

# Fleming County Water Association

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February 4, 2011

Todd Osterloh  
Public Service Commission  
211 Sower Blvd  
P O Box 615  
Frankfort, KY 40602-0615

RECEIVED  
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PUBLIC SERVICE  
COMMISSION

**Re: Case No 2010-00049  
Wilmer & Pauline Conn v. Fleming County Water Association  
Feb 3, 2011 Hearing Request for Copies of FCWA Minutes**

Per your request for copies of FCWA meetings attended by Wilmer Conn, please find enclosed copies of meetings held September 19, 2007, (Page 3); November 17, 2007, (Page 3); January 16, 2008, (Page 2).

If anything further is required, please advise.

Sincerely,

  
Eugene Jett  
FCWA/ Supt.

EJ/wpw

Encs. (3)

J. E. Smith, Jr., President  
Kenneth C. Wagoner, Vice President  
Wayne Craft, Secretary

Kirby Story, Treasurer  
F. L. Hinton, III, Director  
"Chuck" Marshall, Director



**MINUTES OF REGULAR MEETING  
OF THE FLEMING COUNTY WATER ASSOC., INC.**

*HELD Wednesday, Sept 19, 2007*, at the Fleming County Water Association business office, at 2772 Morehead Rd., Flemingsburg, KY, called for 9:00 AM.

**PRESENT: J E Smith, Jr., President, Kirby Story, Treasurer, Wayne Craft, Secretary, Chuck Marshall and F L Hinton, directors.**

**ALSO PRESENT: Marvin W. Suit, Attorney, Gene Jett, Wilhemina P. Whisman, Office Manager. Also present, Wilmer Conn and Glennis Harris, Attorney.**

President Smith called the meeting to order.

**MINUTES**

Upon motion by **Buddy Hinton**, and second by **Kirby Story**, the minutes of the August 15, 2007 meeting were approved as presented. Motion carried.

**PARKERSBURG TANK PROJECT**

Gene stated that there had been no further developments from the last meeting.

**PARK LAKE  
OUTING ASSN**

Gene said he still had not heard anything more from Park Lake.

**TRACK HOE  
PURCHASE**

Gene stated that there was nothing to report.

## **PROJECT 02**

Gene reported that the final pay request from Double D for \$10,900.00 had been made on August 17, 2007. Gene was to inquire if Marvin's attorney fee could be paid with the balance of the project funds.

## **AUDIT (06)**

Upon motion by **Wayne Craft, second by Kirby Story**, the 05-06 Audit was approved as presented at the August 15, 2007 meeting. Motion carried.

## **WATER QUALITY**

Water quality was discussed. It was the consensus of the board that everything should remain as is. That to press GFCRW to install a water softener at the plant would result in increased costs to FCWA for purchased water which in turn would have to be passed on to the customers in higher water bills. Chairman Smith read a letter from Dr. Womack stating that he had lost 3 dishwashers and was facing the situation of having to either install a water softener or a filtration system and he felt that more should be done towards the installation of a water softener at the plant. Chairman Smith stated that he had talked with him and that Dr. Womack was reconciled to the fact that he was going to have to personally install a water softener at his own expense.

The board reviewed financials. A motion was made by **Buddy Hinton and second by Chuck Marshall** to approve all bills, paid and pending and adjustments of \$581.55 (0 gls) for July. **Motion carried.**

**ROCK LICK**

Wilmer Conn, who lives at the upper end of Rock Lick, along with his attorney, Glennis Harris, appeared before the board requesting water service to his property located in the Maxey Flat area. The State purchased property surrounding the Maxey Flats Disposal Site for use as a buffer zone resulting in our abandoning 8500' of 3" waterline in the Upper Rock Lick Road area due to possible contamination of radioactive run-off from the Maxey Flat Disposal Site. Mr. Conn requested that we reconnect this line that was abandoned in 1997 in order to furnish him water and that the State did not have any objections to FCWA using this line.

