

MINUTES
BOARD OF PUBLIC WORKS MEETING
March 16, 2009
New Berlin City Hall Common Council Chambers
3805 S Casper Drive

Please note: Minutes are unofficial until approved by the Board of Public Works at their next regular scheduled meeting.

The meeting was called to order by Alderman Moore at 8:03AM.

Members Present: Mayor Jack Chiovatero, John Graber, Alderman Moore, Alderman Ament and Alderman Seidl.

Staff Present: J. P. Walker, City Engineer, Tammy Simonson, Transportation Senior Civil Engineer, Mel Corley, Engineer, Don Ullman, Streets Department Supervisor

Privilege of the Floor:

Ralph Heun of 17765 W. Saturn Drive said lets stop the political posturing, because we all know we have to do something about Calhoun Road. We are never going to get the four-lane divided highway and are probably never going to get the two lane divided highway with the enhanced intersections, so why don't we look at National Avenue as an example to have one lane in each direction with a TWLTL. We are not going to get sidewalks, but will have some kind of shoulder so people can ride their bicycles or whatever they want to do on it. We aren't going to have to put Calhoun Station out of business or cut off their access from the front, nor for that matter Senor' Lunas or the houses there that will have their front steps right out to the sidewalk. We have to do something. We want a good and safe road and do it in an economical way.

Alderman Moore asked three times if there was anyone else that wanted to speak before the Board of Public Works. After seeing none he called the meeting to order.

OLD BUSINESS

ITEM 01-09 Approval of the Minutes from the February 19, 2009 Board of Public Works Meeting.

Motion by Alderman Seidl to approve.

2nd by Mayor Chiovatero

Upon voting the motion approved unanimously.

ITEM 28-08 – Discussion on Calhoun Road Improvements and Direction from the Board of Public Works on making the Improvements (tabled)

John Graber made the motion to move this item to the end of the agenda.

Alderman Seidl 2nd the motion.

Upon voting the motion passed unanimously.

ITEM 02-09 Kazi B. Syed, 4320 S. Moorland Rd / Release of Surety Instrument (deferred)

JP Walker said when we left this item at the last meeting we were seeking the opinion of the City Attorney on concerns about Board action setting precedence. The City Attorney issued a letter dated February 25th, and also a clarification e-mail dated February 26th. He left the options open to the Board. He said that it's prudent to

wait until the frost is out of the ground to make a decision. The question about does it set precedence is the more important issue for the board. Do you want to set that precedence and then have developers in the future line up and ask for early releases of their surety instruments?

Mayor Chiovero asked if the Utility Department inspect the sanitary sewer?

JP Walker replied that it was inspected by the Utility and all is fine.

Alderman Ament stated if we do this we need to go back to the Developers Agreement and change it, so we aren't setting any precedence. So I think we need to consider that in future Developers Agreements if we are going to change this.

Alderman Seidl asked if there were any lien waivers provided to the City.

JP Walker indicated that we had not received a lien waiver from the Developer.

Mayor Chiovero made the motion to deny the early release of the escrowed funds due to a lack of lien waivers.

John Graber 2nd the motion.

Upon voting the motion passed unanimously.

NEW BUSINESS

ITEM 07-09 Amended Greenfield Avenue Connection Highway Agreement with the Wisconsin Department of Transportation.

JP Walker stated that the amended connecting highway agreement from WisDOT will replace the current Agreement that was executed in the Year 2000. The limits of the original Agreement were from 124th Street to Georges Avenue, covering 3.15 miles. The amended agreement extends the western limit 0.92 miles to the west to Norwood Drive/Brookfield Road. The Amended Agreement covers 4.08 miles, and they are requesting New Berlin to approve the Amended Agreement.

John Graber asked if the Streets Department had looked at Greenfield Avenue to determine if there are any faults or deficiencies that are necessary to be corrected prior to us accepting the Agreement?

Don Ullman stated that the road is in relatively good shape, but should be crack filled. There are a couple catch basins that need to be repaired otherwise the rest of it looks good.

Alderman Ament stated that WisDOT is requesting this because they want to move that western limits. He is concerned that the \$55,000 that we receive per year in Connecting Highway Aids will not be adequate in the future.

