

# **Rogers Waterworks and Sewer Commission**

**MAY 20, 2013**

## **Minutes**

The Rogers Waterworks and Sewer Commission held its regular meeting at 4:00 PM on Monday, May 20, 2013, in the Rogers Water Utilities Administration Building. Present were Commissioners Don Kendall, Roger Surly, Travis Greene, Kathy McClure and Jene' Huffman-Gilreath. Rogers Water Utilities staff in attendance were Craig Noble, Joyce Johnson, Johnny Lunsford, William Evans, Robert Moore, Jordan Waterhouse, Stephen Ponder, and Earl Rausch. Others in attendance were City Attorney Ben Lipscomb, Deputy City Attorney Jim Clark, John Gore of the Morning News and Jill Grimsley Drewyor of the Mitchell Williams Law Firm. Chairman Kendall called the meeting to order at 4:00 PM.

There was a motion by Huffman-Gilreath, second by Greene to approve the minutes of the April 17, 2013 regular meeting as submitted. All in favor, motion carried.

Chairman Kendall recognized Joyce Johnson, Utilities Controller. Johnson presented the financial reports for April 2013. Johnson stated she added a new report in April, the year to date monthly income comparison report for both the water and sewer departments. Johnson stated that RWU had a loss in the water department of \$54,000.00, and a profit in the sewer department of \$204,000.00 in April 2013. These results compare with a \$54,000.00 loss in water and a \$160,000.00 profit in sewer for April 2012. RWU was ahead of budget in access and impact fee collections by \$122,000.00 in the water department and \$279,000.00 in the sewer department.

Johnson asked the Commission if they wanted to review the budget. Chairman Kendall stated if there were no objections, the Commission would take up the fiscal year 2014 budget presentation. Johnson directed the Commissioners to the table of contents. RWU has a cash basis, accrual basis, and capital projects budget for both the water and sewer departments. Accrual budgets are done to coincide with the financial statements. The cash basis budget and capital projects budgets are done to help predict the affect on cash reserves. Johnson stated the Summary of Budgeted Change in Reserves has been added to the budget this year. It projects the cash reserves if RWU did everything in the budget. It includes paying off the 1995 sewer bonds. Chairman Kendall asked if the reserves would be \$25,000,000.00 at June 30, 2014. Johnson stated that the reserves would be \$25,800,000.00 for water and sewer combined. Chairman Kendall asked if that was with the payment of the bonds. Johnson stated that it does include the payoff of the 1995 bonds. Chairman Kendall asked if that dropped the reserves from \$32,000,000.00 to \$25,000,000.00. Johnson stated yes, and it also includes all the budgeted capital projects such as the City of Rogers street projects.

Johnson said the Water Department Cash Basis Budget takes the accrual basis budget and converts it to a cash basis budget. It includes the cash basis capital projects budget and debt service (both principal and interest). Johnson was conservative in budgeting sales revenue. If the utility does not experience drought conditions, RWU may see a reduction in the revenue from the previous year. The cash basis water budget predicts a total decrease in water department reserves of \$2,421,000.00 in fiscal year 2014. Chairman Kendall asked if this great change is due to payment of the bond and capital outlay. Johnson stated RWU has \$4,800,000.00 in capital projects in the water department. \$1,000,000.00 does not require the use of cash because it is contributed mainline extensions by others. \$2,800,000.00 is related to the City of Rogers street bond projects. Greene asked how many more City of Rogers street projects are coming. Rausch stated that this is probably sixty-five percent (65%) of the City of Rogers bond projects. In the future several of the projects will be green field projects that will not require water and sewer improvements. Noble stated that the City of Rogers street bond is scheduled to last until 2017, and many of the future streets may not impact RWU as much.

Johnson then reviewed the water department accrual basis budget. RWU is being conservative in budgeting revenue and expenditures. RWU expects a \$47,000.00 profit in the water department in fiscal year 2014. Sales revenue and access and impact fees are the most difficult to budget, Johnson stated. Johnson stated that she expects RWU to finish fiscal year 2013 with a profit of \$529,000.00 in the water department. RWU has to make a change in accounting principal at the end of this fiscal year. The Governmental Accounting Standards Board (GASB) basically prescribes the Utilities accounting standards. GASB 65 mandates how the Utility accounts for bond issue cost. The Utility has always amortized those costs over the life of the bond. Now the costs to issue bonds must be written off the year they are incurred. RWU will be taking the unamortized bond costs off the balance sheet this year and restating prior year financial statements for comparative purposes.