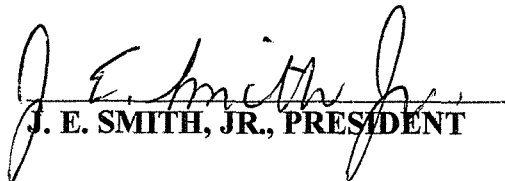
Attorney Suit informed him that FCWA did not ever intend to use this line due to the possibility of radioactive run-off in that area filtering back into our line and contaminating our entire system. He stated that we were willing to serve Mr. Conn from the Scaggs Road. An easement would have to be obtained from Willie Gregory and we would set the meter on the easement right of way and Mr. Conn could run his line from that point to his property.

Attorney Harris asked Attorney Suit if FCWA would consider using the abandoned line if he could obtain a letter from EPA stating that it was ok and that the possibility of contamination did not exist. Mr. Suit stated that we would review the matter if such a letter could be obtained.

There being no further business, the meeting adjourned at 10:30 AM.

ATTEST:

  
\_\_\_\_\_  
WAYNE CRAFT, SECRETARY

  
\_\_\_\_\_  
J. E. SMITH, JR., PRESIDENT



**MINUTES OF REGULAR MEETING  
OF THE FLEMING COUNTY WATER ASSOC., INC.**

*HELD Wednesday, Nov 21, 2007*, at the Fleming County Water Association business office, at 2772 Morehead Rd., Flemingsburg, KY, called for 9:00 AM.

**PRESENT:** J E Smith, Jr., President, Kenny Wagoner, Vice-President, Kirby Story, Treasurer, Wayne Craft, Secretary, and F L Hinton and Chuck Marshall, directors.

**ALSO PRESENT:** Marvin W. Suit, Attorney, Gene Jett, Wilhemina P. Whisman, Office Manager. Also attending Bob Blankenship (HMB), Wilmer Conn and his attorney, Glennis Harris.

President Smith called the meeting to order.

**MINUTES**

Upon motion by Kenny Wagoner, and second by Wayne Craft, the minutes of the Oct 17, 2007 meeting were approved as presented. Motion carried.

**PARKERSBURG TANK PROJECT**

Gene Jett informed the board that Rural Development had given him notice the project was ready to bid. Bob Blankenship (HMB) was instructed to apply for a KIA Grant to help fund the project.

**WATER QUALITY**

It was reported that we had not been receiving any complaints about the water quality.

**RATE STUDY**

Gene stated that he would be contacting Carryn Lee next week to set up a

time for her to come to the office and start on the study.

## **FINANCIALS**

The board reviewed financials. A **motion** was made by **Chuck Marshall** and second by **Wayne Craft** to approve all bills, paid and pending and adjustments of **\$217.59 (-102,940 gls)** for October. **Motion carried.**

## **2008 EMPLOYEE HEALTH PLAN**

The board reviewed the various renewal quotes for the employee health plan and upon **Motion** by **Kirby Story**, second by **Chuck Marshall**, accepted and approved the proposal from **Anthem Blue Cross/Blue Shield** for the plan year December, 2007 through December, 2008. **Motion carried.**

## **EMPLOYEE RETIREMENT PLAN**

The Board discussed the fact that the company 457 retirement plan currently administered by Southern Farm Bureau was presently a fixed rate plan and felt that we needed to set up a new plan offering the employees more flexibility in their investments and authorized Wilhemina Whisman, as non-discretionary trustee, to work with Tony McGlone of Edward Jones in setting up a new plan.

Upon **Motion** by **Chuck Marshall**, second by **Wayne Craft**, the board went into executive session to discuss other business. **Motion carried.**

Upon **Motion** by **Buddy Hinton**, second by **Kenny Wagoner**, the Board came out of executive session. **Motion carried.**

Upon returning from executive session, the Board instructed Wilhemina to



make the following changes to salaries and benefits for 2007-08.

