

LITTLE ROCK SANITARY SEWER COMMITTEE
Minutes of the Meeting Held
December 16, 2009

The Little Rock Sanitary Sewer Committee met at 4:00 p.m., Wednesday, December 16, 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 Tim Daters of White-Daters and Associates, Inc., Marie A. Crawford of Central Arkansas Water, Jordan Johnson of Cranford Johnson Robinson Woods, Vince Hotho of Garver Engineers, Craig Johnson of CDM, and support staff from Administration and Community Relations, Environmental Assessment Division, Engineering Services, Finance, and Maintenance.

The meeting was called to order by Ms. Miller and on motion duly made and seconded the Minutes of the November 18, 2009, meeting were approved with one revision.

Ms. Miller then asked for public comment cards and Mr. Daters said he wished to address the meeting but had not completed a card. Mr. Daters was given a card for completion and then addressed the Sewer Committee stating that, during 2008-2009, he served on the Rate Advisory Committee. He said the meetings were very interesting, although contentious in the beginning, toward the end they were very productive. The Committee became familiar with the issues facing the Utility as to rates, system development fees and charges, as well as some of the other problems Little Rock Wastewater faces. Mr. Daters said studies revealed that 40% of the inflow

and infiltration (I&I) reached the treatment facilities via inferior, individually owned service lines. Mr. Daters said that the study also revealed that newer homes, constructed with rubber gasket type service lines, don't leak and therefore contribute much less sewage flow during peak flow events. He commented that LRW is spending a great deal of time and money for improvements to accommodate peak flow demands.

Mr. Daters said the Committee focused on the service line problem and thought it would be fair to charge a connection fee for new homes as long as older homes were required to bring service lines up to the same level of performance as the newer homes, either at the time of sale or remodeling. He stressed that the Rate Advisory Committee would not have recommended implementation of the system development fee without a similar policy to address existing service lines for older homes that leak water into the system and sewage out. He said getting the leaking service lines corrected will present challenges but that a system that charges everyone equally, whether or not their service line leaks, is not acceptable to the RAC members. He said he thought that the minutes of the RAC meetings substantiate that the RAC will support any action of the Sewer Committee so long as those actions are consistent with their recommendations. He commented that, if recommendations are broken apart for individual consideration, members of the RAC will come forward complaining that their recommendations are not being followed. He said he appreciates the difficulty and problems the Sewer Committee faces and is glad that everyone is working to find a solution.

Mr. Corbitt stated that he understood Mr. Daters' recommendation; however, according to counsel, by state law, the system development fee and the service line policy cannot be presented in the same city ordinance. He said that both ordinances can be presented at the same time but there is a risk that one ordinance is passed by the City Board and the other isn't. Mr. Daters said that he thought the way to insure passage of both is to first ask for passage of the service line policy before requesting passage of the system development fee. He said that the people who spent considerable time on the Rate Advisory Committee feel that both items are equally important and that the service line issue must be addressed.

Mack Vought introduced Erin Marks of the Maintenance Division, stating that Ms. Marks would present the Service Line Inspection Plan. Mr. Vought stated that employees from throughout Little Rock Wastewater had served on the task force that developed the plan.

Ms. Marks explained the effects of inflow and infiltration including poor sewer service caused by overloaded lines, overflows within the system, impediment of treatment facility capacity intended for future growth, and increased treatment costs to Little Rock Wastewater. She described the efforts taken by LRW thus far and the cost of these improvements, including the Little Maumelle Treatment Facility (\$78,928,600), the Peak Flow Attenuation Basin (\$62,489,600), Fourche Creek Plant Hydraulic Upgrade (\$21,117,200), the Cured in Place Pipe and Pipe Bursting Contracts, Large Diameter Line Cleaning Contract, and the Overflow Mitigation Projects. She said the objective of the Service Line Inspection Plan is to reduce I&I by keeping sewage flows inside sewer

mains and service lines. In response to the RAC's recommendation to educate the public and implement a form of service line inspection, the "Stay Connected" campaign was developed and a pilot study has been implemented from which four possible inspection options were developed for improvement of service line conditions by raising awareness and educating homeowners of their responsibility in maintaining their private service lines. She stressed that an estimated 40% of I&I comes to the treatment facilities from private service lines, causing higher treatment costs for the added capacity at an increased cost to the ratepayers. Repairing and replacing the service lines will also allow LRW to move forward to protect the public health of the citizens of Little Rock.

