

**MINUTES
City of New Berlin
Utility Committee Meeting
Tuesday October 24, 2006**

Members Present: Alderman Gallagher, Alderman Harenda, Alderman Ament, and Commissioner Jim Morrissey

Excused: Commissioner Bob Dude

Others Present: Rick Johnson (Utility Manager), Jim Hart (Utility Supervisor) City Attorney Mark Blum, JP Walker (City Engineer), Dan Butler (Ruekert & Mielke) and Sue Hanley (Office Coordinator Utilities & Streets)

Alderman Gallagher called the meeting to order at 5:00 p.m. declaring a quorum. Commissioner Dude was excused.

ITEM UT J-06 Approval of minutes from September 26th meeting

Motion by Alderman Ament to approve minutes from the September 26th meeting. Seconded by Commissioner Morrissey and upon voting the motion passed 4 to 0.

ITEM UT 13-06 Possible Action Re: Request for Reconsideration of 4511 Moorland Rd Utilities Special Assessment

Alderman Gallagher said that Mr. Barker installed a mound system and shortly after that time the City installed a sewer system on Moorland Road. He said that Mr. Barker is looking for some type of compensation. Alderman Gallagher said the Committee received additional information from staff. He noted that the letter of notification for Sanitary Sewer which said it was "Sent Reg. Mail" which he thought was registered mail, but it may have been regular mail, as we don't have a receipt as proof or evidence that Mr. Barker received this. He noted however, that Mr. Barker had attended the earlier Public Hearing on November 12, 2002 for Water.

Alderman Ament said he also did some homework and reviewed the minutes. He said that certainly if Mr. Barker did not receive that notice by regular mail or somehow missed it, that sheds more light onto it. He noted Mr. Barker signed a contract with Herr on October 1, 2002 and that Council approved the resolution for intent to levy special assessment in September 2003. Council adopted the Moorland Road Water Main and Sanitary Sewer – ROW Acquisition Resolution 03-15 "Declaration of Public Necessity and Relocation Order for Moorland Road Water Main and Sanitary Sewer" on April 22, 2003 and which was after Mr. Barker had signed the contract for the septic to be replaced.

Alderman Gallagher said if he had known about the sewer being installed on Moorland, he might have been able to opt out of the contract, but would probably would have had some penalty. Alderman Gallagher said he remembered Mr. Barker at the Public Hearing for the water main saying that he wanted sewer, but the City said that they were not installing it at that time. At the last minute the City did decide to put in sewer along with the water project. Alderman Gallagher suggested that Mr. Barker be reimbursed according to a 5-year depreciation scale, and based on his usage of 3 years, it would be prorated 40% of the cost of the mound system \$22,614, for a total of \$9,050.

Alderman Ament said that at the time that his sewer was failing, Mr. Barker had a holding tank that was leaking.

Alderman Gallagher said there is know way of knowing if the sewer system could have lasted another year.

Alderman Harenda said he likes the thought process in case these issues arise again, but expressed concern that in the future when sewer is installed by the City and a resident has put in a mound system within 5 years, does the City take any responsibilities of refunds or reimbursements? He said that he has

talked to the City Attorney who suggested a special policy for possible future claims for reimbursement and he thought we still should pursue that.

Alderman Ament said his only concern was that the original requested action in July for \$12,545.03 was based on a formula that JP Walker had devised with the City Attorney, and asked if this formula was more accurate than the 5-year depreciation scale.

JP Walker said that when the issue paper was written, they were looking at the special assessment charges that were due in payables for the sanitary sewer and lateral. He said subsequent to that being submitted to the Utility Committee is when he had the conversation with former Utility Engineer Larry Wilms, who suggested that other communities use the 5-year depreciation scale which is more appropriate.

Alderman Ament said the 40% formula is more accurate to this situation than the original issue paper? Mr. Walker answered yes.

Commissioner Morrissey said wasn't the \$12,545.03 predicated on the fact that Mr. Barker had not hooked up and then we found out that Mr. Barker had already paid the assessment was ready to hook up in July to City sewer.

Mr. Walker said that the only predication was that those 2 charges were his special assessment that applied to sanitary sewer that was due in payable at this time and Mr. Barker has already made those payments.

Mr. Morrissey said that when we had the original issue paper, we had not realized that he was going to hook up and that he had already paid the assessment.

JP Walker answered the only the wording was changed was whether or not it would be a deferment or a credit. The original intent was that it was going to be a credit, and the City Attorney advised to include deferment as a possible option, but the fact that he has made the payments, deferment doesn't apply.

Motion by Alderman Gallagher to reimburse 40% of the cost of the mound system in the amount of \$9,050 to Mr. Barker. Seconded by Commissioner Morrissey and upon voting the motion passed unanimously 4 to 0.

Alderman Gallagher said that you will be reimbursed \$9,050. Mr. Barker thanked the Committee.

ITEM UT 11-06 Update on School District sharing of costs of construction for Regal Manor Liftstation

No update on this time.

ITEM UT 08-06 Update on Design of Proposed Treatment for Radium Compliance

Dan Butler from Ruekert & Mielke advised the Committee that the plans for radium compliance for Wells 3 & 7 were submitted to the DNR on August 15th. Mr. Butler said that he contacted the DNR reviewer last Friday and he has started the review and expects approval later this week or by the end of next week. Mr. Butler said that the plans for Well 5 were submitted October 11 and expects the review to take place in early December.

