

# TONTITOWN WATER & SEWER COMMISSION

## MEETING MINUTES 06-23-2009

1. **ROLL CALL** – Members present were Steve Gunderson, Larry Goddard, and Bill Brandt. Also present were Mick Wagner, Rebecca Bennett, Chuck Nickle, USI Engineering, and Mark Dossett, W&S Attorney.
2. **APPROVAL OF AGENDA** – A motion made by Brandt to approve agenda as written and 2<sup>nd</sup> by Goddard, motion passed unanimously.
3. **APPROVAL OF MINUTES FOR 05-26-09** – A motion made by Brandt to approve agenda as written and 2<sup>nd</sup> by Goddard, motion passed unanimously.
4. **REVIEW FINANCIALS** – Wagner stated that the projected water sales budget now been restated based on a percentage by month of historical annual sales from 8 previous years. Water sales are 20% above they were in 2008. Several sewer leaks have been detected primarily from service lines getting cut by bush hogs. These will be repaired and customers will be charged. Payroll expenses are down since there are only two employees while 3 are budgeted. Sales tax continues to be behind projections; however due to lower expenses net income year to date is \$38,000 versus the projected \$30,000.

### 5. OLD BUSINESS

**A. Review status of WWA lawsuit** – Dossett stated that over the last month he has been trying to get the case settled. Last week Dossett and Gunderson met with WWA. A written proposal was received from WWA, which included certain conditions that were non-negotiable. WWA continues to add or change conditions. WWA had originally asked that the boundary be redrawn around the parcels of the customers inside each other's boundaries. Now, they say that this will benefit Tontitown with too much acreage and they have proposed a deal that was simply non-negotiable. One proposal is, they will give us their customers with a conditional and revocable exemption, but when we give WWA our customers they want the right to serve anybody close to their line. Dossett stated that the case can not be settled at this time. The first step will be the deposition of Josh Moore on July 7<sup>th</sup>. The amended complaint was filed June 22<sup>nd</sup>. The original suit contained 2 groups of customers forty-seven in one group and thirty in a second group. The group of forty-seven was taken out of the amended complaint because these folk's meters were inside Tontitown's service area but the actual structure that uses water was inside WWA service area. After much research, it is the Commission's attorney position that these serving these 47 customers does not require any change in our service area. The remaining thirty have meters located out of Tontitown's service area. WWA filed a counter claim saying Tontitown breached the service area boundary agreement on the boundary map by going into their service area. The amended

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complaint also clarifies that WWA also has customers with meters located within our defined service area.

- B. Review sewer force main from Waste Management** – Wagner stated that he spoke with Waste Management (WM) and provided them a draft of the service contract that Dossett prepared. Their Dallas office is reviewing the contract. Local folks are anxious to get started soon because of savings to their operations. After the contract is agreed to, WM would like a timeline for construction so they will know how much time they have before the start of the NACA plant. Nickle stated that he also met Dave Conrad of the Texas office and local WM folks to review the cost estimates, routes and timeline. The potential for a sludge dryer to serve the NACA plant was discussed. The liquid volume generated from the dewatered sludge is less than what was originally estimated, which means the eight inch line should be of adequate size and will not need to be upgraded. Wagner stated that Waste Management would also like to tie in their truck wash; this option will need to be put in the contract.

### 6. NEW BUSINESS

#### A. None

- 7. COMMENTS FROM COMMISSIONERS** – Wagner asked to address the Commission. He stated that as a user of WWA, he is concerned about his water rates, therefore he has proceeded to investigate why WWA rates are the highest in Arkansas for a primary water supplier. He had requested and received WWA audits from 1998 forward. Over \$13 million in expenditures have been made by WWA without sufficient records provided to the auditor to adequately audit how funds had been spent. WWA's lawyer stated that Wagner's questions of WWA accounting might affect WWA board's decision to settle with Tontitown. Wagner stated he felt his personal questions to ask or make FOIA requests were his right under the law. He stated he took such action in his capacity as a WWA rate payer. Wagner asked the Commissioners what was their thoughts on this matter. The Commission gave Wagner their full support, did not believe his actions were a conflict to his service to the Commission and did not understand why such statements were made by WWA attorney.
- 8. ADJOURN** – A motion made by Brandt to adjourn and 2<sup>nd</sup> by Goddard, motion passed unanimously.