

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

MOUNTAIN WATER DISTRICT;)	
RHONDA JAMES, COMMISSIONER AND)	
CHAIRPERSON; LESTER "JOHN" COLLINS,)	CASE NO.
COMMISSIONER; TONI AKERS, FORMER)	2015-00353
COMMISSIONER; AND MIKE LITAFIK,)	
FORMER COMMISSIONER)	
_____)	
)	
ALLEGED FAILURE TO COMPLY WITH)	
KRS 278.300(1))	

ORDER

During the course of Mountain Water District ("MWD")'s recent rate case,¹ the Commission discovered that MWD had executed a \$500,000 forgivable loan payable to Utility Management Group, LLC ("UMG"), for which prior Commission approval was required under KRS 278.300, but was never sought or obtained. In the "Amendment to Agreement for Operations, Maintenance and Management Services" dated April 29, 2009, UMG agreed to provide MWD a \$500,000 forgivable loan, to be amortized over a five-year period at a simple interest rate of 5 percent per annum.²

The minutes of the MWD Board of Commissioners' Special Meeting held on April 3, 2009, reflect that UMG had proposed to provide MWD with a \$500,000 forgivable

¹ Case No. 2014-00342, *Application of Mountain Water District for an Adjustment of Water and Sewer Rates* (Ky. PSC Oct. 9, 2015).

² *Id.*, MWD's Response to Commission Staff's First Request for Information, Vol. 1 of 7, Item 3(c) (attached hereto as Appendix A).

loan in exchange for MWD's extending its contract with UMG.³ The minutes of the MWD Board of Commissioners' Special Meeting held on April 6, 2009, reflect that all MWD commissioners then serving, with the exception of Commissioner Earl Sullivan, voted in favor of approving a proposed amended contract with UMG containing the loan provision.⁴ The minutes of the MWD Board of Commissioners' Regular Meeting held on April 29, 2009, reflect that then-serving Commissioner and Chairperson Akers, Commissioner Litafik, and Commissioner Collins again voted to approve the amended contract containing the loan provision.⁵

KRS 278.300(1) states that no utility shall issue any form of indebtedness unless it has been authorized to do so by an order of the Commission. The Commission finds that a prima facie case has been made that MWD violated KRS 278.300 in that the forgivable \$500,000 loan to MWD was an obligation and evidence of indebtedness that MWD assumed, and for which prior Commission approval was required, but was never requested or received.

Pursuant to KRS 74.020(1), "A water district shall be administered by a board of commissioners which shall control and manage the affairs of the district." The Commission finds that a prima facie case has been made that Rhonda James, Lester "John" Collins, Toni Akers, and Mike Litafik, individually acting in their respective capacities as current or former members of MWD's Board of Commissioners, willfully aided and abetted in the above violation.

³ *Id.*, Item 3(b), Minutes of MWD Board of Commissioners' Special Meeting, April 3, 2009 (attached hereto as Appendix B).

⁴ *Id.*, Minutes of MWD Board of Commissioners' Special Meeting, April 6, 2009 (attached hereto as Appendix C).

⁵ *Id.*, Minutes of MWD Board of Commissioners' Regular Meeting, April 29, 2009 (attached hereto as Appendix D).

IT IS THEREFORE ORDERED that:

1. MWD; and Rhonda James, Lester "John" Collins, Toni Akers, and Mike Litafik, individually in their respective capacities as current or former commissioners of MWD; shall submit to the Commission individual written responses to the allegations contained herein within 20 days of the date of this Order.

2. MWD and Rhonda James, Lester "John" Collins, Toni Akers, and Mike Litafik, individually in their respective capacities as current or former commissioners of MWD, shall appear at a hearing scheduled for Tuesday, January 5, 2016, at 9:00 a.m. Eastern Standard Time ("EST"), in Hearing Room 1 of the Commission's offices at 211 Sower Boulevard, Frankfort, Kentucky, and be prepared to show cause why they should not be subject to the penalties prescribed in KRS 278.990(1) for the alleged violation of KRS 278.300.

3. The 9:00 a.m. EST, Tuesday, January 5, 2016 Hearing shall be recorded by videotape only.


4. The record of Case No. 2014-00342 shall be incorporated into this case by reference only.

5. Any request for any informal conference, which may be held via phone with Commission Staff at the request of MWD or any of the above-named current or former commissioners, to discuss the issues in this case shall be set forth in writing and filed with the Commission within 20 days of the date of this Order.

By the Commission

ENTERED
NOV 02 2015
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:



Executive Director

Case No. 2015-00353

APPENDIX A

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2015-00353 DATED **NOV 02 2015**

**AMENDMENT TO AGREEMENT FOR OPERATIONS,
MAINTENANCE AND MANAGEMENT SERVICES**

THIS AGREEMENT entered into this 29th day of April, 2009, by and between Mountain Water District, Post Office Box 3157, Pikeville, Kentucky 41502, hereinafter ("DISTRICT"), and Utility Management Group, LLC, Post Office Box 663, Corbin, Kentucky 40702, hereinafter ("UMG").

WHEREAS, the parties hereto entered into an agreement for UMG to provide operations, maintenance and management services to the DISTRICT on or about the 3rd day of July, 2005 ("CONTRACT"); and

WHEREAS, pursuant to section 11 the of the CONTRACT, the DISTRICT issued a notice of termination of the CONTRACT on or about the 29th day of October, 2008; and

WHEREAS, the parties hereto have agreed to amend the CONTRACT so as to continue the same.

NOW THEREFORE WITNESSETH:

That for and in consideration of the mutual covenants and promises contained herein, the DISTRICT and UMG agree as follows:

- 1) DISTRICT agrees to rescind its termination of UMG's CONTRACT dated July 3rd, 2005.
- 2) The CONTRACT will run its full term, terminating at the end of its term on June 30, 2010.

3) UMG will provide the DISTRICT, upon closing of this agreement, a Five Hundred Thousand Dollar (\$500,000) loan. This loan will be amortized over a period of five (5) years at a simple interest rate of five percent (5%) per annum according to the Schedule for Amortization that is attached hereto as Exhibit "A" and incorporated herein as if set forth at length. For each full month that this CONTRACT remains in effect or is extended or renewed, UMG agrees to "forgive" or otherwise not require that a payment actually be made from the DISTRICT to UMG. Should the CONTRACT or any renewal or extension not be in place between the DISTRICT and UMG, the DISTRICT agrees that it will repay UMG for the total amount of the unamortized balance of the loan at the time that the CONTRACT has ended or is no longer in effect.

4) In consideration of the execution of this Amended Agreement, UMG agrees to forgive \$30,940.00 of the \$61,880.00 incurred by the DISTRICT pursuant to the agreement between the parties relating to the DISTRICT's repair and maintenance expenses of February 28, 2008.

5) Beginning with the first April 2009 invoice to the DISTRICT, UMG will reduce its bi-monthly operating and management fee by the sum of Twenty Three Thousand Dollars (\$23,000) per bi-monthly billing period so as to reduce the total monthly billing by a total of Forty Six Thousand Dollars (\$46,000).

6) The third paragraph in section 7.1 of the CONTRACT shall be deleted, and the parties agree that in lieu of that formula, UMG's management fee will be increased on an annual basis as provided in section 7.4 of the CONTRACT.

7) The parties acknowledge that the DISTRICT may, at its discretion, hire an individual to provide administrative and financial oversight for the DISTRICT, and report directly to the Board of Commissioners. This expense shall be borne solely by the DISTRICT. Said individual will have access to all of the DISTRICT's records that are in the possession of UMG during regular business hours.

8) Section 11.1 of the CONTRACT shall be amended as follows: Effective January 1, 2010, the DISTRICT shall have the option to terminate the CONTRACT at any time for any reason upon ninety (90) days notice to UMG.

9) All other provisions of the CONTRACT will remain the same.

10) The provisions of this Amendment will prevail over any provision in the CONTRACT inconsistent with this Amendment.

IN WITNESS WHEREOF, the parties hereto have agreed the date and year first above written.

MOUNTAIN WATER DISTRICT

BY: Joni Akew

IT'S: Chairperson
4-29-09

UTILITY MANAGEMENT GROUP, LLC

BY: Greg May

IT'S: Chief Operating Officer

Description Loan: UMG to MWD
 Loan Amount: \$500,000.00
 Interest Rate: 5.00%
 Term (Months): 60
 Loan Date: 4/1/2009
 Monthly Payment: \$9,435.62
 Lender:

Month	Pmt Date	Pmt Amt	Inter Exp	Principal	Balance
Beginning Balance					\$500,000.00
1	5/1/2009	\$9,435.62	\$2,083.33	\$7,352.28	\$492,647.72
2	6/1/2009	\$9,435.62	\$2,052.70	\$7,382.92	\$485,264.80
3	7/1/2009	\$9,435.62	\$2,021.94	\$7,413.68	\$477,851.12
4	8/1/2009	\$9,435.62	\$1,991.05	\$7,444.57	\$470,406.55
5	9/1/2009	\$9,435.62	\$1,960.03	\$7,475.59	\$462,930.96
6	10/1/2009	\$9,435.62	\$1,928.88	\$7,506.74	\$455,424.22
7	11/1/2009	\$9,435.62	\$1,897.60	\$7,538.02	\$447,886.20
8	12/1/2009	\$9,435.62	\$1,866.19	\$7,569.42	\$440,316.78
9	1/1/2010	\$9,435.62	\$1,834.85	\$7,600.96	\$432,716.82
10	2/1/2010	\$9,435.62	\$1,802.98	\$7,632.63	\$425,083.18
11	3/1/2010	\$9,435.62	\$1,771.18	\$7,664.44	\$417,418.75
12	4/1/2010	\$9,435.62	\$1,739.24	\$7,696.37	\$409,722.37
13	5/1/2010	\$9,435.62	\$1,707.18	\$7,728.44	\$401,993.93
14	6/1/2010	\$9,435.62	\$1,674.97	\$7,760.64	\$394,233.29
15	7/1/2010	\$9,435.62	\$1,642.64	\$7,792.98	\$386,440.31
16	8/1/2010	\$9,435.62	\$1,610.17	\$7,825.45	\$378,614.86
17	9/1/2010	\$9,435.62	\$1,577.56	\$7,858.05	\$370,756.81
18	10/1/2010	\$9,435.62	\$1,544.82	\$7,890.80	\$362,866.01
19	11/1/2010	\$9,435.62	\$1,511.94	\$7,923.88	\$354,942.34
20	12/1/2010	\$9,435.62	\$1,478.93	\$7,956.89	\$346,985.65
21	1/1/2011	\$9,435.62	\$1,445.77	\$7,989.84	\$338,995.80
22	2/1/2011	\$9,435.62	\$1,412.48	\$8,023.13	\$330,972.67
23	3/1/2011	\$9,435.62	\$1,379.05	\$8,056.58	\$322,918.11
24	4/1/2011	\$9,435.62	\$1,345.48	\$8,090.13	\$314,825.97
25	5/1/2011	\$9,435.62	\$1,311.77	\$8,123.84	\$306,702.13
26	6/1/2011	\$9,435.62	\$1,277.93	\$8,157.69	\$298,544.44
27	7/1/2011	\$9,435.62	\$1,243.94	\$8,191.68	\$290,352.78
28	8/1/2011	\$9,435.62	\$1,209.80	\$8,225.81	\$282,126.94
29	9/1/2011	\$9,435.62	\$1,175.53	\$8,260.09	\$273,866.88
30	10/1/2011	\$9,435.62	\$1,141.11	\$8,294.50	\$265,572.35
31	11/1/2011	\$9,435.62	\$1,106.55	\$8,329.07	\$257,243.29
32	12/1/2011	\$9,435.62	\$1,071.85	\$8,363.77	\$248,879.62
33	1/1/2012	\$9,435.62	\$1,037.00	\$8,398.62	\$240,480.90
34	2/1/2012	\$9,435.62	\$1,002.00	\$8,433.61	\$232,047.28
35	3/1/2012	\$9,435.62	\$966.86	\$8,468.75	\$223,578.53
36	4/1/2012	\$9,435.62	\$931.58	\$8,504.04	\$215,074.49
37	5/1/2012	\$9,435.62	\$896.14	\$8,539.47	\$206,535.02
38	6/1/2012	\$9,435.62	\$860.58	\$8,575.05	\$197,959.98
39	7/1/2012	\$9,435.62	\$824.83	\$8,610.78	\$189,349.18
40	8/1/2012	\$9,435.62	\$788.95	\$8,646.66	\$180,702.52
41	9/1/2012	\$9,435.62	\$752.93	\$8,682.69	\$172,019.83
42	10/1/2012	\$9,435.62	\$716.75	\$8,718.87	\$163,300.98
43	11/1/2012	\$9,435.62	\$680.42	\$8,755.20	\$154,545.78
44	12/1/2012	\$9,435.62	\$643.94	\$8,791.88	\$145,754.09
45	1/1/2013	\$9,435.62	\$607.31	\$8,828.31	\$136,925.78
46	2/1/2013	\$9,435.62	\$570.52	\$8,865.09	\$128,060.69
47	3/1/2013	\$9,435.62	\$533.59	\$8,902.03	\$119,158.68
48	4/1/2013	\$9,435.62	\$496.49	\$8,939.12	\$110,219.53
49	5/1/2013	\$9,435.62	\$459.25	\$8,978.37	\$101,243.17
50	6/1/2013	\$9,435.62	\$421.85	\$9,013.77	\$92,229.40
51	7/1/2013	\$9,435.62	\$384.29	\$9,051.33	\$83,178.07
52	8/1/2013	\$9,435.62	\$346.58	\$9,089.04	\$74,089.03
53	9/1/2013	\$9,435.62	\$308.70	\$9,126.91	\$64,962.11
54	10/1/2013	\$9,435.62	\$270.88	\$9,164.94	\$55,797.17
55	11/1/2013	\$9,435.62	\$232.49	\$9,203.13	\$46,594.04
56	12/1/2013	\$9,435.62	\$194.14	\$9,241.47	\$37,352.57
57	1/1/2014	\$9,435.62	\$155.64	\$9,279.98	\$28,072.59
58	2/1/2014	\$9,435.62	\$116.97	\$9,318.65	\$18,753.94
59	3/1/2014	\$9,435.62	\$78.14	\$9,357.48	\$9,396.46
60	4/1/2014	\$9,435.62	\$39.15	\$9,396.46	\$0.00

