

Cabot Water & Wastewater Commission Meeting
August 25, 2011 AT 6:00 P.M.
Cabot Waterworks Administrative Office
#1 City Plaza, Suite B

Attendees: Gary Walker, Bert Mayer, Aaron Benzing, Wayne Cullins, Tim Joyner, Jimmy Taylor, Karen Ballard, Bruce Brown, and Tad Bohannon.
Cary Hobbs was absent

Visitors: Bill Cypert, Dave Langstaff, and Mickey Roper.

Gary Walker called the meeting to order at 6:00 P.M.
Bert Mayer led the opening prayer.

Aaron Benzing made a motion to approve the minutes of the meetings held on July 28, 2011, 2ND by Bert Mayer, Motion Carried Unanimously.

GENERAL MANAGER'S REPORT:

The Northbelt Transmission Line is moving along well.

The repairs from the lightning damage are complete at the water plant. The project at 4th & Cherry is halfway complete; the project has been on hold due to maintenance items. Staff is currently working on easements for the Hwy 5 & 89 Water Main Loop.

The dump truck bid came back. The backhoe is still scheduled for delivery. Bert Mayer made a motion to approve the purchase of a 4 yard dump truck, 2nd by Wayne Cullins, Motion Carried Unanimously.

Commissioners reviewed the internal wastewater funded projects. Abandoning the high school lift station is on hold, sewer mains may need to be replaced as well.

Staff is still working on system operating issues with replacing computers. An update will be given at the September Meeting.

FINANCIAL REPORT:

Bruce Brown delivered the July Financial Report. Bert Mayer made a motion to approve the July Financial Report, 2nd by Wayne Cullins, Motion Carried Unanimously.

BUSINESS ITEMS:

There are some issues with the billing due dates. An update to policy 2.4 was drafted in order to extend due dates for bills. Aaron Benzing made a motion to accept the amended policy 2.4, 2nd by Bert Mayer, Motion Carried Unanimously.

Commissioners signed the previously approved the Amendment to Water Purchase Agreement with Austin.

ANRC requested a letter outlining CWW's argument for the Water Plan. The letter is drafted and ready for review. Once the letter is approved, it will be sent directly to ANRC.

Copies of easements for transfer of a transmission main are with CAW and will be addressed in their September Meeting.

Preliminary drafts have been provided to NPW's attorney for review regarding the NPW customer acquisition. Staff is having no success finding easements of the customers.

NON AGENDA ITEMS:

Mr. Jimmy Taylor asked the Commissioners to appoint a commissioner to act as a power of attorney for Mr. Troutman regarding a breach of an agreement where in Mr. Troutman agreed to annex property to the city and has failed to do so. The Commissioner will then be able to execute the agreement by annexing the property. Bert Mayer made a motion to appoint a commissioner to sign as power of attorney for annexation of the Troutman land, 2nd by Wayne Cullins, Motion Carried Unanimously. Chairman Gary Walker then appointed Bert Mayer to be the Commissioner appointed as power of attorney.

Bert Mayer made a motion to adjourn at 6:55 p.m., 2nd by Wayne Cullins, Motion Carried Unanimously.

Minutes prepared by Tiffany Brockinton.



COMMISSION SECRETARY
BERT MAYER

**A RESOLUTION DECLARING TROUTMAN DEVELOPMENT COMPANY, INC.
IN DEFAULT AND APPOINTING BERT MAYER AS ATTORNEY IN FACT
TO PROCEED WITH ANNEXATION OF PROPERTY
INTO THE CITY OF CABOT, ARKANSAS**

WHEREAS, Troutman Development Company, Inc., an Arkansas corporation ("Troutman"), Toby Troutman, as guarantor of Troutman's obligations ("Guarantor"), the Cabot Water and Wastewater Commission, a duly authorized joint municipal water and wastewater commission ("Cabot WaterWorks") and others previously entered into a definitive Agreement Purchase, Sale and Settlement in September, 2010 (the "Purchase Agreement") relating to the sale of an easement across certain property, as more particularly described therein, and the sale of other property by Troutman to Cabot WaterWorks; and

WHEREAS, the Purchase Agreement imposed certain post-closing obligations on Troutman and Guarantor, including specifically an obligation to apply for annexation of the "all property owned by Troutman Development Company or any of its sister, subsidiary or related entities, South of the gravel pits, West of Hwy 67/167 and East of Hwy 5 in Lonoke County, Arkansas" (the "Area") into the City of Cabot, Arkansas (the "City"); and

WHEREAS, Troutman "irrevocably and unconditionally represented and warranted its desire for the Area to be annexed into the City"; and

WHEREAS, Troutman has not made timely application for the Area to be annexed into the City; and

WHEREAS, Troutman and Guarantor have not responded to the City's efforts to assist Troutman in complying with the terms and conditions of the Purchase Agreement; and

WHEREAS, the City desires for the Area to be annexed into the City; and

WHEREAS, Section 13.6 of the Purchase Agreement provides that if Troutman fails to apply for annexation of the Area into the City, Troutman irrevocably appoints of Cabot WaterWorks or any of its commissioners or employees as its true and lawful attorney-in-fact with full power and authority for "carrying out the terms of" the Purchase Agreement;

NOW, THEREFORE, BE IT RESOLVED by the Cabot Water and Wastewater Commission that:

Section 1. Troutman is in default under the terms and conditions of the Purchase Agreement by its failure to apply, and its failure to cooperate with the City in the City's efforts apply on its behalf, for annexation of the Area into the City.

Section 2. In accordance with Section 13.6 of the Purchase Agreement, Bert Mayer is hereby appointed as the attorney-in-fact for Troutman and directed to proceed to apply for annexation of the Area into the City.

Section 3. Bert Mayer is authorized to execute such writings and take such action as may be appropriate to carry out the terms of this Resolution.

ADOPTED this 25th day of August, 2011.



Bert Mayer, Secretary

CERTIFICATE

The undersigned, Secretary of the Cabot Water and Wastewater Commission, hereby certifies that the foregoing pages are a true and perfect copy of a resolution adopted at a meeting of the Cabot Water and Wastewater Commission held on the 25th day of August, 2011, and that the resolution is of record in the offices of the Commission.

GIVEN under my hand and seal this ____ day of August, 2011.



Bert Mayer, Secretary