

# **Rogers Waterworks and Sewer Commission**

**April 23, 2007**

## **Minutes**

The Rogers Waterworks and Sewer Commission meeting held its regularly scheduled monthly meeting at 4:00 PM, Monday, April 23, 2007, in the Rogers City Hall. Commissioners in attendance were Donna Warren, Don Kendall, Donnie Moore, and Lon Pepple. Jerry Pittman was absent. Rogers Water Utilities staff in attendance were Tom McAlister, Mark Johnson, Joyce Johnson, William Evans, Mike Lawrence, Earl Rausch, Everett Balk and Stephen Ponder. Others in the audience were John Keller, Amy Kliewer, Trent Hauser, Tom Gould, Travis Greene, Robert Frazier, Drew Van Winkle, Evie Blad, Lori H. Stone, Bob Goodwin, and Jan Skopecek. Chairman Moore called the meeting to order at 4:01 PM.

There was a motion by Kendall, second by Warren, to approve the March minutes as submitted. All in favor, motion carried.

Moore recognized Mark Johnson, Utilities Engineer. Johnson presented the Commission with a brief report detailing the status of the several projects in which the Commission had a pecuniary interest. Johnson said that the Turtle Creek/Dogwood St. water transmission main project was set to start on April 30. He said that the Stoney Brook/Horsebarn Road water line job that had been held up by lack of easements was set to start again after an eminent domain action.

Continuing, Johnson said that the design of the proposed two million gallon elevated tank project at S. 24 St. would probably be finished by the end of May. He said that the City of Rogers had hired McGoodwin, Williams, and Yates to design the Pauline Whitaker Parkway, and that the Utilities had engaged the same firm to design the water main to run parallel. He said that the job was currently being advertised for bids.

Moore said that he thought that the Commission had already built the water main in Stoney Brook Road. Johnson said that most of it had been, but a large section had not been constructed due to retaining walls and reluctant (unhappy) landowners.

Moore recognized Everett Balk, Project Facilitation Engineer. Balk gave the Commission a brief report on the activities of his section. He said that all plans were receiving a review within ten days of receipt. He noted that, for the previous month (March), his section had received, on average, six sets of plans to review per day, up significantly from past months. He noted that most plans received were for smaller commercial and residential projects.

Moore asked about the predesign meetings. Balk said that they were having more such meetings, which saved the developer, the consultant, and the staff time over the long run.

Moore recognized John Keller, Black and Veatch Engineering, Inc. Keller gave a brief history of the wastewater treatment plan expansion project. He told how his firm had started by conducting a master plan in 2004, and had worked on the actual design of the expansion up to the present time. He said that bids were advertised about five weeks ago, and bids were opened on April 17. Three contractors submitted bids, he said. Keller presented the Commission with a bid tabulation, showing that the low bid, for \$20,848,000, was from BRB Contractors, Inc., of Topeka, Kansas. Keller said that BRB had significant experience with similar projects, and that he would recommend the bid from BRB to the Commission without reservation. Moore asked if there were any glaring errors in the bids. Keller said, "No."

Tom McAlister, Utilities Manager, said that he had prepared a resolution, No. 07-05, which would formally approve the bid of BRB, and allow staff to enter into contracts with BRB for the necessary expansion project. There was a motion by Kendall, second by Pepple to approve the resolution. All in favor, motion carried.

Continuing, Keller submitted Supplement No. 2 to the existing engineering contract for Black and Veatch. Keller said that the supplement essentially nailed down the expected engineering fees required to review and approve submittals from the Contractor, to observe the construction, and to provide O & M manuals and startup services for the new treatment plant. He submitted an hourly breakdown for the classifications of engineering time, and put the cost at a price of \$1,769,000.

Pepple asked about the onsite inspector. Keller said that the inspector would be onsite whenever the Contractor was working. Moore asked if the price was a "not to exceed number"? Keller said yes, that the cost would not go up, unless there were long delays. There was a motion by Pepple, second by Warren, to approve the contract supplement, in the amount of \$1,769,000. All in favor, motion carried.

Moore recognized Tom Gould of HDR Engineering. Gould said that he was asked to come and go over the system development fees report that his company had prepared for the Commission in 2004. Gould spent some time going over the objectives and purposes of system development fees, and recalled the particulars of the 2004 report that made specific suggestions on how "growth could pay for growth". He said that impact fees are not revenue raising device. The objective of an impact fee was to ensure adequate capital facilities, he said. He said that impact fees were commonly used by utilities to provide "backbone" facilities, such as wastewater treatment plants. Also, impact fees are not used to maintain existing facilities. He said that purpose of impact fees was to charge new customers an equitable share of the cost to provide necessary infrastructure.