- **All employees were to receive \$1.00 per hour raise.**
- **Sandra was to be reimbursed \$86.00 per month for her health insurance costs. Gene's and Wilhemina's reimbursement of \$500.00 per month was to remain the same.**
- **Retirement was to remain at 10% matching for company/employee contribution.**
- **\$150.00 Christmas bonus was to be given to each employee.**
- **Director meeting expense to remain the same as in 2007. (\$200.00 per meeting)**
- **Attorney fee to remain the same as in 2007. (\$5,000.00 per year)**

The board then went into a closed session with Gene Jett and Billy Dyer.

## **ROCK LICK**

**Wilmer Conn**, along with his attorney, **Glennis Harris**, appeared before the board once again requesting that we reconnect the line in Upper Rock Lick that was abandoned in 1997 in order to furnish Mr. Conn water. He stated the board's alternative route to serve Mr. Conn from the Scaggs Road would cost him \$10,000-\$15,000. Attorney Harris asked what the Board's major concerns were so that he could try to address them when he was talking to the proper agency about obtaining a letter from them stating that it was acceptable to reconnect the line to FCWA's system and that there was no possibility of contamination to our system. Attorney Marvin Suit stated contamination of our entire system was our major concern and that if these agencies could guarantee that there was no possibility of contamination and would put up a bond stating that if the system became contaminated that they would purchase the entire system so that we could rebuild another one we might consider reconnecting this line to our system. Attorney Harris stated that they would be getting back in touch with the Board at a later date.

Upon Motion by Wayne Craft, second by Kirby Story, Gene Jett and Billy Dyer were instructed to install a valve on the line just past the last customer on Upper Rock Lick. Motion carried.

There being no further business, the meeting adjourned at 10:50 AM.

Kenneth D. Wegener V P  
J. E. SMITH, JR., PRESIDENT

ATTEST: Wayne Craft  
WAYNE CRAFT, SECRETARY

**MINUTES OF REGULAR MEETING  
OF THE FLEMING COUNTY WATER ASSOC., INC.**

*HELD Wednesday, January 16, 2008*, at the Fleming County Water Association business office, at 2772 Morehead Rd., Flemingsburg, KY, called for 9:00 AM.

*PRESENT:* **J E Smith, Jr., President, Kenny Wagoner, Vice-President, Kirby Story, Treasurer, Wayne Craft, Secretary, and Chuck Marshall , director.**

*ALSO PRESENT:* **Gene Jett, Marvin W. Suit, Attorney.**

**Also attending Attorney Glennis Harris and his client, Wilmer Conn.**

**Anthony McGlone, Edward Jones.**

President Smith called the meeting to order.

**MINUTES**

Upon motion by **Chuck Marshall and second by Kenny Wagoner**, the minutes of the Dec 13, 2007 meeting were approved as presented. Motion carried.

**PARKERSBURG TANK PROJECT  
BIDS**

Bids were discussed on the construction of the 257,000-gallon water storage tank.

**HYDRO CARE**

Gene introduced a compact unit that you clip to the pipe that leads to the water heater and then plug it into an outlet. It transmits a signal into your entire system. When your water is heated it prevents the scale buildup and breaks up and frees clogs in pipes, faucets and shower heads. Gene stated that he was going to buy one and inquired if the board wanted to buy one. The board decided

to see what results Gene obtained.

## **PURCHASE OF SERVICE TRUCK**

The Board received bids on a 2008 Chevrolet 4x4p pickup.

Bids were as follows with each allowing \$2000.00 trade-in for 2000 Chevrolet

Pickup:

- Cheap Chevrolet - \$18,000.00 plus applicable tax and license
  - Fannin Ford - \$16,455.00 plus applicable tax and license
  - McFarland Chevrolet-\$15428.83 plus applicable tax and license
- The board accepted McFarland as the low bidder.

