Jefferson County Public Service District
Special Board Meeting
July 31, 2018

The special meeting of the Jefferson County Public Service District was held from 7:00PM on Tuesday, July 31, 2018 in the meeting room at the Districts office in Kearneysville. Those in attendance included: Chairman, Roger Forshee; Secretary, Tara Ashley (speakerphone); Treasurer, Todd Milliron; General Manager, April Shultz; and new legal counsel, Susan Riggs, from Spilman Thomas & Battle (speakerphone).

CALL TO ORDER
Chairman Roger Forshee called the meeting to order at 7:00PM.

Approval of agenda
The agenda was approved unanimously.

Action: **Motion made by Mr. Forshee and seconded by Mr. Milliron to approve the agenda as presented.**

Prior to taking action, Ms. Ashley stated she felt the meeting was frivolous and could have waited until the regular meeting next week.

Unanimously approved.

Discuss Jefferson County Commission PSC Case No. 17-0915-PSWD-PC consolidated with Complaint Case PSC Case No. 18-0006-PSD-C
The District had trouble with the conference call system during this discussion which caused Mrs. Riggs and Mrs. Ashley getting disconnected multiple times.

During the opening statement Mr. Forshee recognized that members of the audience could provide value during this discussion and encouraged their participation.

The District's new legal counsel, Mrs. Susan Riggs, explained that the intervenors in the case filed an appeal with the West Virginia Supreme Court of Appeals. Since the District was named as a respondent in that case, the District is able to file a respondent's brief or summary response due by September 10th. The courts have scheduled a hearing for the case on October 23rd in Charleston. Mrs. Riggs stated she would like to get with the other respondents listed on the scheduling order, the Jefferson County Commission and City of Charles Town, to formulate a response and submit it jointly.

Mr. Forshee questioned whether a change in the County Commissioners and their opinions could affect the consolidation and all the work that has been done to get to this point. Mrs. Riggs replied that after much research she hasn't found any documentation to support the change to ratify a previous County Commission's decisions. Mrs. Riggs felt it was unlikely that a court would uphold a new County Commission trying to resend a previous County Commission's action.

The Board encouraged Mrs. Riggs to work with the attorneys from both the Jefferson County Commission and the City of Charles Town to develop a reply for the appeal.

Mr. Pete Kubic, Charles Town Utility Board member, was in the audience along with other members from Charles Town and commented that Mr. Hoy Shingleton, Charles Town's attorney, has already been in contact with Mrs. Riggs.

Mr. Forshee also questioned if Mrs. Riggs could reiterate in her response how the District has been completing repairs to the District's system that were detailed in the Sewer Transmission Project without encountering any catastrophic failures that were stressed as the need for the project in the project's court hearings. He reminded the audience that the District has never used its Emergency Response Plan and

has never experienced a catastrophic failure. He also suggested that "customer" be defined in the response as the Board was being accused of not taking care of its customers by the intervenors in the case. Mr. Forshee wanted it mentioned that one of the developers intervening in the case, Shenandoah Junction, is in fact not a District customer. Mrs. Riggs explained that she will be sure to make the courts aware of the true picture, but mentioned the reply does have a page limitation.

Mrs. Riggs explained that the intervenors are claiming two assignments of error relating to the project not necessarily the consolidation in their appeal. She commented that she wasn't sure how appealing the decision would move the project forward any faster.

Mr. Forshee questioned whether the Public Service Commission could require the District to complete the project. Mrs. Riggs stated that they may not force that particular project to be built, but they could have authority over the District and the City of Charles Town that facilities are being built to serve current and future customers and would keep an eye on the progress. If the District was forced into receivership, Charles Town would most likely be the receiver, then parties may have to go back to the Public Service Commission to work out a project.

Kristen Stolipher, Charles Town Assistant Utility Manager commented that Charles Town supports the idea to present a unified front among the respondents.

Mr. Forshee questioned whether the General Manager or Board need to attend the October hearing in Charleston. Mrs. Riggs stated the Board should wait to make a decision on this to see how the appeal progressed.

Jaqueline Milliron, District customer, commented that she has been researching why the District is not following the Title 150 Sewer Rules and why the existing customers are paying for future growth which is wrong, particularly section 5 which are the Mainline Extension rules. Mr. Milliron stated he thought this rule was used for the Driswood Elementary School and Aspen Greens development. Mrs. Shultz confirmed that was correct.

Mr. Milliron mentioned that Shenandoah Junction did not submit an application for service prior to the sewer project approval and wasn't sure if Harvest Hills had submitted anything prior. He explained that how the District take action or evaluate those intervenors projects if no application has been submitted.

Mrs. Stolipher commented that Charles Town had received a request from Shenandoah Junction this month, but referred them to the District since the consolidation is not complete and they would be a District customer. Mrs. Shultz confirmed that she received a sewer service request from Shenandoah Junction this month. Mrs. Stolipher also mentioned that Harvest Hills did have an Alternate Mainline Extension Agreement filed at the Public Service Commission in the past so the commitment was there for them do all of the offsite infrastructure to connect to the District's system.

Mrs. Shultz explained to the Board that she had received a request from Shenandoah Junction and drafted a response commitment letter. Mr. Forshee requested Mrs. Riggs get a copy of the request and the response. Mr. Milliron requested the Board receive a copy as well.

Mrs. Milliron also stated that some of the upgrades listed in the project have been addressed which comes with a cost savings and should be mentioned in the appeal.

Mrs. Riggs stated that the District is not allowed to add any new information to the case because it would not be in the record.

