Jefferson County Public Service District
Regular Board Meeting
January 4, 2011

The monthly meeting of the Jefferson County Public Service District was held at 7:00PM on Tuesday, January 4, 2011 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 Stottlemyer; District Legal Counsel, and Jim Kelsh. Also in attendance was Daniel Hayes, new liaison for the Jefferson County Planning Commission.

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

Public Comments
The Board welcomed Walt Pellish, the new Jefferson County Commissioner.

Mr. Hankins read comments emailed from Ms. Susan Rissler Sheeley, as she was unable to attend the meeting, but wanted to enter public comments into the record regarding Thornhill LLC.

OLD BUSINESS

Review Minutes of December 6 Regular Board Meeting
The minutes of the December 6, 2010 regular Board meeting were approved as presented.

Action: Motion made by Mr. Cummins and seconded by Mr. Appignani to accept the December 6, 2010 minutes as presented. Unanimously approved.

Update on Flowing Springs Wastewater Treatment Plant Project
Mr. Kelsh stated the District had received a recommended decision from the Public Service Commission (PSC) for the Flowing Springs Certificate case, but the decision was suspended for unknown reasons. He filed exceptions to the recommended decision and is hoping for an order by the end of January. There is no deadline for a PSC ruling.

Mr. Kelsh stated the District will need a preliminary title opinion for 80% of the easements. The District staff met with Mr. Kelsh, Mr. Summerfield, and Jim Crawford to discuss the status of the remaining easements. The District has only obtained 50% of the required easements and needs 80% to put the project out for bids.

As far as the NPDES permit, Mr. Summerfield stated the permit has been approved and Mr. Kelsh has filed it at the Public Service Commission.

Mr. Summerfield informed the Board that Pentree had submitted a Green Set Aside Grant Application to the West Virginia Department of Environmental Protection Services requesting funding for a Green Infrastructure Grant which can give a 20% grant up to an amount of $500,000 for certain items. Pentree requested the grant for the following items: green roofs, permeable asphalt pavement, and elimination of pump stations. Mr. Hankins is going to draft a follow-up letter to Mike Johnson at the West Virginia Department of Environmental Services from the Board indicating support for the Green Set Aside grant application. Mr. Appignani and Mr. Cummins agreed.

Action: No action taken by the Board.

Update on the Under-billing of Job Corps and RAI Properties
Ms. Lawton updated the Board. Due to incorrect meter readings from one of the Districts water suppliers, a few of the Districts customers were billed incorrectly, RAI and Job Corp having the largest mistakes. Ms. Lawton informed the Board that RAI has entered into a payment agreement with the District to pay off the debt. She has been working with one of Job Corps engineers in trying to collect for the under-billing.

It turns out another federal department was in charge of Job Corps for part of the time frame the under-billing occurred so the engineer is trying to work with that department to get their part of the debt paid. Ms. Lawton will continue to try to resolve this issue.

Action: No action taken by the Board.

NEW BUSINESS

Election of Officers

Mr. Kelsh suggested to the Board to appoint a non-board member as secretary and possibly treasurer. He stated the chairman must be a board member, but the secretary and treasurer do not. Several of Mr. Kelsh's PSD clients have a non-board member as secretary so the board member does not have to complete the task of preparing agendas, minutes, etc. Mr. Kelsh stated none of his clients have taken the step of appointing a non-board member as treasurer. The Board discussed possibly having the Administrative Assistant, Ashley Stottlemyer, as the secretary since she is the employee who prepares the minutes and agendas for meetings. Mr. Cummins, along with the Board, commended Mrs. Stottlemyer for the remarkable job she does on preparing board meeting minutes and agendas. Mr. Appignani suggested keeping things how they currently are since they have been working well. The Board decided to keep the current practice of appointing board members as secretary and treasurer. The Board would also like to keep the current Board members as they are currently appointed.

Mr. Cummins nominated Mr. Hankins to serve as the Chairman and he accepted.

Action: Motion made by Mr. Cummins and seconded by Mr. Appignani to appoint Mr. Hankins as Chairman.

Mr. Cummins nominated Mr. Appignani to serve as the Treasurer and he accepted.

