

LITTLE ROCK SANITARY SEWER COMMITTEE
Minutes of the Meeting Held
January 21, 2009

The Little Rock Sanitary Sewer Committee met at 4:00 p.m., Wednesday, January 21, 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

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., Manager of Engineering Services
Don F. Hamilton, General Counsel

Others attending included Vince Hotho of Garver Engineers, Aaron Benzing, Craig Johnson and Joe Dollerschell of CDM, Jordan Johnson of Cranford Johnson Robinson Wood, 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 December 17, 2008, meeting were approved as written. Mr. Pender then asked for public comments and there were none.

Craig Johnson and Aaron Benzing of CDM presented a Power Point Presentation on the Fourche Creek Wastewater Plant Capital Improvement Plan included in the Sierra Club settlement and in the Consent Administrative Order from the Arkansas Department of Environmental Quality. Mr. Johnson said that the Capital Improvement Plan (CIP) established a roadmap of projects planned over a twenty year period and included an increased hydraulic capacity from 38 mgd to 52 mgd. The plan includes potential

projects ranging from biosolids improvements and expansion of the environmental laboratory, to improvements in the primary treatment and disinfection systems. The CIP prioritizes and ranks these projects to allow flexibility based on different levels of funding and financing. Mr. Johnson stated that two workshops were held to establish overall objectives such as eliminating and mitigating sanitary sewer overflows according to storm event, protecting the health and welfare of Little Rock citizens, managing costs, maximizing funding and financing, providing improvements with flexibility to adapt potential regulatory requirements, and maximizing public acceptance. The improvements were then assigned a ranking based on how well each alternative would meet these objectives. Initial improvements will include the secondary clarifiers, primary pump station, disinfection, preliminary treatment and bioselectors, with future phases to be determined as funding becomes available. The use of chlorination versus UV disinfection was discussed and Mr. Pender inquired about security concerns and the trend toward UV disinfection. Mr. Johnson explained that industrial inhibitors present in the Fourche effluent would make the use of UV disinfection at the Fourche facility very cost prohibitive. Mr. Griffey inquired whether regulatory requirements might, in the near future, necessitate the conversion to UV disinfection and Mr. Johnson stated that chlorination would remain a viable method of disinfection for the foreseeable future and that the Fort Smith wastewater facility had recently decided on chlorination rather than UV for the same reason.

After discussion and on motion duly made and seconded, the Sewer Committee unanimously approved the following Investment Work Order:

<u>Location</u>	<u>Amount</u>
Fourche Creek Treatment Plant Hydraulic Upgrade	\$21,116,500

Howell Anderson then presented a request for approval of CDM Contract Amendment No. 1 for the Fourche Creek Wastewater Treatment Facility Improvements. He explained that Little Rock Wastewater originally contracted with CDM in February, 2008, for professional services required to evaluate the existing Fourche facility components and their ability to treat both the existing and future wastewater flow rates. As the result of the study, CDM was to develop a Capital Improvement Plan to enable LRW staff to prioritize and phase the improvements along with estimates for construction of the improvements to assist LRW in determining funding options. The amendment will add professional services required to complete a detail design to be used for bidding and construction of the selected improvements, based on an hourly rate structure with an established "Not to Exceed" amount of \$1,476,500. When considered as percentage of the estimated construction cost of improvements of \$17.25 million, the amount staff feels is justifiable for this type project. Mr. Anderson said that staff is requesting that the Sewer Committee authorize Mr. Corbitt to execute the Contract Amendment No. 1 to the CDM Professional Services Contract. After discussion and on motion by Ms. Miller, seconded by Mr. Griffey, the Sewer Committee voted unanimously to authorize Mr. Corbitt to execute the contract amendment.

Mr. Pender presented to James A. Barham, Manager of Finance, the Certificate of Achievement for Excellence in Financial Reporting, stating that the Certificate of Achievement is the highest form of recognition in governmental accounting and financial reporting and attainment of this certificate presents a significant accomplishment. Mr. Corbitt mentioned that this is the fourth consecutive Certificate of Achievement presented to the Finance Department of Little Rock Wastewater. On behalf of the Sewer Committee, Mr. Pender commended the financial staff on this excellent award.

