

Rogers Waterworks and Sewer Commission

January 19, 2004

Minutes

The Rogers Waterworks and Sewer Commission held its regularly scheduled monthly meeting at 4:00 PM, Monday, January 19, 2004, in the Rogers Water Utilities Training Center. Commissioners present were Dick McLelland, Jerry Pittman, and Fred Wanger. Lon Pepple and Donnie Moore were absent. Rogers Water Utilities staff in attendance were Tom McAlister, Joyce Johnson, Mark Johnson, Earl Rausch, Don Siefken, Mike Lawrence, Don Roberts, and Stephen Ponder. Others in attendance were Jason Kelley, Edwin McClure, Paul Meyer, Hunter Prowell, Paul Yates, and Dan Brown. Acting Chairman McLelland called the meeting to order at 4:00 PM.

McLelland recognized Mark Johnson, P. E., Utilities Engineer. Johnson presented certificates of appreciation to Earl Rausch, Design Engineer, and Don Siefken, Engineer Technician, for five years of dedicated service to Rogers Water Utilities and the citizens of Rogers.

Continuing, Johnson presented the Commission with a spreadsheet report depicting the current status of the several projects in which the Commission had a pecuniary interest. He said that several of the residents in the area of W. New Hope and S. 26th St. had connected to the sewer after receiving the letter requiring them to do so. A few had been granted extensions for valid reasons. At least one had contacted an attorney, who had contacted the Deputy City Attorney, Jason Kelley. Kelly said that the attorney in question had argued that the requirement to abandon the septic tank and connect to the sewer amounted to a taking of his property.

Johnson told the Commission about the ground storage tank/pump station project. He said that the concrete tank company was busy poring concrete panels as weather permitted. He noted that the plans for water and sewer facilities relocations in W. New Hope Road were almost finished, and he planned to advertise for bids next month.

Continuing, Johnson reported that the staff had been in contact with Rogers Public Schools and Charles Reaves, developer of Pleasant Crossing. Last March, the Commission had agreed to partner with these entities for the purpose of extending water and sewer mains to the proposed school on Concord Road in Lowell. Since APAC McClinton-Anchor (Necessary Construction) was already on-site working in Pleasant

Crossing, Johnson negotiated with APAC to install the water and sewer extensions. The costs were apportioned as follows: Charles Reaves, \$285,301.45; Rogers Public Schools, \$228,621.23; and Rogers Water Utilities, \$231,112.07. Johnson said that the other entities had agreed to pay RWU their share amounts. In return, RWU would act as the “owner” and contract with APAC, in order for the project to proceed with due haste. Johnson asked the Commission to waive the requirements of competitive bidding, and award the project to APAC for \$745,034.75, provided Reaves and the Schools enter into side contracts for their share of the costs.

Wanger asked why was competitive bidding required? Kelley said that a state law required public entities to advertise for bids on contracts over \$10,000, or, if necessary, waive the requirements before awarding contracts. There was a motion by Pittman, second by Wanger, to waive the requirements of competitive bidding and award the contract to APAC, for \$745,034.75, provided Reaves and the Schools agreed to pay their fair share. All in favor, motion carried.

There was a motion by Wanger, second by Pittman, to approve the December minutes as submitted. All in favor, motion carried.

McLelland recognized Ed McClure, attorney for Paul Meyer. McClure explained that his client was trying to develop forty acres on Dodson Road. He said the project was a planned unit development, or a PUD, which would include commercial, office space, and multifamily residential development. McClure said that, in order to do this, it was necessary to connect to the public sewer system, which was about a half mile away, and crossed three different properties. He said that his client had tried to contact his neighbors for sewer easements for several months, with no success up until a few days ago. He said his client would lose his earnest money if he could not get sewer service. To that end, he asked for the Commission’s help to obtain the necessary off-site sewer easements.

One of the neighbors, Paul Yates, said that he did not want a sewer main running through the middle of his property, as proposed. He opined that he did not think the City should use its condemnation authority to usurp property rights, simply to “fatten another man’s wallet”.

Mark Johnson said that there were other routes to the sewer, but the best route was along the creek, where the sewer could serve a large area. He said that, in the past, the Commission had directed landowner’s to work the problems out and cooperate, if possible. Tom McAlister, Utilities Manager, said that the Commission had, on occasion, interceded on one property owner’s behalf, if the project helped the City achieve its goals of improving its water and sewer systems.

McLelland said that he did not think the Commission should intercede on Meyer’s behalf, since Meyer had not discussed a financial settlement with the neighbors. Pittman said that the Commission should not deal with Yates and others with a heavy hand, since there were other options available. The Commission took no action on the request to help obtain easements from Meyer’s neighbors.

In a matter not on the agenda, McAlister presented the Commission with a proposed contract between the Northwest Arkansas Conservation Authority and Burns and McDonnell Engineers, Inc. McAlister said that the Commission's budget for FY 2004 included \$50,000 to aid NACA. He said that NACA wanted an engineering study to determine the feasibility of locating a regional wastewater/sludge processing facility for the member cities of NACA. The other cities had committed up to \$20,000 for the study, McAlister said. He recommended that the Commission take part of the money budgeted and help pay for the study, since NACA had no money of its own. Pittman moved to expend up to \$20,000 for the study for NACA, seconded by Wanger. All in favor, motion carried.

McLelland recognized Joyce Johnson, CPA, Utilities Controller. Johnson presented the Commission with financial sheets for December 2003. Since the cash flow report showed 17% decrease in revenue over the same period last year, she searched to find the reason. Johnson said that December 2002 had been an unusual month, since snow kept the meter readers from reading. She said that the average number of days between meter readings 2002 was 33, as opposed to last year, which was 28 days.

Continuing, she pointed to the fact that the water department ran a deficit of over \$80,000 in December, which was expected due to the water rate increase from beaver Water District. She said the trend to lose money would reverse itself, when the City's water rate increase became effective.

Lastly, Johnson presented the Commission with some budget amendments, to reflect changes in water rates and some unexpected expenses, such as the wastewater master planning study by Black and Veatch. There was a motion by Wanger, second by Pittman, to approve the budget amendments as presented. All in favor, motion carried.

McAlister informed the Commission that the USEPA, Oklahoma, and Arkansas had reached an agreement over the issue of phosphorus in the Illinois River. He also said that the City of Rogers had been victorious in its lawsuit with Arnold Lehman. The Commission expressed its gratitude to the City Attorney's office for a job well done.

The meeting adjourned at 4:45 PM.

Respectfully submitted,

Tom S. McAlister, Acting Secretary
Rogers Waterworks and Sewer Commission

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