Action: Motion made by Mr. Cummins and seconded by Mr. Hankins to appoint Mr. Appignani as Treasurer.

Mr. Appignani nominated Mr. Cummins to serve as Secretary and he accepted.

Action: Motion made by Mr. Appignani and seconded by Mr. Hankins to appoint Mr. Cummins as Secretary.

Mr. Cummins made a brief comment before the nominations were voted on. He commended Mr. Hankins on a job well done as the Districts Chairman and doesn't want to "rock the boat" if things are running smoothly. Mr. Hankins term is up in December and this could possibly be his last year as a Board member.

Action: All nominations were approved unanimously.

To consider and act upon on the proposed Notes Resolution for the issuance of the Refunding Sewerage System Bond Anticipation Notes, Series 2011 (the "Notes"). The proceeds of the Notes will be used to currently refund the Refunding Sewerage System Bond Anticipation Notes, Series 2010, issued to temporarily finance the costs of design of, and other preliminary costs for, additions, betterments, improvements and extensions to the existing public sewerage facilities of the District and costs of issuance of the Notes

Mr. Kelsh updated the Board on the BAN. The initial BAN was approved two years ago and last January, the Board approved the second 6-month extension that was approved by MVB Bank. That extension expires on January 5th so MVB has now approved another 6-month extension which needs the Boards approval for closing. The BAN is being used to pay for engineering design work done by Pentree Inc. relating to the Flowing Springs Wastewater Treatment Plant. The Board now has to approve the 2011 Notes Resolution regarding this.

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

RESOLUTION AUTHORIZING THE ISSUANCE BY JEFFERSON COUNTY PUBLIC SERVICE DISTRICT OF NOT MORE THAN $750,000 IN AGGREGATE PRINCIPAL AMOUNT OF REFUNDING SEWERAGE SYSTEM BOND ANTICIPATION NOTES, SERIES 2011, FOR THE

PURPOSES OF REFUNDING THE SERIES 2010 NOTES WHICH TEMPORARILY FINANCED THE COSTS OF DESIGN OF, AND OTHER PRELIMINARY COSTS FOR, ADDITIONS, BETTERMENTS, IMPROVEMENTS AND EXTENSIONS TO THE EXISTING PUBLIC SEWERAGE FACILITIES OF THE DISTRICT AND COSTS OF ISSUANCE OF THE NOTES; PROVIDING AS TO THE TERMS AND PROVISIONS OF THE NOTES; AUTHORIZING AND APPROVING THE SALE AND DELIVERY OF SUCH NOTES; DESIGNATING A REGISTRAR, PAYING AGENT AND DEPOSITORY BANK; PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH NOTES; AND ENACTING OTHER PROVISIONS WITH REPSECT THERETO.

BE IT RESOLVED AND ENACTED BY THE PUBLIC SERVICE BOARD OF JEFFERSON COUNTY PUBLIC SERVICE DISTRICT.

Unanimously approved.

To consider and act upon any measures related to the foregoing

There were no further actions relating to the above agenda item needed from the Board.

Action: No action taken by the Board.

Consider Yearly Rent Increase and Tax payments for District Office Building

Ms. Lawton informed the Board of a recent issue regarding rent for the Districts office building and taxes pertaining to the building. The lease for the building contains a requirement of a yearly 3% increase due to start in November, and monthly payment of an estimated prorated share of the property taxes for the following year. Staff forgot to update this rent increase and prorated tax payment in November. Ms. Lawton explained that the District moved into the building in November 2008, and did not increase the monthly payment this past November for the 3% increase. The District now owes RAI Properties for the increase for November, December and January totaling $535.98. The District also owes $3,383.29 for the 2010 taxes which are supposed to now be paid monthly throughout the year. Ms. Lawton informed the Board that the District is going to start paying the 2011 taxes along with the monthly rent which will add $281.94 per month onto the monthly payment to RAI. The District rent will be increased to $6,133.91 for the 3% yearly increase until November 2011. The Board will be approving these disbursements later in the meeting.

Action: No action taken by the Board.