JP Walker indicated that our responsibilities would include everything up to but stopping short of resurfacing the road. That would be crack sealing, curb and gutter repair, minor spot repairs, median mowing, pavement markings and snow plowing.

Don Ullman stated that the intersection with Moorland Road has quite a few lanes to it so it will take extra time and materials to maintain it, so to put a cost on it is hard to say. I don't foresee it being a huge burden on us.

JP Walker indicated that State Statute 86.32 provides the requirements for Connecting Highway Aids. He surmised that if New Berlin were to not accept the amended agreement there would have to be further

discussion on whether or not New Berlin would receive highway aids. New Berlin has been receiving \$55,000 per year since the Year 2001; that's \$440,000 and we really haven't had to do much maintenance.

Alderman Moore indicated that we would be getting an additional \$15,000 per year, for the affected half mile that we would be in charge of.

Alderman Ament asked whether or not this big highway will start costing us money?

JP Walker indicated that the costs that we have seen in our crack sealing programs varies from \$2500 to \$4500 per mile, so two miles could cost \$5,000 to \$9,000 per year in the years that it would be crack filled. Typically sealed cracks last at least three years.

Mayor Chiovaturo stated that we don't know if this Agreement is going to take effect in October 2009 or in October of 2010. It depends on when the State decides that they are done with their construction. He asked if Staff had any conversation with Brookfield to see if they are going to take care of their portion that they will be handling over to us?

JP Walker responded that he has had no discussion with Brookfield on that topic.

**Mayor Chiovaturo made the motion to accept the Amended Agreement.
Alderman Seidl 2nd the motion.**

Upon voting the motion passed unanimously.

ITEM 08-09 Amended Greenfield Avenue Maintenance Agreement with the City of Brookfield

JP Walker stated that the Amended Maintenance Agreement with Brookfield divides up the maintenance responsibilities for the 4.08 mile distance included in the Amended Connecting Highway Agreement with WisDOT. New Berlin's responsibility will be from the center of the intersection with 124th Street through the intersection with Moorland Road; and then Brookfield picks it up at that point and goes to Brookfield Road resulting in equal distance and equal responsibilities for both communities.

Alderman Ament stated that it would be equal if the road was built all at the same time. We are getting the 8 year old end of it. He wondered why if this is such a good deal that Brookfield would even be interested in doing this; why would Brookfield want to give it up? He asked if anyone asked Brookfield if they are interested or agreeable to this or their leaning one way or the other?

JP Walker responded that Brookfield drafted the amended agreement; they approached us. Their amended agreement provides equal distance of responsibilities for both cities. According to the Brookfield Director of Public Works, Tom Grisa, they have worked out an agreement with Waukesha County for taking care of the signals at Moorland Road; it will be the County's responsibility. So that leaves the responsibility of two signals to us and two signals to Brookfield.

JP Walker suggested that the Board make it part of the motion, that Brookfield take care of their maintenance responsibilities this year in that 0.46 mile stretch from Sherwood through the intersection on Moorland Road before we execute the agreement.

John Graber made the motion to recommend to the Common Council the approval of the amendment subject to Brookfield making the maintenance repairs of items that New Berlin requests in the transferred section.

Mayor Chiovaturo 2nd the motion.

Upon voting the motion passed with Alderman Ament voting no.

ITEM 09-09 Updated Board of Public Works By-Laws

Alderman Moore stated that language needs to be added to Article IV, Section 2A, due to the fact that things do come up at the last minute but should be only considered if it needs to be on the Board agenda. He asked that the Board include the following sentence at the end of Section 2A: "Late item(s) may be brought to the attention of the Chairman whom shall determine if the item(s) is/are essential to be added to the agenda in accordance with State open records requirements."

JP Walker stated that on December 15, 2008 when we first talked about the updated By-Laws that Alderman Ament brought up this issue when an item was added late to the agenda, causing the agenda to be amended.

John Graber made the motion to add the sentence.

Mayor Chiovero 2nd the motion.

Alderman Ament stated that he imagined that the reference to State open records requirements meant that we still would need to do that prior to 24 hours before the meeting. So that would have to be done by 8:00AM on the Friday preceding the meeting. His concern was that this could become a habit of putting things late on the agenda

Alderman Seidl indicated that he would be more comfortable with the wording that it would be that we have it by 8:00 AM on Thursday so that we have a day to ask Staff questions.

