

LITTLE ROCK SANITARY SEWER COMMITTEE
Minutes of the Meeting Held
May 20, 2009

The Little Rock Sanitary Sewer Committee met at 4:00 p.m., Wednesday, May 20, 2009, 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, Secretary
Ken Griffey, Member
Marilyn K. Perryman, Member

Little Rock Wastewater

Reggie A. Corbitt, P.E., CEO
James A. Barham, Manager of Finance
Howell Anderson, P.E., Manager of Engineering Services
Mack M. Vought, Manager of Maintenance & Construction
Don F. Hamilton, General Counsel

Others attending included Vince Hotho of Garver Engineers, Craig Johnson and Joe Dollerschell of CDM, Sara Stephens of Richard Stephens & Associates, and support staff from Administration and Community Relations, Engineering Services, Environmental Assessment Division, and Information Services. Stanley Miller, Manager of Operations and Ex Officio Member Mark Stodola did not attend.

The meeting was called to order by Mr. Pender and upon motion duly made and seconded, the Minutes of the April 15, 2009, meeting were approved as written. Mr. Pender then asked for public comment and there was none.

Reggie Corbitt explained the Pulaski Geographic Information System (PAgis) Interlocal Agreement previously entered into by the City of Little Rock, the City of North Little Rock, Pulaski County, Central Arkansas Water, Little Rock Wastewater, North Little Rock Wastewater Utility. He stated that the proposed amendment and restatement is for the purpose of amending the agreement to include Jacksonville, Arkansas. After discussion and on motion duly made and seconded, the Sewer Committee voted unanimously to approve and execute the new interlocal agreement.

Howell Anderson then explained eight resolutions to file eminent domain proceedings in order to condemn land for sanitary sewer easements needed for the Fourche Creek Force Main Improvements project. He said this project is also referred to as the Redundant Force Main and is for the construction of a 30 inch diameter pipeline from the Arch Street Pump Station to the Fourche Creek Wastewater Treatment Plant. The new main will convey flow in conjunction with the existing 42 inch diameter force main during peak flow events and will also convey diverted flow to allow for a more extensive level of inspection and maintenance of the existing force main, which has, until now, been very difficult to inspect and maintain.

Mr. Anderson said that bids were received and opened on May 12, 2009, for the second contract of the project, which covers approximately five of the 8 mile pipeline, and the results will be submitted to the Sewer Committee at the June meeting. He further stated that staff will continue negotiating with the property owners to obtain the requested easements; however; in order to take advantage of the current lower construction costs, including pipe which is at a 15 year low, he would like to have the condemnations approved in the event the negotiations are not successful. Mr. Anderson stated that, shortly before the meeting convened, he received notice that the property owner had accepted the easement acquisition for the resolution presented as Agenda Item 4-h, land owned by Williams ADC-GCA Building, LLC, and he hoped the other easements would likewise be obtained. After discussion, and on motions duly made and seconded, the following resolutions were unanimously adopted:

A Resolution Authorizing Staff to File an Eminent Domain Proceeding to Condemn Certain Land Owned by Ike Carter Jr., 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 Authorizing Staff to File an Eminent Domain Proceeding to Condemn Certain Land Owned by PPP Group A, LLC, 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 Authorizing Staff to File an Eminent Domain Proceeding to Condemn Certain Land Owned by PPP Group A, LLC, 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 Authorizing Staff to File an Eminent Domain Proceeding to Condemn Certain Land Owned by Minnesota Mining and Manufacturing Company, 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 Authorizing Staff to File an Eminent Domain Proceeding to Condemn Certain Land Owned by John A. Ryles and Stephen E. Whitwell, 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 Authorizing Staff to File an Eminent Domain Proceeding to Condemn Certain Land Owned by Little Rock – Pulaski Drainage District No. 2, 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 Authorizing Staff to File an Eminent Domain Proceeding to Condemn Certain Land Owned by Little Rock – Pulaski Drainage District No. 2, 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 Authorizing Staff to File an Eminent Domain Proceeding to Condemn Certain Land Owned by Little Rock – Pulaski Drainage District No. 2, 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

Mack Vought reported two dry weather overflows during the month of April and 12 for the year to date. He also reported that the Plant Maintenance System showed 22.4% as preventive maintenance, 72.1% as proactive maintenance, and 5.4% as reactive maintenance. He pointed out that the preventive and proactive maintenance totaled 95.5% which is a very high level of performance and commended the efforts of all concerned.