Consider 2011 Holiday Schedule

Action: Motion made by Mr. Appignani and seconded by Mr. Cummins to accept the 2011 holiday schedule as presented with the addition of January 2, 2012 as the New Years holiday. Unanimously approved.

Consider Change of March 7, 2011 Board Meeting to March 1, 2011

Ms. Lawton has been accepted to participate in the NACWA Leadership Training Program from March 6-18. Since she doesn't want to miss the March Board meeting, she would like the Board to move the meeting from March 7th to March 1st. The Board agreed with this request.

Action: Motion made by Mr. Cummins and seconded by Mr. Appignani to change the March 7th Board meeting to March 1st. Unanimously approved.

Consider Joining with the Clean Water Coalition to Support their Lobbying Effort for Chesapeake Bay Funding Legislation

The Board combined this agenda item with the next agenda item regarding Jim Kelsh as a Lobbyist for the District regarding the Chesapeake Bay bill.

Last month the Clean Water Coalition, represented by Steptoe and Johnson, had asked if the District wanted to join the lobbying effort in support of Senator Herb Snyder's legislative bill, which, if passed into law, will provide grants to assist in the payment of nutrient upgrades and new facilities for Chesapeake Bay Compliance at wastewater treatment plants. Mr. Kelsh and Mr. Hankins had drafted revisions to Senator Snyder's first draft of the bill which he forwarded to Senator. Snyder. The Board decided that it was in the best interest of the District to assign Mr. Kelsh to lobby for the District whether or not the District decided to join the effort with the Clean Water Coalition. Mr. Cummins was in favor of joining the coalition if Curtis Keller, a member of the coalition, could give an indication from the group that they would agree to a term the District would like to see added in the draft bill. Mr. Kelsh spoke with Mr. Keller, but since he had been out of town, he did not have time to speak with the coalition. Mr. Cummins suggested tabling the potential contribution and membership to the coalition until the District gets a better signal from Mr. Keller on the group's position.

Action: **Motion made by Mr. Cummins and seconded by Mr. Appignani to table the consideration of joining the Clean Water Coalition until the District receives feedback from Curtis Keller. A brief discussion took place.**

Mr. Hankins had mixed feelings on joining the coalition. On one hand the District could go its own way, like it has successfully done before, and develop a bill that will be beneficial to Jefferson County or it may be worth the money to join the coalition and have the Districts ideas heard and obtain possible grant funding. The cost to join the coalition was based on splitting the costs of $25,000 between 6 utilities, which included the District joining. Mr. Hankins suggested the District should contribute a dollar per customer to the coalition since the District is a smaller utility compared to the other utilities in the coalition. The District may not get a second chance to join the coalition with the legislative sessions beginning January 12th. Mr. Cummins and Mr. Appignani agreed with Mr. Hankins contribution suggestion. Mr. Cummins withdrew his original motion.

Action: **Motion made by Mr. Cummins and seconded by Mr. Appignani to authorize the payment of $2,300.00 to join the Clean Water Coalition. Unanimously approved.**

Mr. Hankins stated the Jefferson County Commission needs to be informed of the reasons why the District does not support the bill in the current draft form. He believes the bill in the current draft form will be of no assistance to Jefferson County. Commissioner Walt Pellish was in the audience and suggested the District send a letter to the County Commissioner regarding the concerns of Senator Snyder's bill. Mr. Appignani agreed with sending the County Commission a letter and suggested sending a letter to the Development Authority as well. The Board would like Mr. Kelsh to draft a letter and send to Senator Snyder as well and copy Delegate John Doyle and Delegate Tiffany Lawrence and the County Commission.

Action: **Motion made by Mr. Appignani and seconded by Mr. Cummins to authorize Jim Kelsh to represent the District as a Lobbyist regarding the Chesapeake Bay bill and to prepare a letter to Senator Herb Snyder expressing the District's concerns on the current draft of the bill. Unanimously approved.**

<u>Consider Authorizing James Kelsh to Lobby for the Chesapeake Bay Bill Currently Under Consideration by the West Virginia Legislation</u>

This item was discussed in the above agenda item.