Mr. Pender also presented to Trudy Moore an award from the Universal Public Purchasing Certification Council naming Little Rock Wastewater a 100% Fully Certified Agency for the year 2008. Mr. Barham mentioned that Little Rock Wastewater has the distinction of having the only fully certified purchasing staff in the State and there are probably no more than 150 in the nation. Mr. Pender also commended the purchasing staff for a job well done.

Mr. Anderson presented a request for the Sewer Committee to ratify the Selection Committee's recommendation of Garver Engineers as the top ranked firm for the professional engineering services contract and asked that Mr. Corbitt be authorized to execute the contract with Garver Engineers. He stated that Individual Work Orders will be issued under this agreement with a detailed scope of work for the services required. The annual agreement will have the option of renewal four additional times with the hourly rate negotiated each year. After discussion, and on motion by Mr. Griffey, seconded by Ms. Miller, the Sewer Committee unanimously authorized Mr. Corbitt to execute the contract with Garver Engineers.

After discussion of each proposed resolution and on motion duly made and seconded, the Sewer Committee unanimously approved the following resolutions:

A Resolution Authorizing Amendment to the Little Rock Wastewater Retirement Plan §401(a) with ICMA Retirement Corporation Relating to Internal Revenue Code Section 414(h)(2) "Pick Up" Provisions

A Resolution Authorizing Amendment to the Little Rock Wastewater Retirement Plan §401(a) with Security Financial Resources, Inc. Relating to Internal Revenue Code Section 414(h)(2) "Pick Up" Provisions

A Resolution Authorizing Reggie A. Corbitt, Howell Anderson, Mack M. Vought, and James A. Barham as Signatory Agents of Little Rock Sanitary Sewer Committee to Make Application for Assistance under Public Law 100-4 and the Arkansas Revolving Loan Fund, to Sign the Acceptance and Any Other Required Document Related Thereto

A Resolution Declaring the Intent of the Little Rock Sanitary Sewer Committee for the Issuance of Certain ADFAs and to Advance

Funds to Pay Costs of Sewer Treatment Plant Improvements with the
Funds to be Reimbursed by Loan Proceeds

A Resolution of Appreciation to Andrew L. Harper, Jr. for His Service on
the Little Rock Sanitary Sewer Committee

A Resolution to Authorize Reggie A. Corbitt, P.E., Chief Executive Officer
of Little Rock Wastewater to Establish and Maintain One or More
Brokerage Accounts with Morgan Keegan & Company, Inc., (Account
Number 31956105) and Authorizing and Empowering Billy Joe Harrison,
Accounting Supervisor, Operations and Maintenance, to Purchase,
Acquire, Sell, Possess, Transfer Exchange, or Otherwise Dispose of, and
Generally Deal in Any and All Forms of Securities of Any and Every Kind
and Nature Whatsoever, and for Other Purposes

A Resolution to Authorize Reggie A. Corbitt, P.E., Chief Executive Officer
of Little Rock Wastewater to Establish and Maintain One or More
Brokerage Accounts with Morgan Keegan & Company, Inc., (Account
Number 31956113) and Authorizing and Empowering Billy Joe Harrison,
Accounting Supervisor, Operations and Maintenance, to Purchase,
Acquire, Sell, Possess, Transfer Exchange, or Otherwise Dispose of, and
Generally Deal in Any and All Forms of Securities of Any and Every Kind
and Nature Whatsoever, and for Other Purposes

Mack Vought reported a total of 33 dry weather or non capacity overflows for 2008,
compared to 46 in 2007. He mentioned that a goal of no more than 28 non capacity
overflows was set for 2009. Mr. Vought also reported 94.8% proactive maintenance
and 5.2 reactive maintenance for the month of December.

