

LITTLE ROCK SANITARY SEWER COMMITTEE
Minutes of the Meeting Held
November 18, 2009

The Little Rock Sanitary Sewer Committee met at 4:00 p.m., Wednesday, November 18, 2009, in the conference room of Little Rock Wastewater. Those attending included:

Little Rock Sanitary Sewer Committee

Cynthia C. Miller, Chair
Ken Griffey, Vice Chair
Marilyn K. Perryman, Secretary

Little Rock Wastewater

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

Others attending included Jim Alexander of Morgan Keegan & Co., Inc., Vince Hotho of Garver Engineers, Edward Loveless of Adkins McNeill Smith & Associates Real Estate, Stuart Mackey of Little Rock Realtors Association and support staff from Administration and Community Relations and Environmental Assessment Division.

The meeting was called to order by Ms. Miller and on motion duly made and seconded, the Minutes of the October 21, 2009, meeting were approved as written. Ms. Miller then called for public Comment, and Mr. Loveless addressed the Sewer Committee stating that the Board of Realtors supports any action regarding the service line policy that is not attached to the sale of a home.

Jim Alexander then addressed the Committee to summarize the bond issues, stating that the first bond issue was obtained 9-10 years ago and the Utility was at that time able to get an interest rate comparable to that of the insured bonds, but it was not necessary to purchase the insurance. Bond insurance then became important and the next two bond issues were insured, making them AAA rated. At that time, the insured agencies, were receiving a savings of approximately 22-25 basis points. However, the

bond insurers were caught up in the economic crisis, and there is now only one insurer remaining, causing an increase of approximately 65 basis points. Mr. Alexander said he showed Mr. Barham a market summary of recent bond issues, their ratings and interest rates without the insurance, and the decision was made to forego the insurance. He said the bond issue is about 30 basis points below what they anticipated the interest rate on the bonds to be, giving them an A-1 rating by Moody's at the rate of 4.58%. Mr. Alexander stated that the bond was selling well and asked for questions. There were no questions, and Mr. Alexander was then excused from the meeting.

Ms. Miller announced that Stuart Mackey had submitted an additional public comment card and Mr. Mackey addressed the Committee, first thanking them for their service and saying he knew from past experience that their job was not always pleasant. He stated that Mr. Loveless had substantially expressed the same thoughts as he on the service line matter. He then said that, as a representative of the Little Rock Board of Realtors, he wanted to reiterate that the realtors appreciate the Sewer Committee and staff taking the necessary time to look at the service line matter and consider its effect on home sales. He said that the Board hopes that the Utility does not adopt a service line inspection tied to transactions and they are glad that the RAC Committee is taking another look at this sensitive issue. Ms. Miller thanked Mr. Mackey for his comments and for his prior years of service on the Sewer Committee. Mr. Vought stated that the options are scheduled to be presented to the Rate Advisory Committee at a meeting to be held in the Clearwater Maintenance training room on December 2nd, and the RAC Committee's recommendations will be presented to the Little Rock Sanitary Sewer Committee on December 16th.

Mr. Corbitt stated that the RAC Committee will be asked to rank the options from their perspective. The options will also be presented to the Sewer Committee who will be asked to rank the options from their perspective. The proposals from the Rate Advisory Committee and the Sewer Committee will then be presented to the City Board. Mr. Corbitt stated that the media will be informed of the December 2nd and December 16th meetings and that the Sewer Committee members might find the RAC Committee meeting informative. He mentioned that Jim Pender had served on the previous RAC Committee but he did not know whether Mr. Pender would attend these meetings. He said that it might be beneficial to have a member of the Sewer Committee serve on the RAC committee and Marilyn Perryman said that she would try to arrange her schedule in order to do this.

