

**Perry/Willard Wastewater
Facility Board Meeting
975 West 1000 North
Willard Utah 84340
May 11, 2015
5:00 p.m.**

Members Present: Chairman Steven Pettingill, Board Member Greg Hansen, Board Member Bob Beebe, Board Member Esther Montgomery

Board Members Excused: Board Member Rod Mund, Plant Manager Jeff Hollingsworth

Others Present: Greg Westfall, Perry City Administrator, Dale Freede, Willard City Council Member, and Susan K. Obray, Minutes Clerk.

1. Welcome & Call to Order

Chairman Pettingill welcomed and called to order the Perry/Willard Wastewater Board Meeting.

2. Approval of the April 13, 2015 Minutes

Board Member Montgomery stated that there were a couple of changes that she e-mailed to Susan. Susan stated that the changes had been made but the board did not have the changes in the set of minutes that they had. Board Member Montgomery said the corrections are page 5 line 35 changed from ownership percentages to operation & maintenance percentages. She stated that the other change was just typographical.

MOTION: Board Member Montgomery moved to approve the April 13, 2015 minutes with the corrections. Board Member Beebe seconded the motion. All in favor.

3. Agenda Items

A. Declare Conflict of Interest, If any

Board Member Beebe stated that he will be coming to the plant to fix some insulation in the operations building, and asked if that would be a conflict. Chairman Pettingill stated that it would not be a conflict. There were no conflicts of interest declared.

D. Approval of the Agenda

Chairman Pettingill stated that he would like to move an item on the agenda. He said he would like to move agenda item I just before the adjournment.

MOTION: Board Member Montgomery moved to approve agenda moving Item I Discussion/Action on Hiring Jeff Thorne Legal Representation after letter L. Board Member Beebe seconded the motion. All in favor.

C. Public Comments (if any)

Greg Westfall, Perry City Administrator, stated that he has an item he would like to discuss regarding information from Perry City Council's last meeting on the budget. Chairman Pettingill stated that they do need to talk about the budget and asked him to proceed. Mr. Westfall stated that the budget that was presented to Perry City it was noticed that it would require Perry City to do a rate increase to fund the entire amount. He said Perry City Staff was asked to come up with a possible option to put next to it that

would not require a rate increase. Mr. Westfall referred to the last page which is a budget that was given to the City Council. Mr. Westfall stated that Perry City Council was presented with the proposed operations budget along with the proposed budget that would not require a rate increase. He apologized that he was not at the City Council meeting. Mr. Westfall reported that the City Council did approve a tentative budget that would not include any rate increases to Perry City Residents. He stated that he and the board could go down through each item and discuss it and the reasoning behind it. Chairman Pettingill stated that it shows where Perry City is with their money, but it has not been presented to Willard yet and they need to have a say in it. He said in the interlocal agreement under Annual Budget Preparation it states "On April 1st of each year the Sewer Facility Board will prepare an Annual Budget for the next fiscal year. The Sewer Facility Board will provide a copy of the Annual Budget to each City." Chairman Pettingill stated that the board has prepared a budget and it has been presented to Perry but not to Willard. He continued to read, "If they deem it pertinent, each City and the Sewer Facility Board will make recommended changes to the Annual Budget." "In the event the Cities and the Sewer Facility Board are unable to agree on the Annual Budget, then the unresolved Annual Budget will be submitted to a panel of three experts." Board Member Beebe stated that on 4111 and 4112 it says they reflect a 3% raise per employee if warranted and would be more in line with other departments. Mr. Westfall clarified that it would be more in line with Perry City employees. Board Member Beebe stated that you do paperwork on these employees; they are not employees of Perry City. He said that is the case and we are going to have trouble filling positions because these guys cost more. Mr. Westfall stated that Perry City's approach is that the 3% would be an annual thing. If someone is leaving and needs to be retained, or wants to be retained, Perry City has looked at that as a different approach to increases. He said Perry City is open to retaining employees that we want to retain and what it takes to retain them. They were purely looking at that as an annual budget increase that is done throughout the city. He said and if there is a need to hold an emergency meeting with Willard to retain employees, that is definitely something we will look at. Chairman Pettingill stated that Willard has their Council meeting this week. He said there are lots of things in here that are helpful. Board Member Beebe stated that he had a problem with the last page first paragraph which states "The Perry City did not include approval nor will they approve of any increased funding or cost related to the following: Hiring of an attorney for the board, hiring of an accounting firm for the board, hiring of a minutes clerk for the board, etc... He said that Perry City agreed in court to do that, plain and simple. He referred to the court document and said this is what was agreed to: (1) turn it over to an independent entity for auditing and accounting; (3) no interference with the Perry/Willard Wastewater Treatment Board outside the requirements of the interlocal cooperative agreement. Board Member Beebe stated this is what your Mayor agreed too. Mr. Westfall asked if it was signed. Board Member Beebe stated he didn't think so, but they were supposed to. He said this is what she agreed to in court. Board Member Montgomery stated what she has heard is what they verbally agreed to at the time. She said the language has changed in the drafting of this document. She said she really couldn't say because she wasn't there. Board Member Beebe stated that he was there. He said she agreed to stay out of the financial aspect of this and was agreed to by her in court. Board Member Montgomery asked if he read the paragraph in its entirety. Board Member Hansen stated that the paper