Jim Barham, Manager of Finance, presented the financial report for the month of
December, 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 \$1,898,917. The
Consolidated Statement of Cash Receipts and Disbursements reflect receipts of
\$21,589,973 and disbursements of \$10,173,425, increasing funds available for the
month by \$11,416,548. Net income for the month is \$82,093 and net income for the
year to date is \$3,475,555.

Stan Miller reported no NPDES violations during the month of December. He also
reported anoxic zones were in place in process improvements at the Adams facility,
allowing staff more time for other duties. He said operations staff members are using
PDA devices, inputting data and notations as they make rounds and downloading the
information to the computer, thereby eliminating human error in the transference of
information.

Howell Anderson reported the peak flow attenuation basin is substantially complete and is very impressive. He said that he hoped the Sewer Committee members would have an opportunity to tour that site. He said the Little Maumelle project was separated into four separate contracts and completion dates of September 4, 2010, are established for Contract II the treatment facility, October 18, 2009 for the Contract III, the pump station, March 9, 2010 for Contract IV, the conveyance system. Mr. Anderson stated that completion dates for the conveyance system is far enough in advance of treatment plant completion to assure that the plant will have adequate flow for testing. There is only approximately 200 feet of pipe remaining to be installed for the repair section change order of the redundant force main.

Mr. Hamilton then gave his report on pending legal matters and stated that in the Ranch Properties condemnation case, the Circuit Court denied Defendant Ranch's motion to reconsider prior motions to dismiss and this motion was denied by order dated January 5, 2009. The case has not been set for trial and he expected that there would be discovery necessary in an effort to determine Defendant's claim for damages and potential expert witnesses.

As to the Diamond Bear Brewery unpaid account, there has been no resolution of this matter despite discussions and it is expected that litigation will be filed after sending an appropriate letter to the brewery to that effect.

Mr. Hamilton then mentioned the status of the Angela Harrison/Petey King litigation against Little Rock Wastewater, Building & Utility Contractors, and T. Raney Construction. He stated that based on the authorization of the Sewer Committee at last month's meeting, as requested by Little Rock Wastewater staff, Arkansas Municipal League attorneys Robert Beard and John Wilkerson have taken over the defense of this case and they were briefed by Little Rock Wastewater staff on January 12, 2009, at a conference with them to discuss this case, answer any questions, and provide additional information, as requested. The one pending issue, which has not been resolved, is the demand letter sent by Little Rock Wastewater to Travelers Insurance Company dated December 22, 2008, regarding Travelers performance bond for Building & Utility Contractors for this project. Mr. Hamilton stated that a representative of Travelers Insurance Company had left word acknowledging receipt of the letter in a voice mail and leaving a telephone number to call, but Mr. Hamilton has been unable to reach this Travelers representative and will continue to keep trying.

As to the Mountain Pure Water Company unpaid account in the amount of approximately \$47,000.00, Mountain Pure's attorney, Skip Davidson, claimed that Mountain Pure is entitled to a credit in the amount of \$289,576.00 for overcharges, as stated in his letter dated January 8, 2009, which is attached to his report. Little Rock Wastewater staff is in the process of reviewing the Certified Public Accountant's letter regarding the overcharges, which Mr. Davidson sent in his letter. Although the Little Rock Wastewater staff has not completed its review, the accountant's letter does not appear to be a proper basis for the amount claimed, and, therefore, legal action appears to be necessary. Accordingly, Mr. Davidson will be notified.

Mr. Hamilton pointed out the Health Plan Trust, required by GASB 45, had been documented by Trust Agreement established by Little Rock Wastewater dated December 31, 2008, with Regions Trust acting as trustee and a copy of the Trust Agreement had been sent to members of the Sewer Committee with his report.

