

**PUBLIC WATER SUPPLY DISTRICT #13**  
**Minutes of the October 11, 2011**  
**Regular Session of the Board of Trustees**

The Board of Directors of Public Water District #13, Jefferson County Missouri met in regular session at 7:01 p.m. on October 11, 2011 at 5706 N. Lakeshore Dr., Hillsboro, Missouri.

**Roll Call of Directors**

The following Directors being present or absent as indicated:

<u>Name</u>	<u>Present/Absent</u>
Marilyn Meyer	Present
Rich Hirsch	Present
Rick Lippitt	Present
John Hindrichs	Absent
Ken Jost	Present

Also in attendance was Janet Hirsch (JWH, LTPOA Board member).

**Approval of Agenda**

Motion was made by Rick Lippitt and seconded by Rich Hirsch to accept the agenda. On voice vote, all Directors were in favor of accepting the agenda.

**Approval of Minutes of Past Meetings**

The regular session Minutes of the Sep. 14, 2011 meeting were emailed to the Directors prior to the meeting. Motion was made by Rick Lippitt to approve the regular session Minutes as written. Second was by Ken Jost. On voice vote, the regular session Minutes were approved.

The executive session Minutes of the Sep. 14, 2011 meeting were emailed to the Directors prior to the meeting. Motion was made by Rick Lippitt to approve the executive session Minutes as written. Second was by Ken Jost. On voice vote, the executive session Minutes were approved.

The regular session Minutes of the Sep. 21, 2011 meeting were emailed to the Directors prior to the meeting. Motion was made by Rick Lippitt to approve the regular session Minutes as written. Second was by Ken Jost. On voice vote, the regular session Minutes were approved.

**Treasurer's Report**

**Invoices to be approved**

Janet reported these balances on 09/30/2011: O&M: \$710.19, Escrow: \$599,066.96, Construction: \$184,853.44. Nine payments were submitted for payment approval. These submissions are listed below.

Date	Category	Payee	Invoice amt	MO DNR 40% grant	USDA-RD loan
9/30/2011	Eng testing	Taylor Eng	1,500.00	600.00	900.00
9/30/2011	Eng admin.	Taylor Eng	3,280.06	1,312.02	1,968.04
9/30/2011	Eng inspection	Taylor Eng	11,684.55	4,673.82	7,010.73
9/30/2011	Eng PER	Brunjes	10,000.00	4,000.00	6,000.00
9/30/2011	Construction	TGB Inc	469,187.93	187,675.17	281,512.76
9/30/2011	O&M	Hirsch, reimbursement	143.06		
9/30/2011	O&M	Kimmel, accounting	350.00		
9/30/2011	O&M	AmerenUE	72.49		
9/14/2011	O&M	Sweeney, legal	700.00		
		<b>Total</b>	496,918.09	198,261.02	297,391.52

## Notes

- a) For this period TGB is billing the District for work completed (\$758,804) minus material-on-hand (\$237,484). Because there is a retainage of 10%, the invoice amount is \$469,187.93.
- b) TGB's payment is for 150 ft of 1.25" main, 3,006 ft of 1.5" main, 75 ft of 4" main, 95 installed and operational STEP systems, 11,798 ft of lateral lines, and additional 3.582% of the WWTP completed.
- c) Hirsch reimbursement: Mailbox, PO Box, software upgrade (Win 7 Prof) so Jennie can do direct deposit.
- d) Kimmel accounting: Jennie set up for billing and met with Eagle bank for direct deposit.
- e) JWH calculated that as of Sep. 30, 94% of the scheduled construction time has been consumed and 74.7% of the budgeted amount for construction has been spent (includes credit for stored materials).

Motion was made by Rick Lippitt to approve payment of the above invoices. Second was by Rich Hirsch. On voice vote, payment of the invoices was approved.

## Old Business

### Homeowner's questions/problems/concerns, progress in resolving

RH: I emailed Donna (USDA-RD) and asked her if she had any advice on how to get a homeowner reluctant to connect to the sewer system to connect. Her reply was: *"The district is the entity that has to enforce the connection as per your mandatory hookup ordinance the district passed, so if the home meets the parameters established by the ordinance, the district has the right to enforce. You would have to work with your attorney on enforcement, but it should be very similar to enforcement by a city. You are just a different entity."*

RH asked if we are we planning to bill houses that have equipment installed but did not install an electrical disconnect.

JWH: Yes, our attorney told us we should bill them at \$70 since we are providing them with all of the equipment and the bill is mostly to pay for equipment, installation, and debt repayment costs.

JWH: We did not send a bill for Sep., since that was a partial month for most people. They will be billed for Oct.

Mike L. indicated that the house at 7624 Lakeview was put online on Sep. 7, so the previous owner (PO) was sent a bill for Sep 7 - Sep 27. (The new owner (NO) was sent a bill for Sep 27 - Sep 29.) The PO called JWH to say that when the PO visited the house on Sep 20, PO determined that they were not connected (PO said they found a valve closed) and therefore the PO should not be billed from Sep 7. When Mike and TGB checked the house in early Oct., they found no closed valves. The PO did not say that they opened any valves, so we have to assume that the PO had service starting on Sep. 7.

MM: There will probably be four houses that will be billed \$70 because the electrical disconnect was not in place: 1) 7720 Lakemont, 2) 5883 N. LSD, 3) 5902 S. LSD, and 4) 5953 S. LSD.

RH: For 5953 S. LSD will we bill the bank that owns the place?

MM: That's another issue for Bob.