The purpose of the LRW Pilot Study was to conduct primary research so that all aspects of the plan could be factually analyzed. Various Little Rock residents volunteered to have their home service lines inspected by LRW personnel. The homes ranged in age from 6 to 83 years. Participants included members of the RAC and members of the LR Board of Directors. The lines were inspected by closed circuit television, and a total of 42 service lines were inspected. There was a negative correlation between age of the home and condition of the service line. All homes under 20 years of age passed the CCTV inspection. From the information gathered from the pilot study, the team developed the following four different service line inspection plan options:

Option A, mandatory CCTV inspection controlled by Little Rock Housing Market. Plan A, includes requires CCTV inspections of service lines 20 years old or older, on homes in the process of being sold

Option B, Voluntary Customer-Initiated CCTV Inspections. Plan B would include voluntary CCTV inspections of service lines for rate payers connected to the LRW system who have an accessible cleanout, and who are requesting a CCTV inspection from LRW. Based on the pilot study data, it is also recommended that service lines over the age of 20 years be inspected.

Option C, LRW Initiated Smoke Testing and Mandatory Replacement. Option C involves smoke testing main lines that are within the LRW system. The smoke testing would be initiated by LRW and will take place in pre-planned areas based on such criterion as Sanitary Sewer Evaluation Studies (SSES) and areas found to have higher than normal amounts of I&I.

Option D, LRW-Maintained Service Lines. Option D involves the addition of a mandatory fee for all homeowners connected to the LRW collection system. The fee will be added to each monthly sewer bill. Payment of this fee results in LRW being responsible for maintaining, repairing, and replacing service lines from the cleanout at the structure to the main. A monthly fee of \$12 was calculated for this service.

Ms. Marks said that LRW General Counsel has reviewed the current Little Rock ordinances as well as other city ordinances that have implemented similar plans and suggested the necessary revision to the existing ordinances.

Ms. Marks closed by stating that in response to the RAC's recommendation to proactively reduce the amount of I&I coming from service lines, the Utility is continuing to educate the public on their responsibility to maintain their service lines. In addition, the service line inspection pilot study was implemented resulting in development of the four options presented. She stressed that the specifics of all four options are heavily based upon the data revealed throughout the duration of the pilot study and also mentioned that LRW would be encouraged to find a way to assist homeowners who could not afford improvements to their service line.

Ms. Perryman asked what would motivate homeowners to request the CCTV inspection mentioned in Option B, and Mr. Vought responded that this would likely occur when the customer encountered a plumbing problem and requested an inspection of their service line. Mr. Anderson said that the task force also thought that, as the Stay Connected education program continues, when residents buy a home, they will voluntarily request an inspection of the service line.

Mr. Griffey asked if LRW has sufficient personnel to perform the service line inspections, smoke testing, and various other aspects of the options presented or if additional personnel would be required. Mr. Corbitt replied that these duties are included in the current SSES studies and once the studies are completed; there should already be people on staff to concentrate on inspections in the necessary areas. Mr. Griffey said that one of the things he will be looking at is whether all of the options presented to the Sewer Committee are viable, whether LRW has sufficient personnel to implement the program or if it would require additional personnel and thus an additional cost to the ratepayers. Mr. Corbitt stated that Option C might require some additional personnel. Mr. Anderson commented that, through the SSES study performed by RJN, LRW already has information on most of the problem service lines within the study area, but has never had the option of requiring repair.

Mr. Griffey asked whether it is possible to notify the residents of an area that LRW crews are coming into the area to perform a specific task. Mr. Anderson said the work is generally done for a drainage basin and all residents in that basin are notified. Mr. Anderson went on to say that, through flow monitoring, LRW has determined which basins have the high I&I. He said smoke testing is done to determine problems with the sewer mains but at the same time may reveal problems with the service lines connecting to that main.