Johnson discussed the salary budgets. In fiscal year 2013, RWU budgeted for 22.5 employees in the water department and in fiscal year 2014, the Utility budgeted for 23.5 employees. In fiscal year 2013, RWU budgeted for 32.5 employees in the sewer department and in fiscal year 2014, the Utility budgeted for 34.5 employees. This included one extra employee in the field and one in the office. Chairman Kendall asked what RWU is doing about HR. Johnson stated that we have advertised to fill that position and that it is in process. She stated the Utility has also advertised for a Senior Accountant. Huffman-Gilreath asked if salaries for Mr. Noble and Ms. Johnson are split between water and sewer. Johnson stated that RWU cannot split salaries between water and sewer because utility staff must either be water or sewer employees for tax purposes. However, the Utility has budgeted administrative cost transfers between water and sewer to share the costs. Surly asked if temporary employees for sewer were included. Johnson stated the Utility is not budgeting for temporary employees and they are not included in the personnel count for fiscal year 2014.

Capital projects for sewer are budgeted at \$4,200,000.00. \$750,000.00 is for the contributed sewer system improvements provided by others. The cost for the City of Rogers street sewer

replacement projects is \$772,000.00 and the City of Rogers street improvement projects are \$475,000.00. Paying off the 1995 sewer bonds cost \$3,800,000.00. RWU's sewer budget does not include the payoff of the 1996 sewer bonds. If RWU completed everything in the proposed budget, the sewer department reserves would be at \$13,500,000.00 by June 30, 2014. If RWU uses reserves after September 1, 2013 to pay off the 1996 sewer bonds, reserves would be reduced by an additional \$3,600,000.00. Johnson asked if there were any additional questions. Chairman Kendall asked when the Commission should act on the budget. Johnson stated that in the past, RWU has presented the budget in May. It can be approved as presented or sent back for appropriate changes at the request of the Commission. Johnson said it would be appropriate to have an approved budget by June 30. Surly stated that he thought Johnson did a very thorough job. Greene asked the Commission if they wanted to study the budget or move forward on it. There was a motion by Huffman-Gilreath, second by McClure to approve the fiscal year 2014 budget. All in favor, motion carried.

Chairman Kendall recognized Earl Rausch, Engineering Manager for the Engineering report. Rausch stated that the Rogers City Council approved the service boundary adjustment for the property located at 3050 N. 13<sup>th</sup> Street. The Sanitary Sewer Rehabilitation, Phase 2 work is continuing in downtown Rogers. The Sanitary Sewer Rehabilitation, Phase 1 punch-list work will be addressed by Insituform and they will be in town during the first part of June. The Financial Storage project is approximately ninety-eight percent (98%) complete. The engineering and specifications for the administration building stand-by generator is sixty percent (60%) complete. The 2013 Water and Sewer Replacement project has been advertised and the utility will receive bids on June 14, 2013. The 17<sup>th</sup> Street Lift Station Demolition is complete with this work being performed by Nabholz Construction. Surly asked if we could add time lines on the construction status schedule. Rausch stated that adding time lines on RWU projects would be no problem. Rausch asked if there were any other questions. There were none.

Rausch presented the project review report that includes grease trap, cross connection control (CCC), civil project review, and large scale planning. Surly asked if any of these were big water users. Rausch stated that they were not, with the possible exception of Northwest Medical. Rausch asked if there were any other questions. There being none the floor was yielded to the Board Chair.

Chairman Kendall recognized Robert Moore, Plant Manager for the Rogers Pollution Control Facility (RPCF) report. The April numbers looked really good and nothing stood out in the plant operationally. The Utility did not receive any numbers from the Osage Creek monitoring site from the USGS due to this being a month with no samples being collected. Chairman Kendall asked what happened during the storm event on April 18, 2013. RPCF experienced approximately 2.53 inches of rain during this storm event. Moore stated that with big rains, the RPCF experiences large flow increases. The RPCF stores the excess flow that comes to the plant in the equalization basins. Surly asked what is done with that much flow. Moore stated that the RPCF staff filled the equalization basins (holds 15 million gallons) and placed into service a treatment train that holds approximately 6 million gallons. RPCF is still bringing the stored flows

into the treatment process. Surly asked what would happen if the flow was doubled. Moore stated that the plant is designed to hold a 3-Inch rain fall. Moore asked if there were any other questions concerning the report.

