

14 September 2010

MEMORANDUM

From: Manager
To: Board of Trustees

Subj: **MINUTES FOR THE TRUSTEE MEETING 10 AUGUST 2010**

The Board of Trustees convened at 1902 hrs. In attendance: Trustee Pinkham (Chair), Trustee MacPhee, (Vice Chair), Trustee Marston (Treasurer), Trustee Carter (Clerk), Trustee Curtis, Jon Ziegler, Manager, Bob Raudenbush, Administrative Manager (AM). Guest: Jim & Virginia Macleod, Knickerbocker Lake Association (KLA); Kim Horstman, KLA; Debbie Profit & daughter, Boothbay Harbor; Sue Mello, Boothbay Register, Dale Harmon, Distribution Foreman (DF). Absent: None.

1. The minutes of the 27 July 2010 trustees meeting were approved.
Trustee Curtis motioned, Trustee Marston second, vote: unanimous
2. Warrants 44, 45 & 46 were approved.
Trustee MacPhee motioned, Trustee Marston second, vote: unanimous
3. The manager reported that since the last meeting much of the remaining work on the East Boothbay Water Main replacement project had been completed. The manager provided the board with lengthy correspondence between the district, Dirigo Engineering, Whorff and American Contractor Indemnity Company (ACIC). He explained that shortly after the previous trustee meeting the district contacted ACIC explaining it was the district's intention to declare Whorff Construction in default, call the bond in and get the project done. In light of this new information, apparently Whorff became very well motivated to complete the job. The remaining punch-list was very small.

On 6 August 2010, Trustee MacPhee and the manager toured the construction site and inspected a 150 foot long, repave at the southern end of the project that was reshaped and paved to correct a drainage problem. Unfortunately Whorff allowed or specified the wrong material. This area was annotated as needing to be removed and repaved with the Maine Department of Transportation (DOT) approved binder material.

The manager explained that there remained an issue with the town of Boothbay along the two new concrete sidewalks adjacent to the Methodist church and just south of the Methodist church along Route 96. The town installed these new walkways, specifying the contractor to only "prepare the area" and changed the conditions of the roadway. The contract did not require Whorff to pave to the new structures. The Boothbay town manager has since complained incessantly, to the point that that the district, just shut him up, would buy an estimated four yards of pavement and hand laid it in to DOT specifications. This was reported to be taking place on 13 August 2010.

It was reported that on 9 August 2010 trustees Curtis & Marston, DF, manager, attorney Geoff Hole and Dirigo Engineering met with Whorff and ACIC to discuss various claims made by Whorff concerning the project. The manager reported that the district's position was very strong and the documentation required was very tight. The manager praised the work of the DF and Dirigo Engineering for keeping such detailed records as to the reason the district was in a position of strength.

The manager reported that he had received a call from Ferguson Water Works inquiring why the district had not paid Whorff. The manager relayed that he had set Ferguson straight in that no money was owed to Whorff at this time and there only remained approximately \$80,000.00 in retainage. Ferguson then put the district on notice, explaining that Whorff owed them approximately \$260,000.00 and would lien the project if that account was not settled in full. The manager reported that he had passed this information along to the district's attorney and to Dirigo. He concluded that he was very worried about lien waivers because of this and alleged other unpaid subcontractors and suppliers totaling near \$400,000.00, according to a tally conducted by Dirigo Engineering.

The manager reiterated that he would require written resolution of all of the complaints, line item by line item and would accept nothing more than a narrative on the status, whether legitimate or not, signed and dated.

The final pay meeting for 18 August 2010 was cancelled indefinitely.

4. The manager updated the status of the Union Court Water Main Replacement project, approved by the board three years previously and ordered for completion during 2010. As of late the district was experiencing severe water quality problems and some residents were present to voice their concern. The project was reported to be being completed with the town of Boothbay Harbor and the goal was to complete the installation prior to fall.

On 3 August 2010, the manager met with Steve Reny, Reny Construction and Boothbay Harbor public works director. It was agreed that the district and the town would both contribute labor for the project and divide costs for material accordingly. The manager went on to describe that he had structured this project using the very successful Montgomery Road model completed the previous year. The manager provided the work plan to the trustees developed at this meeting. The work plan consisted of following:

- a. The town of Boothbay Harbor would provide a detour and parking plan and would meet, along with district personnel, all of the affected residents prior to the beginning of the project;
- b. The district would begin receiving materials on Union Court and begin assembling 6" HDPE pipe in 200 foot sections and valve/hydrant packages;
- c. The town would strip all of the pavement from Union Court and the affected area of Union Street and truck, at its cost, to the Reny's pavement recycling facility for reuse on this project;
- d. The town would establish a detour for Union Street;
- e. The district will install a 16" X 8" tap and sleeve and valve and 40 feet of 6" HDPE to clear Union Street;
- f. District will establish temporary water to 7 residences;
- g. Reny Construction and the district will install the 600 foot water main;
- h. District pressure test and disinfect;
- i. District and Reny Construction will establish 7 services;

- j. Reny Construction will repair drainage and complete site clean-up;
- k. Reny construction will prepare road base; and
- l. The town of Boothbay Harbor will repave Union Court and Union Street (affected area)

The manager informed the board that the Boothbay Harbor Sewer District was now considering a sewer upgrade. The manager provided the board an alternative timeline if the sewer district did decide to participate. The sewer district would make a decision on 19 August 2010.