Ms. Perryman asked if the problem areas are just in underprivileged neighborhoods and Mr. Anderson responded that LRW is not targeting any group but it is true that many of the service line problem areas are in the older parts of the city, just as the sewer mains in those areas are the most problematic. He said these areas are identified through flow monitoring. Ms. Perryman asked whether the residents of those areas are going to feel that they have been unfairly targeted. Mr. Anderson said that some likely would, but it is the age of the lines, both service lines and mains, that will identify those needing rehabilitation.

Mr. Griffey asked Mr. Corbitt to describe the process that he would follow once it is determined that a service line is in need of repair. Mr. Corbitt said that he would not personally inspect every service line, but he is the one who will receive the call from disgruntled customers, and he would make the decision as to whether the repair must be made and explain it to that customer.

Ms. Miller asked what timeline is necessary and Mr. Corbitt stated that he did not think any of the options, except Option D, to include a mandatory fee on the sewer bill, required approval of the City Board; however, in all fairness, all of the options should be discussed with the Board. He said he thought this discussion should be heard in as many venues as possible since the City Board meetings are televised. He said Mayor Stodola did not want to review anything before the first of the year so it will likely be sometime during the first or second quarter of 2010. Mr. Corbitt said there is also a fifth option, which is to do nothing, but that option does not protect the environment and LRW is under a Consent Administrative Order from the Arkansas Department of Environmental Quality. He said Mr. Anderson had just learned that Jacksonville Wastewater's Consent Administrative Order included a mandate to require service lines to be inspected and bad lines replaced. He said he had learned in dealing with the regulatory agencies that it was advantageous to have a plan in place when the Consent Order is received as the regulatory agency is then less likely to issue a mandate.

Mr. Griffey asked whether an effort had been made to gather citizen input on any or all of the options and Mr. Jarratt responded that an effort was made and, in fact, several Property Owner Associations were represented on the Rate Advisory Committee. Mr. Griffey stated that he thought the Rate Advisory Committee is key to this process, as they are representative of the community, but he wants to be sure that the process goes a step further and everyone who is interested has a voice so that it doesn't appear that this is just "another Committee or another branch of LRW making these decisions".

Ms. Miller asked Mr. Corbitt about the Realtors Association's reaction to the proposed service line policy and he said that they were very polite and attentive but made it clear that they did not support Option A. He said that they surprisingly had problems with all four options.

After further discussion, Ms. Miller said she would like more time to consider the service line inspection plan and it did not appear that Sewer Committee action is necessary at this time. She also commented that the Sewer Committee would probably have new members added in January who will need to be brought up to date on this and other matters. Upon motion by Ms. Perryman, seconded by Mr. Griffey, action on the Service Line Policy was tabled for future discussion.

Mr. Griffey asked Mr. Daters if the RAC felt their task is complete or if they have plans to review this plan at future meetings. Mr. Daters stated that he thought they would like to stay involved as a considerable amount of time has already been spent, and he thought they would be happy to assist by making a recommendation as to the option they would support. He suggested that a couple of realtors should be added to the RAC

and then come to a consensus as to which option they would support. Mr. Jarratt said he would arrange a meeting with the RAC to hear the presentation and he would require a request from the realtors for representation on the RAC. Mr. Corbitt said he would contact the realtors association for suggestions on two realtors to serve on the RAC.

The Sewer Committee thanked Mr. Daters for his service on the Rate Advisory Committee and his comments on the service line plan presentation. Mr. Daters was then excused from the meeting.

Jim Barham introduced Debbie Williams, Finance Supervisor, who presented the LRW Budget for 2010. Ms. Miller asked whether a decision should be made on whether or not to hire in-house counsel or use outside counsel before the budget is approved. She said she had talked with several former committee members, asking their opinion on this matter, and it seemed to be the consensus that having in-house counsel saved the ratepayers money. She said all of the people she talked with thought that using outside counsel for the many small matters that require legal expertise would cost more than having an attorney on staff. After discussion, and on motion by Mr. Griffey, seconded by Ms. Perryman, the Sewer Committee voted unanimously to hire an in-house General Counsel and approve the 2010 Budget reflecting this revision.

