

LITTLE ROCK SANITARY SEWER COMMITTEE
Minutes of the Meeting Held
July 15, 2009

The Little Rock Sanitary Sewer Committee met at 4:00 p.m., Wednesday, July 15, 2009, in the conference room of Little Rock Wastewater. Those attending included:

Little Rock Sanitary Sewer Committee

James R. Pender, Chair
Ken Griffey, Member
Marilyn K. Perryman, 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
Don F. Hamilton, General Counsel

Others attending included Vincent Hotho of Garver Engineers, Jim Alexander of Morgan Keegan & Co., Inc., Erin Cullum and Shep Russell of Friday Eldredge & Clark, Joe Dollerschell of CDM, Jordan Johnson of Cranford Johnson Robinson Wood, and support staff from Administration and Community Relations, Engineering Services, Environmental Assessment Division, and Information Services. Sewer Committee Vice Chair Dale J. Wintroath, Secretary Cynthia C. Miller, Ex Officio Member Mark Stodola, and Howell Anderson, P.E., Little Rock Wastewater Manager of Engineering Services, did not attend.

The meeting was called to order by Mr. Pender and on motion duly made and seconded, the Minutes of the June 17, 2009, meeting were approved as written. Mr. Pender asked for public comments and there were none.

In the absence of Howell Anderson, Mr. Corbitt presented the results of a bid opening July 8, 2009, for manhole rehabilitation in the Upper Hinson Basin and Jimmerson East Basin, stating that the low bid of \$519,750.00 was submitted by Corgill Construction, Incorporated. Mr. Corbitt explained that this project is located in and around the City of Cammack Village, Rodney Parham/Hinson Road, and the Pulaski Heights

neighborhood and funding for this project is through RLF #8 with the Arkansas National Resources Commission. Mr. Corbitt stated that it is staff's recommendation that the contract be awarded to Corgill Construction and that he be authorized to execute the appropriate contract documents. After discussion and on motion duly made and seconded, the Sewer Committee voted unanimously to award the contract to Corgill Construction and authorized Mr. Corbitt to execute the contract documents.

After discussion, and on motion duly made and seconded, the Sewer Committee approved the following resolutions:

A Resolution Recommending the Implementation of Recommendations in the Opinion and Conclusion of the Rate Advisory Committee for General Rate Increases, New Differential Rates, New Non-Connected Customer Charges, New System Development Fees, as Calculated by Raftelis Financial Consultants, Inc., of Kansas City, Missouri, and New Infiltration/Exfiltration Inspections, Certifications, and Repairs, and Also Recommending the Implementation of the Recommendations of Raftelis Financial Consultants, Inc., as well as Adoption of the Necessary Ordinances, Rules, or Regulations for Accomplishment Thereof, as soon as possible, to Authorize the Little Rock Wastewater Chief Executive Officer and Staff to Take All Necessary Action in Connection Therewith and to Express Appreciation to Members of this Committee for Their Voluntary Service and Participation.

A Resolution Recommending the Offering of up to \$7,000,000 of City of Little Rock, Arkansas Sewer Revenue Bonds, Series 2009B for the Purpose of Providing Additional Funds for the Construction of Betterments and Improvements to the City's Sewer System, Including Particularly, Without Limitation, the Fourche Creek Wastewater Treatment Plant Hydraulic Upgrade Project.

Mr. Alexander, Ms. Cullum and Mr. Russell were then excused from the meeting.

Mack Vought presented a report on a property damage claim submitted by Mark and Cherie Hoffman of 5312 C Street, who claim that work performed by LRW during May and June of 2007, which was replacement of 299 feet of clay main, which was installed in 1912, with ductile iron pipe because the main could no longer be sufficiently maintained and repaired. Mr. Corbitt said that the homeowners contend that Little Rock Wastewater changed the drainage pattern in the alley near this addition which is used as a recreation room. Mr. Corbitt said that a drainage ditch next to the building is completely clogged with leaves and debris, that our records reflect that the drainage pattern was not changed, and a neighbor across the alley who is a surveyor stated that the alley had always been high. Mr. Corbitt stated that a retaining wall located on the homeowners' private property had missing portions and may have allowed drainage water to collect in or near the building in question. Mr. Corbitt stated that the homeowners first contacted LRW and when they were told that nothing was found to

indicate that anything done during the project in the alley would contribute to increased drainage onto their property, they contacted the Mayor's office and he requested that LRW conduct a thorough investigation into this complaint.