that was handed out by Mr. Westfall states “These items may be considered at a later date after further information can be shared by the Wastewater Treatment Board including the need of such professional assistance, a full presentation of a financial process ensuring state compliance, and demonstrated cost savings by implementing the new processes”. Board Member Montgomery stated what it is saying is that we are not going to approve those things until the board can present that there is a benefit in obtaining and running that method. Board Member Beebe stated that is not what the interlocal agreement says or what the Perry Mayor agreed too. Board Member Montgomery said she knows what the interlocal agreement says and she also knows subsequent to the interlocal agreement Willard and Perry made another agreement on how those finances were going to be done. Board Member Beebe asked where it was written down. Board Member Montgomery stated she doesn’t know, she hasn’t looked into that, she assumes that it is in the Council Minutes. She said she didn’t know if there was a contract signed, she knows there was money exchanged as part of that process. Board Member Beebe stated that Perry has completely disregarded what was presented to Willard to get that money. Board Member Montgomery asked what he was talking about. Board Member Beebe said on percentage ownership and O & M costs. Greg Westfall apologized by saying the only purpose of this was to convey the Perry City Councils decision process making when they sent the budget back here hoping for those considerations. Chairman Pettingill stated that it demonstrates the good faith that Perry has exhibited in trying to comply with the agreement in court; he said that is the agreement. He said he has the latest agreement that is very similar to that from Kevin McGhee. Chairman Pettingill stated that this is a time sensitive document and if those things are not complied with he is sure the Judge is going to look at that and say “why weren’t you guys able to do that”. Steve said he will report fairly and squarely because Perry City stood in the way at every step. Board Member Montgomery stated you can proceed how you feel. She said Perry City is still in a position where we feel there is not a benefit to that process and there is liability attached that is not being explained or resolved. Chairman Pettingill felt that the liability issues are purely fictitious. He said he thinks the idea is that we want to take this to an independent person so the level of fairness is exhibited between the two cities. Board Member Montgomery asked why it wasn’t being exhibited fairly at this point. Chairman Pettingill stated that is exactly why he got four votes one night, because four people from this board didn’t think it was fair. He said the four votes we got were to acquire a banking process so that we can more fully follow the interlocal agreement and that has been inhibited by Perry. He said we couldn’t get our own banking because Perry has meddled in that process, we can’t get our own accounting because Perry has done that too. He said and now Perry is writing us a letter saying if we put anything in the budget to hire an attorney, they are going to destroy our budget. Board Member Montgomery stated that is not what we are saying at all. She said we are saying we would like you to give us something else to consider. Board Member Montgomery explained that Perry wants you to bring this process and share it and alleviate our concerns so we can look at it. Chairman Pettingill stated that he received an e-mail from Dennis Sorensen from Spanish Fork and they do the same process that we will intend to do. Board Member Montgomery stated that the equation he presented is not consistent with the interlocal agreement. She said that process is not what is described in the interlocal agreement.

