

Dear Mr. Jeffrey – on behalf of the Pappy Elkins Restoration Group, I am addressing your letter of September 10, 2014 (Attachment A), that outlines Mayor Tedder’s position regarding our August 1, 2014 Open Records Request (“ORR”). Your letter makes clear the following:

Mayor Tedder refuses to provide the information we requested and he instructed you to develop a legal basis that would support his position.

You close by saying DWG is not required by law to provide this information so they won’t. We wonder why DWG views this as a “legal” issue at all – in that the information request is from citizens they serve seeking to be better informed. Your involvement in this matter is alarming.

We begin by sharing our view that your letter, its underlying motivation and the tactics being played out are **not** what this city is about. We are honest, transparent, cooperative families and individuals who care deeply about our DWG quality of life and are keenly interested in how the city spends **all** of its revenue – the majority of which comes directly from us. Mayor Tedder’s concealment of information we believe we have a right to seems shortsighted and misguided.

Regarding your letter, we are perplexed in that the information we seek is *identical* to information previously provided by the city. But now, for an unexplained reason, Mayor Tedder seems to have unilaterally determined such information should be withheld. We strongly disagree with Mayor Tedder’s position and believe all DWG citizens (not just those on the city council) are entitled to know how the city is appropriating funds. We encourage you, as our City Attorney, to ask Mayor Tedder to reconsider. Transparency and honest, open communication with DWG’s city hall is essential if we are to return this city to its prior prominence as one of the most desirable places to live in Tarrant County. We remain committed to this goal.

Your legal analysis is not the subject of this communication – rather we want to share with you, and the council members your letter excluded, important information regarding the ORR. It was straightforward – we asked for a printout from DWG’s accounting system of the operating costs of the Water / Sewer Fund that comprised specific numbers presented in DWG’s Audited Financial Statements. We even circled the actual numbers that were the subject of our request (Attachment B). Following is a summary of what has transpired since our request was submitted:

- A compilation of expenses was provided but several categories of expenses were excluded.
- Electric utility costs were one of the excluded expenses.
- We clarified through a series of emails that we wanted all expenses (reflected in the Audited Financial Statements) – DWG then delivered the previously excluded expenses.

- The new numbers exactly matched the Financial Audited Reports in all but one year (the off year being 2012 – the year the Houston audit firm was hired).
- We inquired specifically about the reported electric utility expense for 2011 that was only \$3,200 (compared to apx. \$50,000 in other years).
- We were informed that:
 - ❖ **The electric utility expense for all years (2009 through 2013) was wrong – that the real electric utility costs were actually paid out of DWG’s General Fund by mistake.**
 - ❖ This error represents a major flaw in the city’s accounting system and needs to be fully understood.
 - ❖ DWG then provided revised electric utility expenses for 2009 – 2013. The table below shows the difference in the two versions:

	Electric Utility Costs				
	2009	2010	2011	2012	2013
Initial Report	37,118	45,578	3,616	52,201	74,735
Revised Report	<u>33,197</u>	<u>49,726</u>	<u>100,023</u>	<u>48,611</u>	<u>49,188</u>
Difference	(3,921)	4,148	96,407	(3,590)	(25,547)

We asked (and transposed to an Open Records Request) the following questions which are the six questions you reference in your letter that Mayor Tedder refuses to answer:

1. For 2009 – 2013 what expense was entered into the Water / Sewer Fund accounts as electrical utility expense? **If it wasn’t electricity costs, what costs were erroneously booked in this account?** Also, how far back in time does this accounting error extend?
2. What is the General Fund account # into which electric utility expenses were actually booked?
3. Is cash for the Water / Sewer Fund and General Fund held and dispersed separately or is the cash comingled?
4. Why was the 2011 electric utility expense (\$100,000) so far above a budget of \$55,000?
5. How much well production was there in 2011? You previously reported that in 2013, the city produced 107 million gallons from the city wells to supplement water purchased from Fort Worth.
6. What type of pricing plan are we on with our electric company and who is it with?

