Jefferson County Public Service District
Regular Board Meeting
March 1, 2010

The monthly meeting of the Jefferson County Public Service District was held at 7:00PM on Monday, March 1, 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 7:02PM.

Public Comments
None.

OLD BUSINESS

Review Minutes of December 17, 2009 Public Meeting
The minutes of the December 17, 2009 public meeting on the Mountain were approved as presented.

Action: **Motion made by Mr. Cummins and seconded by Mr. Appignani to accept the December 17, 2009 minutes as presented. Approved 2-0. (Mr. Cummins refrained from voting since he was absent at the meeting)**

Review Minutes of February 1, 2010 Regular Board Meeting
Mr. Cummins reviewed the minor changes he made to the minutes after they were disbursed to the other Board members. The minutes of the February 1, 2010 regular Board meeting were approved as presented.

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

Review Minutes of February 8, 2010 Special Board Meeting
The minutes of the February 8, 2010 special Board meeting were approved as presented.

Action: **Motion made by Mr. Cummins and seconded by Mr. Appignani to accept the February 8, 2010 minutes as presented. Unanimously approved.**

Update on Joint Applications to West Virginia Infrastructure and Jobs Development Council with Jefferson Utilities Incorporated for Mountain Water Project
Mr. Kelsh updated the Board. The application was filed with the Infrastructure Council on February 10th and will be discussed at the IJDC Funding Committee work session on March 30th and again at their meeting on April 2nd. If the funding committee recommends the application, it will be voted on at the Infrastructure Council's April 7th meeting. The Board also discussed the Small Cities Block Grant public meetings on March 9th and March 16th hosted by the County Commission. When PSD staff receives the notices of these meetings from Region 9, they will be placed on the mountain water project website.

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

Update on RFP for Inspection Engineering Firms
Ms. Lawton had no update. She is continuing to work on a draft of the RFP to send out next month.

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

Update on WV Funding Stakeholder Group Workshop
The group met on February 2nd to discuss potential funding sources for Chesapeake Bay requirements. Various members of the group were asked 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 are due back by March 15th and will be distributed to the group on March 19th for comments. DEP will finalize its recommendations and forward to the Legislature by April 30th.

Action: **Motion made by Mr. Cummins and seconded by Mr. Appignani to direct Mr. Kelsh and Mr. Tuggle to prepare the DEP SRF paper, Mr. Kelsh to prepare the fertilizer tax paper, and Mr. Hankins to prepare the toilet paper tax paper and be the designated PSD point of contact for the project. Unanimously approved.**

Action: **Motion made by Mr. Appignani and seconded by Mr. Cummins for the Board and Staff to draft a letter of support to all five of West Virginia's Senators and Congresspersons for the Chesapeake Bay Ecosystem Reauthorization Act of 2009 (HR 3852 & SB 1816). Unanimously approved.**

NEW BUSINESS

Discussion of any expenses over budget

Mr. Hankins stated that there are no items over budget, but the Districts debt coverage is 88%.

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 $2,086.73 and Glen Haven water expenses in the amount of $1,303.97. 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 $188,949.77, with the exception of the line item for Uniwest totaling $31,349.50 pending further discussion. Unanimously approved.**

Approve Transfer of $4,265.13 from Sewer Security Deposit Account into Sewer Operating Account for Security Deposit Refunds

Action: **Motion made by Mr. Appignani and seconded by Mr. Cummins to approve the transfer of $4,265.13 from Sewer Security Deposit Account into Sewer Operating Account for Security Deposit Refunds. Unanimously approved.**

Consider Refinancing 1998A PSD Bonds

Gregg Issacs, from Crews and Associates in Charleston, WV, presented to the Board an opportunity to refinance the Districts outstanding 1998A bond. Mr. Issacs described the three ways the District could refinance the bond which included upfront savings, level savings, or deferred savings. Chuck Young, from Cox Hollida Price, prepared a savings analysis and was in the audience to answer questions from the Board. The Board preferred the level savings option which would have the reduction in cash flow evenly spread through-out the life of the new bond.

Action: **Motion made by Mr. Appignani and seconded by Mr. Cummins to move forward with refinancing the 1998A bond, to authorize Jim Kelsh to file for approval at the Public Service Commission, and to engage Lee Hill as Bond Counsel when necessary. Unanimously approved.**

Discuss Pump Station 4-5 Generator/Pump

Ms. Lawton informed the Board of maintenance issues staff has had at pump station 4-5. The generator at this pump station is beyond repair and needs to be replaced. District staff received estimates for a new generator totaling $38,000 and for a Godwin back-up pump and generator for $50,000. The District started using Godwin pumps a couple years ago for other pump stations and has been extremely pleased with the results. The Godwin pump would help in any situation from power failure to control/pump issues. Mr.