EXHIBIT
A

APPENDIX B

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2015-00353 DATED **NOV 02 2015**

MOUNTAIN WATER DISTRICT
BOARD OF COMMISSIONERS SPECIAL MEETING
APRIL 3, 2009
10:00 AM

ATTENDANCE

Chris Harris, Magistrate, District 6
Hilman Dotson, Magistrate, District 5
Jeff Anderson, Magistrate, District 1
Russ Cassidy, Appalachian News Express
Mike Spears, Spears Management
Dan Stratton, Stratton, Hogg & Maddox
Grondall Potter, Manager, UMG
David Taylor, Operations Manager, UMG
Tammy Olson, Executive Assistant/Office Manager, UMG
Kevin Lowe, Executive Assistant/Office Manager, UMG

CALL TO ORDER **AGENDA ITEM I**

The Mountain Water District Board of Commissioners Special Meeting was held on Friday, April 3, 2009 at 10:00 a.m. Chairperson Akers clarified that this meeting is a special meeting and therefore, the Board can only discuss or take action on what is on the agenda.

Commissioners present for the meeting were as follows:

Chairperson Toni Akers
Commissioner Mike Litafik
Commissioner John Collins
Commissioner Earl Sullivan

Commissioners absent for the meeting were as follows:

Commissioner Rhonda James

VISITORS **AGENDA ITEM II**

Chairperson Akers inquired if there were any visitors for today's meeting. The Chair recognized Chris Harris, Magistrate of District 6. Mr. Harris stated that since he has been in office he has tried, and done a good job, of not coming to the Board meetings and "sticking his nose" into Mountain Water's business. The District is operated by the Board and the Magistrates vote for the Board members. This is only the second meeting that he has been to since he took office seven (7) years ago. He stated that are things that are going on now that need to be addressed. He has spoken privately with some of the Board members and he wants his position to be known publicly as to what he believes is the right thing to do and the reasons for that. Mr. Harris stated that he was very disappointed to receive the letter from Chairperson Akers that the Board had agreed to extend UMG's contract. The financial condition that the Board seems to be in right now compared to what it was when UMG took over is much diminished, in an environment when they came on the scene, they said they were going to do just the opposite. This contract was supposed to save us money; we were supposed to be able to put in more water and sewer lines throughout the county. We were going to run things more efficiently and everything was going to be clean and it has been anything but that. Mr. Harris invited the Board to correct him if he said anything wrong, and continued by stating that the District is in terrible financial condition. We (the District) have had to borrow five hundred thousand dollars (\$500,000) from the bank just to meet our obligations, and now we are in a situation where we are going to have trouble meeting our bond

payments. All of that has happened under the watch of UMG and he doesn't see how that Board can, in good conscience, renew a contract with a company who is partly responsible, or was at least in charge of the oversight, during this time that the finances have been completely demolished. He can't speak for everyone, he has two (2) members of the Fiscal Court here with him today, but speaking for himself, the financial issues aside which are more than enough reason not to bring the same people back in that helped to get us in this situation, but over and above that, you've got a company who is being named in an FBI affidavit from Clay Mason that ties UMG to a federal indictment against Leonard Lawson, Bill Neibert and Brian Billings. This isn't the type of clean running operation that we were promised when they came and talked this Board into switching everything over from a public run entity into a privately run entity. It is just not what it is supposed to be. He stated that he can't believe that this Board would sit back and let this happen. The Board of Commissioners are stewards of this entity just as we (the Magistrates) are stewards of the Fiscal Court and the county's money; and he just can't understand how the Board can make this decision to enter into a contract, and he hasn't seen the contract but has heard bits and pieces of it, but from what he understands, the proposal is that UMG is basically going to give us (the District) five hundred thousand dollars (\$500,000) and if we keep them for another five (5) years they will forgive the loan. Mr. Harris directed Commissioner Litafik to correct him if he was stating something wrong. Commissioner Litafik indicated for Mr. Harris to continue. Mr. Harris stated that he wanted his concerns to be noted and on the record and he would like to know publicly what advice the Board received from their attorney and their accountant, because they know the workings of this as good as anyone, and he would like to publicly hear from both of them what their recommendation for this contract is.

Chairperson Akers recognized Hilman Dotson, Magistrate, District 5. Mr. Dotson stated that he was present today to find out what is going on in the county. The Magistrates are obligated to their people in the county for good, clean drinking water and for sewer service and they have heard rumors and are present today to find out what exactly we are into. He stated that they, as members of the Court, are responsible somewhat to Mountain Water and their people. They need to know, as members of the Court, what is really going on. He stated that he didn't know about the contract that the Board has in front of them, or whether it is a good one or a bad one, but he hopes that whatever kind of contract it is, that we can work to better our people and the Board can get the District out of the hole that it is in. Mr. Dotson further stated that he is just concerned about it.

Chairperson Akers then recognized Jeff Anderson, Magistrate, District 1. Mr. Anderson stated that he doesn't understand, looking back, and with the problems that are currently going on north of Pikeville with the high water rates and the residents not being able to get sewer service, and being a former Sandy Valley Board member and not trying to nose into the Board's business, but there have been some things that have happened that have basically put us on the spot that we (The Magistrates) are going to be asked what is going on with Mountain Water; just like he was asked why they dissolved Sandy Valley when their minimum bill was eleven dollars (\$11.00) and now it is twenty-seven dollars (\$27.00). But those are completely different issues from what we are here for today. He stated that the Board gave the sewer in the north corridor to the City of Pikeville, if he is correct, and the Board was making about fifty to sixty thousand dollars (\$50-\$60,000) per year on it. He asked at the last Board meeting that he attended why the Board did that. He just doesn't understand, and maybe someone can help him to understand, why, especially now with the situation that the District is in, why the Board gave away one of their biggest profit centers and a relatively new system for about half of what it was worth and the debt. He stated that now he has a million dollar (\$1M) treatment plant at Mossy Bottom and a main sewer line going down US 23 and still can't get sewer service. He has a letter at home from the Mayor of Pikeville stating that they have the ability to provide sewer, and he thought it was going to work out, so he requested Coal Severance funds from Representative Combs, and then they said "No, we don't want it". Then they (The City of Pikeville) came up with all kinds of reasons. So he has a letter stating that they have to do this, this and this before they can provide sewer and another letter stating that they have the ability to provide sewer service with no strings attached. It is almost like everything is tied in together and maybe the Board can fill him in on what is

happening...maybe some of the Board's service territory is being taken away or something, but he would like to know the reasons why the Board gave away that sewer area. The reason he is asking is because people that can't get service are asking him and he can't be an ostrich and go bury his head in the sand and say, "well, I don't know but you're not getting it". He stated that he owes his constituents an answer. After no immediate reply from the Board members, Mr. Anderson stated that if the Board didn't want to talk about it now that was fine, or if they wanted to write him a letter that was fine. He returned to the subject of the UMG contract by saying that he didn't know what kind of contract that the Board members had in front of them, but wants the Board to know that last Hillbilly Days he ran into Greg May on the Boulevard, and he stated that he likes Greg and that we all like Greg, he is running Utility Management, and he told Greg at that time that he doesn't care who runs what or who owns what, but you can't break people. It (Mountain Water District) is a public utility. Mr. Anderson stated that he didn't know if the Board is privy to the financials of UMG, and honestly he doesn't care, but it looks bad when you are having to borrow money to make your bond payment and then you look back and the Board has basically given away some of their money making profit centers and now are having to borrow money. He stated that he is just looking for answers just like the other Magistrates in attendance, and if the Board can explain any of this or if they want to have another meeting he would be more than happy to come back and meet again. He also stated that he would like to hear what the CPA and Mr. Stratton's recommendation was regarding renewing the contract.

Chairperson Akers stated that she didn't know if she needed to say anything, but maybe needs to let Mr. Stratton and Mr. Spears speak. But the Board as a whole made this decision after the fact that UMG gave them a proposal that they felt like they had to go with because of the money obligations that the District already has and because of the things that Greg (May) can possibly bring to the table; and then if he doesn't, this contract is only for fifteen (15) more months not five (5) years. Commissioner Litafik restated that it was not for five (5) years and that the Magistrates had not been given good information. Chairperson Akers continued that the Board has not signed a contract for five (5) more years. This contract is only for fifteen (15) more months and runs through June of 2010 and the Board feels like the recommendations that he made and the things that he (Greg May) possibly could bring to the table for the District is the reason the Board made this decision. The Board has been given a letter from the CPA stating that the Board can make some money between now and then because of part of the recommendation that Mr. May made and because of what he had to offer. So they've (UMG) made some concessions and brought back more to the table than they had left on it before. Commissioner Litafik stated that he totally agrees with Chairperson Akers and he asked the question the other day, and he is not trying to shift any blame back to anybody else, but he asked the question "if we do not do this, are you sure that the District will have the money to make the bond payments" and the answer was "I'm not sure". He inquired of the other Board members present to confirm that he asked that question. Chairperson Akers and Commissioner Collins responded affirmatively. Mr. Litafik stated that now he sees this letter here (from the CPA) and that is not what was told to him the other day. Mr. Spears, MWD CPA, stated that Mr. Litafik asked him to guarantee that the District could make their bond payments. Mr. Litafik responded that he had said "are you sure" not if he could guarantee it. Mr. Spears conceded that whatever terminology was used, that Commissioner Litafik had asked him "Can you say for sure that we can make bond payments without UMG?" and that he had responded that he couldn't say for sure about anything. If the District had a million dollars (\$1M) and you spent nine hundred thousand dollars (\$900,000) tomorrow, then we couldn't make the bond payments. He stated that that was what he had said and the context which he said it in, just to be clear about what he said. Commissioner Litafik stated that he did not understand it that way. He asked Chairperson Akers if that is how she understood it. Chairperson Akers responded that she really didn't think about it that way. Mr. Spears stated that that is why he wrote the letter to the Board and the reason he wanted the Board to read it. Commissioner Litafik stated to Mr. Spears that he (Mr. Spears) did not say that the other day. Mr. Spears responded that he did say it the other day. Commissioner Litafik asked Commissioner Collins if he had heard Mr. Spears say (what was in the letter) the other day. Commissioner Collins stated that he really didn't remember that. Mr. Spears inquired if he had asked the Board for twenty-four (24) hours to review the contract. Commissioner Litafik stated that he didn't remember that either.