Mr. Pender asked whether a copy of the report had been furnished to the Mayor and suggested that it would be a good idea from a public relations viewpoint that this be done. Mr. Pender asked if a letter was sent to the Hoffmans and others who file complaints and Mr. Corbitt said that most of the correspondence with Mr. Hoffman had been through email and Mr. Pender said that a letter might be a good customer relations tool.

Ms. Perryman observed that it appeared that the conditions contributing to the water and mold problems at this location were similar to what she had experienced at her home due to the buildup of mulch over the years and she was having to have the buildup dug out and her property waterproofed and siding replaced, but it was her fault because she did not maintain it correctly.

Mr. Corbitt explained that LRW has no liability because of tort immunity, but that the Sewer Committee adopted a policy several years ago allowing payment of up to \$750 as a public relations gesture if LRW was responsible or contributed to a problem. He said the \$750 was intended to cover most insurance deductibles, but in this case we did not feel that anything that was done by LRW to cause a drainage problem and the amount requested by the Hoffmans is in excess of the \$750 property damage reimbursement policy amount. He said that he would be happy to write a letter to Mayor Stodola advising him that the Sewer Committee would consider the Hoffman's claim at the August 12, 2009, meeting and would provide him a copy of the report.

Mack Vought reported four dry weather overflows during the month of July, bringing the total year to date to 19. He reported 16.3% of plant maintenance time was spent on preventive maintenance, and 58.1% on proactive maintenance, which is slightly below the desired goal of 75%; however, a problem with the No. 2 final clarifier at the Fourche Creek Treatment Plant accounted for all of the 25.7% reactive hours.

Mr. Barham presented the financial report for the month of June, 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 \$1,971,520. The Consolidated Statement of Cash Receipts and Disbursements reflect receipts of \$5,002,907, and disbursements of \$11,291,826, decreasing funds available for the month by \$6,289,755. Net income for the month is \$148,163 and net income year to date is 222,119.

Mr. Barham stated that year to date expenditures were under budget from 2008 by 5.14%, LRW is running under budget by 3% and is approximately 8.5% under budget for the year to date, which is significant. He said this is attributed to the reduction in salaries and benefits, the adjustment and cost savings for supplies, and the reduction in fuel costs. Mr. Pender asked if the reduced cost of some of the projects had also

contributed and Mr. Corbitt replied that they affected capital expense and Mr. Barham commented that the projects done in-house affected operations and maintenance (O&M). Mr. Barham said revenues are also coming in under budget by 2% even with the 4% rate increase in January so the Utility is not recession-proof. He said the largest decrease is in the State, County, and City accounts which are below projections by almost 5%.

Stan Miller reported there were no NPDES violations at the treatment facilities during the month, and the treatment plants are in the process of performing the summer inspections and draw-downs.

Mr. Corbitt presented the engineering report in the absence of Mr. Anderson stating the peak flow attenuation facility is 99% complete and invitations are mailed for the ribbon cutting ceremony on July 23rd. He reported the perimeter fencing has been installed at the Arch Street Pump Station, and there has already been a break –in although nothing was taken from the site. The Little Maumelle project is progressing well but there have been delays caused by the second wettest May on record and more rains are expected which may cause further delays. The contractor on the Little Maumelle Pump Station upgrade has completed 34% of the project in 60% of the time allotted. Mr. Pender asked if there were penalties for failure to complete the project in the time projected, and Mr. Corbitt said there were liquidation damages but they are minimal. Ms. Perryman asked the reason for the delay and Mr. Corbitt asked Joe Dollerschell of CDM to address that issue. Mr. Dollerschell said that it is a very tight site with little room to work and one of the long lead items is equipment for which they had to get all shop drawings approved, this has been done, the contractor is aware that they are behind and the equipment is on order and once it is in place they should be able to make good progress although it may be difficult for them to catch up completely.

