

Rogers Waterworks and Sewer Commission

September 21, 2009

Minutes

The Rogers Waterworks and Sewer Commission held its regularly scheduled monthly meeting at 4:00 PM, Monday, September 21, 2009, at the Rogers City Hall. Commissioners in attendance were Travis Greene, Jene` Huffman-Gilreath, Don Kendall, Guy Cable, and Lon Pepple. Rogers Water Utilities staff in attendance were Tom McAlister, Mark Johnson, Joyce Johnson, William Evans, Robert Moore, Earl Rausch, Randy Watson, and Rick Schwartz. Others in attendance were Rebecca Riley, David Coleman and Robert Frazier. Chairman Greene called the meeting to order at 4:02 PM.

There was a motion by Pepple, second by Huffman-Gilreath, to approve the minutes of the August Commission meeting, as submitted. All in favor, motion carried.

Greene recognized Randy Watson, Meter Reader Supervisor. Watson recognized Rick Schwartz, Meter Reader, for five years of service to Rogers Water Utilities.

Greene recognized Mark Johnson, Utilities Engineer. Johnson presented the Commission with a short report detailing the status of the several projects in which the Commission had a pecuniary interest. He said that the Pleasant Grove Road water main project was finished. He said the water main completely changed the system hydraulics in the area. He said the contractor finished on time and on budget, and the road was restored to a paved condition before school opened.

Johnson said that the “demand for payment” letters from the attorney for the money owned RWU on the Stoney Brook Road water and sewer project had gotten some results. He said that Horse Barn Partners had paid in full by check. Johnson said that the Hotel Group had offered to pay \$5000 per month on the amount owed. He said that RWU countered for a payment plan of \$20,000 per month, at 5% APR. He said that their attorney, Howard Slinkard, had said that the owner’s of the Holiday Inn and Suites and the Staybridge Inn had said they could not afford that much per month.

Continuing, Johnson said that the owners of Metro Park South (Collins Haynes) had met with staff, and said that they had no money, but said that they would pay RWU from proceeds of the sale of the several lots still for sale in Metro Park South. Robert Frazier, Warner Smith, and Harris, LLC, attorneys for the Commission, said he had prepared a “forbearance” agreement for Haynes at the behest of RWU staff. He said the agreement would give the owners additional time to pay, at a predetermined interest rate.

There ensued a lot of conversation regarding the matter. Kendall said he wanted to work with the owners if possible. He asked McAlister if the Council had to approve supplementary agreements. McAlister answered in the negative. Kendall said he wanted to see financial statements before agreeing to time payments. If these were not produced in a timely fashion, then lawsuits could always be filed, he said.

Someone asked if this had happened before (nonpayment on agreements where the Commission agreed to cost share water/sewer facilities). Johnson said yes, but usually service was withheld until all payments were received.

Kendall said that the Commission could not let the matter slide. Pepple asked if water could be shut off now. Johnson said that he did not think it was possible, unless for nonpayment, or if a serious public health threat or pollution problem was deemed to exist.

Greene wanted to know if the agreements signed by the developers included personal property. Johnson said the agreements were in the name of corporations.

Continuing, Johnson said that the RWU building expansion project was progressing. He said that the contractor predicted that the building would be ready by mid-October. He said that furnishings had been ordered from Moser Corporation per the instructions of the Commission last May.

Johnson said that the staff had settled on a wastewater sludge drier technology and his engineering staff was busy making application to the Arkansas Natural Resources Commission (ANRC) for low cost funding. In the interim, he said that the staff wanted to change from landfill disposal of sludge to the beneficial reuse of sludge by land application in the Arkansas River Valley. Johnson said that RWU could save money while working through the ANRC funding, design, bid, construction process, which might take up to two years, by contracting with TRS, Inc.

Continuing, Johnson said that the work on the N. 13th St. sewer project had begun, and the bore under N. 13th St. had been completed. The repaving of New Hope Road between Beth Drive and Craig Circle had been delayed by the wet weather, he said.

Johnson said that the completion of the new, two million gallon elevated storage tank at S. Lilac St. had been delayed by leaks and deficient welds in the steel tank. He estimated that the tank would be in service by this time next month. Johnson said that, since the tank should have been completed last June, RWU would seek liquidated damages from the contractor, CBI, Inc.