<u>Consider Approval to Close the Cambridge Sinking Fund Account</u>

Last month the Board approved transferring $60,500 from the Cambridge Sinking Fund account into Sewer Operating account for easement attainment, which emptied out the account. Mr. Kelsh reviewed the agreements and the background for creating the account and found the account is no longer needed. The account was created to assure the District had money to pay the Cambridge developer for onsite sewer facilities according to an agreement which has since then expired.

Action: **Motion made by Mr. Appignani and seconded by Mr. Cummins to close the Cambridge Sinking Fund Account. Unanimously approved.**

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

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

Approve Transfer of $4,761.62 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 $4,761.62 from Sewer Security Deposit Account into Sewer Operating Account for Security Deposit Refunds. Unanimously approved.**

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

- Paynes Ford Station – Ms. Lawton informed the Board that the Department of Planning and Zoning is now including the District in the "concept phase" of the planning process. The County has contacted the District regarding the sewer service for Paynes Ford Station Phase II since the development is partially in Jefferson County and Berkeley County. Since the District currently has no infrastructure in that area, it has a PSC approved agreement with the Berkeley County Public Service Sewer District (BCPSSD) for the sewer service of that development, along with service for Priestfield and Quail Ridge. In the 2002 approved agreement, the District has 10 years to install infrastructure in this area of the County or it will lose the ability to serve the area and it will become the BCPSSD's service area. Ms. Lawton addressed a letter back to the County and BCPSSD explaining the service request must be addressed to the BCPSSD.

- Deerfield Plant – The District did not meet the Total Nitrogen level requirements this month. Staff will continue to try to solve the problem.

Disbursements

Action: **Motion made by Mr. Appignani and seconded by Mr. Cummins to approve disbursements for Cavaland water expenses in the amount of $1,344.94, Glen Haven water expenses in the amount of $1,677.07. 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 $141,829.09. Unanimously approved.**

Correspondence
None discussed.

Public Comment
None.

Discuss Alternate Main Line Extension Agreement between the District and Thornhill LLC, PSC Case 10-1085-PSD-PC

Mr. Kelsh stated there have been no new developments in the case which is still pending at the PSC. In the public comment period of the meeting, the Board read a comment from Mr. Sheeley regarding this agenda item. In Ms. Sheeley's comment, she questions that if the portion of Thornhill Phase I property, which is mentioned in the AMEA currently at the PSC, is sold will the AMEA be transferred to the new owner. In her comment, she states that both Thornhill Phase I and II properties are both up for sale. Mr. Kelsh responded by stating the AMEA is assignable if the property would go under new ownership. He also stated that if the PSC approved the AMEA, the District still had the option to not move forward with the agreement.

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

Discuss Brandon French v. PSD, PSC Case 10-1434-PSD-C

Mr. Kelsh informed the Board that the PSC hearing has been scheduled for January 18th in Charles Town.

Action: Motion made by Mr. Hankins and seconded by Mr. Appignani to designate Jim Cummins to represent the District for settlement authority in the Brandon French vs. the District, case # 10-1434-PSD-C. Unanimously approved.

Discuss Authorization to Disburse Capacity Improvement & Capacity Assurance Fees, PSC Case 10-1864-PSD-PC

Mr. Kelsh filed the case with the PSC on December 9, 2010. There have been no orders issued yet.

Action: No action taken by the Board.

Sign Addenda 16 of Pentree Contract for Flowing Springs Wastewater Treatment Plant

Mr. Summerfield informed the Board that back in March of 2008, the Board had approved to move forward with a new alternative gravity line path specifically examining a 21" to 30" line for the Flowing Springs wastewater treatment plant. He stated the paperwork was never completed which officially approved the costs to pay Pentree for the work. Pentree is now requesting the Board to sign the Addenda 16 which would cover the cost of the work. This item was discussed further in Executive Session.

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. Cummins and seconded by Mr. Hankins to execute the Addenda 16 to the Standard Form Agreement between the District and Pentree for the gravity feed modifications made for the Flowing Springs wastewater treatment plant. Approved 2-0. Mr. Appignani abstained from voting.

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

There being no further business at this time, the meeting was adjourned at 9:17PM

The next regular meeting is scheduled for February 7, 2011 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