Mr. Griffey asked about an appropriate time for the Sewer Committee members to visit the Little Maumelle facility and see the improvements that have already taken place and Mr. Corbitt suggested that they go on a weekend so as not to interfere with the construction. He said that he would coordinate a visit with Mr. Dollerschell and notify the Committee members.

Mr. Corbitt said the other projects are going well and mentioned that in order to take advantage of the funds available two projects from the Fourche upgrade were separated from the remainder of the project and the chlorination/dechlorination project and the clarifier have been started.

Ms. Perryman complimented LRW on the project that was done in the Foreman Lake area and said that the residents were all very happy with the work that was done. Mr. Corbitt said the only complaint they received during this project was from a resident who wanted to know when the poison ivy would be replaced.

Mr. Corbitt also commented that developer funded projects were up to nine year to date in June after remaining at four for several months. Mr. Wintroath observed that that total is still very far below prior years.

Mr. Pender then asked Mr. Hamilton for his report on pending legal matters, and Mr. Hamilton stated there had been no change in the litigation status of the Ranch Properties, Inc. condemnation suit. In view of the Court's ruling on March 30, 2009, LRW had notified the Ranch Property Owners Association that access from the Ranch Lake to the Arkansas River would be interrupted for four months beginning July 1 due to construction activities on the sewer line and the fact that the Court had only granted access at one point through Ranch Boulevard instead of two points including Buckland Circle.

As to the Angela Harrison/Petey King litigation against LRW and others, LRW had answered or objected to the interrogatories and requests on June 29, 2009, and that he anticipated that Plaintiffs' attorney would be reviewing the LRW files and records to get any further details which they wanted. LRW's Motion for Summary Judgment is being prepared and will be filed soon, and, if denied, an appeal would be possible because of the sovereign immunity issue involved.

As to the Mountain Pure Water Show Cause Order Hearing held on May 13, 2009, the matter is ripe for decision by Mr. Corbitt, who acted as hearing officer. Additionally, the Holiday Inn easement needed for the new Fourche conveyance line had been received, payment made, and the easement was filed on July 8, 2009. Mr. Hamilton added that none of the condemnation suits authorized by the Sewer Committee had been necessary on the Fourche Creek Conveyance Improvement since all of the easements were obtained in negotiations over the past few weeks, as well as an underground railroad crossing agreement with Union Pacific Railroad, which is being documented and should be returned, fully executed by the railroad, soon.

Finally, Mr. Hamilton referred the Committee members to the pending lawsuit filed in Circuit Court filed by Mountain Pure, LLC v. Little Rock Wastewater and Central Arkansas Water. In this suit, Mountain Pure filed a complaint against both LRW and CAW on June 26 to stop the threatened water shutoff by CAW due to Mountain Pure failing to pay for water and sewer charges. The complaint contains three counts and states that Mountain Pure was "wrongly charged for water not received, transported, and/or cleaned by LRW," and further alleged that LRW violated provisions of the City of Little Rock Sewer Ordinance No. 19,647 in denying the alleged credit claimed by Mountain Pure, as well as unjust enrichment for overcharges of \$289,576.00, and also Plaintiff requested a Temporary Restraining Order to prevent the shutoff, which was denied by Judge Fox by order dated June 29, 2009. Mr. Hamilton stated that Attorney Allan Gates is assisting him in the Show Cause Order proceeding against Mountain Pure and Mr. Gates will be handling the defense of the Circuit Court action. A motion to dismiss on behalf of LRW is planned to be filed soon, and updates will be made in the future.

Mr. Hamilton asked for any further questions on the reported matters or any other legal issues, and there were no further questions.

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

Respectfully submitted,

Cynthia C. Miller, Secretary