

LITTLE ROCK SANITARY SEWER COMMITTEE
Minutes of the Meeting Held
December 17, 2008

The Little Rock Sanitary Sewer Committee met at 4:00 p.m., Wednesday, December 17, 2008, in the conference room of Little Rock Wastewater. Those attending included:

Little Rock Sanitary Sewer Committee

James R. Pender, Chair
Dale J. Wintroath, Vice Chair
Cynthia C. Miller, Member
Ken Griffey, Member

Little Rock Wastewater

Reggie A. Corbitt, P.E., CEO
James A. Barham, Manager of Finance
Stanley Miller, Manager of Operations
Mack M. Vought, Manager of Maintenance & Construction
Howell Anderson, P.E., Director of Engineering Services

Others attending included Vince Hotho of Garver Engineers, Craig Johnson and Joe Dollerschell of CDM, Lamor Williams of the *Arkansas Democrat-Gazette*, Mickey Reese of Arkansas Cleaning & Televising, and support staff from Administration and Community Relations, Environmental Assessment Division, Engineering Services, and Information Services. Brad Cazort, Ex Officio Member, did not attend.

The meeting was called to order by Mr. Pender, and on motion duly made and seconded, the Minutes of the November 19, 2008, meeting were approved as written. Mr. Pender asked for public comments and there were none. He then announced that Sewer Committee Secretary Andrew L. Harper, Jr., had resigned from the Little Rock Sanitary Sewer Committee effective November 1, 2008, and the Sewer Committee discussed the election of officers to serve during the calendar year 2009. On motion duly made and seconded, the following slate of officers was approved:

James R. Pender, Chair
Dale J. Wintroath, Vice Chair
Cynthia C. Miller, Secretary

Howell Anderson presented the results of a bid opening held December 10, 2008, for the 2009 pipe burst annual maintenance contract. Mr. Anderson stated that the annual maintenance contract for pipe bursting is system wide, line segments are evaluated through engineering studies and provided to the contractor on a quarterly basis. He stated that the previous contract was executed in 2004 with renewals through 2008 based on unit price for one year, renegotiated annually up to four years. He stated that LRW staff recommends acceptance of the lowest bid submitted by Arkansas Cleaning and Televising in the amount of \$598,173.00, and further recommended that Mr. Corbitt be authorized to enter into a contract for the unit prices established in the bid proposal. After discussion, and on motion by Mr. Wintroath, seconded by Ms. Miller, the Sewer Committee voted unanimously to award the contract to Arkansas Cleaning and Televising and authorized Mr. Corbitt to execute the contract documents.

Mr. Anderson also presented the results of the bid opening held December 10, 2008, for the 2009 Cured in Place Pipe (CIPP) annual maintenance contract and recommended approval of the low bid submitted by SAK Construction in the amount of \$510,208.04 and authorization for Mr. Corbitt to execute a contract for the unit prices established by the bid proposal. He explained that the annual maintenance contract for CIPP is also system wide, evaluated through the engineering studies procedure, and provided to the contractor on a quarterly basis. After discussion, and on motion by Ms. Miller, seconded by Mr. Wintroath, the Sewer Committee unanimously approved awarding the contract to SAK Construction and authorizing Mr. Corbitt to execute the contract documents.

Mr. Anderson also presented a request for Sewer Committee action to approve Change Order No. 1 for the Fourche Creek Redundant Force Main. He stated that the LRW Maintenance Department received a call reporting a collapse of the 42 inch force main located north of the College Station Pump Station. He said this failure occurred in the same general vicinity as a similar failure in 1993. LRW crews immediately responded, exposed the damaged area, and secured the site in order to maintain operations. Mr. Anderson said that the extent of deterioration cannot be determined until the pipe can be dewatered and televised. Engineering staff has since evaluated several possible repair options and, given the information now available, the best solution has been determined to be installation of the proposed new 30" force main and relay the existing 42" force main for a distance of 1564 linear feet. The 30" line can provide a means to bypass the flow while relaying the replacement 42" line. LRW received bids in November for the first phase of the redundant 30" force main, with contract awarded to Diamond Construction. Since there is now an emergency situation with the exposed area, Mr. Anderson explained that the Contract Change Order will allow Diamond to proceed with the work immediately and use the recent competitively bid unit pricing to perform the majority of the work. Unit price items which were not previously established will be negotiated. Mr. Anderson stated that the total change order amount is estimated to be \$671,851.78. Mr. Anderson asked that the Sewer Committee authorize Mr. Corbitt to execute a construction Contract Change Order allowing Diamond Construction to begin immediate replacement. After discussion, and on motion by Ms.

Miller, seconded by Mr. Wintroath, the Sewer Committee unanimously authorized Mr. Corbitt to execute the construction contract change order with Diamond Construction.