Alderman Moore indicated that he thought we can make sure that if something occurred between Thursday morning and Friday morning that the Board would be notified.

Mayor Chiovero stated that he thought the only time that anything like that has happened is when an amendment to a Developers Agreement or a Bid that came in had to get to the Board because of a deadline. Everything has usually been discussed previously; it's just a matter of a last minute change, is that correct?

JP Walker stated yes, the key words are ". . . essential to be added to the agenda . . ." and that is the Chairman's call. Items that are coming to the agenda are screened by the City Engineer and if they can be held off until the next meeting, it is discussed with the Chairman and the agenda is put together accordingly.

Alderman Ament stated that the hardest thing for us that are working during the day on Friday and this comes up on Friday, is we don't always see it until the end of the day. We have no time to contact the Staff and because our meetings are at 8:00AM on a Monday morning, there is no basically no time to get those questions answered before the meeting. The timing of these meetings makes it difficult to get this information. I just wish the meetings weren't at 8:00AM on a Monday.

Alderman Moore stated that he thought that because there isn't much time between Thursday evening and 8:00AM on Friday he would ask that Staff not only send out e-mails but also a phone call would be in order.

Alderman Seidl stated that he didn't think a phone call would do any good. He would just be happy if he knew about it by Thursday.

John Graber indicated that there has been some discussion about last minute type of approvals; if there were something that anyone of us feels are inadequately presented or additional research is needed we still have the opportunity to defer it.

Upon voting the motion passed unanimously.

ITEM 10-09 Potential Second Stage of the American Recovery and Reinvestment Act (Stimulus Package)

JP Walker indicated that this issue is a very fluid topic of discussion. He stated that a couple members of Staff were in Milwaukee getting more information on this issue. We received a letter, dated February 27, 2009, from Frank Bussalachi, Secretary of WisDOT, that provided information about the Stage Two Stimulus Package funding. The Stage One Stimulus Package was earmarked for arterial streets and had very tight deadlines for applying and getting documented items in for review. The application date was in February and the PS&E deadline was March 17th. Stage 2 has an application deadline of April 1, 2009 and a PS&E deadline of December 1, 2009. The key issue is that collector streets have been added to that list of eligible streets. He indicated that he brought forth the issue for consideration by the Board to determine whether or not there is interest in applying for stimulus funding. Three streets, Calhoun Road, Glendale Drive and Ryerson Road were listed as possible streets to consider. Calhoun Road is an arterial; Ryerson Road and Glendale Drive are collectors. He indicated that he had instructed Staff to prepare the applications and have them waiting in case the Board recommends approval to the Council and the Council ultimately approves the submittal of the applications on March 24th, they will be in the mail on March 25th. If there is no interest then Staff has only lost 5 minutes per application.

Mayor Chiovarero indicated that we have been encouraged by SEWRPC to apply for these roads.

JP Walker indicated that Ken Yunker, Executive Director of SEWRPC mentioned Calhoun Road as a possible candidate. Staff talked with Mr. Yunker because we had questions about what the letter from Mr. Bussalachi was saying. Mr. Yunker recommended that we at least apply. By applying it still doesn't guarantee that you're going to get funding, but by not applying that guarantees you aren't getting any funding.

Mayor Chiovarero stated that municipalities are hurting for dollars to repair roads. He was very disappointed with the way the Stage One Stimulus Package was set up because the design of the project had to be on the shelf and ready to be let, which means that New Berlin would already have gone through all the stages and actually borrowed for the construction money. He indicated that he was told to wait until Stage Two, that there were going to be some changes. They have changed a lot of things, a lot of requirements that are met, they are waiving some in some cases and so he thinks this is something worth going for. He was encouraged to know that in the conversation with SEWRPC that Calhoun Road came up because they know the situation with Calhoun Road where we have tried to move it forward and tried to get STP funding through the years.