Chairman Pettingill stated that Mr. Sorensen follows it and it is the same interlocal agreement that we follow.

E. Plant Manager Items

None.

F. Call Outs

None.

G. Items to be purchased

Steve stated that Jeff has purchased \$3,446 for the UV system, \$1,141 for electronics, and \$14,811 for the drive box, which totaled \$19,398. He said minus \$3,500 that he got for a credit for the drive box the total was \$15,898. Board Member Montgomery asked if there was anything else on his list. Chairman Pettingill stated that he still needs to purchase the chain and it will be taken off next year's budget. Board Member Beebe stated that we should be prepared for the next 6 years and purchase 6 drive boxes, 6 chains, and 6 sprockets. Chairman Pettingill stated or at least 3. We need to be able to change one side at a time. Board Member Montgomery stated that as of March he has spent \$31,367.95 actual with \$30,000 unexpended. She said we are getting closer to the fiscal year and will probably be around \$15,000 that has yet to be unexpended. She stated we might be able to squeak a little more out of this budget. Board Member Hansen stated that we discussed two meetings ago that is where the \$15,000 would come from. Board Member Beebe stated that if he has anything left right at the end of the year we do need some more lamps and hand tools. Chairman Pettingill stated that we could also put a chain in there. Board Member Montgomery stated that they have been taking care of their expansion fund. Board Member Beebe stated since they raised the sewer rate to \$60.00 theirs is looking good. He said any excess monies from the budget should go into the two separate funds that are administrated separately. Board Member Hansen stated on the equipment line item we need to spend it. He said we need to look at this real close before June 30th and make sure we have bought everything we can. Chairman Pettingill stated that the expansion fund has not been created and it needs to be. He stated the interlocal agreement Article 5 page 10 stated that those monies should be made available to each city and we should be able to direct the money into the expansion funds every year.

H. Discussion/Action on Policies and Procedures

• Discussion/Action on Recommendation for Term Limits

Board Member Montgomery stated based in their discussion on bylaws and term limits there is a conflict that has happened and we don't want that to happen again. She said if there are bylaws that are put into place that could prevent that. Board Member Montgomery stated that she looked at all of the boards that exist in Perry, the Gun Range Board, The Planning Commission, and the Flood Control Board. She said that she looked at what they have in place and her intention was to compile those and present them and get feedback. She said that she wasn't able to do that in time. She said she will have it by the next meeting. Board Member Montgomery stated if there are any suggestions or ideas that the board has thought of in the course of their time on the board or their experience on different boards and what has worked this would be their opportunity to share. She said she was thinking somewhere on the lines of 4 year appointments with 2 year extensions with a maximum of 10 consecutive years, so that the