Mr. Spears stated that he did request that time to review the contract and that Commissioner Litafik told him that the meeting has to be done and the decision made today. That that is exactly what Commissioner Litafik said and that he had also said, "We could make it tomorrow but I don't see any reason to wait." Mr. Spears stated that he asked for twenty-four (24) hours to review the contract. When the contract came up and he found out that the Board was having a special meeting, he stated that he felt it was his obligation, just like he wanted to do then, to go in and review the contract and make his recommendation to the Board. He wanted them to know that, just like the letter said, after review of the contract he cannot recommend that the Board accept the amendment as proposed. Commissioner Litafik responded to Mr. Spears that he did not say that the other day. Mr. Spears reiterated that he asked the Board to give him time to review this and inquired if he recommended this contract the other day. Chairperson Akers responded "no". Mr. Spears stated "No, I did not". He stated that he didn't think there was anything that he said the other day that could be construed as him being in favor of this and if any of the Board did, he apologized. Commissioner Litafik stated that that was not his question and everyone is entitled to his own opinion and whether Mr. Spears was in favor of it or not is immaterial. What his whole question was this, "if we didn't take it back, where are we at then?" Mr. Spears stated that he couldn't guarantee that we could make it if we don't take them back. Commissioner Litafik asked where the half a million dollars (\$500,000) plus to pay him off with two hundred and fifty thousand dollars (\$250,000) was. Where are we going to get that money? That is his whole question. He asked Mr. Spears to tell him where we were going to get the money. Magistrate Harris inquired why they couldn't get it from the bank. Commissioner Litafik inquired if they would give them another loan. Magistrate Harris inquired if they had applied for one. Commissioner Litafik stated that they haven't applied for one. Magistrate Harris inquired how would they know that the bank would give them another loan or not. Commissioner Litafik stated that he didn't know if they would or not, but do you want the District another three quarters of a million dollars (\$750,000) in debt to do that? Magistrate Harris stated that if that is what it takes to get back to where you can have an honest....Commissioner Litafik interrupted his comment and inquired if he could say that the District can get back to that point. Magistrate Harris responded that if this Board has the best intentions....Commissioner Litafik interjected that they do have the best intentions....Magistrate Harris continue that "yes" they can get back. This District generates plenty of enough revenue to operate itself. You should not have to go back groveling to the company that put you in the financial condition that you are in just give you another five hundred thousand dollars (\$500,000) to make your bond payment. You are, in essence, rewarding the company that put you in this situation. Commissioner Litafik responded that Magistrate Harris has made some good points and he will agree with him to a certain extent, but that is not the whole problem here. Our mission when he first came on this Board was to extend water to everyone in Pike County if we could, and he apologized if he had gotten out of line with anybody. When he first started there were approximately two thousand (2,000) customers...he requested Chairperson Akers help him with the number. She stated that there may have been a few more than that at that time. Commissioner Litafik stated that now we have approximately seventeen thousand (17,000) customers. We have effectively gotten water to approximately eighty percent (80%) and there were certain areas that it probably wasn't cost effective to have done that. Maybe it wasn't cost effective, but do you shut these people out of water? No, you don't do that. But as you repay these debts the money problem worsens. Commissioner Litafik conceded that he doesn't know the full effect of UMG's contract, and that was probably part of it, but he didn't think that it was all of it. Magistrate Anderson stated that the Board had said that Greg (May) could bring some things to the table. He inquired what kind of things the Board was referring to. Chairperson Akers responded that he had offered to try to get money for the District for debt service. Mr. Stratton clarified that he offered to try to get a million dollars (\$1,000,000) of grant money to fund our debt. He also offered to get seven hundred and fifty thousand dollars (\$750,000) for our repair and maintenance budget. He stated that he wasn't in the room when Mr. May made his presentation, but it was his understanding in the meeting afterwards that he said that if he wasn't able to get that money, that the District could terminate the contract in 2010. Chairperson Akers stated that there is no possible way that we can lose any more than we have already lost. If this happens and he (Greg May) brings to the table what he thinks he can bring to the table, then it has to help us. We have two CPAs or accounting people on the Board, and she stated that she is not

educated in that area other than being a book keeper for years, but those Board members ought to be able to recommend these things to the Board. Magistrate Harris asked the Board's attorney, Dan Stratton, if he is recommending this proposal to the Board. Mr. Stratton stated that he wanted to put this in context of some history that he believes will be helpful. Chairperson Akers interjected that our biggest problem that got us into this situation was the fact that we had not raised water rates in "ever". We attached a small rate increase to the last bond payment that we had, and it is just now starting to show up in our revenues. Magistrate Dotson responded that it sounds to him like the District got into this shape by misusing funds. All of the Commissioners responded a collective "no". Magistrate Dotson responded that he didn't mean the Board members but UMG. He stated that you could look back and see the contracts and things where it all went. Magistrate Harris stated that the allegations in the affidavit are that UMG is making one hundred and some thousand dollar (\$100,000±) consulting fees to people who are indicted. That is all money that is generated from their business, and whether that is Mountain Water or the City of Pikeville or where ever it is, those are revenues that they are bringing in from somewhere. The District is paying UMG in the neighborhood of six hundred thousand dollars (\$600,000) per month.

Mr. Stratton stated that he wanted to clarify some things. He said that he wanted to take them back in time to put some perspective on things and he will walk them through the process that has gotten us here today. In July of 2005 the District entered into a contract for operations. It was a five (5) year contract but there was a provision in the contract that after three (3) years Mountain Water District could opt out by paying whatever was left on the capitalized investment that UMG had made to start with the company. The Board directed us (Mike Spears and himself) at the end of that three (3) year period in June of 2008, to review the contract and the performance to see if it was meeting the expectations that the Board had. What they found was that the annual billings had gone from six point eight million (\$6.8M) to seven point five million (\$7.5M) annually. It was all within the legitimate bounds of the contract, so they began to find out why the fees had jumped so much. Magistrate Harris clarified that it was seven point five million dollars (\$7.5M) annually. Mr. Stratton confirmed that number and that was in July of 2008. Mr. Stratton continued that the contract provided that, in addition to other things, that for every new water tap, UMG got twenty-three dollars and change (~\$23.00) a month to service that. They also got nineteen dollars and change (~\$19.00) for each new sewer tap per month. In the same time period, and something that was not foreseen by either party, we put in close to two thousand (2,000) LMI taps (Low, Moderate Income) along with another twelve hundred (1,200) regular taps. We are now at about ninety-five percent (95%) of the county covered. The low and moderate income customers are generally low volume users. As a result of that, most of the billing from them did not equal the twenty-three dollars and change (~\$23.00) that we were assessed under the contract. As a result of that, our expenses increases faster than our revenues increased and thus ate into the reserve money. As a result of that, our bond reserves dropped nine hundred and seventy-five thousand dollars (\$975,000) over a three (3) year period. Magistrate Harris inquired what that money was used for. Mr. Stratton responded that it was used to pay UMG. It came out of reserves that we are required to maintain for our bond debt. Chairperson Akers stated that we were also making bond debt payments out of that money as well. Mr. Spears added that it was primarily used for bond payments and debt service. Mr. Stratton continued that based on these facts, the Board directed him and Mike Spears to renegotiate the contract with UMG. They made a proposal to UMG and they declined their offer and made a counter offer. We did a financial analysis on that counter offer and deemed it insufficient and as a result of that we gave notice of termination of the contract on October 29, 2008. The contract provides that they must get six (6) months lead time which is why the effective date of termination was April 27th. In the interim we have done all the things that we needed to do for a smooth transition and all but one (1) thing was approved at the last meeting. At the last meeting, UMG came back and presented another proposal which the Board considered. That is the proposal that Mr. Spears referenced to have time to review. Magistrate Anderson inquired if Mr. Stratton had any numbers. Mr. Stratton confirmed that he did. He stated that the UMG proposal which has been put into an amended contract form, per his instructions from the Board, provides that they will give a five hundred thousand dollar (\$500,000) forgivable loan, amortized over five (5) years at five percent (5%). As

of June 1, 2010 when the contract will expire, the balance of that loan will be three hundred and ninety-four thousand dollars (\$394,000). Magistrate Anderson inquired if they were giving the District money or loaning them money. Mr. Stratton stated that they are loaning us money that is forgiven over time, five (5) years. Magistrate Anderson stated that they are not "giving" the District anything. Mr. Stratton stated that if the District terminated the contract at the end of the 2010 term it would be three hundred and ninety-four thousand dollars (\$394,000), that would be our exit fee. They have reduced our repair and maintenance bills for 2009 by fifty percent (50%) or a total of thirty thousand, nine hundred and forty dollars (\$30,940). They originally proposed reducing the management fee thirty-six thousand dollars (\$36,000) per month for a total of four hundred thirty-two thousand dollars (\$432,000) per year and at the Board's request, amended that to forty-six thousand dollars (\$46,000) per month for a total of five hundred and fifty-two thousand dollars (\$552,000) per year. Magistrate Anderson inquired what the Board had asked for initially. Mr. Stratton stated that he would get to that in minute but wanted to continue with what he was saying before. The legal structure of the contract also changed with this proposal. UMG agreed to adjust the fee adjustment formula, the one that was discussed earlier with the added amount for water and sewer taps, and they agreed to drop that and change the monthly maintenance fee to a negotiated amount. If an amount cannot be negotiated, it will be addressed to the CPI (Consumer Price Index/Inflation Rate). In addition, the other major change in the contract was that they currently pay for all expenses of producing water...purchased water and power. Our power bill runs, on average, about eighty thousand dollars (\$80,000) per month. The change in this contract is that they are passing any increased cost in power over the baseline today, on to the District. Any savings or decrease in power costs, would come back to the District. Instead of paying all the costs of production, they are paying the water and the core power, but any increases in power would be borne by the District. The other amendments we have discussed...the million dollars (\$1M) and the seven hundred and fifty thousand dollars (\$750,000) and they also committed to work with having the District appoint someone to be a liaison to the Board. What we've been dealing with is that when we contracted out operations, we didn't want any employees so that there would be no insurance payments or workers compensation or things of that nature. It has been discussed and we believe that we may need someone to be the Board's representative to review things. This is an idea that has been on the table for a long time and UMG agreed to continue with that. Magistrate Harris clarified that UMG was handling all of Mountain Water's finances. Mr. Stratton stated that Mr. Spears reviews everything on behalf of the Board and there are independent auditors, but the day to day operations were being handled by UMG employees. In comparing the old contract with the new, which we did not get to do in detail at the last meeting, is that basically, in effect, the five hundred thousand dollar (\$500,000) loan extends the contract for five (5) years or four (4) years past today. If we exit now, we owe UMG one hundred and forty-four thousand dollars (\$144,000). They also have some money that is owed. We have offered to off set some money and we have offered to make their payments over time in order to allow us cash flow to pay our bond payments. The question was how are we going to pay our bond payments and the original answer was to ask UMG to take their payments over time and let us use our cash flow and the five hundred thousand dollar (\$500,000) loan to make the bond payments. The Community Trust loan was primarily for our bond payment. Mike Spears clarified that is was for the December bond payment. In terms of what it means to the District, our exit fee today is one hundred and forty-four thousand dollars (\$144,000). If we choose to exit in 2010, the exit fee would be three hundred and ninety-four thousand dollars (\$394,000) and that would effectively prevent us from exiting the contract at that time. The other thing that is different from the original contract is this...the contract eliminates a major cause of the problem which was the additional cost for each new water and sewer customer, but substitutes the CPI. Under the old contract, the CPI kicker did not kick in until two point five percent (2.5%). In other words, inflation had to be above two point five percent (2.5%) before there was any other adjustment. Under this contract it starts at zero (0). So, if the inflation rate is five percent (5%) we are going to pay a five percent (5%) increase over the management fee as opposed to a two point five percent (2.5%) increase over the management fee. Lastly, the power bill passes a substantially unknown fee cost to the Board and we don't know what that is. On the promise of the extra money, there is no guarantee of that and there is no enforcement or penalty if that fails to come through. Based on these things, from a legal perspective, the Board is assuming two (2) more unknown risks as

opposed to fixed fees, which is going to possibly...and he stated that he can't predict the future...but possibly pass increased operating costs on to the District, and after reading Mr. Spear's letter to the District this morning regarding this proposal, which according to his numbers represents about thirty-two percent (32%) of what we had asked for that they turned down, and based on that it would be difficult for him to recommend this contract because of the shifting of cost fees and the shifting of risk. Magistrate Harris inquired if he told the Board members that when it was presented at the last meeting. Mr. Stratton stated that there were some things that were discussed and other things that he has told them for the first time today because he had not had a chance to look at it in detail and these are things that he has developed in trying to do the comparison of writing the amendment and comparing things one on one. Magistrate Anderson inquired that thirty-two percent (32%) was what? Mr. Stratton clarified that this contract represents thirty-two percent (32%) of the amount of concessions that the Board had originally requested during negotiations. Mr. Spears clarified that that is with his assumptions of the unknowns. If you take those out, it is between thirty-two and forty-four percent (32%-44%). Magistrate Harris stated that in order to be clear, the Board has their accountant advising them not to do it, you have your attorney saying it is not a good idea, and members of the Court present saying that they don't think it is a good idea, or at least that is what he is saying and he doesn't want to speak for anybody else. He inquired if the Board didn't think that they should take a little more time than just the time it takes to put a contract in front of somebody. At least give your advisors the opportunity to look at the contract and make an informed decision on whether this was the right thing to do for the seventeen thousand (17,000) customers that we have in this District. He inquired if twenty-four (24) hours was too much to ask. Mr. Stratton stated that the reason we are here today is because this item was brought up at a special meeting, which was in lieu of our regularly scheduled meeting which had to be postponed. Because it wasn't on the agenda as an item to be considered, the action that was taken at the special meeting was voidable, and the purpose of this meeting was to correct that procedural error and bring it before the Board at this meeting so the Board could take whatever action they so-choose to address that issue. Magistrate Anderson inquired from the Board members what the reason was behind the District selling the sewer area to the City of Pikeville. Chairperson Akers inquired if Grondall Potter, Manager, could help out with this issue. Mr. Potter stated that at that time he was not involved with that issue and he is not sure what the reasoning was behind that decision. Magistrate Anderson stated that he is not questioning the transaction but it is just that hind site is twenty-twenty and if he could cast his vote again he would not have voted to dissolve Sandy Valley. It has been an embarrassment to Pike County and he can't understand why the District gave away a profit making area. Chairperson Akers stated that she didn't think it was. Mr. Stratton stated that he can't speak to the money but that the state has what is called a 201 district designation for sewer. That has nothing to do with the water territory. The City of Pikeville's 201 boundaries that had been established as early as the nineteen seventies (1970's), and could have been earlier than that, included all of the North Mayo Trail area. The City was saying that this is, by statute, within their boundaries and it was. Magistrate Anderson inquired if it went all the way down to the county line. Mr. Stratton stated that it almost did. The Board tried to work out something with the City to comply with what was clearly their jurisdictional area. He cannot speak to the money flow because he isn't familiar with that, but he did research the maps and where the boundaries were and it was clearly within the City's jurisdiction. Mr. Spears stated that this transaction did go through the Public Service Commission, if that is worth anything. Magistrate Dotson address Chairperson Akers and apologized for getting a little bit "rowdy" before, but he stated that it bothers him when she speaks about getting into this shape because the District didn't raise the water rates. He stated that there are so many people out there that are on a fixed income and can just barely make it, and on the other hand we read in the newspaper where we are giving a guy big money to be a consultant for UMG and then they are putting it back like it was the water rates. If we have one hundred and fifty thousand dollars (\$150,000) to give a man for a consultant fee, why are we worrying about this little water rate for? There should be a balance in there somewhere when the blame can be put a little bit of everywhere. Chairperson Akers stated that they had clarified that the LMI taps were essentially a big part of what put us where we are but the water rates should have been raised before UMG ever took over. Mr. Stratton stated that Mountain Water, other than who is named as Superintendent for the District,