The Sewer Committee discussed the application submitted by Stephen Giles requesting that his firm be added to LRW's list of firms used for outside counsel. Mr. Hamilton stated that a Selection Committee, consisting of Pat Miller, John Jarratt, Bruno Kirsch, Jim Barham and Mr. Hamilton, was formed in 2007. In order to comply with the ordinance, an advertisement was published requesting a letter listing qualifications and expressing an interest in serving as outside counsel for LRW. Mr. Hamilton said that three firms, Cross Gunther Witherspoon & Galchus, PC; Mitchell Williams Law Firm, and Williams & Anderson, PLC, were selected and placed on a list according to their expertise in the areas of labor law, regulatory, and specialized construction law. These firms have been used as required. He said that Mr. Giles had expressed an interest and was encouraged to submit a letter for consideration in order to comply with the ordinance requiring this process. Mr. Giles submitted a letter on November 16, 2009, which the original committee reviewed, and he was ranked very highly. Mr. Hamilton said that Mr. Giles has extensive experience in municipal law, has worked in the City Attorney's office, and he has a lot of respect for his ability, particularly in condemnation matters. After discussion, and on motion by Mr. Griffey, seconded by Ms. Perryman, the Sewer Committee voted unanimously to add Mr. Giles' firm as an additional source of outside counsel.

Ms. Miller commented that she would like to advertise for in-house counsel as soon as possible and a Selection Committee comprised of the Sewer Committee members, Mr. Corbitt, and Mr. Hamilton was formed to review applications.

The Sewer Committee discussed the election of officers to serve in 2010, and on motion duly made and seconded, the Sewer Committee voted unanimously to retain the current slate of officers, as follows:

Cindy Miller, Chair
Ken Griffey, Vice Chair
Marilyn Perryman, Secretary

Mr. Corbitt presented a request for formal approval of a show cause order. He stated that Mountain Pure, LLC's account has been discussed with the Sewer Committee and legal action was authorized on March 18, 2009, when the Sewer Committee adopted Resolution No. 2009-16, authorizing Mr. Corbitt to issue a show cause order to Mountain Pure, as well as all other action deemed necessary. The show cause order was issued on July 24, 2009, and Mountain Pure filed litigation regarding the matter both before and after the order. Mr. Corbitt said that although the information was furnished to the Sewer Committee, the hearing transcript and documents made available for review, and the matter has been discussed at Sewer Committee meetings since that time, no other action has been taken by the Sewer Committee, and he and Mr. Hamilton thought that it would be appropriate for the Sewer Committee to give formal approval in the form of a motion. On motion by Ms. Perryman, seconded by Mr. Griffey, the show cause order was unanimously approved.

After discussion, and on motion duly made and seconded, the following Purchase Requisition was unanimously approved:

<u>Item</u>	<u>Vendor</u>	<u>Amount</u>
Manhole Rings and Lids	HD Supply, Inc.	\$24,920

Mack Vought reported a total of 33 non-capacity overflows have occurred year to date, with four of these overflows occurring in November. He also reported the plant maintenance system showed 74.8 hours as preventive maintenance, 205.5 hours as proactive maintenance, and 26 hours as reactive maintenance equaling 87.7% which is far above the national average.

Jim Barham then presented the financial report for the month of November, 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 \$2,220,259. Net income for the month is (\$495,007), and net income year to date is \$368,374.

Mr. Barham commented that the average water consumption rates are keeping the Utility afloat.

Mr. Griffey complimented Mr. Barham on the UPPCC Award in Achievement for being a 100% fully certified Purchasing Department for the 2nd consecutive year. Mr. Barham mentioned that this award was recognized at the recent national Purchasing conference.

Stan Miller reported there were no NPDES violations during the month of November and commented that during the time the Fourche Creek Treatment Plant and Arch Street Pump Station are undergoing construction, the Adams Field Treatment Plant is continuing to accept flow from the entire City of Little Rock.

Howell Anderson reported that, should it come to their attention, construction on the redundant force main (Contract II, from Sloan Drive to the Arch Street Pump Station) will be underway in January. He stated that this upcoming work had been identified as the most difficult part of the project due to its close proximity to the Holiday Inn and the expressway. He reminded the Sewer Committee of the involved negotiations for easements in this area and stated that the Holiday Inn had requested that the work be done at this time.