City Councils would look at candidates in November. Board Member Montgomery stated that this would move away from the idea of a jointly appointed member being the chair. She felt it was not necessary. She said it was following the pattern of the Planning Commission and how they have a Vice Chair and a Chairman that are appointed. Board Member Montgomery stated that the recommendation is made by the board members and forwarded to the City Council. Board Member Beebe stated that on the board members he agrees, but at a minimum of four year terms you are just learning what goes on down at the plant. Board Member Montgomery stated that is why she recommends with a possible extension of 2 years. Board Member Beebe felt that the Chairman needed to remain a joint member appointed by both communities. He said it is a tie break vote. He stated if it is not in agreement with both communities, he felt this is the easiest way to go. Board Member Montgomery stated that she thinks that is not necessary and that it can be difficult, it doesn't allow for that experience to follow that one person that has that sphere of authority for so long and then their term is going to expire. Chairman Pettingill recommended that Board Member Montgomery talk to Ryan Tingey and Jerry Nelson and ask them why they appointed the joint member and why it is in the agreement. Board Member Montgomery stated that it is an interesting thing because she has not seen another agreement that is represented that way. Chairman Pettingill stated he would ask her to do that in the next month. Board Member Montgomery stated the last meeting Jerry was here he said that the joint should be the Chairman. Chairman Pettingill stated he knows why they did it and encouraged her to ask them why. Board Member Beebe stated the way he sees it is the jointly appointed person from both communities is to prevent the medaling from both city governments. He said perceptions now are one way, but within a very short period of time it can be construed the other way, and the jointly approved member is the buffer between that and has both communities interest at heart. Board Member Hansen asked if it was a problem with the joint chair with the same type of term. He said that doesn't mean he is going to get replaced if he is willing to continue to serve. He can be in there a maximum of ten years. Board Member Beebe stated having a jointly appointed person agreed upon by both communities. Board Member Hansen agreed. Board Member Montgomery stated that it is great in theory. Board Member Montgomery stated that the board is made up of 5 people 2 from Willard and 2 from Perry and another voting member that is supposed to be neutral. She said any of those members can be the chair.

Board Member Beebe stated that we have several individuals in both communities that qualify in this and what was used was property ownership in both communities. He said that Fred Barker from Willard also owns property in both communities. Board Member Montgomery stated that land ownership has nothing to do with it as long as the Mayors agree on the person. Board Member Beebe commented that should be left up to a joint decision on the Chairman but doesn't have a problem with the rest of it. He felt it was wise to go with the four years instead of the two years. Chairman Pettingill showed Board Member Montgomery a copy of the flow chart for the plant and said that it has never changed. He said that was the flow chart he was given and the one that he has always adhered to and it was ratified by both cities. He showed her the facility flow chart and how it flows with the City Councils and the budget approval process. Chairman Pettingill stated that in June of last year he was handed a different flow chart by the Perry City Mayor and she told him that he will abide by the one she handed him. He told her

not until it is ratified by both cities. He said you can't do that. Chairman Pettingill stated that he follows the flow chart that was ratified by both cities. Board Member Montgomery stated in the context of our conversation, you are looking at the line Joint Appointment by both city Mayors and Councils. She felt that was not necessary. Chairman Pettingill stated that is what was passed. He said just like the interlocal agreement it was passed by both cities and it is what it is. Chairman Pettingill stated that he was told from the get go that he would have interference from Mayors, and he did. Board Member Hansen stated every two years you are going to have this hiccup come in and the board just stays strong and we have a direction we know what our responsibilities are, and you just politely say we are taking care of it, thank you very much. Chairman Pettingill stated that didn't work, he tried that. Board Member Hansen felt there was a different message put out this time around. Chairman Pettingill stated that is the fruits of 18 months of trying to be nice, he tried. Board Member Montgomery stated because the Councils are the appointing authorities we could draft up a recommendation and send it to our City Councils. Chairman Pettingill stated that we are in charge of our own bylaws here. Board Member Montgomery stated but as far as the term limits that does not pertain to us, but we can make that recommendation. Chairman Pettingill stated that those are policies and procedures that we make here at this body that is our job to do. Board Member Montgomery stated that she agrees that it is their job to make policies and procedures that pertain to the facility, but the appointments of the members and the term limits are the cities. Chairman Pettingill stated the appointment of the members is the job of the cities, but policies and procedures is ours. Board Member Hansen stated if the cities decided they want the members to do a two year term limit, is that their prerogative. Chairman Pettingill stated it is their prerogative except for the at large member. Board Member Montgomery stated that will have to be clarified. Board Member Beebe stated the only thing we disagree on is the at large member. Board Member Montgomery stated she feels that at any time the jointly appointed member is no longer jointly appointed by either one of the cities that the other city needs to cooperate with the other city. Board Member Beebe stated that is not going to work. Chairman Pettingill stated you can already see that has created a conflict. Board Member Montgomery stated that there are two solutions. She said the first one is to change the representation on the board. She was looking at Spanish Forks' interlocal agreement and their representation reflects ownership. Board Member Montgomery said they have three board members from Spanish Fork and two from Mapleton. She stated that would take out all of that mutually appointed conflict and that would allow the chairman to rotate however the cities agree that would take place. She said that she doesn't know how Willard will look at that. Chairman Pettingill stated that they will say no. Chairman Pettingill stated the reason they created the board was to have absolute fairness at this table. He said they did it with five votes and a mutually appointed person. Chairman Pettingill stated whether it is his personality or whoever it is you can't look at him like he is the deciding vote. He said if he had interest or fairness in both cities his vote would fall wherever the interest or fairness is. Chairman Pettingill stated what she is suggesting is Willard takes a vote away from this table because of the ownership. Board Member Montgomery stated she is just suggesting that would be an option. Chairman Pettingill stated that option for Willard's point of view. Board Member Beebe stated that he was very adamant a couple of meetings ago you want to lock this into a 50 year agreement

