

November 21, 2011

Rogers Waterworks and Sewer Commission

Minutes

The Rogers Waterworks and Sewer Commission held its regularly scheduled monthly meeting at 4:00 PM, Monday, November 21, 2011, in the Rogers Water Utilities Administration Building. Commissioners present were Travis Greene, Jene` Huffman-Gilreath, Guy Cable, and Roger Surly. Don Kendall was absent. Rogers Water Utilities staff in attendance were Tom McAlister, Joyce Johnson, Mark Johnson, William Evans, Johnny Lunsford, Robert Moore, Earl Rausch, and Stephen Ponder. Others in the audience were Deputy City Attorney Jim Clark, Senior City Planner Derrel Smith, Virginia Rivers, and Don Carter. Chairman Greene called the meeting to order at 4:00 PM.

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

Greene recognized Joyce Johnson, Utilities Controller. Johnson presented the Commission with financial reports for October 2011. She said that the Water Department year to date revenue was ahead of budget projections, but said that the reduction in demand due to cool, wet weather would likely mean several months of deficits. Hopefully, the Water Department would end the fiscal year in the "black", she said.

Greene asked Johnson about the impact and access fees? She said that, for the year, the Water Department was running about \$30,000 behind budget. She guessed that, proportionately, the Sewer Department was running about the same.

Greene recognized Mark Johnson, Utilities Engineer. Johnson presented the Commission with a spreadsheet depicting the status of the several projects in which the Commission had a pecuniary interest. He also presented a spreadsheet detailing the projects the City of Rogers planned to fund from the 2011 city bond issue. Johnson said that some of the projects were scheduled within the next two years. Some of the projects would require the Commission to expend significant monies (about \$7 million). He noted that the two large projects already underway, the sports park and the aquatic park, would not require the Commission to relocate any facilities.

Continuing, Johnson presented the Commission with a bid tabulation for the replacement of two water main segments. Johnson said that these were problematic pipelines that failed on a semi-regular basis due to pipe age, pipe material and excessive pressure. One pipe segment was laid in

an easement cross country from Lake Atalanta to Electric Street; the other pipe segment ran along Highway 94 East toward the Horseshoe Bend Park. The low bid was from S & J Construction Co., Inc., for \$471,325.16. He said the engineer's estimate was \$550,000.

Huffman-Gilreath asked how many feet of water main were going to be replaced. Johnson replied that a little over a mile in total would be replaced.

There was a motion by Greene, second by Huffman-Gilreath, to approve the low bid from S & J Construction. All in favor, motion carried.

Greene asked about the contract to remodel the old utilities administration building. Johnson said that the contractor, Danny Robison & Sons, went out of business; however, the project was 99.9% complete. The contractor's bonding agent was in charge of satisfying the subcontractors, he said.

Greene recognized Tom McAlister, Utilities Manager. McAlister spoke to the issue of the repair of the back yard easement on the Virginia Rivers property at 1415 W. Sycamore Street. At the behest of the Commission, he had attempted to determine cost alternatives to the restoration of the visual barrier partially destroyed by the excavation and sewer main repair and resulting destruction of a stand of bamboo in Ms. Rivers yard. McAlister said that the excavation had been repaired with top soil, and annual rye grass was holding the topsoil in place. He said that the chain link fence between Rivers' yard and her neighbor had yet to be completely fixed and the crews would need to bring more top soil to fill in the depression caused by settling in the excavation area. He said that laying sod to repair the damaged area was not a good option until the spring.

Continuing, McAlister said that a privacy fence to form a visual barrier where the bamboo was removed would cost about \$1000, and could not be installed until spring without further damage to the excavation site. He said that he received a cost estimate of \$1970 to plant mature river cane in the easement. This option would also need to wait until spring to be viable, he said.

Greene asked Jim Clark what the Commission's legal responsibility was. Clark said that the Commission was not liable to replace the bamboo or the fence, that these constituted a "trespass" on the utility easement. He said that the Utilities was required to repair the surface of the ground, and that, if the Commission decided to do any more, it would be out of kindness, not a legal necessity. Clark said that the Utilities often went beyond legal requirements especially when customers suffered a sewer "backup". He said it was not uncommon for the Utilities to spend thousands of dollars on restoration.

Virginia Rivers, 1415 W. Sycamore, questioned the supposed trespass of her bamboo “privacy fence”, especially since the Utilities crews had gone up into her yard “up to the patio” to fix the sewer main. All she wanted was someone to fix the big hole in her bamboo privacy fence. Don Carter, Rivers’ friend, questioned how Rivers could be charged with trespass, since thousands of homeowners fenced in utility easements all over town. Clark said that “it was not a serious crime” and seldom came up unless utility companies’ access was seriously impeded.

Cable said that the Commission had given Rivers an indication at the last meeting that it might help Mrs. Rivers. He recommended that the Commission give Rivers a dollar amount so she could repair the bamboo privacy fence in a way that suited her, and relieved the Commission from any further requirements.

Huffman- Gilreath said that she was not in favor of spending money to put an visual barrier on the easement. Surly said that he thought the Utilities should fix the fence, fill the settlement, and plant “pampas grass” off the easement as a visual barrier.

McAlister said that planting off the easement would not provide a visual barrier for several years, and there was a problem transitioning to the existing bamboo cutting the yard in two. Mark Johnson opined that, if it was his yard, he would transplant bamboo into the gap, knowing that the bamboo might be in jeopardy come the next utility repair. Rivers called his remarks “asinine”, since she was not in a position to pay for the labor required.

There was a motion by Cable, second by Greene, to pay Virginia Rivers \$1000 so she could repair her privacy fence to suit herself. Cable and Greene voted “aye”. Surly and Huffman- Gilreath voted “nay”. Motion failed.

Rivers asked for clarification. Greene said that he was sorry; the Commission had decided not to act in her favor. Rivers expressed her dissatisfaction with the vote, and left the meeting immediately after repeating her accusations that she was lied to by RWU employees and left hanging for more than a month by the Commission.

The meeting adjourned at 4:45 PM.

Respectfully submitted,



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

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