

Rogers Waterworks and Sewer Commission

October 18, 2010

Minutes

The Rogers Waterworks and Sewer Commission held its regularly scheduled monthly meeting at 4:00 PM, Monday, October 18, 2010, in the Commission Room of the Rogers Water Utilities (RWU) Administration Building. Present were Commissioners Travis Greene, Jene` Huffman-Gilreath, Guy Cable, and Roger Surly. Don Kendall was absent. RWU staff in attendance were Tom McAlister, Mark Johnson, Joyce Johnson, William Evans, Johnny Lunsford, Michelle Williams, Donna Wilson, and Earl Rausch. Others at the meeting were Robert Frazier, Alan Wooten, and Jill Drewyor. Chairman Greene called the meeting to order at 4:00 PM.

There was a motion by Surly, second by Cable, to approve the September Commission meeting minutes as submitted. All in favor, motion carried.

Greene recognized Michelle Williams, RWU Office Manager. Williams presented Donna Wilson, Customer Service Representative, with a certificate and a gift in recognition of fifteen years of service to the rate payers of the City of Rogers.

Greene recognized Joyce Johnson, Utilities Controller. Johnson presented the Commission with financial reports for September 2010. She said that revenue was up considerably, due to high consumption in July and August. She pointed out that the unaccounted for water rate was a negative number for the month, due to the time lag between when the water is bought and when the meters are read and bills are mailed out. She noted that consumption was up 39 percent from the same period a year ago. For the time being at least, the Rogers Water Department was in the "black".

Greene recognized Mark Johnson, Utilities Engineer. Johnson presented the Commission with a spreadsheet detailing the status of the several projects in which the Commission had a pecuniary interest. Greene asked Johnson about the administration building expansion project budget. Johnson said that the contract for the project was \$1.337 million, including a couple of small change orders. He said that the Commission's attorneys, Warner, Smith, and Harris PLC (WSH), were negotiating with Traveler's Insurance, the building contractor of record since Bossler Construction's default, over the amount of the final payment to Traveler's.

Johnson responded to a few questions posed to him at the last Commission meeting. To the question, "Is there excess capacity in the sludge drier", the answer was that, at design flow rates,

the sludge drier would be operating nonstop on just the City of Rogers' sludge. He said that he would not recommend taking sludge from other cities.

Greene recognized Jill Drewyor, bond attorney with the Mitchell - Williams law firm. Drewyor presented the Commission with a resolution which would approve the sale of not more than \$3.4 million in sewer revenue bonds for the purchase and installation of a sludge drier. She said that a similar resolution would be presented to the Rogers City Council. At the Council meeting on November 9, 2010, the Council would adopt the bond ordinance. Thirty days after that, the money would be delivered to the trustee.

Tom McAlister, RWU Manager, said that the resolution referred to a bond purchase agreement, which was not attached. Drewyor said that the bond purchase agreement was not yet prepared. In order not to delay the process, there was a motion by Greene, second by Huffman-Gilreath, that the Chairman be authorized to approve a suitable resolution approving the bond issue and recommending same to the Rogers City Council. All in favor, motion carried.

Greene recognized Mark Johnson again. Johnson presented the Commission with a bid tabulation comparing two bids submitted for the relocation of water and sewer facilities in Persimmon St., between N. Dixieland and N. 13th St. Johnson said that the City planned to widen the street and install drainage structures, which would conflict with existing water/sewer facilities. The low bid was from Fotchman Enterprises, Inc., for \$95,004. Johnson recommended the low bid.

Huffman-Gilreath asked if there was any concern about the disparity between the bids. Johnson said that bidding construction jobs was akin to "rolling the dice", and there was often no discernable reason for bid differences. Typically, the low bidder just wanted the job more. Might there be cost overruns? Huffman-Gilreath asked. Johnson said that there should be no change orders on this job.

There was a motion Huffman-Gilreath, second by Cable, to approve the low bid. All in favor, motion carried.

Greene recognized Alan Wooten, Managing Partner of WSH. Wooten said that every year he comes to the Commission to renew the legal retainer relationship with the Commission. He said that his firm was willing to keep the retainer fee at \$1500 per month, providing his firm could charge its usual hourly rates for services outside the retainer, such as lawsuits. He said that WSH had charged RWU \$15,000 for over \$30,000 in legal services, if charged hourly. He said that the lawsuit with the NWA Homebuilders Association/Burkhart Construction over illegal exaction of impact and access fees had been settled, and he suspected that the conflict with Traveler's Insurance might be settled without a lawsuit. Wooten said that Strateline Industries had

suggested a timely resolution to settling its debt with RWU. Beyond those issues, he saw no need for additional legal services, beyond the monthly retainer.

Greene asked if the hourly rate charged for legal services might change (increase) over the next year. Wooten said, "No." Surly asked about the possibility of collecting attorney's fees from those the Commission sued and defeated. Wooten said that "it depends" on the type of lawsuit, how big the winner is, etc. Cable said that he thought keeping WSH on retainer would help with continuity, since lawsuits seem to drag on.

Finally, there was a motion by Cable, second by Huffman-Gilreath, to retain WSH for another year. All in favor, motion carried.

Greene brought up the matter of Ms. Davi Cook, 16590 Willow in Beaver Shores. Cook had suffered a tremendous (almost 750,000 gallons) leak last month. The resulting water bill was almost \$2400, while her usual bill was less than \$30 (no sewer or sanitation charges). Cook had written letters of protest to the Commission and the Arkansas Attorney General's office. Greene asked, "What was the policy on leaks such as Ms. Cook's?"

McAlister said that if the customer was charged sewer fees, the bill was reduced to an average sewer bill. This reduction was handled by the Customer Service Rep taking the call. If the customer desired a "break" on the water bill, those customers were referred to McAlister. Since Rogers Water Utilities paid Beaver Water District for the water, and margins on water sales were very thin, giving the customer a break on the water bill was problematic, he said. McAlister said that he had offered Ms. Cook a \$600 reduction if she paid the balance in full before the due date (Editors note: Ms. Cook was unable to pay cash, so she entered into an agreement on October 8 to pay the total amount over time). McAlister reckoned that reduction would still pay for the cost of the water sold, minus any profit.

There was a lengthy conversation about the need for a written policy to take care of those customers who suffered "catastrophic " leaks. Wooten opined that the Commission should go to the Council to approve any such policy, as it might be construed as change in the water rates. McAlister said that a policy, if adopted, should be flexible, since, in his experience, "one size does not fit all". Huffman-Gilreath said that the Commission should set a written policy. Greene said that he was concerned that customers be treated fairly and the same, to ward off charges of favoritism or discrimination. McAlister offered to investigate what the other cities might be doing and report.

There was a motion by Huffman-Gilreath, second by Cable, to temporarily keep Ms. Cook's water on provided she paid her regular monthly bill, until such time as the Commission could agree on a policy regarding leaks. All in favor, motion carried.

The meeting adjourned at 5:07 PM.

Respectfully submitted,

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

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