Jim Barham mentioned that Accounting O& M Supervisor, B. J. Harrison, would be deployed to Kuwait for six months in November with his Air Force reserve unit. Mr. Barham also stated that Finance is continuing to track employee benefits and they are the lowest in five years.

Mr. Barham presented the financial report for the month of April, 2009. After review, 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 \$1,945,410. The Consolidated Statement of Cash Receipts and Disbursements reflect receipts of \$4,581,346, and disbursements of \$10,462,847, decreasing funds available for the month by \$5,881,501. Net income for the month is \$72,349 and net income year to date is (\$373,144).

In the absence of Stan Miller, Reggie Corbitt reported that both treatment facilities met permit for the month of April. He said that, due to the heavy rainfall events, he expects high flow numbers in the May report. Mr. Corbitt also reported that the Fourche Creek plant hosted a two hour tour for twelve individuals who are in the process of obtaining their electrician-journeymen license. Their instructor said that he wanted to demonstrate the intricate nature and inter-relation needed to run a wastewater plant, the Fourche plant in particular, with all of the machinery and controls necessary to achieve wastewater treatment, plus the signal communication, SCADA, computers, fiber optics, tank level sensors, switches and the methane co-generation process, requiring the knowledge and skills of many individuals, including electricians.

Howell Anderson reported that the peak flow facility is still on track to be on line in June. The Notice to Proceed from the Arkansas Natural Resources Commission, on the Arch Street Pump Station upgrade, is expected in May. Work continues on the Little Maumelle site improvements and pump station. The crew for the conveyance system has been mobilized. The disinfection contract was separated from the remainder of the Fourche Creek upgrade contract in order to meet the residual chlorine permit requirements. Since this contract deals with hazardous chemicals, CDM found that bidders must be pre-qualified. The bid qualifications will be advertised and prospective bidders notified allowing sufficient time for anyone who does not meet the qualifications to present their case to the Sewer Committee and avoid delays in the bidding process. The two contracts combined will total approximately \$18 million, which is less than originally estimated. He mentioned that the relocation of the sewer line at 1821 Beechwood is complete and stated that the project took the LRW Maintenance crew approximately three days and Mr. Fleetwood appears to be satisfied. Ms. Miller commented that staff handled this matter beautifully.

Mr. Wintroath stated that he had noticed utility personnel and equipment on County Farm Road and asked what LRW is planning. Mr. Anderson said that the 36-inch diameter effluent line will go down the middle of the westbound lane of County Farm Road.

Mr. Pender asked whether discussion of the complaints of East Pinnacle Road residents was on the agenda and Mr. Corbitt answered that it was not on the agenda and none of the residents were in attendance. Mr. Wintroath asked whether there was an estimate of the cost of the fence that is being erected to satisfy their complaints and Mr. Corbitt stated that the fence would cost approximately \$6,000. Mr. Wintroath asked what their specific complaint was and Mr. Corbitt said that they had stated that they could see trucks in the winter when the trees were bare. Mr. Wintroath said that he thought their issue had to do with trucks backing and turning around and Mr. Corbitt said that was another matter and explained that, when a project is bid, the more constraints placed on the contractor, the more liability you assume and the more costly the project. He said there are provisions in the contract pertaining to the hours the contractor can work, but for the most part we did not attempt to tell the builder that they could or could not do specific things. He said that LRW did agree not to use East Pinnacle Road during construction of the treatment facility, but the current complaint deals with the equipment being used to build the access road using East Pinnacle. He said there are about six trucks that were backing and speed was not an issue when backing this type of vehicle, but the builder agreed to construct a turn around so that the trucks would not have to back down East Pinnacle.

Mr. Corbitt said a traffic count was performed on East Pinnacle Road about six years ago and there were approximately 800 vehicles a day traveling that road. He said that Tony Boyzinski, the Planning Director, told him that, based on the number of houses in that area, they would have assigned 1,100 vehicles a day in evaluating the impact on Highway 300. He said that Pulaski County has a device that can be placed on the side of a truck that identifies the speed of passing vehicles and less than 1% of the vehicles on that road were observing the speed limit. He said that Ms. Dornhoffer had told him she saw a Utility vehicle on that road recently and that was a problem. He said that he had driven on the road himself and asked if she thought one truck was a problem and she said that it was.