has no control over UMG. Commissioner Litafik stated that it is two separate companies. Mr. Stratton stated that Mountain Water has contracted with an independent contractor to do the job. We have control over what we pay them in the contract and who gets appointed as project Superintendent. Magistrate Dotson stated that the money is still going out and they are still paying them to run it. He inquired if Mountain Water was in pretty good shape before it was contracted out. Mr. Spears stated that the District was fully funded in our bond reserves according to the audit and were current on our bond payments. Magistrate Dotson responded that in other words, we were making it. Magistrate Harris stated that that is what you want from a district. You don't want it to make money, you want it to break even. Commissioner Sullivan stated that we did have a reserve fund of about nine hundred thousand dollars (\$900,000) for emergencies. He inquired if we have it now. The answer collectively was "no" and Commissioner Collins responded that that was our problem. Magistrate Anderson clarified that the LMI fees was a part of the contract with UMG. Mr. Spears clarified that the original contract had built into it an increase of eleven hundred (1,100) water customers and four hundred (400) sewer customers per year. The LMI taps hit us with twenty-some hundred (2,000±) in additional to our regular customers and was something that the Board could not foresee. We did not take into consideration the LMI customers would be minimum users instead of average water users. On an average year, the District has added about three thousand (3,000) customers for the last two (2) years when normally it would be about six hundred (600) per year because it is hard to add customers efficiently to areas that don't have water now because the areas that are left are very expensive to serve with few customers and the LMI taps were an unforeseen issue that came into play a year after the contract with UMG. Mr. Spears stated that in order to clarify some things, in his analysis he did not put any numbers in regarding what could happen at the legislature because there is no way to estimate that and he did want to clarify that. Magistrate Anderson stated that he will do whatever he can do to help the District get funding if he has to go to Frankfort or get somebody at the Fiscal Court to help get the District grant funds. Magistrate Dotson stated that he remembers years ago when there were a lot of problems with the water board and he isn't sure if Chairperson Akers was there yet or not, but they weren't getting many lines run and were at a stand still, and through this Board and with Will Brown, there has been a lot of progress over the years. There are people who have water now that we didn't think would ever have water, and he gives the Board members a lot of credit for that. You have worked hard and they are not there to criticize anybody but they are here to represent their people and do the right thing. Magistrate Harris stated that he believes that the Board is making a mistake and he would not have been able to feel like he was doing his job if he hadn't come today and told the Board his feelings. He stated that he has nothing personal against any Board member or anyone at UMG...Magistrate Anderson stated that it was the same for him...Magistrate Harris continued that he felt that it was his duty and obligation to the people he represents to at least present the Board with this side of the story. Commissioner Sullivan stated that he was glad they came. Magistrate Harris stated that he would like to make the affidavit and indictment regarding UMG a part of the public record. He gave a copy of both documents to Tammy Olson, Executive Assistant/Office Manager, to enter into the record. Chairperson Akers restated that that doesn't have anything to do with Mountain Water District because they are not a part of that. Magistrate Harris stated that it is because it is who the District is doing business with, and if you associate...Chairperson Akers interrupted and stated that this came to light long after the signing of the contract with UMG. Magistrate Harris responded that now they are signing another contract. Chairperson Akers and Commissioner Litafik collectively replied that they are not signing another contract. Chairperson Akers stated that they are trying to fulfill a contract and hopefully get some grants. Commissioner Litafik made the suggestion that the three Magistrates in attendance, representatives from UMG, and a couple of the Board members get together and see if we can work this out...is that a fair request? Magistrate Dotson stated that they are not here to tell the Board what to do and they have enough trust in them that they put them on that Board. Commissioner Litafik responded that he knows that and that doesn't have anything to do with it. He stated that he wanted to make a statement for himself and every other Board member that nobody was unduly influenced to make the decision that they made that day. No Magistrate influence him, Greg May didn't influence him, neither did anybody else. He stated that he doesn't look to any public funds for his living and the decision he made was based solely from the heart. He stated that he has friends in that Board

room and that is not going change. We are not always going to agree on everything but there was nothing done under the table or anything else with anything to do with this decision, other than the facts as he heard them the other day. Magistrate Harris clarified that those facts came from UMG. Chairperson Akers stated that that was correct. Magistrate Harris stated that he (Commissioner Litafik) didn't ask the advice of the District's attorney or the advice of their accountant. Commissioner Litafik stopped Magistrate Harris' comments and clarified that they were here and maybe he didn't hear the advice they gave and maybe his mind was occupied with something else that day, and he inquired from Chairperson Akers if she was told that if the Board didn't do this, that this or that would happen? Chairperson Akers responded that she was not. Magistrate Harris stated that they are being told that today. The Board has a chance to change their mind with the advice from their attorney not to do it, from their accountant not to do it, and now they have a chance to change their mind and it is up to them what they do, but at least they are more informed today rather than just listening to the one side. Mr. Stratton stated that as a procedural matter, the vote taken at the last meeting is either void or voidable because it was not listed on the agenda. The next day he met with Chairperson Akers to review the contract and told her that we needed to redo this because of the technical procedure violation that occurred and she said that she would immediately call a meeting on Friday and bring this back and address the procedural error. He took responsibility for that and for not bringing it up at the meeting, but it had been a very long meeting and slipped his mind. Procedurally, the Board can do a couple of things, they can do what Commissioner Litafik suggested and meet and then have another special meeting. The termination of the original contract, however, is still in place unless the Board votes to do something different and there is not another regularly scheduled meeting until after the April 27th termination date. The next meeting is the 29th. If the Board does not want to do this today that is fine, but the Board would need to hold the meeting prior to the 27th in order to act accordingly. Magistrate Dotson stated that he doesn't care who runs it as long as our people can get good, reasonably priced drinking water and he knows everyone has to make a profit to stay in business but they have obligations to their people who constantly ask why their water bill is getting so high. Commissioner Litafik inquired from Mr. Potter what our sewer rate is. Kevin Lowe, Executive Assistant/Office Manager, spoke up and stated that the District's sewer rate is fourteen dollars (\$14.00) for the first two thousand (2,000) gallons of water used. Commissioner Litafik stated that some districts in West Virginia have a base rate for sewer of over one hundred dollars (\$100.00). He stated that he didn't know if that was correct information but was what he was told. Magistrate Anderson stated that he doesn't care who makes money, but they've got people that look to them for answers and advice about what is going on and he just wants to be able to tell them something. Magistrate Dotson stated that he believes that the Board has the opportunity to have a good organization here and we've got about ninety to ninety-five percent (90-95%) of the county covered and they are over the tough part of getting line run and everything and now, he believes if we manage it right we can get back to the place where we can operate it. Chairperson Akers stated that we will survive and there is no doubt about it. She stated that she has been here when we didn't even have yellow tablets to write on and had to bring their own, and that sort of thing, and we were lucky that we had water. There were no frills whatsoever, and it will get better. She also stated that she believes that the District has a great Board. Commissioner Litafik stated that the Board members will not always agree with each other and if they do something is wrong. Magistrate Harris agreed and stated that that is the benefit of having a diverse Board. The Magistrates thanked the Board and left the meeting. Chairperson Akers thanked them for coming and Commissioner Sullivan stated that their door is always open. Magistrate Dotson stated that it is the same on their end. They thanked the Board and left the meeting.

Chairperson Akers inquired from Commissioner Litafik if this sheds any different light on his thoughts. Commissioner Litafik stated that truthfully, it really didn't. Chairperson Akers agreed. She inquired the same from Commissioner Collins who responded also that it really didn't change his mind. Chairperson Akers addressed Commissioner Sullivan, in that he was not present at the last Board meeting but they had told him what was happening and what the proposal was. Commissioner Sullivan inquired from Mr. Spears that he believed that he (Mr. Spears) told the Board at a previous meeting that if we went with the termination of the UMG contract, that there

was a proposal for the Board that would take care of this bond payment by holding the payment to UMG for thirty (30) days. Mr. Spears stated that it wasn't just that, but was that at the end, whether it be now or a year from now, at the end of the contract UMG is still responsible for the water for the months that we paid them to provide a service. The City of Pikeville is two (2) months behind, just like our bills for December are sent out in January and we will get paid in February. So at the time we were looking at that, we have seven hundred thousand dollars (\$700,000) coming in as revenue this month and approximately five hundred thousand dollars (\$500,000) going out in bond payments. The plan at that point was after paying two (2) payrolls totaling about one hundred and fifty to one hundred and seventy thousand dollars (\$150-\$170,000), with putting off the UMG payment for thirty (30) days, would enable us to pay the bond payments. Through some of the later transition meetings, the water bill issue came to light and Mr. Stratton issued a letter offering to offset some of that, that we would maybe pick up a water bill in lieu of a payment. That is where he was coming from, but if we picked up the water bills and couldn't delay a payment if we had to, his proposal wouldn't work. He could tell him what his plan was at that time, and he did make that statement at a previous meeting. Commissioner Litafik inquired if all five (5) of the Board members should be present before they made a decision on this. Commissioner Sullivan stated that he believed so and he stated that they have come a long way in trying to get this contract changed. Commissioner Collins stated that he believed they all would agree that the Board needs to do what they believe is right and what they think is right in their heart. Commissioner Litafik agreed. Commissioner Collins stated that they didn't need to be thinking about raising rates or anything like that in order to make the money, because that is in the past, and that they need to look at it both ways where we will come out to the best for this Board. Chairperson Akers inquired if the Board wanted to have all five (5) Board members present before a decision is made. The Commissioners present, collectively agreed to wait until they could have a meeting with all five (5) members present before making a decision. Commissioner Collins clarified that what the Board did the other day at the last meeting is voidable. Mr. Stratton stated that in order to protect the Board from any potential issues down the road, if the Board wants to postpone the decision, that is fine, but they need to go on the record saying that the Board is setting aside the last vote until you can have the full Board present. Commissioner Collins stated that it is easy for others to come in when they don't get to come in and set in the executive sessions where the issued are hammered out. Commissioner Sullivan stated that that is why he is glad that they came in because his understanding was that there was a rumor circulating that he was voting for this in order to get his grandson a job, and that is a "damn lie" whoever told it and that needs to be on the record. Commissioner Litafik stated that he wondered what the rumors were of why the rest of them voted for the contract. Commissioner Collins stated that there are certain things that the Board talks about in executive session that are not made known to the public and things that cannot be discussed because it gets heated, even in executive session, and people don't really understand the problem and are only hearing the gossip.

NEW BUSINESS:

- 1. Proposal by Utility Management Group, LLC to amend its contract with Mountain Water District in order to be reinstated as Mountain Water District's contract operator.**

Mr. Stratton stated that if that is their direction then he will quote the motion for the Board if that is their wish. Chairperson Akers responded in the affirmative. Mr. Stratton stated that the motion to amend the UMG contract as approved in the special meeting of March 30th, 2009, is to be set aside as procedurally incorrect in terms of having provided the previous notice and the Board desires to have the full Board present upon the vote and that motion is rescinded subject to being presented again at a future special meeting. Commissioner Sullivan made the motion. Commissioner Litafik seconded the motion. Commissioner voting as follows:

Chairperson Toni Akers	Aye
Commissioner Mike Litafik	Aye
Commissioner Earl Sullivan	Aye
Commissioner John Collins	Aye
Commissioner Rhonda James	Absent

Upon Commissioner voting, the motion was carried and passed.
Resolution No. 09-04-001

Mr. Stratton inquired if the Board wanted to set another date to address this issue. Commissioner Litafik contacted Commissioner James during the meeting, who was out of town, and she stated that she would be able to attend the meeting on Monday, April 6th at 10:00 am, so the meeting was set for that time. Russ Cassidy of the News Express, stated that as long as the notice was given by the end of the day, they would be able to get it in the Saturday edition. Mr. Stratton inquired if the wording of the agenda item was adequate as listed. Chairperson Akers stated that she believed so. Mr. Stratton stated that they had wrestled with the wording a bit before it was posted and he wanted to make sure it was worded clearly.

