

28 December 2010

MEMORANDUM

From: Manager  
To: Board of Trustees

Subj: **MINUTES FOR THE TRUSTEE MEETING 14 DECEMBER 2010**

The Board of Trustees convened at 1900 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: Mr. Allen Knowles, Dirigo Engineering; Mr. Pat Farrin, Farrin & Sons Dirt works. Absent: None.

1. The minutes of the 23 November 2010 trustees meeting were approved as written  
*Trustee Curtis motioned, Trustee Marston second, vote: unanimous*
2. Warrants 69, 70, 71 & 72 were approved contingent on review of Trustee Marston the following day.  
*Trustee MacPhee motioned, Trustee Marston second, vote: unanimous*
3. The manager reported that on 8 December 2010 a meeting was held in Freeport between himself, Mr. Jim Lord P.E., Dirigo Engineering, attorney Geoff Hole, Mr. Scott Emery P.E and Mr. Brian Wilson, both representing the United States Department of Agriculture, Rural Development (RD). The meeting was held to discuss the status of Whorff and who was to be held accountable for the remainder of the contract and clearing the myriad of remaining complaints. The manager stated that it was clear that Bill Whorff & Son Construction had left the area and had no intention of returning or dealing with any complaints/warranty items. The manager reported that the matrix of claims had been sent to the insurance carrier by the attorney. The manager went on to explain that he and the engineer had broken the claims down between construction warranty items with claims being dealt with by the insurance carrier and warranty items to be handled by the surety. .

The manager informed the board that the surety had filed suit in Maine against Bill Whorff & Son Construction for failure to make good on its obligations concerning the East Boothbay Water Main Replacement Project. The manager stated that the district's attorney was negotiating the following with the surety with the consent of RD:

1. The Surety declares Bill Whorff & Son Construction in default and takes on all of the warranty issues;
2. The Surety ensures that all of the insurance claims are evaluated and answered;
3. The district pays the Surety the remaining retainage providing all lien waivers are produced and the district is held harmless for any future or present claims.

The manger could provide not status on these negotiations.

The manager went on to report that as directed the following news release would appear in the next edition of the *Boothbay Register*:

*Dear Editor –*

*From December 2009 to July of 2010, the Boothbay Region Water District completed a critical upgrade to the East Boothbay region of the water system. Bill Whorff, Inc. was the contractor on this project. During the construction of this project there were several claims made by residents and businesses in the project area for damages to private property. These claims were provided to the Contractor to address and correct. Throughout this project and since its completion, the Boothbay Region Water District has requested on multiple occasions for the Contractor to resolve all claims and provide us information on the resolution. It is our understanding that though some claims were addressed during construction, there are still several that have not been. The Contractor has removed all equipment and personnel from the project, and we now do not anticipate that the Contractor will return. It now seems clear to us the Contractor will not be dealing with the remaining claims. Because of the existence of these claims, we are withholding money from the Contractor. In addition, we have been working with the Contractor's Bonding Company and more recently have provided a matrix of the claims to the Contractor's liability carrier. This week we are providing details of the claims to the liability carrier and expect the carrier will be investigating and dealing with the claims shortly. We thank our citizens for their patience.*

The manager put himself on report stating that he had disobeyed direction by the trustees as to writing a letter to the Maine Department of Transportation (DOT) asking for their share of payment for the Route 96 overlay. He reported that he had been “strongly advised” not to do so because it would only inflame the payment situation. Dirigo Engineering had been in contact with officials at DOT who were shepherding the pay request through the government maze. The manager stated that he had been privy to discussions with Pike Industries who were very used to this inefficiency and asked the district only pay the district's portion and the town of Boothbay Harbors portion.

4. Trustee Pinkham recognized Mr. Knowles who provided the board with an update of the Commercial Street Water Main Replacement Project. Mr. Knowles relayed to the board that overall the project was on schedule. He then went on to describe the following actions that had taken place and provided the board with the following:

*The following list is a summary of work done to date.*

- *All customer water services are connected in the first section (Shipyard to Tugboat).*
- *Temporary services for Section 2 are complete (Tugboat to Boothbay House Hill). There was some freeze up issues with the temp. water on section 2 last week.*
- *Installation of the new main for the 2<sup>nd</sup> section from Tugboat to Boothbay House Hill is complete!*
- *The new main in Section 2 has passed pressure testing.*
- *The Section 2 main has been chlorinated and will be flushed and the first bacteria test sample will be gathered later today.*
- *Provided the main passes both bacteria tests, installation of water services will start as early as Thursday afternoon of this week and, no later than Friday morning of this week.*

*It still looks like the first two sections will be complete by the end of December.*

On 1 December 2010 the first pay requisition meeting was held, where Nitram Excavation was paid \$219,214.51. The manager provided the board with the minutes of that meeting

5. The manager reported that the Bigelow laboratory project had been completed on 7 December 2010. All of the newly installed piping passed pressure testing and disinfection. Disinfection testing was completed by district staff. Currently the system was charged and in

service. The contractor had been notified that when water was needed, to contact the district office to arrange a construction (i.e. temporary) service(s). The manager stated that Dan Giles, district inspector, did a great job with the project and the final product appears to be excellent. The manager explained to the board that he is leaving the new main in service to provide more redundancy in East Boothbay and to maintain good water quality now that a sterile environment had been established.

