer of $64.08 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 $64.08 from Cavaland Security Deposit Account into Cavaland Operating Account for Security Deposit Refunds. Unanimously approved.**

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 $5,150.00 from Renewal & Replacement into Sewer Operation for new pump at pump station 2-13. Unanimously approved.**

Approve Transfer of $1,732.50 from Cost of Issuance – 2010 Bond Refinance Account into Sewer Operating for Legal Fees

Action: **Motion made by Mr. Appignani and seconded by Mr. Cummins to approve the transfer of $1,732.50 from Cost of Issuance (2010 Bond Refinance Account) into sewer operating account for legal fees. Unanimously approved.**

Approve the Requisition Resolution for the Payment of the Costs of Issuance Out of the Costs of Issuance Account Established at MVB Bank

The Costs of Issuance account was formed to pay all those who worked on the refinance of the 1998A bond. It was established from the proceeds of the bond refinance. Ms. Lawton informed the Board that the total on the Requisition Resolution was incorrect. The resolution was missing the payment to Cox Hollida Price for their work on the bond refinance. The Board approved the Requisition Resolution, but has instructed staff on the way they would like the money to be disbursed.

Action: **Motion made by Mr. Hankins and seconded by Mr. Appignani to approve the Requisition Resolution, but to instruct staff to do the transfer of Mr. Kelsh's legal fees first, then pay the payees in sequence as they are listed on the resolution, and lastly pay Spilman Thomas & Battle in full or with whatever money is leftover. Unanimously approved.**

Consider Possible Alternate Mainline Extension Agreement with Thornhill, Phase I for 179 Approved and Recorded Lots in Thornhill Development

The Manager of the Thornhill LLC, Herb Jonkers, has requested sewer service for 179 approved single family homes for the Phase 1 of the Thornhill subdivision. He would like to enter into an Alternate Mainline Extension Agreement (AMEA) with the District for Phase 1 of the subdivision. The developer will be required to construct a new pump station and force main to pump flow to the Crosswinds subdivision (pump station 4-5). They will also be required to upgrade pump station 4-5 to handle the flows of Thornhill and upgrade the force main which leaves pump station 4-5. Mr. Jonkers was in the audience to answer any of the Board's questions. He has agreed to pay for all upgrades consistent with the agreement. Mr. Kelsh informed the Board that the AMEA is consistent with the updated Breckenridge East AMEA the District has drafted.

The Board received a public comment from Ms. Susan Rissler Sheeley. She questioned why the Board would send flows from the Thornhill subdivision to the Charles Town wastewater treatment plant, which is currently not compliant with Chesapeake Bay requirements. Mr. Hankins informed Ms. Sheeley that although the City of Charles Town's main municipal treatment plant is currently not designed or capable of meeting Chesapeake Bay nutrient technology requirements, the City has a plan to become compliant in the future. He informed Ms. Sheeley that the development in discussion had the option to go to the proposed and permitted Evitts Run wastewater treatment plant, but that is no longer an option.

Action: **Motion made by Mr. Cummins and seconded by Mr. Appignani to approve the Alternate Mainline Extension Agreement between the District and Thornhill LLC as presented and have Mr. Kelsh file with the WV Public Service Commission. Unanimously approved.**

Action: **Motion made by Mr. Cummins and seconded by Mr. Appignani to convene in executive session for the purpose of discussing litigation and contract negotiations regarding the acceptance of the Old Standard Wastewater Treatment Plant. Unanimously approved.**

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

Mr. Cummins requested that staff continue work with Mr. Jonkers to gather more definitive information on the District's possible acquisition of the Old Standard wastewater treatment plant. The Board agreed with Mr. Cummins request.

Consider Filing Comments on Bureau of US Customs & Border Protection Underground Injection Control Permit Renewal Application

Ms. Lawton updated the Board. The US Customs & Border Protection currently has an Ashco recirculating sand filter wastewater treatment plant and is renewing the UIC permit for this facility. Ms. Lawton and Mr. Kelsh suggest the Board to not file comments on this permit application.

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

Consider Approval of Bid for Tank Work at Glen Haven Water System

The District received two (2) bids for the tank work at the Glen Haven water system. Ms. Lawton found extra costs to be involved with this project after she ran the advertisement. She would like to gather more information before she either recommends the approval of one of the 2 companies or possibly re-advertises for bids.

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

General Manager's Report

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

- Cavaland Violation - Last month the monthly water bacteriological report for Cavaland came back positive for coliform bacteria (not e-coli). When the District received the news, they immediately started taking a series of water samples at different locations in the development, and slightly increased the Chlorine residual for the weekend to assure that any coliform that had been introduced into the system was killed. By the following week we had enough samples that were free of the bacteria to resume normal business. The District notified all customers of the test results and the Health Department was comfortable allowing the system to be declared safe.

- Water Advisory Committee (WAC) Meeting - The WAC will be meeting on July 19th and discussing the case study of a local farmer who accepts septage for fields and the County's future needs for either a septage receiving station in the County or some other way of managing it.

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

Consider Revision to the Education and Training Assistance Program Page of the Public Service District Employee Handbook
This item will be discussed in Executive Session.

Correspondence
None discussed.

Public Comment
None.

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. Hankins to return to public session. Unanimously approved.**

Action: **Motion made by Mr. Appignani to approve the Red Barn Agreement and authorize the Chairman to execute three (3) copies. Approved 2-0-1. (Mr. Cummins abstained.)**

Action: **Motion made by Mr. Appignani and seconded by Mr. Cummins to appoint the Chairman to act on behalf of the District for the Martinsburg EQB hearing. Unanimously approved.**

Action: **Motion made by Mr. Cummins and seconded by Mr. Appignani to amend the PSD Employee handbook under the Education and Training Assistance Program section to add the following two (2) sentences; "The District will pay for relevant Professional Certification testing two (2) times per test." and "Any educational requirements not mentioned above, including professional licensing, will be addressed on an individual basis." Unanimously approved.**

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 11:10PM

The next regular meeting is scheduled for August 2, 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