Mr. Hamilton added that as to the Hobbs & Curry Family Partnership operating the Holiday Inn near the airport in Little Rock, Little Rock Wastewater staff met with attorneys Steve Giles and Matt Warner at their request on December 23, 2008, and we are to meet again on January 23, 2009, in an effort to resolve this matter without condemnation, as authorized by the Sewer Committee at last month's meeting. Mr. Hamilton stated that the Holiday Inn attorneys claim that the Holiday Inn will lose substantial revenue as a result of this project on the Holiday Inn property. Little Rock Wastewater staff has been furnished for review various records and estimates of estimated lost revenues as a result of this project. These estimates range as high as \$600,000.00 for the time necessary to conduct construction work of the force main on the Holiday Inn property. Little Rock Wastewater staff is currently reviewing these figures, as well as two property appraisals supplied by these attorneys. Further discussion on this matter with the attorneys is scheduled to be held on January 23, 2009, in an effort to settle the matter. The attorneys have both expressed their preference to settle this matter, rather than try to resolve it by litigation.

Finally, Mr. Hamilton stated with respect to the need for sewer manhole maintenance on Dr. Robert Kennedy's office building property located at 11215 Hermitage, Little Rock, that he has, since his report, received written approval by Dr. Kennedy to proceed so that legal action probably will not be necessary, and Little Rock Wastewater staff can proceed with the work. However, since the work has not been accomplished, he recommended that it would be wise for the Sewer Committee to extend full authority to file such legal proceedings, as could become necessary, against Dr. Kennedy or the entity owning the land in the event that legal action must be filed, since this work has been delayed several months and the work needs to be done in order to properly maintain the sewer manhole and main involved. Accordingly, after further discussion, and upon motion duly made and seconded, the Sewer Committee unanimously adopted the motion and authorized Little Rock Wastewater CEO and staff to take such legal action necessary to proceed with this project and the maintenance of the sewer manhole and main in question.

Mr. Hamilton said that he had no further matters to bring before the committee and that concluded his report. However, he said would be glad to answer any questions they might have and there were none.

Reggie Corbitt reported that he is scheduled to meet with Martin Maner, Watershed Administrator for Central Arkansas Water on February 3rd to establish a responsible management entity for the Lake Maumelle Watershed. Mr. Pender suggested that CAW make the presentation to the Sewer Committee again since three of the Sewer Committee members have not heard the presentation.

Mr. Corbitt presented a property damage claim for Bobbie Gatewood of 10610 Diamond Drive in Little Rock, asking for \$12,665.82 for damage resulting from a sewer overflow on November 19, 2008. Little Rock Wastewater experienced a mainline blockage due to roots in the line, causing the overflow into Ms. Gatewood's residence, involving the master bedroom and two bathrooms, as well as some exposure into two other bedrooms and a formal living area and den. LRW crews worked to clean up the overflow on the night of the event and returned the following morning to ensure that all evidence of the overflow was cleaned and treated; however, Ms. Gatewood remained unsatisfied with the results and the approved public relations offering of \$750.00. Mr. Corbitt reminded the Sewer Committee that Little Rock Wastewater is, by law, exempt from tort liability (tort immunity) and the \$750.00 maximum for property damage claims was established by the Sewer Committee several years ago. He said after reviewing the circumstances of the overflow he and Mr. Vought had arrived at the amount of \$5,055.79 as a counter offer. After discussion, and on motion by Ms. Miller, seconded by Mr. Griffey, the Sewer Committee voted to approve the payment of \$5,055.79 to Ms. Gatewood, with Mr. Wintroath abstaining.

There being no other business, the Sewer Committee adjourned into Executive Session.

The meeting was reconvened to announce that the Sewer Committee had authorized Jim Pender, Chair, to sign an employment contract, on behalf of the Little Rock Sanitary Sewer Committee, with Don Hamilton based upon the terms and conditions agreed to at the December LRSSC meeting. This contract was recently prepared by attorney Carolyn Witherspoon for that purpose. On motion by Ms. Miller, seconded by Mr. Wintroath, the Sewer Committee unanimously approved execution of the contract with Mr. Hamilton.

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

Respectfully submitted,

Cynthia C. Miller, Secretary