Mr. Anderson also mentioned that the Fourche Creek engine generator replacement was put on line and was run on 100% natural gas for a time, 100% methane gas for a time, and a blended combination of the two. He said, when the engine was operated at 100% capacity, it generated more power than needed for the entire plant and about 30% of the power generated was sold back to Entergy. He said the new system is much more efficient and that although it had been a very difficult project it appeared that it was going to be very successful.

He mentioned that there were seven Overflow Mitigation Projects that had completed design and were waiting for funding. He said that often delay of these projects is the way the budget is met; however, this will have the effect of having less time to react to any problems encountered prior to the 2016 completion deadline.

Ms. Miller called on Don Hamilton to give his report on pending legal matters, and Mr. Hamilton summarized the status of the Angela Harrison/Petey King litigation, the Mountain Pure Water Company litigation, and the Clinton Smith 2000 Beechwood house damage claim.

As to the Harrison/King sewer backup claim, Mr. Hamilton stated that since the attorney fees incurred by Little Rock Wastewater in this litigation had been reimbursed by America First Insurance Company, the third party complaint against Travelers Insurance Company had been dismissed without prejudice and that case was concluded as to Little Rock Wastewater, although the case still is pending as to the other defendants. Consequently, if the case proceeds to trial, it will probably be necessary for several employees of Little Rock Wastewater to appear as witnesses and there could be further depositions.

As to the Mountain Pure Water Company show cause hearing appeal of the administrative order issued by Mr. Corbitt, Little Rock Wastewater is in the process of preparing a motion for summary judgment to be filed as soon as possible in an effort to have Mountain Pure's appeal of Mr. Corbitt's order dismissed. In that case, plaintiff filed the necessary hearing record, but not the exhibits which Little Rock Wastewater had to file to pursue the motion for summary judgment. As soon as the motion for summary judgment is filed, he will send everyone a copy.

As to the other circuit court action filed by Mountain Pure against both Little Rock Wastewater and Central Arkansas Water that case is still pending and plaintiff, Mountain Pure, filed a motion to consolidate that case with the plaintiff's appeal of Mr. Corbitt's administrative order. Defendant, Little Rock Wastewater, has filed its response and brief in opposition to Mountain Pure's motion to consolidate. The outcome of the anticipated motion for summary judgment may affect Mountain Pure's other suit against both Little Rock Wastewater and Central Arkansas Water.

As to the Clinton Smith property damage claim at 2000 Beechwood, there are no further developments to report since Attorney Paul James had Ivez Copying Service make the FOIA copies of Little Rock Wastewater documents on November 20, 2009.

Finally, Mr. Hamilton mentioned two FOIA document inspections conducted on November 24, 2009, pertaining to the Clinton Smith 2000 Beechwood damage claim and the document inspection by Mobley Contractors on December 3, 2009, pertaining to Mobley's request for inspection of bid documents for the Little Rock Wastewater Little Maumelle Treatment Plant, Contract IV, Conveyance Facilities, submitted by S. J. Lewis Construction. Ken French made that inspection on December 3, 2009, and since that time Mobley filed a complaint against S. J. Lewis Construction before the Contractors Licensing Board.

Mr. Hamilton then asked for questions on any of the matters in his report which the Sewer Committee members might have, and there were no further questions. That concluded Mr. Hamilton's report.

Reggie Corbitt stated that he met with Central Arkansas Water personnel concerning Mountain Pure as Mountain Pure also filed a lawsuit against CAW because they collect fees for Little Rock Wastewater.

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

The meeting reconvened from executive session, and Ms. Miller stated that the Sewer Committee reviewed the contracts of Reggie Corbitt and Don Hamilton and asked for a motion to reflect the Committee's action. On motion duly made and seconded, a motion was unanimously adopted to give a 3% salary increase to both for the next year, and, Mr. Hamilton's contract, which expires on December 31, 2009, was extended until January 31, 2010, when he retires effective that date.

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

Respectfully submitted,

Marilyn K. Perryman, Secretary