2. 2008-10 Smith Fork of Phelps Sewer Project

Chairperson Akers stated that at the special meeting on Monday, the board had discussed the Smith Fork of Phelps Sewer Project and the Board needs to rescind its decision to rebid the project due to the presentation from Mr. Potter of bid tab sheets that indicate that rebidding the project would result in much higher unit prices. Chairperson Akers requested the motion to rescind the resolution to rebid the Smith Fork Sewer Project and to change order the additional funding into the current contract. Mr. Potter also stated that there were funds left over on the original contract which resulted in change orders to upgrade the Intersection lift station and to extend the 3" line up to the Nursing Home. There is an additional twenty-five (25) homes in Ashlick and approximately six tenths (.6) of a mile of line that, according to the engineer, there will be enough funding to complete if the Board approves it. Chairperson Akers stated that as long as there will be no additional request for funds other than what is in there for this project, and after he is done he can't come back and submit a request for more funds because they came up short. Mr. Potter stated that this is based on the original contract and is what the engineer relayed to him. Mr. Stratton clarified that the Board is saying that the allocation of the funds for this project need to be inclusive of construction, inspection and engineering costs and any other miscellaneous items that are needed. There can be no additional requests for money to finish paying for this addition other than what is provided in the funding now. Mr. Potter stated that he understands and will relay that to the engineer. Chairperson Akers requested the motion again to rescind the resolution to rebid the Smith Fork Sewer Project and to change order the additional funding into the current contract and also to approve the change order adding twenty-five (25) additional customers in the Ashlick area with remaining funds from the original contract. Commissioner Litafik made the motion. Commissioner Collins seconded the motion. Commissioner voting as follows:

Chairperson Toni Akers	Aye
Commissioner Mike Litafik	Aye
Commissioner Earl Sullivan	Aye
Commissioner John Collins	Aye
Commissioner Rhonda James	Absent

Upon Commissioner voting, the motion was carried and passed.
Resolution No. 09-04-002

3. Water and Sewer Stimulus Funding – Zebulon Area

Mr. Potter stated that the Pike County Fiscal Court had applied for stimulus funding to have water and sewer provided to the proposed Scott Fork Industrial Park site. Although they applied for the funding, it will eventually be operated and owned by the District and therefore, needs the Chairperson of the Board to sign to try to get that funding. Chairperson Akers requested a motion to authorize the Chairperson to sign the Pike County Fiscal Court's request for funding for the proposed Scott Fork Industrial site water and sewer project in the Johns Creek/Zebulon area. Commissioner Collins made the motion. Commissioner Litafik seconded the motion. Commissioner voting as follows:

Chairperson Toni Akers	Aye
Commissioner Mike Litafik	Aye
Commissioner Earl Sullivan	Aye
Commissioner John Collins	Aye
Commissioner Rhonda James	Absent

Upon Commissioner voting, the motion was carried and passed.

Resolution No. 09-04-003

Mr. Potter stated that for the Board's information he had gotten a call from a resident in the Virgie/Robinson Creek area asking why we were doing water sampling in their area. There is some individual or company going throughout that area, saying that they are doing testing on the water and the person who called alluded to the fact that this person represented themselves as working for Mountain Water District. The caller offered to turn over the information they were given to the District and we picked it up and this is not anyone who performs any sampling for the District. We do our own sampling for routine compliance and Appalachian States Analytical is contracted out to do the other testing that cannot be done in-house. Our employees always identify themselves and have certain approved sample sites. Mr. Potter stated that he briefly spoke to Mr. Stratton about this and thinks that it needs to be investigated further, and may eventually need to be put in the paper that informs residents that if they get anything of this nature, this is not affiliated with Mountain Water District. The individuals were telling the residents that they would come back and pick up the sample the next day and the residents were then revealing that they would or would not be home the next day, which opens up another reason why this should not be associated with Mountain Water District. Chairperson Akers stated that she believed that the newspaper and the radio should be notified about this. Mr. Potter responded that he just wanted the Board to be aware of the situation and that he was going to do more investigation into the problem. Commissioner Collins stated that he bet this is a local company doing this. Mr. Potter stated that he had cross referenced the phone number on the internet and it came back as unlisted in Letcher County. He will continue to investigate further and keep the Board informed. Mr. Stratton inquired if he had checked the Secretary of State's web page. Mr. Potter stated that he had not yet, but would check to see if they were registered.

COMMISSIONER COMMENTS

Chairperson Akers inquired if there were any Commissioner comments. There were none.

ADJOURN MEETING

Chairperson Akers stated that if there were no further comments, she requested a motion be made to adjourn the meeting. Commissioner Collins made the motion. Commissioner Litafik seconded the motion. Commissioner voting as follows:

Chairperson Toni Akers	Aye
Commissioner Mike Litafik	Ayet
Commissioner Earl Sullivan	Aye
Commissioner John Collins	Aye
Commissioner Rhonda James	Absent

Upon Commissioner voting, the motion was carried and passed.
Resolution No. 09-04-004

APPENDIX C

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2015-00353 DATED **NOV 02 2015**

MOUNTAIN WATER DISTRICT
BOARD OF COMMISSIONERS SPECIAL MEETING
APRIL 6, 2009
10:00 AM

ATTENDANCE

Chris Harris, Magistrate, District 6
Leo Murphy, Magistrate, District 3
Kenneth Robinson, Magistrate, District 4
Hilman Dotson, Magistrate, District 5
Russ Cassidy, Appalachian News Express
Dan Stratton, Stratton, Hogg & Maddox
Grondall Potter, Manager, UMG
David Taylor, Operations Manager, UMG
Tammy Olson, Executive Assistant/Office Manager, UMG
Kevin Lowe, Executive Assistant/Office Manager, UMG

CALL TO ORDER

AGENDA ITEM I

The Mountain Water District Board of Commissioners Special Meeting was held on Monday, April 6, 2009 at 10:00 a.m. Chairperson Akers clarified that this meeting is a special meeting to discuss the proposal from Utility Management Group to amend the contract with Mountain Water District.

Commissioners present for the meeting were as follows:

Chairperson Toni Akers
Commissioner Mike Litafik
Commissioner John Collins
Commissioner Earl Sullivan
Commissioner Rhonda James

All Commissioners were present for this meeting.

NEW BUSINESS:

1. **Proposal by Utility Management Group, LLC to amend its contract with Mountain Water District in order to be reinstated as Mountain Water District's contract operator.**

Chairperson Akers stated that the Board needed to go into executive session to discuss the proposed contract amendment from Utility Management Group to the Mountain Water District. Dan Stratton, legal counsel, stated to let the record reflect that he has been requested to have this fall under the exceptions to the open meeting rules based on the proposed or pending litigation exception concerning the fact that if we break the contract then there is a possibility of litigation, and they (the Board) have asked to consult on that.

Chris Harris, Magistrate, District 6, clarified that the vote would be made in the open meeting. Mr. Stratton responded that the vote will be made in public but we have to give a reason why they (the Board) are going into executive session and what is going to be discussed in session and any ways around that if we can have it. Chairperson Akers stated that before they go into executive session that she appreciates the Magistrates coming to the meeting and that they need come more often, when we are not in controversy. Magistrate Harris stated that when we are not in controversy there is really

no reason for them to be there. Chairperson Akers stated "yes there is, you need to come and visit us every now and then". Hilman Dotson, Magistrate, District 5, stated that it really doesn't matter if they do come according to the newspaper, that they (the Board) don't listen to anything they (the Magistrates) say anyway so it doesn't matter. He continued that the newspaper had said that and that the Magistrates weren't there when the Board made that statement. Chairperson Akers stated that she didn't think that statement was made. Magistrate Dotson stated that the newspaper had quoted that we (the Magistrates) did not have any bearing on the Board's decisions. Chairperson Akers inquired if it was supposed to be "free press, is that what it is?"

Chairperson Akers requested a motion to convene executive session. Commissioner Litafik made the motion. Commissioner Collins seconded the motion. Commissioner voting as follows:

Chairperson Akers	Aye
Commissioner Litafik	Aye
Commissioner Collins	Aye
Commissioner Sullivan	Aye
Commissioner James	Aye

Upon Commissioner voting, the motion was carried and passed.

Resolution No. 09-04-005

Chairperson Akers requested a motion to reconvene from executive session. Commissioner James made the motion. Commissioner Litafik seconded the motion. Commissioner voting as follows:

Chairperson Akers	Aye
Commissioner Litafik	Aye
Commissioner Collins	Aye
Commissioner Sullivan	Aye
Commissioner James	Aye

Upon Commissioner voting, the motion was carried and passed.

Resolution No. 09-04-006

Chairperson Akers requested a motion to approve the proposed Utility Management Group amended contract with the exception of paragraph number five (5) which is to be omitted. Commissioner James made the motion. Commissioner Collins seconded the motion. Commissioner voting as follows:

Chairperson Akers	Aye
Commissioner Litafik	Aye
Commissioner Collins	Aye
Commissioner Sullivan	Nay
Commissioner James	Aye

Upon Commissioner voting, the motion was carried and passed.

Resolution No. 09-04-007

Commissioner Sullivan stated that he wanted to explain his "No" vote. He stated that he had thought about this for the whole weekend and have read this report from Mike Spears. He cannot see where Mountain Water is going to be in business and he thinks it is going to be UMG from here on out, so he is voting "No".

Dan Stratton stated that for clarification of what paragraph number five (5) is; in the March 30th, 2009 proposal to amend the contract, UMG proposed that any rate increase in power bills be passed on to the District from the previous year and the savings would be passed on also. This is a fairly significant number and the counter proposal back to UMG is to delete that provision because it is not in the original contract, and that maintains an incentive for UMG to monitor and maintain those costs to the lowest number they can be. This will be taking a substantial unknown with a risk away from the District and passing it back to the operator who has a better opportunity to control that cost than the District would.

Commissioner Sullivan stated that he would like to make a statement before they adjourn. As of today, he has resigned from the Board of Commissioners. He is sorry to say that, but that it is his feelings. He doesn't think that, as he said, that it is Mountain Water anymore, it is UMG. They are running the show so...he thought he was put on the Board for Mountain Water and he really feels like it's...Chairperson Akers interrupted Commissioner Sullivan and stated that they were put on the Board for Mountain Water and still are a Mountain Water Board. Commissioner Sullivan stated that he doesn't see it that way. Chairperson Akers responded that we all agreed when this contract was signed, we all agreed on it. Commissioner Sullivan stated that we sure did, but this is a renewal and we all agreed to cancel that contract, too, if you'll remember that. Chairperson Akers agreed that they did. Commissioner Sullivan responded that "we didn't do it and some of them took back water and you people know your names". So, as he said, as of today he has resigned and he will still be friends with the Board. Chairperson Akers responded that she hoped so. Commissioner Sullivan told the Board to have a good day and left the meeting. Chairperson Akers responded "Thank you, you too, you be careful".

COMMISSIONER COMMENTS

Chairperson Akers inquired if there were any Commissioner comments. There were none.

ADJOURN MEETING

Chairperson Akers stated that if there were no further comments, she requested a motion be made to adjourn the meeting. Commissioner Litafik made the motion. Commissioner James seconded the motion. Commissioner voting as follows:

Chairperson Toni Akers	Aye
Commissioner Mike Litafik	Aye
Commissioner Earl Sullivan	Absent
Commissioner John Collins	Aye
Commissioner Rhonda James	Aye

Upon Commissioner voting, the motion was carried and passed.

Resolution No. 09-04-008

APPENDIX D

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2015-00353 DATED **NOV 02 2015**

MOUNTAIN WATER DISTRICT
BOARD OF COMMISSIONERS REGULAR MEETING
APRIL 29, 2009
10:00 AM

ATTENDANCE

Russ Cassady, Appalachian News Express
Donovan Blackburn, City of Pikeville, Ky.
Ronnie Brooks, USDA RD
Randy Jones, Rubin & Hayes
Bryan Lovan, O'Brien & Gere
Doug Griffin, Kenvirons, Inc.
Tim Campoy, Environmental Designs, Inc.
Jody Hunt, Summit Engineering, Inc.
Mike Spears, Spears Management
Greg Dotson, Inspector
David Stratton, Stratton, Hogg & Maddox
Bob Meyer, Controller, UMG
Grondall Potter, Manager, UMG
David Taylor, Operations Manager, UMG
Tammy Olson, Executive Assistant/Office Manager, UMG
Kevin Lowe, Executive Assistant/Office Manager, UMG

CALL TO ORDER **AGENDA ITEM I**

The Mountain Water District Board of Commissioners Regular Meeting was held on Wednesday, April 29, 2009 at 10:00 a.m.

