

UNION WILLIAMS PUBLIC SERVICE DISTRICT

Regular Board Meeting

October 18, 2006

MINUTES & TREASURER'S REPORT

APPROVED

BY: *S. L. Nulter*

DATE: 11-15-06

Roll Call:

S. L. Nulter, Chairman
R. J. Mullenix, Treasurer
H. E. Seufer, Secretary

Attending:

D. Pauline Lowers, UWPSD
Steve Hardman, Bowles, Rice, McDavid, Graff, and Love
Dominick Cerrone, Cerrone Associates
Jerry Blair, Diversified Enterprise, Inc.

Location and Time:

6:30 P.M. District Office

Minutes by:

J. L. Dotson

S. L. Nulter called the meeting to order.

Read minutes of regular board meeting from September 13, 2006. R. J. Mullenix moved to accept the minutes. H. E. Seufer second. Unanimous.

H. E. Seufer moved to approve the financial statement. R. J. Mullenix second. Unanimous.

Discussed Wastewater Project. Discussed Charles Uhl condemnation. Steve Hardman described situation and Mr. Uhl's method of determining his proposal. The original condemnation involved two parcels, changes during construction increased it to five parcels. Mr. Hardman said the issue can be resolved for about \$3000, which in his opinion is a very reasonable settlement considering the amount of right-of-way involved. Part of the settlement involves restoration and property pin replacement. Mr. Hardman will contact Bosley about these issues. H. E. Seufer moved to approve the settlement. R. J. Mullenix second. Unanimous. Steve Nulter asked what needed to be done to complete the settlement. Steve Hardman has already explained to Mr. Uhl that, if a settlement was made, payment would have to wait for the closure on the "wrap" loan.

Steve Nulter asked Jerry Blair about the other complaints listed on the agenda. Jerry Blair said the work on Mr. Milburn's property has been completed. Mr. Milburn was in a hurry to leave when Diversified completed the work and did not sign a release. Mr. Blair also said that Mr. Milburn had asked for gravel in an area not on Mr. Milburn's property, but the video show it is now in better than original condition.

Jerry Blair said the restoration on John Ash's property is completed. Steve Nulter asked about the complaints about the water and gas lines. Jerry Blair said Diversified has no plan to replace the lines. They offered to test them, but Mr. Ash refused. He said the gas line was repaired according to gas company specifications. The gas line currently specified by the gas company is a smaller diameter than the existing line at Mr. Ash's property, but the repairs were done with the proper materials. Mr. Blair said that Mr. Ash is complaining of a loss of volume because the tubing is smaller diameter, but cannot prove a loss of volume. Jerry Blair said Mr. Ash threatened to run them off with a shotgun, but he did not come back. Mr. Blair said Mr. Ash had threatened to get his shotgun before with Diversified's workers.

Jerry Blair said that Barry Southhall attempted to complete the restoration on Jim Sharp's property. Mr. Blair said he was not present, but Mr. Southhall and Mr. Sharp got into an argument about the clean-up. Apparently Mr. Sharp wanted Diversified to restore the area where Mr. Sharp's service line was installed and Mr. Southhall claimed that area was not Diversified's responsibility. Mr. Blair said Mr. Sharp then threw them off his property.