Hankins recommended the Godwin pump and stated they have been reliable in situations the District has encountered in the past.

Action: **Motion made by Mr. Cummins and seconded by Mr. Appignani to approve the purchase of a Godwin Pump for pump station 4-5 for up to $50,000.00. Unanimously approved.**

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

Mr. Hankins stated the proposed Flowing Springs wastewater treatment plant is being viewed by West Virginia Department of Environmental Protection (WV DEP) as a new source which has to acquire 100% offsets for nutrient discharge. The District assumed it would get credit for net reductions in nutrient discharges from WV DEP when the Districts flows were diverted from the Charles Town plant to the Flowing Springs plant. However, in November 2009 WV DEP advised the District that an agreement to that affect would need to be made with the City of Charles Town. The District has been in negotiations with the City of Charles Town, but an agreement has not yet been made. Mr. Hankins stated the other alternative for the District would be to find a market to purchase nutrient offsets. He had contacted the Red Barn Trading Company out of Pennsylvania which pays farmers to take actions to reduce their nutrients and then they sell the offsets. Mr. Hankins had researched the Chesapeake Bay area for companies who offer this program, but only found this company out of Pennsylvania. Mr. Cummins would like it publically known that the District will only be taking offsets from Pennsylvania because West Virginia does not offer a similar program. The Board felt this was a reasonable strategy and critical for the NPDES permit application. The next step would be to work with the Red Barn Trading Company on a contract and get to WV DEP for approval.

Action: **Motion made by Mr. Cummins and seconded by Mr. Appignani to direct staff to pursue the contract for nutrient offset credits and negotiate with the Red Barn Trading Company to help fulfill the requirements of the NPDES Permit. The Board would like it known that it was forced to do trading out of state due to the unavailability of a similar program in West Virginia.**

A brief discussion took place after the motion was made on the current and future costs of this endeavor. Mr. Appignani stated he was concerned with the costs of buying the offsets in the future years and how much they could increase, but would like to move forward with drafting a contract. The Board agreed. The Board would like a clause in the contract that it prefers to buy West Virginia credits over Pennsylvania credits when a program becomes available.

Action: **Motion was unanimously approved.**

Discussion of Enhanced Infrastructure Relationship with the City of Ranson

Recently at the Charles Town Municipal Appeal hearing, it was made known that Charles Town cannot operate beyond the current flow level, and it is uncertain as to how much capacity is available. Both the District and Ranson have allocation of capacity at the Charles Town plant that they may not be able to use. Mr. Kelsh stated the City of Ranson has expressed interest in working with the District on the Flowing Springs project, possibly as co-owners. There is a possibility that some type of relationship, yet to be established, could enable project costs to be spread across a larger customer base causing District customer rates to reduce or rise at a lower rate. However, it could cause Ranson customer rates to increase. Mr. Kelsh, Mr. Hankins, and Ms. Lawton met with Ranson before the Board meeting and discussed the research necessary to design a relationship. Ranson is going to look into hiring an attorney who specializes in utilities and an engineering firm to investigate where efficiencies may be gained by a relationship with the District. Ranson would like to do an assessment of where they are strategically to compare the similarities & differences to the future plans of the District. The next step would be to define the scope of the relationship and prepare a possible Memorandum of Understanding. The Board had some concerns over territory issues and ownership of certain facilities, but thought overall there could be a good relationship and appreciates the efforts by Ranson. There are many issues that still need to be addressed, but the Board felt this was a positive step.

Action: **Motion made my Mr. Cummins and seconded by Mr. Appignani to explore this option and authorize the Districts accountant, engineer, and attorney to review the facilities, operations, and finances of Ranson to see where efficiencies may be gained, and to attempt to structure an agreement that helps realize efficiencies, but maintain cost equity where appropriate. The same District**

staff members should be authorized to share and discuss similar information regarding the District and Ranson officials with the initial form being a possible Memorandum of Understanding drafted as the first step, if deemed appropriate by staff. Unanimously approved.

Consideration of a Regular PSD Board Work Session Schedule as Supplement to Monthly Board Meetings
Mr. Hankins made the suggestion for the Board to consider holding regular Board Work Sessions supplement to the monthly Board meetings. The District has numerous projects going on, financial and rate difficulties, multiple cases at the Public Service Commission, and a number of annual items that must be completed. The Board meetings are running very long hours and Board members are having trouble making decisions with the limited time and information. Mr. Hankins felt the Board can work more effectively making decisions and have a higher level of understanding if the Board had work sessions for the purpose of information presentation and discussions, not decision making. The Board agreed with Mr. Hankins and will work with staff to draft a work session schedule and possible topics to discuss for the next Board meeting.