34% for Willard and 66% for Perry, write it up. Board Member Montgomery stated that it is in writing. Board Member Beebe said he means set it in stone. Board Member Montgomery stated the other option is the cities have got to cooperate on the mutually appointed member. Board Member Beebe asked Board Member Montgomery if she sees Willard's point of view on this. Board Member Montgomery stated that she does. Board Member Beebe stated let us look at Willard's point of view. He said there was a vote taken here and within 30 days after that vote, two board members were gone and your Mayor had fired Steve without consulting with Willard's Mayor, dictating it down. He said that was the perception that came to Willard was that we were dictated too. Board Member Beebe stated that since that point it has gone to court, it has not been implemented, the interlocal agreement is still in limbo, and right now his total perception of this whole thing is we were all dressed up and we left. We should have just followed through with it on that day and got it done instead of this. He said we are now waiting for one city to sign the agreement that they agreed too. Board Member Beebe stated that this board meeting has turned into an absolute waste of time. He said we are completely entrenched in each position at this point and all we are good for is to sign checks. Board Member Beebe stated that it should have gone to court. Board Member Montgomery stated that the other option is if the city relinquishes the jointly appointed member the other city needs to work together. She said think of it from Perry's point of view. Board Member Montgomery explained that Perry still believes that our best interests are not being forwarded for the actions that have been taken place and that is why the board members are no longer here. She said the City Council has gone over it and it has been very well thought through and we are still in that position. She stated if our interests are not being represented fairly by that jointly appointed member there has to be a way to make that change. Board Member Montgomery stated that for one city to say they like what he is doing and we want him to stay right there and you can't do anything about it, that's not right. Chairman Pettingill stated when you say Perry City expects this person to vote and align yourself with Perry for your best interest how can you say that when you arbitrarily take away Willard's best interest. Board Member Montgomery stated that they are trying to follow the interlocal agreement. Chairman Pettingill stated that is what he wants to do. He said it also states in there in the industry every sewer plant in this state runs on flows. Chairman Pettingill stated that you are not listening to what Willard has to say. Board Member Montgomery stated that she has listened to everything Willard has said. Chairman Pettingill stated that she has already taken a position, you have voted on it and you are sure that it is the position you need to be. Board Member Montgomery stated that we need to get some open minded people to sit down and talk. She said there is ground for compromise, and put the interlocal agreement down in stone to alleviate all the misconceptions and move forward. He said the two things Perry wanted was the interlocal agreement scrapped and started over. Board Member Montgomery stated that was nonsense. Board Member Beebe stated that was said in the meeting and projected on the screen. Board Member Montgomery asked why would we be defending it so adamantly. Board Member Beebe stated that here is his problem with the whole thing at this point. He said we better figure out what we are doing before the State takes us over and we have no say in it, and we are trying to get permitted at this point and when the State calls down here and doesn't know who is in charge that is not a good thing. Board Member Montgomery stated it's not going to be a bad thing because Board Member