Jerry Blair provided an update of the complaints and punch list work. There are a couple items on contract 1. The strapping holding the drop pipe in the effluent lift station has failed. Diversified's employees are manufacturing a solution for this problem. Also, there is an area in the plant that needs grade, seed, and straw. This will be restored when weather permits. On contract 2 there are six complaints yet to be completed. Two involve property pins, two involve gravel, and two involve asphalt. On contract 3 there are thirty-four properties yet to be completed. Dominick Cerrone asked about the twenty-seven on the most recent list from Gale Smith that were categorized as "need investigation." Mr. Blair said he has investigated these and they have been re-categorized. Jerry Blair said they have completed seventy-eight more properties, some have signed releases. Steve Nulter asked about the ones listed as "execute agreement and release." Mr. Blair said these were people expecting a settlement from Diversified. There are nine in this category. Mr. Nulter asked about the ones listed as "work complete/won't sign. Mr. Blair said he believes the work is done, but the customer will not sign a release. There are seventy-four in this category. Mr. Blair said there are several people on contract 2 who recently told him the work is acceptable, but they will not sign a release. Mr. Nulter expressed concern about the "restoration acceptable/property sold" category which consists of nine properties; the "no action/ R/W" category; and the "no action/other" and how the District will verify that the issue is resolved. Jerry Blair said the "no action/other" category are properties where Diversified believes they have satisfied the issue and denies further responsibility. He also said the "no response to mail" category is work that is completed, but no release was signed. Steve Nulter said the one hundred and eighteen quantity will be re-categorized since more work has been done. He said the number of disputed items is going to increase by some degree, and he would like the counts updated, then the District must determine how to handle the disputed items. Dominick Cerrone said that Diversified needs to provide an updated count immediately, specifically, the District needs a list of the properties that do not have signed releases. Jerry Blair said that, except for the forty-five properties he mentioned earlier, all the work is completed. Mr. Blair also said he has submitted a two week notice of his resignation to Diversified and will leave the company at the end of next week. Barry Southhall will be replacing him. He said the asphalt

crew is scheduled for the week after next, and they have ten items to address. He also said the surveyors are supposed to be here after everything else is done to replace property pins. Mr. Blair said he will provide a list of the unresolved and unsigned complaints and try to have it done by Friday.

Mr. Nulter then asked Dominick what the District should do to verify and resolve the remaining items. Dominick explained that during construction the inspectors investigate the complaints, determine which are valid and which need video verification. Steve Nulter explained to Jerry Blair that in the meeting at Bowles, Rice's office with Gale Smith and Gene Bailey the resolution to the complaints was to be signed releases. Mr. Nulter asked for suggestions as to who should do the work of verifying the complaints in question. Howard Seufer said the inspectors were the obvious party to perform the inspection. Steve Hardman said, by contract, the inspectors are the ones to do the work, and if a future suit would arise, the District would be in a weak position if someone other than the inspecting firm performed the work. Discussed the fact that Thrasher will expect additional payment for the work. Steve Nulter suggested by October 20th, the District should have a the list to give to Thrasher, by October 27th, the field verification should be completed, and by the November 15th board meeting Cerrone should be prepared to provide a recommendation for what Diversified should be paid, and what the District should do with any outstanding issues.

Dominick Cerrone provided an update. Dominick said there has been no request for payment and none is being recommended. He said a recommendation will be forthcoming with the verification of the complaint work. Steve Nulter said in November the board expects to discuss the outstanding complaint issues and expects Cerrone Associates to be available to provide a recommendation for resolution of those issues. Steve Nulter then asked Jerry Blair that, with the exception of the six items on contract 2, the thirty-four items on contract 3, and the nine items listed as "execute agreement", is all the restoration work is completed. Jerry Blair said he believes that to be the case. Steve Nulter then asked, since Mr. Blair is leaving, what will Diversified do now? Jerry Blair said he cannot speak for the company, but the plan, as far as he knows, is to complete the remaining work, and that work should take about three weeks.

Discussed contract 6. Dominick Cerrone said that Requisition #33 represent the work up to the cut-off at the beginning of October. As of now Par Metta is nearly complete with the exception of the access road repairs. Elmwood Heights and Meadows Mobile Home Park remain to be done. Dominick said the requisition is for \$138,234.00. That leaves \$76,000.00 remaining for contract 6. Dominick said Stonegate has fallen behind because of a couple issues. There were two lime truck spills of materials being delivered to the work sites, and there have been several rain days. Mr. Cerrone also said that rain days have a unique effect on a decommissioning project, not only does the contractor loose the day's productivity, they also experience a set-back in the de-watering process. Dominick recommended payment of the requisition, and stated that he expects the remaining work to be completed by next month's meeting. R. J. Mullenix moved to approve Requisition #33. H. E. Seufer second. Unanimous.

Discussed Bond Resolution for "Wrap" Loan. The Public Service Commission is now holding up the loan.

Discussed telemetry. This item will be added to the agenda with the loan closing.

Discussed water rate. The accountant is performing the annual audit. The District will ask him to review the rate and provide a recommendation.

R. J. Mullenix moved to pay Requisitions #1 and #2. H. E. Seuffer second. Unanimous.

Meeting adjourned at 8:30 PM.