These are logical and reasonable questions and your letter incorrectly states that some of them have been answered – none have been answered. We also do not understand

how you could consider any of these questions to be “general” and thereby (according to your legal analysis) exempt from the Freedom of Information Act. For example, what do you consider unspecific about: 2.What is the General Fund account # into which electric utility expenses were actually booked?

DWG’s accounting department informed us they were busy finishing up the audit but agreed to deliver the information the following week. This deadline passed uncharacteristically, as Melinda has been very engaged and responsive over the last few months.

We sent multiple follow-up emails asking when the information would be available without a single reply from Mayor Tedder. The only reply we have received from DWG regarding our list of questions is your letter of September 10, 2014. Needless to say we are disappointed by the city’s failure to respond, its decision to instruct you to write a letter and now your involvement in this matter.

Let us explain to you why our ORR matters to the citizens of DWG. Weeks ago we sent the city council a letter explaining our intent to understand the business affairs of DWG. Our unaddressed ORR is integral to this process and our desire to have a cooperative working relationship with the city. One of the business areas we have started to look at is the city’s water and sewer operation – historically a consistent source of profits for the city. Based upon information provided to us from DWG on June 2, 2014, we were able to prepare the following table:

DWG Water Data	2013	Notes
Purchased From Fort Worth	188,062,000	64% of total water utilization
Produced from City Wells	107,000,000	36% of total water utilization
Total Gallons	295,062,000	
Cost of Fort Worth Water	\$ 400,000.00	
Cost per 1,000 gallons	\$ 2.13	Paid to Fort Worth per 1,000 gallons
Rate to DWG Customers	\$ 2.75	Paid by DWG customers per 1,000 gallons
Positive Margin	\$ 0.62	Profit spread on Fort Worth water
Calculated Water Margin	2013	
Gross Margin - FW Water	\$ 117,170.50	Water volume (per 1,000 gallons) X \$.62
Gross Margin - Well Water	\$ 294,250.00	Water volume (per 1,000 gallons) X \$2.75
Total Margin	\$ 411,420.50	Available to cover operating expenses

The data presented in the table above was taken from a series of emails (Attachment C) with DWG. Here are a few of the key statements made by DWG in the emails:

- The City purchased approximately 188,062,000 gallons in fiscal year 2013 from Fort Worth, which cost approximately \$400,000. This averages \$2.13 per 1,000 gallons. Fort Worth rates are based upon historical usage.
- Approximately 107,000,000 gallons was produced from the city's wells during fiscal year 2013.
- Mayor Tedder stated in the April 16, 2014 council meeting that the city derives approximately one-half of its annual water needs from the city's wells.
- The last 4 years have required higher well use due to the drought.
- DWG increases well production during hot and dry years otherwise the city is charged higher rates by Fort Worth.

According to this data, in fiscal year 2013 DWG sold approximately 295 million gallons to its water customers with an estimated (our estimate) positive margin of over \$400,000. The city's sewer business has also been very profitable over the years typically contributing over \$150,000 of positive margin or 50% of revenue. We do not know how profitable the sewer operations were for 2013 because (since 2012) the payments DWG makes to Arlington and Fort Worth for processing sewer water are no longer identified in the city's Audited Financial Statements.

From 2009 to 2012 DWG reported, on average, profits from its combined water and sewer operation of approximately \$60,000 and in 2012 the number was \$78,200. In 2013 DWG reported a loss of **\$52,530 – a negative swing of \$130,000 in a single year.** The downward trend in the performance of a key business unit of DWG is concerning – so we want to understand the underlying causes and what the current trends are. We hope this explanation has been helpful to you and might compel you to support our request to have Mayor Tedder respect and comply with our request under the Freedom of Information Act. We are looking for data that is correct, complete and verifiable.

Thank you for considering the matters we raised herein and please let me know if we can address any questions you may have.

Kind regards,

Pat Noonan

Pappy Elkins Restoration Group