Mrs. Stolipher mentioned that Charles Town has done a review for a project, but full engineering will not be conducted until the consolidation is complete. She mentioned that cost savings have been noted and will be evaluated to determine what needs to be done.

Mr. Forshee brought up recent emails of discussions regarding existing easements and easements needed for the project. Mr. Milliron stated that he is preparing a white paper on the sewer project and in that discussed the requirement to acquire the remaining 20% of the easements to begin the sewer project, one of which is one of the intervenors in the case. He commented that the Board will provide Mrs. Riggs with some interesting points to ponder while working on the response.

Mr. Forshee also questioned whether the rate equalization over a ten year period was something the Board should be worried about since it was such a long time. He stated he was questioned by a reporter and informed that individual the Board supported consolidation. Mrs. Riggs replied that it would be a Charles Town issue on how they could consolidate the rates, but the Board should stay involved in hopes it could happen more quickly.

Mrs. Riggs stated that she will move forward with formulation on a response for the appeal. The Board agreed.

Action: No action taken by the Board.

Discuss PSD building lease extension and other building lease options

Mr. Forshee began the discussion by stating he discovered the lease extension had been executed by the District's Secretary, Ms. Ashley and wanted to understand the authority for signing of the lease. He stated that he reviewed the District's Rules of Procedures and it clearly outlines the duties of the board members. Mr. Forshee requested Mrs. Riggs provide an overview of her thoughts regarding that and if Ms. Ashley was authorized to sign on behalf of the Board and if so, his concern would be moot.

For background, Mr. Forshee explained that the Board made a unanimous decision at the July meeting to send the lease extension and current lease, which he stated was often referred to as a "bad" lease, to Mr. Crawford for review and if he had no issues the Board agreed to sign. He stated that prior to that motion there was a lengthy discussion in executive session on that lease. Mr. Forshee then elaborated that in that discussion it was mentioned that the District currently pays property taxes of the landlord as a requirement of the lease and continued in the lease extension. He stated he had concerns with this since the District is a tax exempt entity and wondered if it was appropriate to pay the taxes of a private individual moving forward.

Mr. Forshee stated that it was also discussed at that meeting his concern for the 90 day notice provision for either party to terminate the lease. He explained that his concern was the possible eviction and added stress that would be involved if the landlord utilized the 90 day notice given the recent appeal of the intervenors which could delay the consolidation.

Ms. Riggs explained that she doesn't read the District's Rules of Procedures as being restrictive or prohibitive for allowing only one particular person to sign documents since the actual signing is more of an administrative function after the Board takes an official action. She stated she does not feel there was a problem with Ms. Ashley signing the lease and believed that any of the Board members could have signed the lease.

Ms. Ashley then asked Mrs. Riggs what the potential result or consequences of having a motion or action not fulfilled by the Board members after it has been made. Mrs. Riggs explained that an entity makes a decision and is relied on by others to move forward. Ms. Ashley asked if it could open up litigation if the actions aren't carried out and Mrs. Riggs stated that it could and would not be the best practice to follow.

Mrs. Riggs explained to the Board that the lease extension becomes active at the end of the current lease expiration date of October 31, 2018.

Mr. Forshee commented that he will agree to disagree with Mrs. Riggs' understanding of the duties of Board members and interprets them to authorize the Chairman to sign documents and does not see that similar language for the other members. He explained his frustrations that given his concerns that were made known, Ms. Ashley took it upon herself to sign the lease. He additionally found disturbing that when reached out to staff after the July meeting to contact the landlord about the 90 day provision, he was told

he was out of town but was able to sign the lease extension. Mr. Forshee felt it was signed absent a Board decision because he believed it was clearly stated in the July meeting audio that the Board would sign if no issues were found and his interpretation of Mr. Crawford's written review of the lease mentioned the 90 day provision.

Ms. Ashley disagreed with Mr. Forshee and stated that Mr. Crawford followed up with an email to staff reiterating that he did not have any issues with the lease extension and was simply pointing out that given the current situation with consolidation that the lease extension would be more appropriate for the District. She explained that likewise, she found it disturbing that when a Board action is unanimously voted upon after issues were discussed as a whole that the Chairman took it upon himself to renegotiate a lease or give the idea to renegotiate and failed to act on the motion that was agreed upon.

Mr. Forshee replied that the appropriate action would have been to follow the motion and call a special meeting if there were issues and that meeting could have been used to discuss the issues that were brought up, but Ms. Ashley choose it upon herself to sign the lease.

Ms. Ashley disagreed and there were no further discussions.

Action: No action taken by the Board.

Action: Motion made Mr. Forshee and seconded by Mr. Milliron to adjourn.

Ms. Ashley urged her fellow Board members to consider when calling a special meeting that whether or not such a meeting should be held when there are no actions needing Board input currently and in her opinion it did not reflect well upon the Board's frugality when no actions were taken and it could have waited until the regular meeting next week given the costs that will be associated with this meeting taking place.

Mr. Forshee stated that he felt it was important to have discussions regarding the appeal from the developers who are against the current Board and consolidation and at the time the agenda was published the lease extension had not yet been signed and wanted an opportunity to have a special meeting to discuss that.

Ms. Ashley clarified that she did inform the Board that if the lease was not sign by the Chairman then she would take it upon herself to sign.

Unanimously approved.

There being no further business at this time, the meeting was adjourned at 8:10PM.

The next regular meeting is scheduled for Tuesday, August 7, 2018 at 7:00PM at 340 Edmond Road, Suite A at the Districts office in Kearneysville.

Respectfully Submitted,

Roger C. Forshee
Chairman

Tara D. Ashley
Secretary