

Minutes

February 23, 2011– Reconvened Board Meeting

On February 23, 2011, the Board of Trustees of the Lake County Public Water District met in a reconvened meeting scheduled for the hour of 6:15 p.m. in the conference room of the District, 500 – 17th Street, Zion, Illinois. Chairman Topcik opened the meeting at approximately 6:30 p.m. Upon the roll being called, Trustees Jaeger, Moe, Mitchell, and Chairman Topcik were present. Trustees Hill, Ruchti, and Monk were absent. Also present were General Manager Albrecht, Operations Manager Don White, District Attorney Dan Kucera, and District Secretary Karen Johnston.

Chairman Topcik stated that the board was meeting for the purpose of discussing the liquidated damages for the plant upgrade. General Manager Albrecht directed the board's attention to a letter dated February 21, 2011 from CDM to the District discussing final completion. CDM rejects Maxim's request for a Certificate of Final Completion dated January 31, 2011 because certain remaining project work still needed to be completed as of that date. General Manager Albrecht stated that CDM recommended in their letter that Feb. 15, 2011 should be the date selected as final completion. Even at this date there were items, mostly weather related, that were not completed. CDM suggests that the District hold \$3,000 to ensure that the remaining work is completed. General Manager Albrecht stated that one could argue they weren't done on February 15th. With the hold back, however, he suggested that the District concur with CDM and use February 15th as a final completion date. General Manager Albrecht asked Attorney Kucera if that was okay. He said yes. The punch list included in packet showed items that as of February 21st still need to be completed. Operations Manager White indicated that as of the date of this meeting all non-weather related items had been completed. The board proceeded to discuss the painting, grounding, and other items on the punch list. Trustee Jaeger made a motion to accept February 15, 2011 as the final completion date for the project, which was seconded by Trustee Mitchell and unanimously approved.

General Manager Albrecht stated that the other letter included in the board packet is a synopsis of what Bret Hancock (Maxim Construction) talked about at February 8, 2011 meeting. He indicated that it explains Maxim's position regarding the project, including delays on the project and Maxim's position regarding liquidated damages. General Manager Albrecht referred to the chart of liquidated damages, which stop on the 15th of February. He indicated that as of the date of final completion, the District can now assess \$174,400 against Maxim for liquidated damages, with \$33,000 of that amount being for missing substantial completion. The difference is for missing final completion. He stated that this is the maximum that can be charged based on the date that the board agreed upon That represents final. Trustee Jaeger made a motion to go into executive session to discuss assessing liquidated damages and possible litigation, which was seconded by Trustee Mitchell and unanimously approved.

* * * * * EXECUTIVE SESSION * * * * *

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February 23, 2011– Reconvened Board Meeting

Upon leaving executive session, Trustee Mitchell made a motion to retain \$45,000 in liquidated damages and return balance to Maxim, which was seconded by Trustee Jaeger. Chairman Topcik requested a roll call vote– Mitchell, Moe, Jaeger, Topcik. All voted aye, no nays.

Trustee Jaeger made a motion to retain an additional \$3,000 for items as yet to be completed by Maxim Construction, (no later than April 23, 2011) which was seconded by Trustee Mitchell, and unanimously carried.

Chairman Topcik indicated that Trustee Jaeger found an article regarding the sand movement along the beach, relative to North Point Marina. Operations Manager White indicated that he had spoken with a representative of the Department of Natural Resources about this matter. Since no engineering firm has been assigned to this project yet, he stated that a meeting with both parties was a little premature. He also said he will call next week. Chairman Topcik indicated that their map did not show our intake pipe. The board discussed this subject.

Trustee Mitchell made a motion to adjourn, which was seconded by Trustee Jaeger and unanimously approved.

X 

Donald J. White
Board Secretary