JP Walker indicated that there are certain requirements that need to be met in order for a project to be eligible for the Stimulus funding. Projects that are already approved for STP funding are not eligible for Stimulus funding. Key things that need to be completed by the December 1, 2009 deadline are:

1. All the environmental documents have to be submitted,
2. Exceptions to standards would have to be requested and approved by WISDOT,
3. The design study report has to be completed and approved,
4. The 404 permit from the Army Corps of engineers for wetland or water crossing has to be completed,
5. Railroad crossing certification must be completed,
6. Right-of-way acquisition has to be completed.

We have right-of-way acquisition on Calhoun Road, especially around Lincoln Avenue intersection that may be an issue; same thing applies to Ryerson and Glendale. We have received proposals from our three consultants outlining the additional work that would have to be added to the projects to meet the eligibility requirements. For Ryerson Road, the additional services will cost \$139,500. That amount of funding is available in the approved design account for Ryerson Road. For Glendale Drive the estimate is \$111,600; adequate funding is available in the design account. For Calhoun Road, the estimated cost for the additional services is \$79,300 because Bloom Companies has completed some of those requirements already; it was part of their original proposal. There is a question on whether or not there is available funding for the additional work. There is

\$294,000 in the design account but that's already assigned to work tasks that have not been completed on that project. We would have to look at that in detail. The first thing we have to do is apply. If the Board feels that this is the way they want to go and if the Council ultimately agrees, then we will submit the applications. Consultants are suggesting to us that we may not want to apply for all three projects, because the likelihood of getting three projects approved are slim when you look at all the types of roads that are being considered because arterials and bridges are listed before collectors.

Alderman Seidl asked if there are any strings attached to this; is this a loan?

JP Walker responded that he didn't think anyone has the answers on these questions. One question that Staff has asked is will it account against STP accrual in the future? Those questions have not been answered yet by anyone in authority.

Alderman Moore stated that this is a package that recently passed Congress. He didn't recall any statements about the funding being loan money; he recalled it as being money that the taxpayers are eventually going to have to eventually pay back to the nation. To him that means it is grant money. He indicated that if there's a chance that it is grant money that we would be remiss in not applying for it.

John Graber agreed; if we don't ask, we won't get it. If we receive grant funding and there are too many strings attached to it, we can always turn it down.

John Graber made the motion that we apply for Second Stage Stimulus Funding for Calhoun Road, Glendale Drive and Ryerson Road.

Mayor Chiovatero 2nd the motion.

Alderman Ament stated that the biggest problem he is having is there are too many ifs. What are the possible ramifications of the WisDOT requirements? The timing of this does not add up for Calhoun Road; we don't have an approved plan since we haven't decided on how many lanes it's going to be. Ryerson and Glendale designs might be a lot closer to being completed. There are many other roads that are in bad condition, such as Woelfel Road, Johnson Road between Cleveland Avenue and Coffee Road, Calhoun Road south of Beloit, the western half of Coffee Road between Racine Avenue and Calhoun Road, Martin Road and Beres Road. If we list these three roads, are those the only three roads we can use this for?

JP Walker responded that the reason that these three roads are listed is because we have designs on two of them almost done and depending on what comes out of our future discussions at Council, we could be fairly close on Calhoun Road. We have no designs for the roads that Alderman Ament mentioned, so they aren't eligible.

Alderman Seidl stated that he would like to see the answers to the questions he asked before this goes to Council.

Mayor Chiovatero stated that he thinks it would be remiss of us if we didn't even apply for them. Why should we not even attempt to apply and end up having to pay for someone else's road to get done? He indicated that he did ask the question, if this is going to be a grant, a loan or a payback. The answer he was given was it varies, some are being paid as grants, some are loans that are 0% over 20 years, and some are loans that have a very low 2%-3% range but until we ask who knows. We have to apply for it and see if it works out.

Alderman Ament indicated that he can't support this. The primary reason is because we don't know if this is a grant or a loan.

Upon voting the motion passed with Alderman Ament and Alderman Seidl voting no.

ITEM 28-08 Discussion on Calhoun Road Improvements and Direction from the Board of Public Works on making the improvements.

There was no motion to remove this item from the table.

Mayor Chiovatero made the motion to adjourn.

John Graber 2nd the motion.

Upon voting the motion to adjourn passed unanimously.

The meeting was adjourned at 9:14AM.