

**DRAFT MINUTES**  
**SHEPHERDSTOWN, WEST VIRGINIA**  
**WATER & SANITARY BOARDS**

July 22, 2021

**ATTENDEES: Water Board** – J. Auxer (Mayor), J. Bresland, J. Ford, M. Godfrey, A. Slater  
**Sanitary Board** – J. Auxer (Chair), H. Heyser, R. Keller  
**Town Staff** –C. Coe, D. Nickerson, C. Painter, K. Shipley, F. Welch,  
**Engineer** – J. Ekstrom, Ghosh Engineering  
**Counsel** – Hoy Shingleton  
**Visitors:** Ben Svetlow, Gordon Associates (Sheetz project application)  
Steve Pearson, The Observer

**1. CALL TO ORDER.**

The Water and Sanitary Boards meeting was called to order by J. Auxer at 1:00 p.m.

**2. MINUTES FROM PRIOR MEETING.**

The proposed minutes of the June 24, 2021, regular meeting was reviewed. H. Heyser questioned the reported sewage plant capacity number of 667,000 gallons in item 7.a. on page 4. J. Ekstrom clarified that is the licensed capacity, whereupon H. Heyser recommended the word “licensed” be inserted in the minutes. Upon motion duly made and seconded, the minutes were approved as revised.

**3. VISITORS.**

**4. FINANCES.**

**4.a. FINANCIAL STATEMENTS- REVIEW.**

The financial statements were reviewed. H. Heyser commented on the sewer department loss of (\$146,000) showing on schedule S7 (sewer operating statement), further noting that non-cash expense depreciation of \$400,000 more than offset the loss. R. Keller asked why income on schedules S7 and S14 did not agree; to which D. Nickerson advised that Total Other Income is included on S14 totals. R. Keller also inquired as to why the recent purchase of replacement membranes for the sewer plant was not appearing as a disbursement on schedule S4. D. Nickerson advised she will research and report after the meeting<sup>1</sup>.

J. Auxer respectfully reminded the boards to kindly review the financial statements prior to the meeting and contact D. Nickerson with any questions prior to the meeting if and when at all possible.

J. Bresland inquired as to the level of expenditures on schedule W8, account 631 Contractual Services-Engineering. J. Auxer commented that contractual engineering services associated with the water plant improvement project will be capitalized as a part of that project cost. J. Bresland also inquired as to the expenditures in account 632-Contractual Services-Accounting. J. Auxer advised those costs included the work of outside accountants David Decker and John Kunkle.

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<sup>1</sup> Following the meeting D. Nickerson reported by email “*the amount of money in the membrane account is \$511,421.98 which is \$48,334.00 more then I had on the reports. I have done the monthly Membrane Reconciliation and the Sewer Revenue and Expenses Compared to Last FY.*” She also included a reconciliation of the Membrane Replacement Fund.

**7. NEW BUSINESS.**

**7.C. LETTER FROM FERRI CONTRACTORS ON BID WITHDRAW.**

J. Auxer requested this agenda item be taken out of order to accommodate visiting legal counselor Hoy Shingleton, who was introduced and asked to present the matter.

H. Shingleton recounted the bid opening for the water plant project which was held on July 7. Ferri Contractors of Pittsburgh was the low bidder at \$1,799,500, which was materially below the other four bidders. Ferri subsequently notified J. Ekstrom by email that they had found an error in the calculation of their bid and requested their bid be withdrawn, which was subsequently documented by letter. H. Shingleton reported that he has reviewed the documentation supporting the request of Ferri and shared that in their spreadsheet an equipment component costing \$529,500 was inserted as \$52,950 in error. Further, that when considering this error along with adjusted overhead and profit, the resulting bid would have placed Ferri in line with the other bidders. H. Shingleton advised that the documentation provided by Ferri fortifies their claim that this was indeed a clerical error. H. Shingleton continued with a review of applicable state law governing the matter. Bidders are required to report errors in bidding within 24-hours; Ferri did not make this deadline but did report on a timely basis which H. Shingleton believes satisfies the spirit of the statute. Further, he advised that the law compels municipalities receiving bids to act reasonably under such circumstances, and therefore he recommends the board accept the request to withdraw the erroneous bid and award the contract to the next lowest bidder, being Triton Construction at \$2,281,300. Following discussion and consideration:

**ACTION ITEM: A. SLATER MOVED AND M. GODFREY SECONDED THAT THE WATER BOARD ACCEPT THE REQUEST OF BID WITHDRAW FROM FERRI CONTRACTORS; UNANIMOUSLY ADOPTED BY THE WATER BOARD.**

**ACTION ITEM: J. FORD MOVED AND J. BRESLAND SECONDED THAT THE WATER BOARD AWARD THE WATER PLANT IMPROVEMENT PROJECT CONTRACT TO TRITON CONSTRUCTION AT THE AMOUNT OF \$2,281,300.00, BEING THE LOWEST RESPONSIBLE BIDDER. UNANIMOUSLY ADOPTED BY THE WATER BOARD.**

J. Auxer requested H. Shingleton issue a letter on behalf of the Town to Ferri Contractors noticing them of the board's acceptance of their request to withdraw their bid. Also, J. Auxer requested H. Shingleton issue a letter on behalf of the Town to Triton Construction noticing them of the award of the contract.

