

# **Rogers Waterworks and Sewer Commission**

**October 19, 2009**

## **Minutes**

The Rogers Waterworks and Sewer Commission held its regularly scheduled monthly meeting at 4:00 PM, Monday, October 19, 2009, in the Rogers City Hall. Commissioners present were Travis Greene, Guy Cable, Jene` Huffman-Gilreath, and Lon Pepple. Don Kendall was absent. Others in attendance were Roger Water Utilities (RWU) staff Tom McAlister, Joyce Johnson, Mark Johnson, William Evans, Johnny Lunsford, Tim Jacobs, and Mark McDonald. Others present were Alan Wooten, Robert Frazier, and Derrel Smith. Chairman Greene called the meeting to order at 4:03 PM.

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

Greene recognized Mark Johnson, Utilities Engineer. Johnson recognized Mark McDonald, RWU Engineer Technician, for five years of dedicated service to RWU and the citizens of Rogers.

Greene recognized William Evans, Supt. Of Water Field Operations. Evans recognized Tim Jacobs, Water System Analyst, for 20 years of dedicated service to RWU.

Greene recognized Mark Johnson again. Johnson presented the Commission with a spreadsheet that detailed the status of the construction projects in which the Commission had a monetary interest. Johnson said that there was a 24-inch water transmission main exposed in a drainage wash between Olive St. and Rozell. St. He said that water main would need to be moved, or the drainage improved, to protect the pipe. He said the fix would probably cost about \$200,000.

Continuing, Johnson said that the RWU Administration Building expansion project was proceeding slowly, however, the existing building suffered a severe flood event a week ago last Friday. He said that there had been other floods of a minor nature. The architect and the contractor could not determine the cause, he said, and the old building would need to be completely remodeled. He said that, if the architect or the contractor could not fix the leak permanently, RWU would take the matter in its own hands.

Continuing, Johnson said that the contractor had started to complete the repair of the damage to the paving of New Hope Road, and should be finished in a few days.

Johnson said that the new elevated water tank at S. 24 St. was in service. The contractor had taken the existing tank out of service for inspection, since the same contractor cleaned and painted the tank a year ago. This was standard procedure, he said, to inspect tanks within the one-year warranty period.

Johnson said that the sewer replacement project on E. Spruce St. and N. “B” and “C” Streets was about 40 percent complete. In regard to the Fir St. overpass water main extension, Johnson said he was still in negotiations with the Arkansas Highway Department for a possible route under Interstate Highway 540.

Greene recognized Joyce Johnson, Utilities Controller. Johnson presented the Commission with copies of the financial sheets for September 2009. She said that revenues exceeded expenses; however, revenues were down from the same period a year ago, which was not a good year for RWU either. She said that the collection of impact fees also made the statements look better, since RWU had budgeted \$0 impact fees for FY '10.

Greene recognized Robert Moore, Operations and Maintenance Supervisor at the Rogers Pollution Control Facility (RPCF). Moore explained that RPCF had taken bids for sludge removal services in order to save money on the current practice of paying to haul the sludge to a landfill near Lamar, Missouri. He said the low bid was from Clear Creek Environmental of Russellville, Arkansas, for \$34/ton. There were a few questions from the Commission: How well do we know this company? Is this method of disposal permissible? Robert said that the company was unknown to him, but appeared to be legit, with several similar contracts in other states. He said that Clear Creek would take the solids to Kansas for disposal on cropland. There was a motion by Pepple, second by Cable, to approve the bid from Clear Creek Environmental. All in favor, motion carried.

Greene recognized Alan Wooten, managing principal at Warner, Smith, and Harris (WSH), attorneys for the Commission for the past two years. Wooten explained that the Commission kept his firm on retainer for \$18,000 per year, in return for which the staff at RWU received legal advice. Wooten said that some months the legal services exceeded the time budgeted for the retainer, sometimes the time required was less. Wooten said that that his firm did receive other benefits, such as representing the Commission in the illegal exaction lawsuit, for which his company charged its regular hourly rates.

Tom McAlister, Utilities Manager, said that the service provided by WSH was very good, and he appreciated their expertise on matters such as employment law. He said that he did not think it was a good idea to change lawyers during a lawsuit with the potential for such a huge impact on RWU finances. There was a motion by Greene, second by Huffman-Gilreath, to retain WSH for another year. All in favor, motion carried.

McAlister said that the mayors of the four large cities of Northwest Arkansas has recently traveled to Washington, D. C., to talk to officials at the USEPA regarding looming phosphorus discharge limits in the Illinois River basin. According to one newspaper, the acting administrator of Region VI USEPA said that the discharge permits of the cities would be stayed administratively until all the studies were complete. McAlister reminded the Commission that the two-year stream assessment performed by the University and paid for by Rogers and Springdale, was due to be completed next month. He said that USEPA had commissioned another study, specifically related to the sources and fates of

the nutrient phosphorus in the Illinois River watershed. This study was to take two years to complete. McAlister said that Rogers and Springdale were negotiating with Wrightwater Engineers of Denver, Colorado, to aid the State of Arkansas (ADEQ) as it provides input into the models and assumptions used by EPA's researcher. He said he hoped to have a contract for the Commission to consider at the next Commission meeting.

McAlister said that financial data for Metro Park South and the Northwest Group, two of the three Commission's partners on the Stoney Brooke/Horsebarn Road Water and Sewer Improvements, was slow to be released. He said that Collins Haynes, principal partner in Metro Park South, supplied unaudited financial sheets that indicated no sales for Metro Park South, and a superior lien from a bank. McAlister said that Collins said that RWU could have the proceeds from any property sales, after the bank was paid.

Northwest Group, the developers of the Holiday Inn and Staybridge Inn, was being represented by its lawyer, Howard Slinkard, and no financials had been received to date. McAlister said that Northwest Group had made an offer (\$5000/month), and RWU had countered (\$20,000/month plus five percent interest). Slinkard told Robert Frazier that Northwest could not afford that much, but might afford \$6000 to \$7000 per month. That was when we asked for financial statements, he said.

What are our options? Someone asked. McAlister said that we could enter into another contract, binding us further to the two groups, or we could sue, probably get an award from the court, but still be no closer to getting the money owed the Commission.

Is there a precedent for this? Huffman-Gilreath asked. McAlister said that the Commission has partnered with the private sector for the expansion of water and facilities on many occasions. He said that usually RWU collected all money owed before the water was turned on. This practice was not followed this time, however. Pepple opined that this turn of events was completely unexpected. Greene suggested that the staff try dealing directly with Northwest Group to save time and the attorney's money. McAlister said that he would call Narri Krushiker soon.

The meeting adjourned at 4:55 PM.

Respectfully submitted,

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

RWWSC minutes, 10-19-09