Howell Anderson presented the results of a bid opening held November 10, 2009, for Schedule 2 of the Fourche Creek Wastewater Treatment Plant improvements. Mr. Anderson stated that after a comprehensive engineering study to develop a capital improvement plan to increase the hydraulic capacity of the Fourche Plant from 38mgd to 45mgd as required by the Consent Administrative Order from the Arkansas Department of Environmental Quality, the improvements were divided into three construction contracts. He stated that this is the second contract and is for upgrade of the secondary clarifier. Mr. Anderson called attention to the letter from CDM recommending award of the contract to the lowest bidder, Max Foote Construction

Company, for the amount of \$6,297,000.00, and stated that staff concurred with CDM's recommendation. He also asked that the Sewer Committee authorize Mr. Corbitt to execute the contract documents. After discussion and on motion duly made and seconded, the Sewer Committee voted unanimously to award the contract to Max Foote Construction and authorize Mr. Corbitt to execute the necessary documents.

Mack Vought reported four non-capacity overflows during the month of October, with a year to date total of 29. He reported 7.1% preventive maintenance, 89% on pro-active and 4.1% on reactive maintenance. Mr. Vought stated that the service line policy study is nearing completion and would be presented to the Sewer Committee at the December meeting.

Jim Barham then presented the financial report for the month of October, 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 \$2,165,035. Net income for the month is (\$214,450), and net income year to date is \$863,385.

Mr. Barham called attention to a graph depicting the increase in surcharge income since Sage Foods connected to the sewer system, stating that Sage Foods had paid approximately \$70,000 in the two months since they connected to the system. Mr. Barham said that Mr. Corbitt had asked him to look at the impact of Shannon Hills leaving the LRW system and it appeared that the loss was approximately \$130,000 annually. Ms. Perryman asked about offsetting expenses. Mr. Corbitt stated that the only offsetting expense was for the treatment of wastewater from Shannon Hills as they owned and maintained their own system. Mr. Anderson said the greatest benefit to LRW was in no longer having to report overflows from the Shannon Hills system, and Mr. Corbitt mentioned that there would also be no industrial monitoring responsibility for the wastewater coming from Shannon Hills.

Mr. Barham also briefly described the insurance benefits plan for 2010, stating that LRW had elected to participate in the Arkansas Municipal Health Benefit Fund offered by the Municipal League, and mentioned that the Sewer Committee members are eligible to participate.

Stan Miller reported there were no NPDES permit violations for the month of October, and mentioned that the Adams Field Treatment Plant averaged over 100mg of wastewater per day during the recent weeks of heavy rainfall.

Howell Anderson reported that construction of the Little Maumelle Treatment Facility, Contract II is 58% complete, the pump station is 78% complete, the conveyance system is 51% complete, so the Little Maumelle project is well past 50% completion point. Mr. Anderson said the Fourche Creek Redundant Force Main project is 72% complete and Contract II for the installation of pipe from Sloan Drive to the Arch Street Pump Station is 60% complete so that project is likewise proceeding well.

He reported that the design meeting with CDM for Contract III of the Fourche Creek Treatment Plant secondary clarifier is now 60% complete and it appears this project is approximately \$1.5 million over budget. Mr. Anderson said staff will be working with CDM, suppliers, and contractors to see if there are ways to reduce cost without massive cuts or having to separate into additional phases. He said he should have a better idea, by the December meeting, of what can be done on this project. He said this deficit is based on an estimate from CDM and he will ask that they work with suppliers and contractors to obtain a more accurate estimate of the actual cost.

Mr. Anderson said the preconstruction conference with Carson & Associates on the Jimmerson West project was held and was attended by representatives from Arkansas Natural Resources. He reported that the information he received from Building & Utility contractors is that they will not proceed with their bid protest. He said he hoped the 2009 manhole rehabilitation project will be completed within six months because the evaluation of the large rehab projects cannot be performed until the manhole project is completed. He mentioned that the flow metering installation for the 2009 SECAP update was completed in October and it worked out well as they were installed before the three weeks of heavy rain we received.

He also mentioned that repairs to the force main at the College Station Pump Station was completed, using the 2009 large diameter cured in place pipe contract, at a total cost of approximately \$60,000.