6. The AM reported the financial figures to date indicated revenues and expenses were acceptable but future loan payments will require withdrawal from the sinking funds for payment due.
7. The AM reported the Raffelis rate engineers had requested more data clarification and a conference call were scheduled for 20 December 2010 at 1300 hr.
8. The manager reported that on 1 December 2010 the Maine Department of Labor (DOL) sent the district a \$555.00 fine resulting from violations from the past summer's inspection even though the district had fully complied with the preceding citation order. The manager explained that he had called and discussed the problem with staff, correctly accusing them of breaking their word. The manager stated that senior staff at the DOL "blew him off". The manager confessed to the board that he informed the section director that I would bring this occurrence, as well as the "witch hunt" perpetrated on the district the previous year, at the request of local EMA, to the new Republican DOL director once sworn in. the manager stated that "unlike the DOL the district would comply with the law and pay the fine for now." Trustee Curtis asked the manager to keep him in the loop with the report to the new DOL director.
9. The manager provided the board with a copy of recommendations from Dirigo Engineering on a new winter mode of operation for the treatment plant. Since acting upon the recommendations the district has recorded an ever increasing residual chlorine level in East Boothbay.
10. The manager reported that distribution operations had moved into winter mode.
11. The manager reported that he would be meeting with the new Boothbay town manager concerning this ACEO position and would be setting up a workshop between the two boards to discuss the efficacy of the position. The manager did discuss with the board that in order to balance the 2011 budget he was proposing eliminating funding for this position.
12. The manager began discussion concerning the district property adjacent to Mr. Pat Farrin's property. He reported that attorney Geoff Hole served him his eviction notice on 11 December 2010. The manager reported he had a conference call with attorney Hole on 22 December 2010 to assess compliance to the order. The manager reported that he met with Leighton and Associates and would have the boundary resurveyed.

Trustee MacPhee motioned to install a fence or natural border between the two properties at the earliest possible convenience. The board approved the measure.

*Trustee MacPhee motioned, Trustee Marston second, vote: unanimous*

Trustee Pinkham then recognized Mr. Farrin who said he would be leaving the property in-time and just wanted to be a "good neighbor". He also stated that he would stay off the land and that there was no need of a fence. Trustee MacPhee asked if there was no fence what the liability was to the district if there would be any injury of persons subsequently. Trustee

MacPhee motioned to have the district, through its attorney investigate the need of a fence as it relates to liability. Trustee Curtis opposed the idea stating that the district had just voted to install a border “fence”. The motion passed.

*Trustee MacPhee motioned, Trustee Marston second, vote: Yea 4 – Nae 1*

13. The manger presented the board correspondence to the Signal Point Condominium Association answering their previous question concerning the installation of permanent, district owned water main. Trustee Pinkham expressed his liking the response provided.
14. The manger reported that the Boothbay Water District Cross-Connection Control Plan had been recently revised. The manager stated that the final draft was put out after a few months of review and fine tuning. The program was consistent with revised state law. Reducing the required level of protection for the following:
  - All residential condominiums and duplexes;
  - Lawyers offices, CPA’s & Real Estate Offices;
  - Churches;
  - Town Offices; and
  - Domestic services for fire stations.

The new plan eliminated the need for testing 76 services or 19% of the current testing work load.

15. The manager updated the board on the status of the 2011 Budget which was very much in process. The manager stated that he had worked through all of the numbers and was currently reconciling the accounts with the AM. The manager forewarned the board that the district had gone to a new accounting method so there are translational issues comparing year to year, hence the executive summary, which is currently 70% complete, is somewhat long-winded. The manager stated that “overall it looks bleak”. The manger ended stating he would be meeting with his managers later in the week to go over the draft budget and tighten any holes in material accountability.
16. The manager reported that the performance evaluations had been prepared and about half of the crew had already received theirs. The manager commended his senior staff for the depth and time the managers took this year on the evaluations. So far the feedback of where people stood had been good. The merit ranged from 1.0% to 2.5% for the collective bargaining unit. The COLA for 2010, as negotiated in the current agreement was reported 0.96%. The manger reported he would be conducting managerial evaluations later that week prior to the budget conference.
17. The manager reported he was working on the year-end NRPA report for Knickerbocker Lake and because of the extensive use of that resource it would be a time consuming exercise.
18. The board voted to go into executive session pursuant to 1MRSA §405(6)(D) at 2005 hr.  
*Trustee Marston motioned, Trustee MacPhee second, vote: unanimous*
19. The board voted to come out of executive session at 2019 hr.  
*Trustee MacPhee motioned, Trustee Marston second, vote: unanimous*
20. The meeting was adjourned at 2025 hr.  
*Trustee Curtis motioned, Trustee MacPhee second, vote: unanimous*

Respectfully Submitted,

Jonathan E. Ziegra  
Manager