Mr. Wintroath commented that two or three residents were expressing these complaints and the Utility was spending \$6,000 of tax payer money to satisfy their concerns. He asked if the City was okay with this and Mr. Corbitt said that, according to Bruce Moore, they were. He further commented that in order to satisfy the same residents approximately \$1.1 million was added to the cost of the project for brick work when everyone else was satisfied with the usual concrete block construction. Mr. Pender commented that was in addition to about \$5 million for tertiary treatment when the effluent from the existing treatment facilities is already much cleaner than the river water. Mr. Pender said that the estimated cost of plant construction was originally \$18 million, we are now at approximately \$50 million, and much of this was due to the complaints of a few area residents. Mr. Corbitt stated that, after Mr. Moore left the

meeting, he was told by Ms. Dornhoffer that the real reason she was mad at him is that he wouldn't allow her to be on the Advisory Board. He said that it was not his decision and that the Advisory Board voted not to allow her to join when she made this request several months into the process.

Mr. Hamilton referred the Sewer Committee to his Legal Matters report sent to them previously last week, and stated that the first item was the status of the Ranch Properties condemnation suit pending before the Circuit Court before Judge Fox, who on March 30, 2009, heard the Defendant's motion for a temporary restraining order. At the conclusion of that hearing, Judge Fox announced a bench ruling denying a restraining order in part by allowing access at one point and granting in part a restraining order by denying access at another point. Attorneys for Little Rock Wastewater and Defendant have each respectively submitted proposed orders on the hearing which differed and those are before Judge Fox for his decision. Additionally, LRW filed an amended petition for condemnation after the hearing on March 30, as instructed by Judge Fox, to describe the access point at Ranch Boulevard with a metes and bounds description. Accordingly, Defendant Ranch Properties, Inc. filed a third motion to dismiss for the same reasons as the other two prior motions previously denied, again claiming that there was no legal authority for the condemnation case and LRW had not complied with the law in filing it. Thus, the case is ready for decision, and, hopefully, Judge Fox will enter an order to make a ruling soon on both the Plaintiff's motion for a temporary restraining order and the Defendant's motion to dismiss.

As to the Angela Harrison/Petey King litigation pending in Circuit Court, also before Judge Fox, the attorney for defendants T. Raney and Building & Utility Contractors has requested to take the depositions of Oren Noble and Tim Bratton of LRW and those depositions have been scheduled for May 27. Additional depositions are also scheduled of Andrew Rossi and a representative from ServiceMaster.

As to Mountain Pure Water Company, Mr. Hamilton reported that in accordance with the Sewer Committee resolution adopted in March authorizing a Show Cause Order and hearing, Mr. Corbitt had conducted the hearing on May 13, and it lasted approximately three and a half hours with six witnesses testifying on behalf of LRW and two witnesses testifying on behalf of Mountain Pure. The record was left open for 30 days for Mountain Pure's attorney to add additional items of evidence, as requested by Mountain Pure, consisting of two affidavits from witnesses who could not attend the hearing, subject to deposition for cross-examination if necessary, and also for Mountain Pure to search its records to see if it had any documentation regarding its complaints for credit prior to August 2008. After the record is closed, the matter will be appropriate for decision from Mr. Corbitt, as the hearing officer. The matter could come before the Sewer Committee if Mountain Pure makes such a request. However, the ordinance provides the right of appeal to the Circuit Court, and the question remains whether or not the appeal would be on the record made at the hearing before Mr. Corbitt, or a hearing or trial before the Circuit Court, which Mr. Hamilton intends to research.

Finally, Mr. Hamilton reported that the settlement documentation for the Holiday Inn easement needed for the Fourche Creek conveyance improvements force main has been agreed on and has been circulated to sign for the purchase of the easement.

Mr. Hamilton then asked for questions, and there were none.

Mr. Corbitt reported that the Raftellis report would be presented to the Sewer Committee on July 15th. He also reported that notice was received from the Arkansas Department of Environmental Quality that the grant on the dump trucks was approved and LRW should receive approximately \$38,000. He said that the vehicles the new dump trucks replace cannot be sold and must be destroyed since they do not meet the approved emission standards. He announced that the ribbon cutting ceremony for the peak flow basin is tentatively set for the morning of July 23rd.

Mr. Corbitt also stated that the City Board recently passed an ordinance saying that BFI Landfill can no longer accept the shale containing sand and diesel oil. He said BFI is in the process of filing a lawsuit against the City and are trying to retaliate in any way they can. He said there was an overflow on Friday some of which reached the BFI holding pond, and he received a call asking what LRW was going to do about this. Mr. Corbitt said the water was tested and met ADEQ requirements so no action was necessary. He said BFI estimates that the ordinance will cost them approximately \$40 million in revenue.

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

Respectfully submitted,

Cynthia C. Miller, Secretary