Action: No action taken by the Board.

Consider the Development of a Policy for Communication between Legal Counsel, Board Members, District Staff & Others
Mr. Kelsh drafted a memo to the Board reviewing the Sunshine Act, attorney-client privilege, and the proper communication between District staff, Board members, and consultants. Mr. Kelsh also discussed the establishment of more formal communication and action procedures. He stated that these procedures need to be consistent with the Sunshine Act and protect the attorney-client privileges. Mr. Kelsh suggested the Board may want to adopt a policy that designates a Board member to be the point of contact for an activity when it concurrently directs staff to undertake that activity. He also suggested the Board adopt a policy that when taking an action on an item, they also state expectations of staff with respect to future activities regarding that item. The Board thought Mr. Kelsh's overview of the communication policies was a great refresher of what communication channels should and should not be used.

Commissioner Widmyer suggested possibly making the Board meeting documents, including agendas, available to the public earlier than the Thursday prior to the meeting. The Board agreed with Commissioner Widmyer's suggestion. Staff will post the agenda by the Monday prior to the Board meeting and have Board books ready by the Wednesday prior to the meeting. Ms. Lawton suggested to the Board and consultants to inform staff on which Board book material is confidential and what is public information.

Action: No action taken by the Board.

Update on PSC General Investigation into Berkeley County Capital Improvement Fees
Mr. Kelsh updated the Board. On January 29th, the Berkeley County Circuit Court issued an order stating that the Public Service Commission (PSC) lacked authority to establish Capital Improvement Fee's (CIF) and that Public Service Districts lacked the authority to charge CIF's. Mr. Kelsh stated that this ruling does not directly affect Jefferson County, unless and until it is overturned, but it will prevent the issuance of any bonds in the state where the repayment method is the use of CIF's. He also stated that the Berkeley County Public Service District intends to file a petition for appeal to the order to the West Virginia Supreme Court and to seek a stay of the order from the Circuit Court. The Board will act next month on whether to file an amicus brief in regards to this case.

The Board and staff believed this case impacts the decision on how the District should move forward on the Flowing Springs wastewater treatment plant project. If the District wishes to begin construction on the project this calendar year, it will need to do so without using CIF's to guarantee debt coverage. The Districts rates could go up to $82 a month for 4500 gallons if the CIF's are not used for debt repayment. The District still needs funding commitments, an NPDES permit, and DEP approved plans and specs for PSC approval. PSC staff issued a memo recommending the Flowing Springs project case be dismissed until these items are completed. The Board will discuss further in executive session.

Action: No action taken by the Board.

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

- Small Cities Block Grant – Ms. Lawton updated the Board on the Small Cities Block Grant process. The County Commission will be sponsoring two public hearings in March and will vote on whether or not to accept the grant application on March 18th.
- Senate Bill 465 – Ms. Lawton asked the Board for the authority to support this bill earlier in the month, but received no response. The bill did pass the Senate and going to the House later this month. The Board expressed its concern of giving support for legislative bills through email and would prefer to have them on the agenda if an action is needed. The Board and Ms. Lawton recognize that it is a challenge for the Board to make decisions on whether or not to support any legislative action due to the timing of the monthly Board meetings and the timeline of legislative bills.

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

Correspondence
None discussed.

Public Comments
-Jacquelyn Milliron, Breckenridge resident

Update on Kevin Wilt PSC Case
No update.

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

City of Martinsburg NPDES Permit Appeal before WV EQB
No update.

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

Update on PSC Review of Agreement with Jefferson Utilities for Mountain Water Project Case # 09-2030-PWD-W-PC
No update.

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

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. Unanimously approved.**

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

Action: **Motion made by Mr. Cummins and seconded by Mr. Appignani to authorize the payment of $31,349.50 to Uniwest for a refund overpayment contingent on the agreement from Uniwest to credit the balance toward future Capital Improvement Fee's in Jefferson Crossing. Unanimously approved.**

Action: **Motion made by Mr. Cummins and seconded by Mr. Appignani to direct Counsel to ask the Public Service Commission for a 90 day extension for the Flowing Springs wastewater treatment plant certificate case #09-0347-PSD-PC-N. Unanimously approved.**

Action: **Motion made by Mr. Cummins and seconded by Mr. Appignani to direct Counsel to file an exception to the decision of the non-project related sewer rate increase case #09-1915-PSD-42T-PC. 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 11:25PM

The next regular meeting is scheduled for April 5, 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