**7.b. SHEETZ APPLICATION- APPLICATION 005-21, STEP 2 COMMENTS.**

J. Auxer requested this agenda item be taken out of order to accommodate visitor Ben Svetlow of Gordon Engineering, representing Sheetz, who was introduced. F. Welch reported that at last month's meeting the board approved Step 1 for Sheetz, who had assumed ownership of the project proposal. F. Welch reported on the detailed review of proposed prints, which included some changes requested by staff which Sheetz has agreed to adopt. R. Keller asked about sediment control in the car washing facility, to which J. Ekstrom advised that Sheetz has included appropriate traps to contain mud and dirt. J. Bresland inquired as to the timing of the project, B. Svetlow responded that Sheetz plans to be completed in approximately 20-weeks. Following discussion and consideration:

**ACTION ITEM: A. SLATER MOVED AND M. GODFREY SECONDED THAT THE WATER BOARD APPROVE THE STEP 2 APPLICATION OF SHEETZ INC.; UNANIMOUSLY ADOPTED BY THE WATER BOARD.**

**ACTION ITEM: R. KELLER MOVED AND H. HEYSER SECONDED THAT THE SANITARY BOARD APPROVE THE STEP 2 APPLICATION OF SHEETZ INC.; UNANIMOUSLY ADOPTED BY THE SANITARY BOARD.**

**5. FLOW AND QUALITY REPORTS.**

**5.a WATER - NO VIOLATIONS.**

C. Coe stated that all the water-related reports were negative, all metrics were within guidelines, and bacteria was absent, adding there were no violations.

**5.b. SANITARY REPORTS – NO VIOLATIONS.**

K. Shipley reported there were no violations and that the nitrogen results were the lowest in memory, coming in at 0.96 parts per million. He added that Pace Analytical, the new testing laboratory, was working out favorably. K. Shipley also reported that Hank Willard has signed off on permits allowing sludge spreading to recommence on his farm. J. Bresland inquired as to which landfill the sludge had been going, to which K. Shipley advised it is the LCS Services landfill in Hedgesville.

**6. UNFINISHED BUSINESS.**

**6.a FIRE HYDRANTS- STATUS REPORT.**

K. Shipley advised that five of the original eleven out-of-service hydrants are now repaired and back in service, those being: German Street, University Drive, XR Church, Billmyer Mill Road, and Heatherfield. K. Shipley advised that the Town has been billed \$26,000 for time and materials by Kable Excavation for the five completed hydrant repairs, averaging about \$5,000 per unit, which is significantly below the original fixed-price proposal that was rejected. K. Shipley advised that work would continue apace until all hydrants are repaired or replaced. K. Shipley advised that he reports to the fire department when a fire hydrant is placed back into service. A. Slater distributed the updated spreadsheet that continues to show marked progress on this project. A. Slater commented on the introduction of bollards around fire hydrants that are at risk from vehicle collision and snowplows, specifically at XR Church and German Street. K. Shipley noted that a German Street bollard has already been hit by a delivery truck.

**6.b SEWER USE ORDINANCE – REVISION AND COMMENTS.**

R. Keller reported that progress has been made. He has researched previous revisions and has located the most current version. R. Keller also reported that he has a copy of the Town of Ranson's ordinance which will be instructive, as well as information provided by J. Ekstrom concerning grease traps, including a state manual. R. Keller advised that work by the group is expected to commence next month. J. Auxer recommended that J. Bresland participate given his role as Town representative on the Jefferson County Health Board.

**7. NEW BUSINESS.**

**7.a BROADBAND IMPROVEMENT.**

J. Auxer reported that research conducted by attorneys Chazz Printz and Frank Hill concluded that the Town may lease antenna space on the west side of the water tower where the land is owned by the Town. J. Auxer advised he has contacted Michael Hofe to discuss representing the Town in marketing this space. After further discussion and consideration:

**ACTION ITEM: J. FORD MOVED AND A. SLATER SECONDED THAT THE WATER BOARD APPROVE MICHAEL HOFE AS MARKETING AGENT FOR LEASING ANTENNA SPACE ON THE WATER TOWER, AND THAT HE BE REQUESTED TO APPEAR BEFORE THE WATER BOARD AT OUR NEXT MEETING; UNANIMOUSLY ADOPTED BY THE WATER BOARD.**

J. Auxer concluded the discussion by suggesting David Deamer also be invited to attend, to which there was no objection noted.

7.b. **SHEETZ APPLICATION- APPLICATION 005-21, STEP 2 COMMENTS.**

Addressed earlier in the meeting.

7.c. **LETTER FROM FERRI CONTRACTORS ON BID WITHDRAW.**

Addressed earlier in the meeting.

8. **MAYOR'S REPORT.**

J. Auxer called on A. Slater and C. Painter to provide an update on the new bill and payment project. A. Slater reported that he, C. Painter, and A. Boyd met with the new outsource billing and payment provider (SmartBill) on July 15 to review an exhaustive list of features and options concerning billing and payment tailored to the Town's requirements. Also, the meeting included a review of the bill design, which is now being developed for review. C. Painter advised the boards that she has targeted November 1 for the "go live" date for the new system, which will represent October's consumption. Both C. Painter and A. Slater reported high satisfaction and confidence in the new outsource provider SmartBill. In response to questions and comments, A. Slater advised the boards that the new billing will allow us to insert two additional 8.5"x11" documents with the bill, such as the water Customer Confidence Report and any other required legal notices; he suggested the Town Council should consider a monthly or quarterly newsletter as a regular insert.

9. **NEXT MEETING DATE.**

Friday, August 27, 2021, at 1:00PM.

10. **CONSENT.**

No action.

11. **SUMMARIZE ACTION ITEMS FROM THIS MEETING.**

No action.

12. **DRAFT AGENDA FOR NEXT MEETING.**

No action.

13. **ADJOURNMENT.** J. Auxer adjourned the meeting at 2:21PM.

Respectfully Submitted: A. Slater