Commissioners present for the meeting were as follows:

Chairperson Toni Akers
Commissioner Mike Litafik
Commissioner John Collins

Commissioners absent for the meeting were as follows:

Commissioner Rhonda James
There is also currently a vacant Commission seat, with the resignation of Earl Sullivan at the April 6, 2009 special meeting.

VISITORS **AGENDA ITEM II**

Chairperson Akers inquired if there were any visitors for today's meeting. There were none.

APPOINTMENT OF TREASURER **AGENDA ITEM III**

Chairperson Akers stated that due to the resignation of Commissioner Earl Sullivan who was the Treasurer for the Board of Commissioners, a new Treasurer needs to be appointed. Chairperson Akers requested a motion to appoint Commissioner Rhonda James as the Treasurer for the Board of Commissioners. Commissioner Litafik made the motion. Commissioner Collins seconded the motion. Commissioner voting as follows:

Chairperson Toni Akers	Aye
Commissioner Mike Litafik	Aye
Commissioner John Collins	Aye
Commissioner Rhonda James	Absent

Upon Commissioner voting, the motion was carried and passed.
Resolution 09-04-009

APPROVAL OF MINUTES **AGENDA ITEM IV**

Chairperson Akers requested a motion to approve the minutes from the special meetings that were held on March 30, April 3, and April 6, 2009. Commissioner Collins made the motion to approve the minutes as presented. Commissioner Litafik seconded the motion. Commissioner voting as follows:

Chairperson Toni Akers	Aye
Commissioner Mike Litafik	Aye
Commissioner John Collins	Aye
Commissioner Rhonda James	Absent

Upon Commissioner voting, the motion was carried and passed.
Resolution 09-04-010

FINANCIAL REPORT – MIKE SPEARS, CPA **AGENDA ITEM V**

Mr. Spears stated that the Board has in front of them the financial statement for March, 2009. Cash in bank is six hundred thirty-five thousand, seven hundred and fifty-six dollars (\$635,756) through the end of March and accounts receivable is nine hundred eighty-four thousand, eight hundred and seventy-seven dollars (\$984,877) for March as well. Plant and service was ninety-six million dollars (\$96M). Accounts payable was five hundred and twenty-two thousand dollars (\$522,000) and part of that is UMG's payment. Equity is eighty million, two hundred and two thousand, nine hundred and twenty-seven dollars (\$80,202,927). Revenue for March was seven hundred and twenty thousand and eighty dollars (\$720,080). In March there were operating expenses of eight hundred and thirty thousand, eight hundred and seven dollars (\$830,807), which includes one hundred eighty-eight thousand, one hundred and fifty-five dollars (\$188,155) of depreciation, for a net loss of one hundred and fifty-nine thousand, five hundred and nineteen dollars (-\$159,519). As far as cash flow, there was a thirty thousand, two hundred and forty-five dollar (\$30,245) decrease. Even though cash flow was down for the month, there is a positive cash flow for the year to date of forty-eight thousand two hundred and sixty-five dollars (\$48,265). Mr. Spears called the Board's attention to the twelve (12) month cross-over which shows the numbers for the last year. He will add a report for next month that will show the current year and will be another management tool for the Board when looking at budgets. Mr. Spears stated that he wanted to bring to the Board's attention that he had made some entries back in December for notes, that was preliminary for the auditors, and that has changed the numbers by a few thousand dollars. He will be starting preparing for the auditors next week and have them in here in mid to late May. He inquired if the Board had any questions. There were none from the Board members. Chairperson Akers requested a motion to approve the financial report as presented by Mike Spears. Commissioner Collins made the motion. Commissioner Litafik seconded the motion. Commissioner voting as follows:

Chairperson Toni Akers	Aye
Commissioner Mike Litafik	Aye
Commissioner John Collins	Aye
Commissioner Rhonda James	Absent

Upon Commissioner voting, the motion was carried and passed.
Resolution 09-04-011

PAYMENT OF BILLS

AGENDA ITEM VI

Chairperson Akers requested a motion to approve the payment of bills as presented. Commissioner Litafik made the motion to approve the payment of bills as presented. Commissioner Collins seconded the motion. Commissioner voting as follows:

Chairperson Toni Akers	Aye
Commissioner Mike Litafik	Aye
Commissioner John Collins	Aye
Commissioner Rhonda James	Absent

Upon Commissioner voting, the motion was carried and passed.
Resolution No. 09-04-012

CUSTOMER ADJUSTMENTS **AGENDA ITEM VII**

Chairperson Akers requested a motion to approve Customer Adjustments in the amount of seven thousand, eight hundred and two dollars and eighty-two cents (\$7,802.82) as presented. Commissioner Litafik made the motion. Commissioner Collins seconded the motion. Commissioner voting as follows:

Chairperson Toni Akers	Aye
Commissioner Mike Litafik	Aye
Commissioner John Collins	Aye
Commissioner Rhonda James	Absent

Upon Commissioner voting, the motion was carried and passed.
Resolution No. 09-04-013

CONSTRUCTION REPORT

AGENDA ITEM VIII

Update by Summit Engineering – Jody Hunt, P.E. – on the following projects:

- 1. Shelby Valley Sewer Project, Phase III:**
Mr. Hunt stated that the project had additional funds left over and a change order was signed at the last meeting approving the extension of service to nine (9) additional customers in the Ashlick area. Construction has begun on these additional customers. There is no draw presented this month for this project because this work has just begun but it should be able to be closed out next month.
- 2. Long Fork of Virgie Sewer Project:**
Mr. Hunt stated that this project is still in the design phase. A set of plans have been brought to the meeting for the Board to view.
- 3. Belfry/Pond Creek Sewer Project:**
Mr. Hunt stated that this project is also still in the design phase. They are finished with the line project and working on the treatment plant.
- 4. Pond at Draffin AML Water Project:**

Mr. Hunt stated that this project is substantially complete and a walkout was completed on this project. There were no major issues with this project other than some additional seeding areas. The final pay request was submitted at the last meeting to AML. The final letter of completion and wrap up change order and a release of liens and affidavit of release of liens have all been issued. Grondall Potter, Manager, stated that Mr. Hunt has given us a letter stating that the project is ready so the District is going to begin setting meter services this week.

5. Hurricane Branch AML Water Supply Project (Ridgeline Road)

Mr. Hunt stated that we have received the MOA on this project and have been given the go-ahead from AML to proceed with this project. It is on the agenda to be executed by the Board today. It is a one point five million dollar (\$1.5M) project and is a combination of construction and design and engineering fees. Mr. Potter stated that this project will provide water to the Hurricane section only which is what AML determined to be constructed at this time. It will be the transmission line only on Ridgeline Road and line that goes all the way down River Hurricane with meter sets. It will serve approximately twenty-five (25) customers. Mr. Hunt stated that this project includes a tank, pump station and a regulator. Commissioner Litafik inquired if that coal company was going to put any money into this project. Mr. Potter stated that they have not indicated, as of yet, that they will but he is going to approach them again and tell them that we have received some funding and see what they may be able to do. Mr. Hunt stated that their area of concern is at the other end of the area, around Pompey. Mr. Potter stated that this has been a long time coming and is a start. Chairperson Akers requested a motion to execute the MOA for the Hurricane Branch AML Water Supply Project. Commissioner Collins made the motion. Commissioner Litafik seconded the motion. Commissioner voting as follows:

Chairperson Toni Akers	Aye
Commissioner Mike Litafik	Aye
Commissioner John Collins	Aye
Commissioner Rhonda James	Absent

Upon Commissioner voting, the motion was carried and passed.
Resolution No. 09-04-014

COAL SEVERANCE PROJECTS REPORT

Update by Tim Campoy, Environmental Design Consultants:

1. WTP Raw Water Intake:

Update by Tim Campoy, EDC, Inc. Mr. Campoy stated that this project is about eighty-five percent (85%) complete. He distributed photos of the structure for the Board's review. He stated that the structure is up, the monorail is in, the hoist is not yet mounted on it, but the barge is in and floating. The pump is not yet installed so the barge looks a little tilted due to the counter weights on the opposite side of where the pump will be. The walkway is there also. We have just received the piping that comes from the pump to the building. The rest of the project will be electrical controls and the tie in to the building. The contractor is in the process of working up a price to see if we can negotiate a price for adding that on to this contract. Grondall and David are also looking into seeing if it would be better for the District to do the electrical and the tie in or have the contractor do the tie and the District do the electrical. It will be a week to ten (10) days before we have all the numbers together and a recommendation will be made at the next meeting. Funding is there with the two (2) four hundred thousand dollar (\$400,000) Coal Severance grants that came in and we have the money to do this with, it is just a matter of which way makes better use of the money. Mr. Potter reminded the Board that this was initially held out of the contract because we were trying to get the structure in and then see how much additional funding would come down

before we added this portion of the work into the project. Mr. Campoy stated that waiting for the funding has stretched this project out much farther than we had anticipated. But we have steel and concrete in place right now and it is a good thing.

2. WTP Expansion/Upgrades:

Update by Tim Campoy, EDC, Inc. Mr. Campoy stated that we are still in the same position as we were at the last meeting with the electrical and electrical controls being handled by the District. Mr. Potter stated that the District's electrician is currently going through and looking at it. The District has gotten the parts and has held them until we could build a small building out next to the pump to house that. This should come along and we should be at a better point with this at the next meeting. Mr. Campoy turned this item over to Bryan Lovan, O'Brien and Gere, to discuss an issue that has come up. Mr. Lovan stated that they are reviewing the contractor's final pay estimate and there has been some discussion about the amount of deduction for the tax savings that he had proposed to the District in his letter during the change order negotiation versus what the actual tax savings were realized by the District, as well as some of the listings of materials that were purchased. He stated that he has not had a chance to sit down and review it and discuss it with Mr. Potter and he is hoping to do that today. If we can come to a conclusion, a recommendation will be made at the next meeting for final payment so we can finalize Howard Engineering's contract and get him paid and finished up. Commissioner Litafik clarified if he was talking about sales tax on the materials. Mr. Lovan responded that it was the sales tax on the materials that were purchased, yes. He (Howard Engineering) had offered a value of what he estimated what the sales tax would be and when we totaled all of the materials that was purchased by the District, it was different than the value that he had given so there is some discussion on that. Mr. Potter stated that the Board had signed a letter stating that they would purchase the major equipment to avoid the sales tax and it was done that way. After he and Mr. Lovan go over the numbers again, they will see where it is.

3. Big Creek Sewer Project:

Mr. Campoy stated that there has not been a lot of progress made on cleaning up resident's yards on this project due to the wet weather. They have had a discussion with the contractor to get back out and try to start reclamation work now that we have been getting some dry weather. Hopefully we can finish this project this month. The Elkhorn City project is complete. Last month the only left to finish was the safety signage and that has been installed and is ready to go.

4. Short Line Extensions - \$1,300,000

Contract 1: Mr. Campoy stated that this is the initial project that includes five (5) short line extensions. The Notice to Proceed is prepared and ready for signature today. This is the same contractor that is working on the Shelby Sewer Project and has gone back to working on that project for now. They should begin working on this project by next week.

Contract 2: This is Adams Branch and Kettle Camp Branch extensions at Elkhorn Creek. The mandatory pre-bid meeting was held on April 22nd. H2O Construction and US Rentals and Construction are the two (2) plan holders. Bids were received April 27th at Stratton, Hogg & Maddox, and were opened on Tuesday, April 28th here at the District conference room. The apparent low bidder was H2O Construction at five hundred

thirty-nine thousand, three hundred and thirty-five dollars (\$539,335). However, upon review of both bids, they were both incomplete. He has discussed this issue with David Stratton who has advised that both contractors be contacted and let them know what is wrong with their bid and give them a deadline to resubmit their information. They are both incomplete with regard to their financial statement, and the high bidder was incomplete on another item as well. Chairperson Akers stated that Mr. David Stratton has advised the Board that they need to allow the contractors five (5) calendar days from today to provide the needed information. Chairperson Akers requested a motion to authorize the Environmental Design Consultants, Inc. to notify US Rentals and Construction and H2O Construction that they have five (5) calendar days to provide the necessary information to complete their bid. Commissioner Litafik made the motion. Commissioner Collins seconded the motion. Commissioner voting as follows:

Chairperson Toni Akers	Aye
Commissioner Mike Litafik	Aye
Commissioner John Collins	Aye
Commissioner Rhonda James	Absent

Upon Commissioner voting, the motion was carried and passed.