Mr. Griffey asked about the in-house sewer evaluations, and Mr. Anderson said that RJN was previously contracted annually to do sanitary sewer evaluation studies (SSES) and the contract with RJN was ended and LRW is performing the flow monitoring, smoke testing, and manhole evaluations in-house on these isolated capacity overflows in areas such as Cloverdale, and Meadowcliff which are somewhat isolated and not associated with some of the larger rehab areas such as Leawood and Pleasant Valley.

Ms. Miller called on Don Hamilton to give his report on pending legal matters, and Mr. Hamilton began by summarizing the status of the Angela Harrison/Petey King litigation with respect to attempts to collect the attorneys' fees since the case had been dismissed as to Little Rock Wastewater and it was appropriate now to conclude the pending Little Rock Wastewater third party complaint to collect those fees. He stated that the remaining amount due for the Cross law firm billing of \$5,913 was to be paid by America First Insurance Company reimbursing Little Rock Wastewater for those expenses and he understood the check would be received soon. He had sent an itemized billing from the attorneys amounting to \$19,844.86 which is for the balance of the fees and expenses of the attorneys for Arkansas Municipal League, and which LRW is entitled to recover for payments made as a member of the Arkansas Municipal League Defense Program. Although he had not heard from the America First Insurance Company's representative, he planned to contact the representative to reiterate his request for payment and determine when the amount would be received.

Mr. Hamilton then summarized the status of the two cases involving Mountain Pure Water Company. The first case arises out of the Little Rock Wastewater show cause

hearing held in May and the order entered on July 24, 2009, imposing certain requirements for pretreatment compliance by Mountain Pure which had been appealed by Mountain Pure and is presently pending before Circuit Judge Fox. In the other case involving Mountain Pure, Mountain Pure filed a complaint against both Little Rock Wastewater and Central Arkansas Water on June 26, 2009, and this case is a suit for an injunction to try to stop Little Rock Wastewater from proceeding on the account owed by Mountain Pure and further seeking a refund, the amount of which is in dispute. In that case, Mountain Pure has filed a motion to consolidate the two cases, which Little Rock Wastewater will oppose and file a response and brief shortly. He stated that since Mountain Pure seeks the consolidation, which Little Rock Wastewater opposes, that there will probably be an oral argument scheduled before Judge Fox for LRW to try to obtain a determination by Judge Fox to deny the motion to consolidate. Both cases are separately pending before Circuit Judge Fox at the present time.

As to the matter involving the property damage loss at 2000 Beechwood by Quinton Smith, he explained that he had attended a conference with Mayor Stodola, Bruce Moore, and attorneys on October 22, 2009, but that nothing was resolved. Thereafter, Reggie Corbitt and John Jarratt met with Bruce Moore during the week following, and the main question was whether Little Rock Wastewater would pay for relocation of the sewer line on the lot. Staff opposes payment, but the matter is still under discussion with Mayor Stodola, City Manager Bruce Moore, and City Attorney Tom Carpenter. Mr. Hamilton continued by mentioning the Freedom of Information Act documents inspection by Attorney Paul James on October 29, 2009. Mr. Hamilton had obtained the documents requested from staff and these, together with the documents he assembled, had been reviewed by Mr. James on October 29th. Mr. James stated then that he would return and probably obtain copies of these documents, but so far Mr. James has not contacted Mr. Hamilton further and so there is nothing more to report.

Mr. Hamilton then asked for questions on any of the matters in his report or which the Sewer Committee members might have, and there were no further questions. Mr. Hamilton then stated that his report was completed.

Mr. Corbitt said he met with Bruce Moore who asked if the Sewer Committee would agree to relocation of the sewer line on the Beechwood location. Mr. Corbitt said he told Mr. Moore that his recommendation to the Sewer Committee would be that LRW not pay for the relocation. Mr. Corbitt said it is his opinion that the culvert was under-designed for the capacity flow, causing the flow to run on the outside, eroding the walls of the culvert as well as the ground outside the culvert, which caused the problem. Mr. Corbitt said that Attorney Hal Kemp told Mr. Moore that the sewer line in the culvert caused it to fail. Mr. Corbitt said that he told Mr. Moore that the sewer line had not caused the culvert to fail and he knew of at least seven other instances of sewer lines located either inside, running parallel with or, in one case, a water line and sewer line running perpendicular with the flow of the culvert and all are still standing.