After discussion and on separate motions duly made and seconded, the following resolutions were unanimously approved:

A Resolution Approving and Recommending Financing for the Acquisition, Construction and Equipping of Betterments and Improvements to the Arch Street Pump Station in Order to Improve Handling of Wet Weather Flows and the Quality of Sanitary Sewer Service Through the State of Arkansas Clean Water Revolving Loan Fund Program Administered by the Arkansas Natural Resources Commission.

A Resolution Authorizing Staff to File an Eminent Domain Proceeding to Condemn Certain Land Owned by Hobbs & Curry Family Limited Partnership, LLLP, for a Sanitary Sewer Easement to Install a Sewer Line Necessary for the Operation of the Sanitary Sewer Collection System Because the Little Rock Sanitary Sewer Committee is Unable to Purchase the Easement by Voluntary Sale, and Acquisition of the Easement is Essential for the Construction and Effective Operation of the Sanitary Sewer Collection System.

A Resolution to Authorize Little Rock Wastewater to Join a Municipal Other Post Employment Benefits Trust or Agreement, Including, But Not Limited to, Such a Trust Administered by the Arkansas Municipal League for the Purpose of Complying with the Requirements of GASB45; and for Other Purposes.

A Resolution to Dispense with the Requirement of Competitive Bidding and Authorize Little Rock Wastewater, by its Chief Executive Officer and Manager of Finance to Enter into an Investment Management Agreement Relating to the Establishing of a Municipal Post Employment Benefits Trust or Agreement, Including, but Not Limited to, an Investment Management Agreement with Stephens Capital Management for Management of Little Rock Wastewater's Assets in the Municipal Other Post Employment Trust; and for Other Purposes.

A Resolution Authorizing Revisions to Parts of the Little Rock Wastewater Retirement Plan § 401(a) with ICMA Retirement Corporation Relating to Eligibility, Employer and Employee Contributions, and Vesting Schedule.
A Resolution Authorizing Revisions to Parts of the Little Rock Wastewater Retirement Plan § 491 (a) with Security Financial Resources, Inc., Relating to Eligibility, Employer and Employee Contributions, and Vesting Schedule.

A Resolution Authorizing Regions Bank as Depository for Little Rock Wastewater and Appointing Signatories, and for Other Purposes.

On motion duly made and seconded, the Sewer Committee approved the following Purchase Authorization Requests:

<u>Item</u>	<u>Vendor</u>	<u>Amount</u>
Plasma Optical Emission Spectrometer	Varian, Inc.	\$ 93,620
Ductile Iron Pipe	HD Supply	\$151,120

Reggie Corbitt then presented the Budget Subcommittee's report, commenting that all of the Sewer Committee members present had participated on the subcommittee and thanking them for their help in developing the budget. He stated that the budget contains \$23 million in operating expenses, \$41 million in revenue, and \$92 million in capital improvement projects of which \$81 million is already under contract. After discussion, and on motion duly made and seconded, the Sewer Committee unanimously approved the budget for 2009. Mr. Pender stated that he also appreciated the efforts of all concerned.

Mack Vought reported three dry weather overflows during the month of November, bringing the year to date total to 28. He stated that a goal of no more than 28 noncapacity overflows will be established for 2009. He mentioned that planned maintenance system information showed 64.8 hours as preventive maintenance, 232.5 hours as proactive maintenance, and 104 hours as reactive maintenance. He said the No. 2 pump at the College Street Pump Station accounted for the entire 104 hours of reactive maintenance.

Jim Barham, Manager of Finance, presented the financial report for the month of November, 2008. After discussion and upon motion duly made and seconded, the financial reports were approved by the Sewer Committee, including the payment of Operations & Maintenance expenditures in the amount of \$1,926,915. The Consolidated Statement of Cash Receipts and Disbursements reflect receipts of \$3,866,923 and disbursements of \$6,703,537, decreasing funds available for the month by \$2,836,614. Net income for the month is \$140,966 and net income for the year to date is \$3,393,462.

Stan Miller reported there were no NPDES permit violations during the month of November, and the Adams Field return activated sludge pumps into automated control which should reduce the air requirements in the aeration basins and have a positive effect on electrical expense. He stated that staff has begun real time data collection using an electronic device to enter data during operational rounds. The data is then transferred into the computer, eliminating human error and achieving more accurate

results. He also reported a 75% reduction in scheduled overtime, with staff developing a schedule on their own and still having full coverage of the treatment plants.

Howell Anderson reported that construction of the peak flow attenuation basin continues to go well, with only approximately 7 concrete slabs remaining to pour at the time of this report. The trenching and underground portion of the force main is completed. He also reported that work is progressing well on the Little Maumelle project significant progress made on replanting of the buffer zone. The Notice to Proceed should soon be issued on Contract IV for the conveyance system, and the contractor is in the process of mobilizing on Contract III, the pump station.