Resolution No. 09-04-015

Mr. Potter inquired if the Board wanted to give permission to go ahead with the award to the low bidder contingent upon compliance with providing the necessary information. Chairperson Akers requested a motion to award the bid for Contract 2 of the Short Line Extension Project to the low bidder contingent upon their compliance with providing the necessary information as required and to issue a Notice to Proceed for this project. Mr. Campoy stated that before the Board votes on this, Mike Spears has something to add that pertains to this issue. Mr. Spears stated that as this project was bid yesterday, we will be at the end of our funding for this project. We have one million and fifty thousand dollars (\$1,050,000) set aside for construction and one hundred thousand dollars (\$100,000) for contingency. If the low bid remains at what it is, we will be at the extend of the full amount of this project. Engineering and Inspection cannot be calculated until he gets the final bid amount. Mr. Campoy suggested that with that said, the Board may want to include something about that and running it through the Project Administrator. Chairperson Akers requested that Mr. Stratton word the motion. Mr. Stratton stated that the motion is to award the contract to the low bidder contingent upon compliance with provided their needed information within five (5) days and to authorize the engineer to issue a notice to proceed with the project contingent up the Project Administrator's notice that funding is available. Commissioner Litafik made the motion. Commissioner Collins seconded the motion. Commissioner voting as follows:

Chairperson Toni Akers	Aye
Commissioner Mike Litafik	Aye
Commissioner John Collins	Aye
Commissioner Rhonda James	Absent

Upon Commissioner voting, the motion was carried and passed.

Resolution No. 09-04-016

Mr. Stratton stated that a time should be set for Monday for the deadline for the contractors. Mr. Campoy inquired if they should submit the information to Stratton, Hogg & Maddox again. Mr. Stratton stated that that was fine. The time was set for four o'clock on Monday for the contractor's deadline. Mr. Campoy stated that he and Mr. Spears will be at Mr. Stratton's office on four o'clock on Monday as well.

5. Various Short Line Extensions - \$100,000

Mr. Campoy stated that funding for this project and the one hundred and fifty thousand dollars (\$150,000) for Watson Hill/Orinoco project are being combined to complete both the Watson Hill and Orinoco Line Extensions. Watson Hill has been designed and design is not yet completed for the Orinoco portion of this project. They hope to have the design

completed and submitted to the Division of Water in May. Bids were originally done for Watson Hill and the bids came in over, and that is when it was decided to bid both together. There are also some private funds that are to be left over on the Big Creek Sewer Project that may be used toward this project as well. Watson Hill is the area right behind the courthouse at Belfry. Commissioner Collins inquired if there were about five (5) families involved in this project. Mr. Campoy confirmed that there were about five (5) families included in this project. Orinoco is back up the creek and involves about eight (8) homes.

6. **Watson Hill/Orinoco - \$150,000**

This project was discussed under the heading of number five (5).

Update by Doug Griffin, Kenvirons, Inc. and Greg Dotson, Inspector

1. **Smith Fork of Phelps Sewer Project:**

Doug Griffin, Kenvirons, Inc. stated that this project is reasonably complete as far as the existing contract is concerned. The contractor is currently working on the approved additional change order work on the Phelps lift station and the extension of the three inch (3") line. We have about one hundred and eighty thousand dollars (\$180,000) left over for this project and are working on the design to go on up the creek and also do the approved additional work of adding the twenty-five (25) additional homes at Ashlick Branch. They are also working on the punch list which mostly consists of clean up work, seeding and strawing. He stated that he is working on getting the stated approvals to go ahead on the change orders that have been approved. He also stated that Greg Dotson, Inspector, was up on the punch list. He inquired from Mr. Dotson how many grinders were left and if it was enough to do the additional twenty-five (25) homes at Ashlick. Mr. Dotson stated that we have twenty-five (25) barrels and about eighteen (18) pumps. Mr. Griffin suggested to the Board that they order another fifty (50) units due to going on up with the three inch (3") line and we will need them anyway. Chairperson Akers inquired if we have the money available to pay for this. Mr. Griffin stated that the money is there and he has checked to make sure. He stated that he needs to order at least one barrel that is deeper. They have set one that is not deep enough and will have to pull that one back out and set a deeper one. The contractor has started on the lift station in Phelps. We had to make a few changes to the control panel which was not set up for telemetry, which Mr. Potter wanted done. The pumps are there and they are going to start pumping into the overflow basin and the pump out of that into the lines while they finish the station. The generator should be in next week. There is another week to ten (10) days of work at the lift station to finish it up. He stated that an item that did not get put on the agenda was the DOT Highway 199 Relocation project. Mrs. Olson responded to Mr. Griffin that it is under New Business on the agenda. Mr. Griffin stated that he didn't see it on there. Chairperson Akers stated to Mr. Griffin to go ahead and cover it now if he wished. Mr. Griffin stated that he has checked the references of the contractor that was the low bidder and everyone that they referenced seemed to have been satisfied with them. He recommended that the Board approve awarding the bid to the low bidder and referenced the letter of recommendation that he sent to the Board. Chairperson Akers requested a motion to approve the award of the DOT Highway 199 Relocation Project to the low bidder, contingent upon the approval to begin construction by the Department of Highways. Commissioner Collins made the motion. Commissioner Litafik seconded the motion. Commissioner voting as follows:

Chairperson Toni Akers	Aye
Commissioner Mike Litafik	Aye
Commissioner John Collins	Aye
Commissioner Rhonda James	Absent

Upon Commissioner voting, the motion was carried and passed.
Resolution No. 09-04-017

DRAWS:

Chairperson Akers requested a motion to approve the draws as submitted. Commissioner Litafik made the motion. Commissioner Collins seconded the motion.

SMITH FORK OF PHELPS SEWER PROJECT

Contract 1	Coal Severance Funds	\$ 30,419.00
Contract 1	Coal Severance Funds	\$ 5,254.74

BIG CREEK SEWER PROJECT

Contract 1	Sidney Coal Funds	\$ 525.00
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LMI PROJECT

Contract 1	Coal Severance Funds	\$ 11,393.00
Contract 1	Coal Severance Funds	\$ 12,744.14
Contract 1	Coal Severance Funds	\$ 15.30
Contract 1	Coal Severance Funds	\$ 38,932.70

WATER TREATMENT PLANT UPGRADE – RD

Contract 1	RD Loan Funds	\$ 3,473.55
Contract 1	RD Loan Funds	\$ 1,687.50
Contract 1	RD Loan Funds	\$ 5,048.63

WATER TREATMENT PLANT INTAKE UPGRADE

Contract 1	Coal Severance Funds	\$ 12,012.00
Contract 1	Coal Severance Funds	\$ 13,381.47
Contract 1	Coal Severance Funds	\$ 12,467.00

WATER TREATMENT PLANT RAW WATER INTAKE

Contract 1	Coal Severance Funds	\$ 149,748.06
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WATER TREATMENT PLANT EXPANSION

Contract 1	Coal Severance Funds	\$ 587.00
Contract 1	Coal Severance Funds	\$ 3,064.28

VARIOUS WATERLINE EXTENSIONS

Contract 1	Coal Severance Funds	\$ 6,057.60
Contract 2	Coal Severance Funds	\$ 34,657.00

LONG FORK OF VIRGIE SEWER PROJECT

Contract 1	Coal Severance Funds	\$ 24,487.00
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Commissioner voting as follows:

Chairperson Toni Akers	Aye
Commissioner Mike Litafik	Aye
Commissioner John Collins	Aye
Commissioner Rhonda James	Absent

Upon Commissioner voting, the motion was carried and passed.
Resolution No. 09-04-018

MANAGER'S REPORT

AGENDA ITEM VIII

1. Monthly Operating Report:

Mr. Potter stated that there were ten (10) paid taps completed in March. Since July 1, 2008 we have completed one hundred seventy-seven (177) paid taps. We have completed one hundred and sixty-three (163) LMI taps. The R & M budget was twenty-two thousand, one hundred and eighty-one dollars (\$22,181) under for March and we have reduced the average year to date to thirty-nine thousand, six hundred and ninety-nine dollars (\$39,699). There has been a decrease of water usage and we have had several mines that have closed down that were taking water. Chairperson Akers stated that the decrease in revenue is due to the decrease in water sales. Mr. Lowe stated that it is pretty consistent with March of last year. Chairperson Akers requested a motion to approve the monthly operating report as submitted. Commissioner Collins made the motion. Commissioner Litafik seconded the motion. Commissioner voting as follows:

Chairperson Toni Akers	Aye
Commissioner Mike Litafik	Aye
Commissioner John Collins	Aye
Commissioner Rhonda James	Absent

Upon Commissioner voting, the motion was carried and passed.
Resolution No. 09-04-019

NEW BUSINESS

1. LMI Project -

Mr. Potter stated that we have completed one hundred and sixty-three (163) LMI taps to date. He has paused the program right now for evaluation of where we are on the funding. We are getting close and do not want to go over the funding limit. Based upon how that turns out, we may be able to do a few more, but once we reach that point he will pause the program until the next phase of funding comes in that is due in July.

2. Bond Resolution – Water Treatment Plant Project - \$650,000 – This item was not necessary and was skipped during the meeting.

3. Relocation of Waterline – DOT KY 199 Relocation Project – This issue was covered under the Smith Fork Sewer Project.

4. Revision to Grinder Informational Hand Out and Sewer User Agreement:

Mr. Potter stated that we have a few changes that we would like to make on these two forms. We are still having trouble with residents putting items in the grinder units that are not acceptable and have clarified some of the do's and don'ts. He requested approval to go ahead and make the changes that have been submitted to the Board clarifying some of the items that are not appropriate to introduce into the grinder units and setting forth the consequences for damage to the unit if they persist in putting these items into the system. The user agreement needs to be updated by taking out the part about the state inspection fee being collected by the District, which it is not. Also, we need to revise the second page to eliminate a clause that is contradictory and to clarify that last section to state that all fees and delinquent accounts will be required to be paid in full before connection of service. Chairperson Akers requested a motion to approve the revisions to the Sewer User Agreement and the Grinder Informational Hand Out as presented. Commissioner Litafik

made the motion. Commissioner Collins seconded the motion. Commissioner voting as follows:

Chairperson Toni Akers	Aye
Commissioner Mike Litafik	Aye
Commissioner John Collins	Aye
Commissioner Rhonda James	Absent

Upon Commissioner voting, the motion was carried and passed.
Resolution No. 09-04-020

5. Letter – Berens & Tate, PC, LLC -

Mr. Potter stated that we have received a letter from this law firm and he has discussed this issue with David Stratton. At one time, apparently the District has had some legal cases that went through this law firm. They have now merged with another law firm and have asked written permission to transfer the District's records to the new firm. Mr. Stratton stated that this is standard protocol when a merger occurs and recommended that the Board sign the papers transferring the records. Chairperson Akers requested a motion to approve the signing of the letter to Berens & Tate, PC, LLC transferring the District's records to Jackson Lewis, LLP as presented. Commissioner Litafik made the motion. Commissioner Collins seconded the motion. Commissioner voting as follows:

Chairperson Toni Akers	Aye
Commissioner Mike Litafik	Aye
Commissioner John Collins	Aye
Commissioner Rhonda James	Absent

Upon Commissioner voting, the motion was carried and passed.
Resolution No. 09-04-021

6. Award Bid – Compact Excavator -

Mr. Potter stated that we received two (2) bids, Wilson Equipment and Brandeis Machinery. The items that Wilson Equipment submitted bids on did not meet the written specifications that were provided. Brandeis Machinery's bid did meet the specifications. Mr. Potter requested that the Board award the bid to Brandeis Machinery due to their bid being the only one that met the specifications. Commissioner Collins made the motion to award the bid for the compact excavator to Brandeis Machinery. Commissioner Litafik seconded the motion. Commissioner voting as follows:

Chairperson Toni Akers	Aye
Commissioner Mike Litafik	Aye
Commissioner John Collins	Aye
Commissioner Rhonda James	Absent

Upon Commissioner voting, the motion was carried and passed.
Resolution No. 09-04-022

7. Island Creek Mobile Home Park – Larry Burnette -

Mr. Potter stated that he has been approached again by Larry Burnette. The Board looked at this issue last October. He has done some additional work to the plant and he had gone up there to look at it. He presented pictures that were taken last fall and stated that it does not look significantly changed from those photographs. He stated that he has concerns about the bottom of the plant that you can't see. The City of Pikeville is planning to come up Island Creek with sewer service in the foreseeable future. Since the Board declined to take this plant into the system last fall, he did not see any reason to do otherwise, but it is at the Board's discretion. Chairperson Akers stated that she did not see any reason to change their original decision and asked Commissioner Collins and Commissioner Litafik their opinion. Both Commissioners stated that they also saw no reason to take the plant into the system and change their original decision.

8. Engineer Tracking of Project Complaints -

Mr. Potter stated that in order to better track project customer complaints and to help stop some issues from slipping through the cracks, he recommends that the Board adopt a policy that each engineer submit a monthly list of each customer complaint, its status and what is being done to rectify the situation. He will develop a standardized form that will be issued to the engineers for submission each month. He has spoken to Dave some about it already. Chairperson Akers stated that it sounds like good thinking on Grondall and Dave's part. Mr. Potter stated that it should help to track things a little better. Chairperson Akers requested a motion to authorize Grondall Potter, Manager, to develop a standardized form for the tracking of project customer complaints and to provide a copy to each engineering firm that is to be completed each month and submitted to the Board each month. Commissioner Collins made the motion. Commissioner Litafik seconded the motion. Commissioner voting as follows:

Chairperson Toni Akers	Aye
Commissioner Mike Litafik	Aye
Commissioner John Collins	Aye
Commissioner Rhonda James	Absent

Upon Commissioner voting, the motion was carried and passed.