Chairman Kendall recognized William Evans, Water Field Operations Manager. Evans stated that the unaccounted for water is at 19 percent for the month (normal short month) and 10 percent for calendar year 2013. Surly asked if the difference between the two percentages is worth \$20,000.00. Evans stated yes that would be correct. Evans stated that since Beaver Water District switched to chlorine dioxide as a pre-oxidant, the Utilities TTHM numbers have been running about 40 mg/l (microgram/l) per month at our two worst sites. In years past, the Kelly Drive site has always been a high number (>than 80). The Utility has to be 80 mg/l (microgram/l) or less to be in compliance. This requirement became effective January 1, 2013. If these THM numbers continue through the summer months, the Utility will have no problem with TTHM compliance. Evans asked if there were any other questions.

Chairman Kendall recognized Johnny Lunsford, Sewer Field Operation Manager. Lunsford presented the collection system report. Flushing numbers were up for the month because the Sewer Operations staff got both trunk lines running and the utilities' new employees are trained in these processes.

Lunsford also presented the I/I report. RWU experienced one (1) overflow at a manhole on Persimmon Street. The CIPP contractor, Layne Inliner, found a large hole under 2<sup>nd</sup> Street where the top was out of a 15-Inch sewer line and was under a separated storm drain pipe. This I/I problem was corrected and removed from the system. RWU also found another I/I problem at the old Emerson Electric plant on 13<sup>th</sup> Street. The private 18-Inch sewer line was running full with storm water and it has now been removed from the RWU collection system. Lunsford stated that Rogers got 9.58 inches rain in April 2013. Sewer Operations estimated the I/I flow to the wastewater plant at 71 MG and the estimated I/I cost at \$145,000. Lunsford asked if there were any other questions.

Chairman Kendall recognized Robert Moore for the sludge dryer update. As of Monday, Therma-Flite was testing again but they are not ready to begin performance testing. The RPCF is still wasting a considerable amount of aged sludge to reduce the overall sludge age (SRT). Noble stated that the Utility is having weekly meetings with Therma-Flite, their microbiologist (Toni Glymph-Martin) and the Utility microbiologist (Sam Gates) with McClelland Engineering. Therma-Flite brought in a new person (Paul Santos) last Tuesday, May 14, 2013. Santos has been with Therma-Flite since mid March. Overall the sludge has improved dramatically. Therma-Flite started the dryer last Tuesday and has been running it at 40 percent (40%). Santos is testing the dryer. RWU ran 5 hours of sludge through the centrifuge, but the unit needs to run at least 10 hours of sludge through the centrifuge to just stay even. Chairman Kendall asked where we are at right now. Noble stated that the unit is currently running at 40 percent (40%) and for the acceptance tests the dryer must remove 6,651 pounds of water from the sludge. That calculates to about 25,000 pounds of sludge a day for performance testing. The good news was that the dryer