## **ROCK LICK**

**Wilmer Conn**, along with his attorney, **Glennis Harris**, appeared before the board again requesting that the association reconnect the line in Upper Rock Lick considering the fact that a letter from Division of Waste Management stating that they had no opposition to the water line being re-established for Mr. Conn at this time, especially since it would warn against the use of well water on this property due to the groundwater contamination in the adjacent area. They also stated that they could not state with absolute certainty that any area of the Commonwealth is not contaminated, they currently do not have any information which indicates that soil contamination exists in this area where the water line is to be re-established. (A copy of same is attached hereto and made a part hereof)

Mr. Conn was again given the board's alternative route to serve Mr. Conn from the Scaggs Rd and again the Board reiterated their position that they did not ever intend to reconnect the abandoned line due to the possibility of contamination to system. Attorney Harris stated that they would be getting back in touch.

**EMPLOYEE RETIREMENT  
PLAN**

Anthony McGlone, Edward Jones appeared before the Board to inform them of the status of the present 457 Plan with Southern Farm Bureau. He stated that the ERSA attorney had been unsuccessful in obtaining a ruling from IRS or DOL permitting the association to amend the 457 plan in order to get it into compliance. He stated that the present 457 plan needed to be terminated as of December 31, 2007, and a new Adoption Agreement for a 401(K) Profit Sharing Plan and Trust be established as of January 1, 2008.

**Upon Motion by Wayne Craft, second by Chuck Marshall it was moved that the present 457 Plan with Southern Farm Bureau be terminated as of December 31, 2007, and that a 401(K) be established with Edward Jones as of January 1, 2008. Motion carried.**

The Board authorized J E Smith as President to send a letter to Southern Farm Bureau terminating the present 457 Plan as of Decemberr 31, 2007. (A copy of same is attached hereto and made a part hereof.)

Anthony McGlone was authorized to assist in the preparation of the necessary documents required in terminating the 457 Plan and setting up the new 401(K) and he stated that he would be glad to help the employees in any way that was needed.

Vesting of participant's interest for employer contributions was discussed for the new 401(K) and the board agreed that all present employees should be,

There being no further business, upon motion by **Chuck Marshall** and second by **Kirby Story**, motion carried, the meeting adjourned at 11:10 AM.

ATTEST:

Wayne Craft  
WAYNE CRAFT, SECRETARY

J. E. Smith, Jr.  
J. E. SMITH, JR., PRESIDENT



## ENVIRONMENTAL AND PUBLIC PROTECTION CABINET

Ernie Fletcher  
Governor

Department for Environmental Protection  
Division of Waste Management  
14 Reilly Road  
Frankfort, Kentucky 40601-1190  
www.kentucky.gov

Teresa J. Hill  
Secretary

December 13, 2007

Fleming County Water Association, Inc.  
P.O. Box 327  
Flemingsburg, Kentucky 41041

RE: Inquiry of Wilmer Conn

Dear FCWA:

The Kentucky Division of Waste Management (KDWM) was contacted by Mr. Wilmer Conn to determine whether the Division would have any objections to the re-establishment of the city water line on his property which is located in the buffer zone of the Maxey Flats Superfund Site.

The KDWM has no opposition to the water line being re-established for this resident at this time, especially since it would warn against the use of well water on this property due to the groundwater contamination in the adjacent area.

While the KDWM can not state with absolute certainty that any area of the Commonwealth is not contaminated, the KDWM currently does not have any information in its files which indicates that soil contamination exists in the area where the water line is to be re-established.

If you have any questions, do not hesitate to contact me regarding this matter at 502-564-6716.

Sincerely,

A handwritten signature in black ink that reads "Fazi Sherkat".

Fazi Sherkat, P.E., Manager  
Superfund Branch  
Division of Waste Management

cc: Hon. Glennis Harris  
Virginia Baker Gorley, OLS