The manager concluded his report by projecting the cost for this project to be \$17,938.73 in piping and appurtenance, \$30,754.00 for excavation and construction services provided by Reny Construction and \$10,000.00 to \$12,000.00K in pavement share. Ms. Profit addressed the board lending her support and thanks for the project.

- 5. The manager reported that he had attended a meeting with the town of Boothbay Harbor and Dirigo Engineering on 4 August 2010 to plan the Commercial Street project. The Boothbay Harbor fire chief dictated the hydrant placement. It is the town of Boothbay Harbor's wish that prior to the contract initiation the entire sidewalk would be removed. The meeting minutes were distributed to the trustees detailing the events of the meeting. Dirigo was reported to be working on the final drawings and will be shipping them within a week for review.
- 6. The AM reported that revenue is at 104% and expenses are at 89% of budget.
- 7. The AM reported on the status of the rate case. Raftilis Company had been in contact with AM and a meeting was scheduled later in August.
- 8. The AM report no injuries for the reported no workplace injuries for the reporting period.
- 9. The manager reported that on 29 July 2010 the long anticipated Maine Department of Labor (DOL) inspection occurred. The manager provided the board a list of deficiencies and a memorandum he sent to all the district employees explaining the inspection, the validity of the citations and the proposed fixes. Overall, the district did very well with only three or four legitimate hits. The manager anticipated full compliance by 15 October 2010.
- 10. The treatment plant is operating well right now. During the period the new double doors were installed on what used to be the chlorine gas room but is now post- sodium bicarbonate storage/mixing and dry sodium fluoride storage. This was the last item in the last two years chemical upgrade.
- 11. The manger reported normal distribution operations and that the district had met its goal for year-round meter replacements but was moving to finish the East Boothbay circuit. The manager reported a 13% meter failure rate.
- 12. The board postponed action on the SWAP until 24 August 2010 meeting.
- 13. The manager reported the district had not been granted the Section 319 grant by the Maine Department of Environmental Protection (DEP) for upgrades in the Adams Pond and Knickerbocker Lake watersheds. The manager informed the board that he would be getting together with the district's consultant to critique the submission and strengthen it for the 2011 submission.

14. It was reported that on 4 August 2010 the manager met with Danielle Betts and discussed the Bigelow Laboratory project. She provided the district with the updated drawings that were used to go out to bid. Fortunately for her they were the approved set.

This manager informed the board that the construction project has been assigned to the assistant distribution foreman to manage. It was Danielle's hope that the board of trustees will be able to issue a notice to proceed at the 24 August 2010 meeting. She needs to complete the as well as reimburse the district all costs for the following:

- A. DOT Utility Location Permit;
 - B. DOT Road Opening Permit that by statute must be taken out by the district;
 - C. Description of easement so that Chip Griffin can put together the easements;
 - D. A credible contractor for installation; and
 - E. Language in the contract that gives Dan authority to shut down the project.
15. The manager reported that the DEP had been on Adams Pond and completed a littoral zone survey in conjunction with the Chapter 587 permitting. The manager was awaiting the promised, massive data call for the next phase of permitting.
 16. Trustee Curtis publicly stated his appreciation for "a job well done" to Mr. Jim Lord P.E. Dirigo Engineering for his "outstanding effort" in representing the district in recent proceedings, against hired and professional construction experts attempting to discredit the districts position with regards to claims by the district against Bill Whorff Construction. This sentiment was echoed by trustees MacPhee and Marston as well. The manager was instructed to inform Mr. Lord of the trustee's appreciation.
 17. The meeting was adjourned at 1947hr.
Trustee Carter motioned, Trustee Marston second, vote: unanimous

MINUTES FOR TRUSTEE MEETING 24 AUGUST 2010

The Board of Trustees convened at 1900 hrs. In attendance: Trustee Pinkham (Chair), Trustee MacPhee, (Vice Chair), Jon Ziegler, Manager, Bob Raudenbush, Administrative Manager (AM). Guest: None. Absent: Trustee Marston (Treasurer), Trustee Carter (Clerk), Trustee Curtis.

MEETING WAS CANCELLED DUE TO A LACK OF QUORUM CORRESPONDENCE DELIVERED

Respectfully Submitted,

Jonathan E. Ziegler
Manager