## Construction update

In John's absence, RH gave the report: On the north side, rough grading is done, 60% of seed & straw is done, Zoysia is not done. On the south side, 40 homes are online, the force main is done thru 6519 S. LSD, and there are less than 12 laterals to dig (all rock). Three tanks not yet installed on the south side: 5821 S. LSD, 6435 S. LSD, and 6383 S. LSD,

At the WWTP the media will be available by the end of this week, but will not be on-site by then. There are two of three cells online and 150 homes hooked up.

TGB told us on Oct. 11 that all houses will be online by Nov. 4 and all rough grading will be done by Nov. 11. TGB will seed & straw as long as they can. Zoysia will be done next spring.

### **Asphalt repair, property restoration**

This week Mike and Board members will mark roads on the north side that needs asphalt repair.

KJ: There are multiple spots on the south side that need repair also. When the construction vehicles went off the edge of the road, they broke the pavement. There is a culvert pipe that was damaged near me.

MM: The two holes near the gate entrance need attention now.

RL: But really it's not too bad on the north side. If TGB acts now they should be able to fix many of the problems before the asphalt plants shut down.

KJ: Will it be wasted effort, if TGB continues to spread grass seed thru Nov?

MM: It depends on the weather. Seed that does not sprout now should sprout in spring when the soil warms up.

RL: If we can get TGB to fix the roads now, there may be just little jobs for them to finish next spring. We have to hold enough retainage to cover what's left to do. If they're done with heavy equipment, maybe they can start road repair on the south side too.

RH read an email from Bob: *"I pretty much agree with Tim, liquidated damages almost always cause a fight, especially if the contractor has a good reason for the delay (I'm not so convinced that TGB has a great argument, but it is not consenting). That being said, it is my opinion, based on the record-keeping that you have done, that the District is in a good position if you decide to play hard ball. That further being said, I am not necessarily recommending it. I think this is worth getting together with the Board or an executive committee next week some time."*

*"It is true that the contractor is protected by substantial completion, but there must actually be substantial completion. Moreover, you are allowed to retain sums to make sure everything is complete."*

The consensus of the Board was that we did not want to get into liquidated damages, but we did want to make sure that the retainage was sufficient to cover work not yet completed.

One board member said they thought they heard TGB say that they thought 2% retainage was reasonable.

MM: I'm not sure that's enough.

RL: That's where we have to make sure we're covered. I think TGB would return to finish the job anyway, but if we're going to do business in a responsible way, we have to make sure we owe TGB more than they owe us.

KJ: It's our responsibility to everybody out here.

MM: So we need a good assessment of the roads, so we can accurately estimate what it will cost to finish the roads. Also, there are still multiple piles of dirt on the north side that need to be removed.

RL: Possibly we could hold 10% retainage until the end of Dec, because it may take that long to clean up the ditches and remove all the stone and dirt. So we probably don't need to decide on a retainage amount by the Nov. 9 meeting.

The Board decided to meet Wed., Oct. 19 with attorney Bob to discuss liquidated damages, retainage, substantial completion, and billing issues.

### **Sales Office Modification Update**

No word on when the water line from the community house will be bored.

### **WWTP Operator Hire -- resolution**

Tim Flagg has not yet sent us a proposal to be our WWTP operator. The Board agreed that Tim was very capable. There was some discussion about re-running the ad in *the Leader* or *Post-Dispatch* in case Tim wanted too much money.

## **New Business**

### **Change order to build pits for flowmeters**

At the Oct 11 construction meeting, it was decided that a 6" flowmeter should be installed in the effluent pipe instead of a 4" flowmeter. This would match the diameter of the effluent pipe and would mean that reduction fittings would not have to be installed in the effluent pipe. Tim said the price increase would be \$539 over the 4" unit. The Board agreed that the 6" unit should be purchased and installed.

### **Billing issues**

JWH: Jennie sent out 108 bills. We've received almost 40 payments so far. All the north side users will be billed for the whole month of Oct. Most south side users will be billed for a partial month. We will also mail two \$70 bills to houses that were not connected due to owners not installing the electrical circuit.

MM: Will you make sure that the bills include the 5706 N. Lakeshore Dr. address as where payment can be sent?

JWH: Yes, both the P.O. Box number and '5706' address will be included.

MM: Jennie is supposed to give out information on setting up automatic payment with our banks.

JWH: That will come later on. I don't know if that will be in the Oct. bill.

MM: Rick, Ken, and I met with Larry Ward to discuss insurance. The policy should be in effect on about Nov. 10, when TGB turns over control of the plant to us.

### **Brunjes payment**

Bob wrote: *"I would recommend that the Board authorize the drafting of a settlement agreement and release. This is pretty standard fair for a political subdivision to use in resolving a conflict. Basically, this document takes all of the concerns raised -- it makes sure that Mr. Brunjes does not come back later and ask for additional payment or, worse yet, sue for additional damages. Normally, I draft the document, circulate it to the other party's attorney, and upon signature the Board authorizes the check (which is usually made out to the individual and his/her/its attorney). We would not need to wait for an invoice."*

Motion made by Rich Hirsch that the board ask Bob Sweeney to draft a settlement agreement and release for payment to Mr. Brunjes. Motion seconded by Ken Jost. Motion passed.

### **Attorney's Report**

There was no attorney's report.

### **Engineer's Report**

There was no engineer's report.

### **Adjournment**

There being no other formal business to come before the Board, a motion to adjourn was made by Rick Lippitt and seconded by Ken Jost. Motion passed with all Directors in approval. Meeting ended at 8:14.

Respectfully Submitted,

Rich Hirsch  
Recording Secretary

Approved this 9<sup>th</sup> day of November, 2011.

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Secretary  
November 9, 2011

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Chairman