Mr. Hamilton then gave his report on pending legal matters and stated that the Ranch Properties condemnation suit was pending and that despite the two denials by the court of Defendant Ranch's two motions to dismiss LRW's complaint for condemnation, Defendant Ranch has filed a third motion to reconsider the order of dismissal of Defendant Ranch Properties' motion dated December 2, 2008. The motion to reconsider is still pending. LRW has filed a response and brief in opposition. Mr. Hamilton explained that he had not heard anything further in this litigation, but several weeks ago, Carolyn Witherspoon, with the Cross Law Firm, had discussed the possibility of settlement with Steve Quattlebaum, attorney of record. Mr. Quattlebaum said that Hal Kemp would have to be contacted about that, which he agreed to do. So far there has been nothing further heard from Mr. Quattlebaum on any possibly of settlement. Members of the Sewer Committee questioned why the case could not be settled and Mr. Hamilton stated that the last word he had heard from Hal Kemp was the issue over the indemnity provision, which Mr. Kemp had insisted upon having in the easement and which was unsatisfactory to Little Rock Wastewater staff.

Mr. Hamilton then mentioned the pending litigation of Angela Harrison and Petey King vs. Little Rock Wastewater Utility regarding the sewer backup which occurred in February 2008 at 1 Ridgeview Court. Mr. Hamilton stated that depositions had been taken of Plaintiff Angela Harrison on December 8 and Petey King on December 11. During the taking of the depositions he had obtained a copy of a letter from the Rose Law Firm, Plaintiffs' lawyer, to David Donovan itemizing the damages alleged in the amount of \$1,774,000.00, which Plaintiffs' attorney proposed as a settlement, but which all of the attorneys for the various defendants felt was inflated, and no further discussions had occurred. Mr. Hamilton had contacted the Arkansas Municipal League attorney Mark Hayes in connection with the possibility of the Arkansas Municipal League taking over the defense of the Harrison/King litigation since the claim was covered under the Legal Defense Program in which Little Rock Wastewater is a member. He felt this would be appropriate at this time. He had sent the bills for outside counsel to the Arkansas Municipal League and they responded that such charges would not be reimbursed, but that the Municipal League would offer to assume the defense under the Program. Mr. Hamilton stated that he had felt that the Doctrine of Sovereign Immunity barred the litigation against Little Rock Wastewater but that the Court had denied the motion to dismiss, despite the extensive briefs filed in the case. In view of

that fact, further litigation was going to be time consuming and expensive and that since Little Rock Wastewater was a member of the Legal Defense Program that this would be appropriate now for the League to take over the defense, particularly because the case will probably be appealed regardless of the outcome. After further discussion by members of the Sewer Committee, a motion was made, seconded, and unanimously adopted that Little Rock Wastewater staff was authorized to turn over the defense of this claim to the Arkansas Municipal League under the Legal Defense Program, which would involve a \$3,000.00 payment to the Municipal League for assumption of the defense under the program.

Mrs. Miller then asked about the Diamond Bear Brewery unpaid account and Mr. Hamilton stated that there had been no resolution but that Mr. Corbitt might want to address that question since he had had a conversation with Russ Melton. Mr. Corbitt then said that he had been in touch with a brewery in Mississippi regarding a situation pointed out by Mr. Melton but that nothing had been resolved with Mr. Melton and that it appeared that litigation, previously authorized by the Sewer Committee, would be necessary. Mr. Hamilton then mentioned the situation with Mountain Pure Company on its unpaid account, which is similar in nature to the Diamond Bear situation. He stated that attorney Skip Davidson had requested a meeting regarding that unpaid account, which he anticipated would be held very soon, but they had not agreed on a date. Mr. Davidson contends that his client is entitled to a credit on the account rather than being in default.

Mr. Hamilton then stated that concluded his report but that he would be glad to answer any questions and there were none.

Mr. Corbitt thanked the Sewer Committee and staff for their efforts during the year and Mr. Pender, on behalf of the Sewer Committee, thanked everyone at Little Rock Wastewater for the excellent job they have done over the past year.

Mr. Wintroath asked about the Raftelis presentation to the City Board and Mr. Corbitt stated that he hoped to do so in January or February, but it would depend upon when the City Board could schedule the presentation. He also said that staff is still trying to resolve the implementation of the service line repairs in order to find the method most equitable to everyone. He also stated that staff is working to obtain the number of residents who have sewer service available and remain unconnected. Mr. Wintroath asked whether Larry Burk would make the presentation and Mr. Corbitt said Mr. Burk had agreed to do so.

There being no other business, the meeting was adjourned into executive session to consider personnel matters.

The meeting reconvened from executive session, and Mr. Pender stated that the Sewer Committee had reviewed the contracts of Reggie A. Corbitt and Don F. Hamilton and asked for a motion to reflect the action taken. Upon motion duly made and seconded, a

motion was unanimously adopted to give a 4% salary increase to both for the next year, and, Mr. Hamilton's contract, which expires on December 31, 2009, was extended for one year with either party able to terminate the contract at will.

There being no other business, and on motion duly made and seconded, the meeting was adjourned.

Respectfully submitted,

Cynthia C. Miller, Secretary