ran from Tuesday through Sunday at 40 percent (40%) continuously. Utility staff is going to let Therma-Flite address how they are going to remove the stockpiled sludge because Utility staff does not want to get back in the situation of aged sludge again. Chairman Kendall asked if Therma-Flite is giving any reason(s) why they are only running at 40 percent (40%). Moore stated that Santos is getting familiar with the machine and gathering data. Noble stated that he feels good about the process but does not feel so good about the time line. Ben Lipscomb, City Attorney, asked about what time line. Noble stated Therma-Flite was supposed to be complete with the project on July 9, 2012. Once the one year has passed, it is time for the Utility, with the direction from the Commission, to reevaluate. Chairman Kendall asked Lipscomb what was his position on the matter. Lipscomb stated that his comments are two-fold. First, Crossland Heavy is obviously in default for liquidated damages. They may be in breach of contract but there is not a set time line to get the equipment working. In accordance with the contract and the performance bond, RWU must give Crossland Heavy a ten (10) day notice if the Utility chooses to terminate the contract and go against the bond company. Chairman Kendall asked if they are in default right now. Lipscomb stated that they are in default now of the liquidated clause, but damages do not necessarily mean that they are in default on the entire contract. Chairman Kendall asked why that is. Lipscomb stated that there is a difference between breach of contract and a default. Going past the completion date puts them in breach and default with respect to the liquidated damages clause. There is a different standard on what constitutes default legally for the purpose of terminating the contract and going against the insurance company that wrote the bond. As long as Therma-Flite is out there working on the machine, the statute of limitations never kicks in. Chairman Kendall asked about the quality of the sludge that was brought up at the last meeting. Noble stated that Therma-Flite is not saying the sludge is bad, but they are saying that the sludge age is too old. This causes the formation of excellular lipopolysaccharide material that acts like an oil in the sludge dryer. Lipscomb stated that the sludge is Crossland's problem. Noble stated that filamentous organisms are now the predominant organism due to Therma-Flite asking RWU to hold the sludge for the performance testing. Therma-Flite is still working on the dryer and they are bringing people in to work on it. Lipscomb stated that RWU does not have a contract with Therma-Flite. RWU's contract is with Crossland Heavy and they are responsible for Therma-Flite's performance. Crossland signed a contract to build a \$4,000,000.00 sludge drying facility and a part of it is the machine. The lawsuit will be with Crossland and Therma-Flite's inability to meet their obligation to Crossland is Crossland's problem. Chairman Kendall asked when RWU is going to draw the line in the sand. Lipscomb stated that he did not want to wait for a year anniversary of the default under the liquidated damages just because of appearances. Lipscomb agrees that it looks bad to the public to go past the year, but there is nothing magical about the date. Chairman Kendall liked Lipscomb's approach for Crossland to present RWU with a solution. Crossland needs to address the Commission at the June 17, 2013 meeting. Lipscomb stated the question is how much of the \$1,000.00 per day liquidated damages is the Utility going to be able to justify. Lipscomb also asked if there was an expert somewhere that RWU could hire to tell us if this machine will ever work. Greene asked if the other Therma-Flite dryers are working. Noble stated that RWU was going through Therma-Flite's list of installations and the responses were not as positive as we were led to believe. McClure asked that the results be presented during the next meeting. Lipscomb stated that if the Utility called in the bonding

company to finish the sludge dryer project, it will take a **long** time for the bonding company to complete the project. Greene asked if this is different since it is Crossland. Lipscomb stated that it would be harder to prove that Crossland could not finish the contract but after a year; the sludge dryer is only running forty percent (40%). This should be easier to present, based on the facts. Chairman Kendall stated that Crossland needed to come to the next meeting and tell the Commission that they will have it running in thirty (30) days. Lipscomb stated that if Crossland fails to comment during the next meeting, then the Commission needs to take action requesting the City Attorney to terminate Crossland's contract and take action against the bonding company which is Fidelity and Deposit Company of Maryland Colonial American Casualty and Surety Company. Chairman Kendall asked Noble to pass this message to Crossland. Noble stated that he would pass on the message and Noble stated the Mike Kirk and Mark Sells of Crossland Heavy understand the Utilities position.

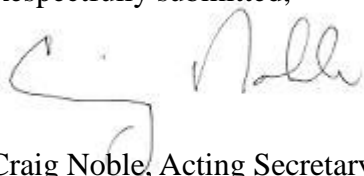
Chairman Kendall recognized Joyce Johnson, Utilities Controller. Johnson presented the bond resolution. Johnson stated that the process would be that the Commission pass the resolution and then this item is to be placed on the agenda of the Rogers City Council for their May 28, 2013 City Council Meeting. McClure asked about was the amount of savings. Johnson stated that the amount would be a net of \$360,000.00. Chairman Kendall stated that we have already approved the pay back of the bond, but we should vote on approving the resolution. Chairman Kendall asked Jill Grimsley Drewyor of Mitchell Williams Law Firm to explain to the Commission what was included in the resolution. Drewyor stated that the resolution states that the Commission has approved the early refunding of these bonds so that the City of Rogers City Council knows you have approved this action. There was a motion by McClure, second by Greene to approve the 1995 sewer bound resolution for early bond refunding. All in favor, motion carried.

At 5:16 PM there was a motion by Huffman-Gilreath, second by McClure to adjourn to executive session to discuss personnel matters. All in favor, motion carried.

The meeting was called back to order at 7:15 PM. Chairman Kendall announced that the Commission was back in executive session. Chairman Kendall announced that the Commission had taken no action as a result of the executive session.

There was a motion by Greene, second by McClure, to adjourn the meeting. All in favor, motion carried.

Respectfully submitted,



Craig Noble, Acting Secretary  
Rogers Waterworks and Sewer Commission  
File: RWWSC minutes, 5-20-2013