Mund is going to take it in a month or two. Board Member Beebe stated that we have agreed to certain stipulations in this document. He said the Perry Mayor agreed to stay out of the banking and change over the chairmanship. He said what makes you think that Willard will adhere to that if Perry is not going to adhere to it. Board Member Montgomery asked if Willard was going to contest Board Member Mund taking the Chair. Board Member Beebe said he did not say that. He said what makes you think that Willard is going to adhere to their part of this if Perry is not. Board Member Montgomery stated that she had not seen this document before. She said the interference part, this is her perception, and Perry City Council has made it clear what they need from this board to be able to move forward on that process. She said it is not happening, it's not coming, and those concerns are not being alleviated. Board Member Beebe asked why the Perry Mayor agreed to that. Board Member Montgomery stated she did not have our say in that; we were not there to give her that authorization. Board Member Beebe stated the Perry Mayor in a legal proceeding agreed. Board Member Montgomery stated Perry would like more information before we can make that decision. Board Member Montgomery stated she will draft up a policy and procedure regarding terms and bring it next month. Board Member Hansen stated that he has read the interlocal agreement so many times he said he has never read where it says that we need to act in a fair manner. He said we need something that is cast in stone; there is some vagueness here in 66% or Perry's proportionate share. He said when he reads page 10 of the interlocal agreement the sharing of expenses. He stated that for him it puts it in black and white "All actual Operation and Maintenance Expenses will be shared proportionately by Willard City and Perry City in accordance with Section 4.3(f), that is Willard City will be responsible for 34% of all Operation and Maintenance Expenses, and Perry City will be responsible for 66% of all Operation and Maintenance Expenses unless a different proportion is appropriate as set forth in Section 4.3(f). He said he didn't think it could be any clearer than that and the board has been doing it this way for 5 years. Board Member Hansen stated if the cities want to change it, let the cities change it. That is not for us to do. Board Member Beebe said yes, it is. Board Members Hansen and Montgomery disagreed. Board Member Beebe stated in November 2011 the flow meters came back online and was changed. He said it would be nice to see Perry City's minutes where it was decided on when the money changed hands and the ownership. He stated that Willard has one set of minutes that we voted on and Perry has refused to give me theirs. Board Member Hansen stated that the minutes are all available on line. Board Member Beebe stated it was done in a closed session. He said for a change of payment on this is when the plant reaches maximum capacity. Board Member Montgomery stated that would be when the proportionate would change. She said we are not touching the capacity and everything in the interlocal deals with capacity. Board Member Beebe stated that Perry's build out is smaller than the perspective build out of Willard and bringing in South Willard. He said right now we are paying for Perry's flow between 7-8% as an average. Board Member Beebe stated for instance, Randy Marriott has 1,700 homes that are coming in. If we bring in 1,700 homes we still won't be at the capacity of the plant and so we will still be paying 34% and Perry will be paying for Willard's flow. Board Member Montgomery stated yes. Board Member Hansen stated that they should get together and get it cast in stone how they want this to be. Board Member Montgomery stated that we are not paying for flow we are paying for our proportionate

share of the total operation and maintenance of the plant. She said Willard City paid \$782,000 and they bought 5% of the plant. She asked how much does that equate to when you think that Perry City paid for 61% of this plant. She said Perry City paid so much money for this plant. Ownership can't be taken out of the equation. Chairman Pettingill stated that it's not. Board Member Beebe stated that it is buildout, but not the day to day operations of this plant.