He stated for Well 7 the Conditional Use Application is on the Planning Commission Agenda for their November 6th meeting and for Well 3 the Conditional Use Application is on the CDA Agenda for their November 9th meeting.

Mr. Butler said that assuming all of those approvals don't result in a lot of changes, he thought that we could proceed with bidding documents if approved should be completed by the end of November for Wells 3 & 7.

He said that he had talked to Tonka Equipment who had supplied a quotation to the City in early July with a time limit of 90 days. Since then, Tonka has revised the proposal as certain original presumptions did not apply, and the revision is approximately \$35,000 less. That proposal is valid until November 10th, but could be extended. Mr. Butler said that the City had some concern on the terms of condition of the original proposal from Tonka and the City Attorney sent these questions to Tonka Equipment, who answered them in a September 11th letter that was forwarded to Mayor Chiovaturo.

ITEM UT 18-06 Approval of Wastewater Utility 2007 Operating and CIP Budget

Alderman Harenda noted that some accounts had increased and others reduced and asked Mr. Johnson to explain these. Mr. Johnson said that the Utility staff had worked with Commissioner Dude and Ralph Chipman on the Wastewater budget, and increased some accounts on projects that needed to be emphasized and bring those up to speed, and reduced others.

Alderman Harenda asked if the monitoring of basins 1, 3, 5 and 6 and sending data to MMSD for extra capacity and I & I reduction would be continuous, as we are doing more than most communities.

Mr. Johnson said he Utility would be cutting back on the monitoring, because of the I & I monitoring, we are fixing some of the problems and we are getting ahead of the game. Alderman Harenda asked Rick to email or bring up at a future Committee meeting the work we are doing.

Alderman Harenda asked about the reduction of revenue of \$60,000. Mr. Johnson said that the work we are doing with I & I has reduced the flow rates of what we are sending to MMSD. Alderman Harenda asked about the capital charges. Mr. Johnson said that is a pass through charge from MMSD and the Utility does not have anything to say about this.

Alderman Harenda asked about the gas and oil account going down, while other departments are going up. Mr. Johnson said that the trend of the use of electricity in our liftstations is going down, because the pumps are not working as hard because of the reduced flows which are results of the I & I work.

Motion by Alderman Ament to approve the 2007 Wastewater Operating Budget in the amount of \$8,690,345. Seconded by Commissioner Morrissey and upon voting the motion passed unanimously 4 to 0.

Alderman Gallagher said there are no CIP items this year.

ITEM UT 20-06 Set a Public Hearing Date to start the Special Assessment process and approve Howard Ave Sanitary Sewer Preliminary Special Assessment - Resolution 06-42

Alderman Harenda said that he had a discussion regarding the placement of a main a few years ago. He said that we are setting a public hearing for a Special Assessment for 6 properties to the south, and said he did not remember the residents asking for this. He asked if we are forcing sewer on these 6 properties.

Mr. Walker said when sewer becomes available, by state statutes the residents on either side of the street have one year in which to hook up. He said whether or not you construe this as forcing, I think it is a matter of opinion, and said he is following state statutes. The one year kicks in after receiving a Letter of Availability, which has not been sent yet.

Alderman Gallagher asked if this was a developer driven project. Mr. Walker answered yes, the developer paid approximately \$89,000 to install the sewer and the remaining assessment of approximately \$45,000 would be divided by the 6 properties because both sides of the street are benefited by the sewer so we have to look at the costs directly attributed to the north side as far as special assessments.

Commissioner Morrisey asked if the \$45,000 would be split among the 6 parcels, plus the cost of the laterals? Mr. Walker said the laterals are included. Commissioner Morrisey asked if the parcels had city water. Mr. Walker said they have had water for years.

Alderman Harenda said this is about \$7,000 per household which is relatively cheap for sewer.

Commissioner Morrisey said that it is still a lot of money.

Alderman Gallagher asked if this is a developer driven project, why wouldn't the developer pay the whole cost?

Mr. Walker said this is part of the developer's agreement, he said though the wording is that the City will endeavor to collect the costs borne by the developer that benefit the properties outside his development and that is why the special assessment is required.

Commissioner Morrisey asked why the 7th parcel on the map is left out. Mr. Walker said that the east end is already served by Sunny Slope sewer and the parcel to the west end is served by sewer that was installed by a developer Dennis Kasian of KASCO POD who asked that no special assessment be levied and he was just going to bear the cost.

Alderman Harenda asked when the Letter of Availability would be mailed. Mr. Walker said after the Public Hearing the letter of availability is sent, that starts the clock on the one year.

Motion by Alderman Ament to recommend to the Common Council to set a Public Hearing Date to start the Special Assessment process and consider Resolution No.06 - 42 "A Preliminary Resolution Declaring Intent to Levy Special Assessments and Directing the City Engineer to prepare a report for the Installation of Sanitary Sewer Along Howard Avenue west of Sunny Slope Road in the Howard Avenue Assessment District". Seconded by Alderman Harenda and upon voting the motion passed unanimously 4 to 0.

Alderman Ament asked if the Public Hearing is before the Committee or before the Council. Mr. Walker said the Public Hearing is before the Council.

Communication Ralph Chipman: Utility Revenues and Expenditures Year-to-date

This item was not discussed, as it was an informational item only.

Motion to adjourn by Commissioner Morrisey at 5:26 p.m. Seconded by Alderman Ament and upon voting the motion passed unanimously.

*Respectfully submitted,
Suzette Hanley - Office Coordinator, Utilities & Streets*