Resolution No. 09-04-023

9. Open Records Policy/Official Custodian of Records -

Mr. Potter stated that we have recently received some open records requests and to comply with KRS 61 the Board needs to appoint an official Custodian of Records. We have spoken to Mr. Stratton some about this and he turned the issued over him. Mr. Stratton stated the regulation states that it is to be an employee of the District, and since the District does not have any employees, he proposed that the Board appoint Tammy Olson as the Custodian of Records until more investigation is done to see if that correctly addresses the issue. Mr. Potter stated that Mrs. Olson has also prepared a draft Open Records Policy and a copy of the KRS regulations and given them to Mr. Stratton for review. Mr. Stratton recommended that the Board adopt the policy subject to review and approval of legal counsel. Commissioner Collins made a motion to appoint Tammy Olson as the Official Custodian of Records on a temporary basis until the regulations can be reviewed by counsel. Commissioner Litafik seconded the motion. Commissioner voting as follows:

Chairperson Toni Akers	Aye
Commissioner Mike Litafik	Aye

Commissioner John Collins	Aye
Commissioner Rhonda James	Absent

Upon Commissioner voting, the motion was carried and passed.
Resolution No. 09-04-024

Chairperson Akers requested a motion to approve the Open Records Policy as presented subject to legal counsel review and approval. Commissioner Litafik made the motion. Commissioner Collins seconded the motion. Commissioner voting as follows:

Chairperson Toni Akers	Aye
Commissioner Mike Litafik	Aye
Commissioner John Collins	Aye
Commissioner Rhonda James	Absent

Upon Commissioner voting, the motion was carried and passed.
Resolution No. 09-04-025

10. Capital Items List -

Mr. Potter stated that the copy of the Capital Items list that is presented today is the final version and ready for the Board's review and approval. These items are mostly those that need to be replaced through daily operations. Some is office equipment such as the auto dialer. The second sheet is a list of vehicles that we are anticipating having to replace. We will review these again and if the Board has any changes, please let him know. If the Board has no changes, we will plan to implement this plan by the next meeting. Commissioner Litafik inquired if money was available to purchase these items. Mr. Potter stated that these are mainly items that UMG is to replace over the course of the contract which are consumables. The vehicles will mostly be purchased by the District but UMG will make the payments according to the contract. Chairperson Akers requested a motion to approve the Capital Items List as presented. Commissioner Litafik made the motion. Commissioner Collins seconded the motion. Commissioner voting as follows:

Chairperson Toni Akers	Aye
Commissioner Mike Litafik	Aye
Commissioner John Collins	Aye
Commissioner Rhonda James	Absent

Upon Commissioner voting, the motion was carried and passed.
Resolution No. 09-04-026

11. Outstanding Accounts Receivable -

Mr. Potter stated that the Board directed us to send out reminder letters to those with outstanding balances and we have received a few responses that have settled their balance, some that have disputed the balance and some have been resolved due to electronically transferred funds being tracked back to the work order. This will be an ongoing thing and the Board will be updated each month on the progress of this issue.

12. Legal Issues

1. UMG Contract Amendment

Mr. David Stratton distributed an amendment to the operations and management services agreement and stated that we have been working on a satisfactory

amendment that basically modifies the existing agreement that Mountain Water District is operating under currently with UMG. If the Board agrees with this and it is satisfactory to the Commission, then it would be satisfactory with UMG. After review of the amendment by the Board of Commissioners, Chairperson Akers requested a motion to ratify the action that was taken by the Board of Commissioners in March on the approval of the contract with UMG. Commissioner Litafik made the motion. Commissioner Collins seconded the motion. Commissioner voting as follows:

Chairperson Toni Akers	Aye
Commissioner Mike Litafik	Aye
Commissioner John Collins	Aye
Commissioner Rhonda James	Absent

Upon Commissioner voting, the motion was carried and passed.
Resolution No. 09-04-027

Chairperson Akers requested a motion to approve the amendment to the agreement for operations with UMG. Commissioner Litafik made the motion. Commissioner Collins seconded the motion. Commissioner voting as follows:

Chairperson Toni Akers	Aye
Commissioner Mike Litafik	Aye
Commissioner John Collins	Aye
Commissioner Rhonda James	Absent

Upon Commissioner voting, the motion was carried and passed.
Resolution No. 09-04-028

2. Water Rate Contract – City of Pikeville

Mr. Stratton stated that this item is an ongoing discussion that we have had with the City of Pikeville in regards to the wholesale water rate contract with the City of Pikeville. The Board had earlier approved a contract proposal to the City of Pikeville and legal counsel's recommendation to the Board would be to resubmit the same proposal to the City again for consideration. Donovan Blackburn, City Manager for the City of Pikeville, inquired if this is the original proposal that was sent to the City or a revised proposal. Mr. Stratton stated that it is the original proposal. Mr. Blackburn inquired if he may address the Board for what the City is asking consideration for. Chairperson Akers responded the he may address the Board at this time. Mr. Blackburn distributed packets to the Board at this time. Mr. Blackburn stated that what he has presented to the Board is a wholesale contract that is the same one the Mr. Stratton had sent back to the City that the Board had approved, but after discussion with the City's attorney and the City Commission, there were some additional amendments that were made to it, that he is presenting at this time for the Board's consideration. He stated that in red are the original requests that were submitted to the City, the green are the additions that the City has asked for the Board to consider. The Commission had agreed with everything from the original submittal to the Board. They agreed with all terms of what Mr. Stratton sent back to the City, as you can see, they are underlined in red. The only thing that we asked for consideration on was based upon earlier meetings. As the Board is partially aware of, back when we had the original discussions the City's water wholesale rate was at one dollar and seventy-eight cents (\$1.78). After discussions with the person that performed their study, they agreed to lower that down to one dollar and sixty-one cents (\$1.61). After Mr. Blackburn reviewed it again, we brought that down again to one dollar and fifty-nine cents (\$1.59). After the counter proposal that was made after one of the meetings that we had as outlined in the sheet that he just gave the Board, one of the examples that was used was based upon thirty-five million (35,000,000) gallons per month,

understanding that the District is requiring now about forty million (40,000,000), but also understand that there is some line leakage and some things that the District is addressing that will have an impact on what you require from the City in the future. With that said, what the Commission has agreed to do is to meet the price that the Board has recommended which is one dollar and fifty-two cents (\$1.52), which is what the submittal was, for the first twenty-five million (25,000,000) gallons and all above that at one dollar and thirty-one cents (\$1.31). But in order for them to come all the way from one dollar and seventy eight cents (\$1.78) down to the dollar and fifty-two cents (\$1.52) they have to have some assurances that are made up in volume. On page two (2) in green, based upon the original submittals they were asking for consideration of thirty-five million (35,000,000). The report that came back to the City brought it down to twenty-five million (25,000,000) and we agreed to lower it to thirty-two million (32,000,000) as a minimum with the condition as it is outlined in green, which is to say that the purchaser would agree to make any additional purchases from the City of Pikeville as long as they are able to sell, realizing that gives the District a roughly four million (4,000,000) gallon buffer from what the average was from the year before, so you have the ability to make up over four million (4,000,000) gallons less in a sense of being honor to the contract. The problem is that if we lower...looking at twenty-five million (25,000,000) gallons compared to their cost of services study, then that rate would jump up to...based upon our last study, about two dollars and forty cents (\$2.40). So, instead of going through the Public Service Commission and of the conditions, we need the volume to get down to the price that the District needs in order to be financially sound. So they are asking for consideration for the Board to approve the contract based upon the dollar fifty-two (\$1.52) and the dollar thirty-one (\$1.31) but giving the City a guarantee of thirty-two million (32,000,000) per month average, unless, if the District needs to purchase more, they ask that that District purchase it through them first, meeting the dollar thirty-one (\$1.31) price. In a nutshell, that is the biggest change, the only other change is the issue with the late payment and they agreed to the terms, but they put in a provision that if the Board meeting was cancelled that in order for them to receive payment, they could apply a late fee. Mr. Stratton stated that some of the terms have been reviewed earlier and there is a level of uncomfortableness with some of the obligations, particularly in terms of the requirement to purchase pretty much all of our water through the City of Pikeville and he believes that it is an issue of uncomfortableness. The second document that he submitted was this wholesale proposal that Mr. Stratton has not seen or reviewed that. This issue can be put off for another month or go with the District's standard proposal, whatever the Board decides. Chairperson Akers stated that she didn't think that the Board is comfortable with going ahead to do this without being able to study this and go over it with their attorney. Chairperson Akers attempted to clarify what he was saying about the District buying more water than...Mr. Blackburn stated that it is a complicated issue. Currently the district is buying about forty million (40,000,000) gallons per month in wholesale. Now, on an average last year before we had the intake problem, the District was averaging about thirty-six to thirty-seven million (36,000,000-37,000,000) gallons. When we had the first meeting when we compared the City's wholesale rate with Williamson's wholesale rate, all of that was predicated on thirty-five million (35,000,000) gallons. The examples that were shown was buying twenty-five million (25,000,000) gallons from Pikeville and fifteen million (15,000,000) additional gallons from Williamson because of the price. What they have agreed to do is to honor the price that the District asked them for at the twenty-five million (25,000,000) gallons and instead of buying the additional fifteen million (15,000,000) from Williamson we agreed to meet the additional gallons at the dollar thirty-one (\$1.31). With that said, understand that you are already buying that from the City of Pikeville, in comparison also what you are already buying from Williamson... that doesn't put anything outside of what you are already buying from Williamson. All they are asking for is, in order for them to be able to lower that price, we have to have some volume assurances that by lowering their price, they have the volume there to make it up, because in a five (5) year commitment if you drop down to twenty-five million (25,000,000) gallons, what that does is force their price up based on their cost of services study to about two dollars and forty cents (\$2.40) plus going

before the PSC and spending some money that they don't want to spend. So from the assurance standpoint we are giving you a buffer saying you can buy four million (4,000,000) gallons less than what your last year's average was, so if your last year's average was thirty-seven million (37,000,000) gallons, we are saying just give us thirty-two million (32,000,000) and we will commit to five (5) years at one dollar and fifty-two cents (\$1.52) price. So in essence you haven't lost anything, you've got the assurances that you need. He has had some discussions with the District's operators and the conversation was that definitely thirty million (30,000,000) would suffice, but what happens if the District fixes some of these leaks, if you have leaks, so that they don't have to go through the process in order to be able to honor that price we obviously want you to acquire the water from Pikeville because that also impacts, not only the City of Pikeville, but also the City of Coal Run and all the way to the Floyd County line. If they lose the revenue then what they are forced to do is to have to raise the out of City rates, and right now they are comparable to the District's rates. If they lose the volume then they will have to go back in and adjust and ask for the two dollars and forty cents (\$2.40) from the PSC and have to raise the out of City rates higher. Chairperson Akers inquired as to why he is saying the "out of city" rates. He stated that they have two different rate structures, an out of city rate and an in city rate. They are different because they are two different systems and because the cost of services for both systems, as far as debt service and such, is different for both systems. Every city across the state of Kentucky that has a water system has two (2) tier rates. So anyway, from the standpoint of giving the City stability to be able to offer the lower price they have to have some assurances of the thirty-two million (32,000,000) gallons. Mr. Stratton recommended that the Board table this issue until the May meeting. Commissioner Litafik stated that the Board needed time to go back over this issue with their operations people and review this proposal with their attorneys. Chairperson Akers stated that the Board is going to table this issue until the May meeting.

13. Executive Session to Discuss Outstanding Litigation

- 1. Will Brown vs. Mountain Water District**
- 2. Mountain Water District vs. Jesse Coleman**

Chairperson Akers requested a motion to convene executive session to discuss outstanding litigation. Commissioner Litafik made the motion. Commissioner Collins seconded the motion. Commissioner voting as follows:

Chairperson Toni Akers	Aye
Commissioner Mike Litafik	Aye
Commissioner John Collins	Aye
Commissioner Rhonda James	Absent

Upon Commissioner voting, the motion was carried and passed.
Resolution No. 09-04-029

Chairperson Akers requested a motion to reconvene from executive session. Commissioner Collins made the motion. Commissioner Litafik seconded the motion. Commissioner voting as follows:

Chairperson Toni Akers	Aye
Commissioner Mike Litafik	Aye
Commissioner John Collins	Aye
Commissioner Rhonda James	Absent

Upon Commissioner voting, the motion was carried and passed.
Resolution No. 09-04-030

Chairperson Akers stated that there was no action to be taken on either matter in executive session.

COMMISSIONER COMMENTS

Chairperson Akers inquired if there were any Commissioner comments. There were none.

ADJOURN MEETING

Chairperson Akers stated that if there were no further comments, she requested a motion be made to adjourn the meeting. Commissioner Collins made the motion. Commissioner Litafik seconded the motion. Commissioner voting as follows:

Chairperson Toni Akers	Aye
Commissioner Mike Litafik	Aye
Commissioner John Collins	Aye
Commissioner Rhonda James	Absent

Upon Commissioner voting, the motion was carried and passed.
Resolution No. 09-04-031

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