Chairman Pettingill stated that it says in the interlocal agreement what it is. Board Member Beebe stated that it is conceivably possible in 5 years we still are not going to reach the maximum capacity of this plant and we are going to be pumping more sewage than Perry. He said Perry is going to pay 66% of that. Board Member Hansen stated that is the hiccup in this thing. He felt it was not the boards fight, Willard and Perry should work this out, not this board. Board Member Beebe handed some minutes to Board Member Montgomery and said this was the first time they talked about flows in the City Council meeting. He said the minutes stated that after the influx of water from Perry and the sewage finally started getting here from Willard there was a problem with the flow meter. The flow meter was changed and Steve reported to Willard Council that it was up and they were going to start taking the measurements and readings so they could switch it over to a fair analysis of operational costs between the two communities. Chairman Pettingill stated in 2011 he met with the State, Ed McCauley, Beth Wondimu and LeAnn Lamb, (Walt Bakers Secretary), and this is what they talked about. He said this is what they projected would happen. He said they couldn't arrive at this scheme at that time because of Perry's Influent problem and Willard's had not been hooked up. Chairman Pettingill stated that the percentages that you are talking about only kicks in when you exceed that percentage of ownership. They have nothing to do with the day to day operations of the plant. He said the cities are not at the ownership level at this point. Board Member Montgomery stated then why have all the bills been paid exactly this way. Chairman Pettingill stated that when he had the meeting with the State in 2011 the plant had run 1 year. Board Member Montgomery stated it is consistent with the interlocal agreement. Chairman Pettingill stated that it is not. Board Member Montgomery asked that the board move on to the next agenda item because the discussion of the interlocal agreement at the board table is fruitless. Chairman Pettingill stated that the State applied this same scenario to him and he told them this is what we intend to do. He said he reported that back to both cities and Perry has chosen to ignore that. He stated why it has worked for 5 years because councils change and people change and they forget about it. He said he has heard from Perry that it is in the best interest of our city, but Willard gets to say that too. They have 2 ½ votes at this table. Board Member Montgomery stated that Mayor Cronin has tried to contact Mayor Braegger several times to talk to him and open communication. Board Member Beebe stated that Mayor Cronin was told to implement this and what she agreed upon in court and then they can talk. He said if you don't want to agree on what you agreed to in court, then let's get the mediation or go back to court.

I. Discussion/Action Regarding the Banking Process

Board Member Beebe stated we have had this discussion and it has gone nowhere. Chairman Pettingill stated that it does say in the interlocal agreement that we will collect the money on a monthly basis and that doesn't seem to be fulfilled. He said that seems like a black and white sentence to me.

Discussion/Action Regarding Hiring a VAC Truck Operator

Board Member Hansen stated the reason we want to talk about this is because of the problems with the VAC truck. He said that Willard City has an operator that has operated a VAC truck for years and years and Perry Public Works has had some training. He commented that if the VAC truck is going out it makes sense that it is going out with an operator. Board Member Beebe asked how we pay for an operator. Board Member Hansen stated for example the VAC trucks is going out to Perry. Val Kotter or some other sewer cleaning company provides an individual and that city pays for the truck and that individual. He explained that individual tells the Perry City employee this is what I want you to do, and our truck is being taken care of and when it comes back it shouldn't have rocks jammed in it that has created damage. He stated this is just a thought. Board Member Beebe stated that we have a \$400,000 piece of equipment that doesn't get used. It should or it should be sold and a \$150,000 one purchased. Board Member Hansen stated if we are going to keep it, then someone needs to go out with it that knows exactly how to run that truck. Chairman Pettingill stated by law every city needs to clean out their system every year. Board Member Montgomery stated that Perry contracts that out every year. Chairman Pettingill asked why the city doesn't use the VAC truck and provide the people there. Board Member Montgomery stated that she will look into it. Chairman Pettingill stated that it is hard work that the city staff has to do. Board Member Beebe stated that their employee is working 20 hours a week and he is a logical person. Chairman Pettingill stated that is a fit for both cities but proportionately the lines are different in each city. Board Member Hansen felt that it was too much of an investment to sit out and have someone who doesn't know what they are doing running it. Board Member Montgomery stated that the VAC truck was purchased with grant monies and asked Board Member Beebe if there were any stipulations that might prevent the sale of the VAC truck. Board Member Beebe stated the first time he came down to the plant there is this \$400,000 piece of equipment. In this VAC truck there are 7 pumps, each pump cost \$11,000 and we were going to park it outside. He said that started the building down here so there was some place to park it. Board Member Beebe stated that we had just purchased two new heaters to upgrade our maintenance shop. He said that building went from \$40,000 to \$90,000. He said we got a building built for it so that it is out of the sun and out of the cold. Chairman Pettingill stated that the board has done their due diligence here. We have provided a protocol for its use, provided a fair assessment to each city when it went out, and we have provided a code of conduct when you come and get the truck and what the truck should be like when you bring it back. Board Member Hansen asked if the truck comes back and there is something wrong with it who is responsible to pay for it. Chairman Pettingill stated that the city that took it out is responsible. Board Member Hansen stated that we need to encourage its use and send it out with someone who knows how to use it. Board Member Beebe stated that he will approach this gentleman. He knows about what he will cost. Board Member Hansen stated that it just protects the investment.