What about the warranty? Someone asked. Johnson said that the tank contractor had to warrant the tank for one year after acceptance by RWU.

Johnson said that he was continuing to work with the Rogers Street Department on the extension of Price Lane across Eighth Street to S. First St. He said that water and sewer conduits would be laid under the railroad when the City built additional drainage

structures. He said he was continuing talks with the Arkansas Highway Department to obtain permission to extend a water main under the Interstate Highway near Fir St. He said that the sewer replacement in N. "B" and "C" Streets had started.

Green recognized Joyce Johnson, Utilities Controller. Johnson presented the Commission with financial reports for August. She said that the water department had a good month, with consumption up over six percent from the same period a year ago. The sewer department revenues were off slightly, due mainly to the increase in irrigation meters.

Kendall said that the Commission needed to watch the funds carefully, since reserves were a determinant factor in the making of water/sewer rates, and the impact fee lawsuit. He said that he had looked at the reserve fund balances over the past four or five years. He said that the total had not change much; however, the difference between restricted and unrestricted funds had changed significantly.

Johnson said that funds routinely changed based on several factors, such as bond issues and large construction projects. She said that RWU routinely pays itself out of reserved funds for system improvements due to growth and replacements.

There followed a long discussion regarding funds and fund balances. How much reserve fund is needed? Someone asked. McAlister said that that was a policy question. He emphasized that there were a lot of contingent liabilities (about six million dollars in the on-going court case regarding impact fees). He also said that revenues were becoming unstable, with a large drop in industrial demand over the past two years. Greene asked if staff knew what the other cities had for reserves? McAlister said that he did not know, but comparisons were meaningless, depending on rate and control structures in other cities.

Green recognized David Coleman of BKD, LLP, auditors for RWU. Coleman presented the Commission with audit reports for FY 2009, which ended June 30, 2009. He said that the audit was accomplished very quickly, and the reports were out in two months. He said that it was a "clean" audit, with no problems. The issues brought up in the management letter (segregation of duties) were handled by staff before his audit team left the field, Coleman said.

What about "disaster recovery"? Cable asked. Johnson said that the main computer system was duplicated at the City Courts building, and were connected via cable, so both the Courts and RWU had redundancy.

Johnson raised the issue of employee fidelity bonds. She said that the bond was dropped many years ago because the insurer would not issue a bond unless she (Johnson) stopped signing checks. Now, she had a proposal from an insurer to issue a fidelity bond of \$50,000, which would cover all signers, plus the people that carried daily deposits to the bank. The yearly cost was slightly over \$500.

Was that enough? Someone asked. Johnson said that it was sufficient for daily deposits, but potential for theft or embezzlement by check writers and signers could lead to the loss of vaster sums. There was a motion by Kendall, second by Huffman-Gilreath, to approve the purchase of a \$150,000 fidelity bond to cover the RWU staff, the Commission, the Mayor and City Treasurer. All in favor, motion carried.

The FY 2009 annual audit reports were accepted as presented with no further comments.

McAlister reported that Region VI USEPA had hired a contractor to perform a hydrologic study on the impaired waters of NW Arkansas to determine sources and fates of environmental phosphorus. He said that the study was being done to help justify the stringent phosphorus limits set on the NACA plant, now under construction. He said he feared that the study would be used to force the cities to reduce their phosphorus loadings to Illinois River. The Arkansas Department of Environment and Ecology had said it needed help to protect the dischargers in Arkansas. Therefore, McAlister said that he would probably bring a proposal from an engineering firm studied in such matters, to the Commission to help ADEQ with EPA and its contractor. McAlister said that Springdale had expressed willingness to help with the costs, similarly to the on-going two-year stream assessment cost sharing scenario. McAlister emphasized the importance of being involved in the process, since, in the end, only a very small amount of phosphorus would be allowed to be discharged to the river. This had the potential to have a negative impact on the growth of NWA.

Mark Johnson said that he had been notified by the Arkansas Highway Department, that there was some monies available for reimbursement for the expense laid out by the Commission for the relocation of sewer lines for the Perry Road /I 540 interchange. He said that he had already begun the reimbursement process.

The meeting adjourned at 5:25 PM.

Respectfully submitted,

Tom McAlister, Acting Secretary
Rogers Waterworks and Sewer Commission

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