Mr. Griffey asked if Mr. Corbitt anticipated the relocation issue to come before the Sewer Committee, and Mr. Corbitt replied that he did as Mr. Moore had asked if a request had been made. He said he told Mr. Moore that he was; however, asked to

provide Public Works with an estimate of the expense of relocating the line and he provided three options with cost estimates for each ranging from \$50,000 to \$90,000 for the cost to relocate the line.

Mr. Griffey said he anticipated Mr. Moore coming to the Sewer Committee asking for their help and asked Mr. Corbitt to provide other instances where this type of situation existed for which LRW had provided assistance. He said he understood the precedent issue, but he wanted to be certain that the all aspects of the matter had been thoroughly studied before the Committee was approached for assistance. Mr. Corbitt said he provided Mr. Moore a map showing almost 600 locations in the City of Little Rock where this type situation exists and he would provide the Sewer Committee with this information. He said, in some instances, when the Sewer Committee approved relocation, there was no dedicated easement for the sewer line. Mr. Corbitt said he would get the information on the location of lines that were relocated and why the Sewer Committee elected to provide assistance and send it to the Sewer Committee. Mr. Hamilton said he asked Mr. Kemp for legal precedent and he was still waiting for this information.

Ms. Miller asked for the time frame for deciding on whether to hire outside counsel or hire an in-house attorney, and Mr. Corbitt said the decision mainly affected location of this expense in the budget and he did not think there was a great urgency in making this decision. He reminded the Sewer Committee that since the position of General Counsel is under their supervision, it would be up to them to make that decision. Mr. Mackey was asked about his experience and he said that the decision to use outside counsel for some matters was made shortly after he joined the Sewer Committee. He said that it was good to be able consult someone within the Utility on legal issues and it had been his experience in a few instances when he had asked another attorney's opinion on a matter, they approved the General Counsel's action and would handle the matter in the same manner. Mr. Griffey stated that he thought that the Committee should look at the financial aspect and that it might be cheaper to hire outside counsel. Mr. Corbitt said that many of the legal issues for utilities were somewhat mundane matters such as obtaining easements and from that aspect he thought it was advantageous to use in-house counsel rather than consult someone on retainer who would charge by the hour for this service which could sometimes be time consuming. Mr. Corbitt said that he also thought it was both a time and cost saver to have someone in-house to assure that legal documents were properly handled, filed and/or recorded, as well as give an opinion on certain issues that occur. Mr. Corbitt stated that the funds have been placed in Contract Services for budgeting purposes and the funds could be transferred to Salaries if in-house counsel is hired. He also mentioned that some funds would remain in contract services in the event outside counsel is needed for a specialized matter. Ms. Miller stated that she would like to present the matter for a vote at the December meeting. Mr. Corbitt announced that there would be a retirement luncheon on November 30th, for Dwayne Lackey, Maintenance Superintendent, who is retiring after 24 years of service, and on December 22nd, a retirement luncheon will be held for Denny Thompson, Maintenance Supervisor, who is also retiring after 24 years.

Mr. Corbitt mentioned that interest in touring the Little Maumelle facility had been expressed in the past and he thought the facility was now to a degree of completion that a tour would be enjoyable. He suggested that a Saturday would be best due to the busy construction underway during the day.

Mr. Corbitt said he had met with some of the City Board members regarding subjects that are coming up in the next few months such as the impact fee, rate adjustment, etc. and the meetings have so far been very cordial and receptive.

Mr. Corbitt then presented Jim Barham, Manager of Finance, a plaque for 35 years service. Ms. Miller then presented Mr. Corbitt his plaque for 25 years service. The Sewer Committee then expressed appreciation to Mr. Barham and Mr. Corbitt for their exemplary service to the Utility and City.

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

Respectfully submitted,

Marilyn K. Perryman, Secretary