K. Board Member Items

None.

L. Payment Approval

There was no payment approval.

J. Discussion/Action on Hiring Jeff Thorne Legal Representation

Chairman Pettingill stated that since Board Member Mund was not in attendance he would call all the board members after the meeting and ask for their vote on the hiring of Jeff Thorne, Legal Representation. Board Member Montgomery suggested that they table it to the next meeting.

MOTION: Board Member Montgomery moved to table this until the next meeting. Board Member Hansen seconded the motion.

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| Board Member Hansen | yes | Board Member Montgomery | yes |
| Board Member Beebe | no | Chairman Pettingill | no |

Motion Failed: 2 yes 2 no

Chairman Pettingill stated that we cannot move forward on policies and procedures without an Attorney. Board Member Hansen asked if anyone checked on the fees that Mr. Thorne would charge. Board Member Beebe stated that the Willard City Attorney insisted that the Sewer Board retain Legal Counsel. He said his position is Willard and your attorney is Perry. Board Member Beebe stated that Willard's Attorneys position is that we have three entities here. Board Member Montgomery stated that the policies and procedures adopted here would have our approval; we just need the Attorney to make it look pretty. Board Member Beebe stated we also need legal representation when we go to mediation on behalf of the sewer board. Board Member Montgomery stated that is where Perry City draws the line. She said the board does not need legal representation to interfere in the cities agreement. Board Member Beebe stated that we are at the position where we have been interfered with. He said it doesn't matter what the board says. Chairman Pettingill stated that it is his intention to call the board members after this meeting and vote on this matter. Susan stated that they need to vote in an open meeting. She said you can call and get a consensus but he needed to vote in an open meeting. Board Member Beebe agreed. Chairman Pettingill called Board Member Mund to get his vote on hiring of legal counsel. Board Member Mund voted yes.

MOTION: Board Member Mund moved to approve to retain Jeff Thorne for Legal Representation for the Sewer Board. Chairman Pettingill seconded the motion.

| | | | |
|-------------------------|-----|---------------------|-----|
| Chairman Pettingill | yes | Board Member Beebe | yes |
| Board Member Mund | yes | Board Member Hansen | no |
| Board Member Montgomery | no | | |

Motion Approved: 3 yes 2 no

Board Member Beebe stated that we already voted on this months ago. Board Member Montgomery said that they didn't. She read all of the minutes from a year and half ago. She said the action that was taken in February was over stepping the bounds of this board authority as it interfered with the agreement between Willard and Perry concerning the financials as they were in place. Board Member Beebe asked Board Member

Montgomery to read the legal document so they can have a discussion on it at the next meeting.

4. Action Taken

- (1) Hiring Jeff Thorne for Legal Representation

5. Items for Next Agenda

- (1) Policies and Procedures-Term Limits
- (2) Equipment Monies
- (3) Information on Kotter
- (4) Report on the Budget
- (5) Hiring Jeff Thorne
- (6) VAC Truck

Board Member Montgomery asked if the concept for hiring the VAC truck operator be forwarded to the cities. Chairman Pettingill felt that the cities needed to look at that as a defrayment from their budgets because they are already going to be spending that. Board Member Hansen stated that he would talk to Perry City about this.

6. Adjournment

MOTION: Board Member Beebe moved to adjourn. Board Member Hansen seconded the motion. All in favor.