Gould went through the process for determining system development fees (SDC). He emphasized that SDC's were different than rates. He said that new customers should be charged for the infrastructure that they use up (deplete). Gould said that SDC's could be

used to protect users from rate increases by decreasing long-term borrowing. Gould spent some time delineating SDC's from a "tax". He cautioned that SDC's should be used as a regulation and not a revenue-raising device.

Continuing, Gould reviewed the requirements of the Arkansas statutes and the way Rogers Water Utilities handled the collection of access fees and hookup fees. He said that a Capital Improvement Plan (CIP) and a rate study had been conducted per the statute. Gould said that the only requirement RWU lacked was the ordinance setting the fees. He noted that the Commission had set the fees much lower than his report recommended. By doing this, he said, the cost for growth was being shared between the existing customers and the new growth.

Gould said that, without the fees, water and sewer rates would have to go up. He estimated that the deficiency in rates without impact fees was about 20% for both water and sewer. Moore said that Beaver Water District was going to increase its water rate, further exacerbating the problem.

Moore asked what other cities were charging for impact fees? Gould said that "typical" water fees were in the \$2000 to \$3000 range, sewer fees usually a little more. He said that the fees charged in Rogers were on the low side. Pepple asked how to respond to those who say the growth benefits everybody? Gould said that it was a policy question, and he would argue "growth should pay for growth". He said that Rogers was being sorely impacted by growth, that the City had done a good job of keeping up with growth to date, but growth was "catching up" with the City.

Kendall asked about the Arkansas statute. Did the impact fee relate to a specific piece of property? Gould said that, in his opinion, the Utilities met the test of the statute by doing a CIP and a study, which fairly apportioned the cost of the fees. Kendall asked about the changes in the CIP as priorities changed? Gould said that the CIP should be updated often to be useful, but if infrastructure needs changed, most often there would be a change in the amount of fees collected, as growth sped up or slowed down. Gould said that there was no requirement for the fees to be mathematically exact, just proportionate.

Moore asked if Gould could come to the Council and make a presentation to the city council? Gould indicated that he would come to Council on May 8.

Moore recognized Robert Frazier of Warner, Harris, and Smith. Frazier said that Asa Hutchinson, his associate, could not be present, so he would update the Commission on the status of the "illegal exaction" lawsuit with Monarch Builders et al. He said that both sides had filed their motions, and now he was waiting for a ruling from the judge.

Frazier presented the Commission with two proposed ordinances that would, if passed by the City Council, turn the access fees and hookup fees into impact fees retroactively to January 2005. Kendall asked if the plaintiff's council said that the retroactive feature made the proposal unconstitutional? Frazier said he did not know what the plaintiff's council had said.

There was a motion by Kendall, second by Pepple, to recommend the proposal to Council for its consideration, as written. All in favor, motion carried.

Moore asked Frazier to speak to the issue of the Commission position occupied by Jerry Pittman. Frazier said that it appeared that Pittman was no longer a “qualified elector” of the City, and was no longer qualified to serve. Frazier said that the Council could remove Pittman by a 2/3 majority vote. Moore asked about the protocol involved. Frazier suggested the Commission pass a resolution requesting the Council declare a vacancy, and then the Commission could make an appointment that would have to be ratified by the Council by a 2/3 majority. There was a motion by Kendall, second by Warren, to approve Resolution No. 07-06, which requested the council remove Pittman so that another Commissioner might be installed. All in favor, motion carried.

Moore recognized Joyce Johnson, Utilities Controller. Johnson presented the Commission with financial reports for March 2007. She said that the unaccounted-for water rate was staying at ten percent for the past 12 months. She noted that water revenue was up slightly over the same period last year. The sewer revenue was up substantially due to the recent sewer rate increase.

Johnson presented the Commission with a budget proposal for FY '08. She noted that RWU was losing a major industrial customer (PGI). Johnson noted several issues with the budget, such as a net increase (or decrease) in restricted reserves. She pointed out the import of impact fees to the proposed budget. Johnson said that the Commission needed to take no action on the budget until June, but she was anxious to put the proposals before the Commission for its consideration.

Moore asked if the budgeted capital needs might be “broken out” to indicate those projects that might be funded by the impact fees. McAlister said that fees might only be spent for those capital needs necessitated by growth.

Warren asked why the Utilities were not planning to replace two engineers. Mark Johnson said that the work was being covered adequately with the existing manpower.

The meeting adjourned at 5:08 PM.

Respectfully submitted,

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

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