

Minutes
Water Resource Management Utility Meeting
(Formerly Stormwater Utility)
March 13, 2007

Please note: Minutes are unofficial until approved by the Water Resource Management Utility (formerly Stormwater Committee) at their next regularly scheduled meeting.

Present: Alderman Ken Harenda, Alderman John Hopkins, Alderman Roger Hegeman, Commissioner Jim Kern and Mayor Jack Chiovatero

Others Present: Eric Nitschke (Stormwater Engineer), Chuck Trevorrow (Water Resource Management Supervisor), JP Walker, Jim Garbe (Shady Acres Nursery) & Sue Hanley (Office Coordinator Utilities & Streets)

Meeting called to order at 4:48 pm by Alderman Harenda and declared a quorum with all members present.

Old Business

SW 01-07 Minutes from January 23rd, 2007 Meeting

Motion by Hegeman to approve the minutes from the January 23rd Water Resource Management Committee meeting. Seconded by Alderman Hopkins and upon voting the motion passed unanimously.

SW 07-06 Resident Request for Corrective Action Re: Drainage Concerns (tabled)

Remains tabled.

SW 10-06 Woelfel Drainage Easement Discussion (tabled)

Remains tabled.

SW 11-06 Discussion of Woodland Drive Resident Request (tabled)

Remains tabled.

SW 19-05 Approval of Stormwater Utility Updated Five-Year Plan (tabled)

Remains tabled.

New Business

Alderman Harenda asked the Committee if there were no objections, if he could change the order of the agenda since there was a resident here for one of the items. There were no objections.

ITEM 06-07 Resident Request of Credit for Voluntary Storm Water Practice, Shady Acres Nursery

Mr. Nitschke said the request was to have \$600 annually as a credit for the stormwater charges. Recently Jim Garbe, owner of Shady Acres Nursery, contacted the Engineering department because he was interested in installing a detention pond to handle the runoff from his business property. He inquired as to whether a credit on his storm water bill would be given because he was voluntarily installing the pond. Chapter 65, Section 8 of the Municipal Code allows for a credit for voluntary storm water practices, but does not give any guidelines or structure as to the method of calculating and granting a credit. As of this date no storm water credit has been given for a voluntary installation of a storm water practice in the

City of New Berlin. The only credits given to this date have been for reduction of impervious area, that's what we calculate ERU's on. Mr. Garbe has hired Applied Ecological Services, Inc. to design the proposed storm water pond. He has presented the preliminary design to Staff and we have discussed his request. Mr. Nitschke made reference to the maps showing the location of the pond, the concept drawing of the pond and an aerial photo of the Shady Acres Nursery. The impervious area that is being removed for the pond installation is highlighted in yellow, those are the hoop houses that were used to cover plants in the winter and shade some plants in the summer, and these will be removed permanently.

Mr. Nitschke said that staff is favorable toward the voluntary installation of this storm water pond. Impervious area will be decreased approximately 25,000 square feet, which will result in a drop in storm water fee of approximately \$100.00 per quarter. Staff would like the Committee to consider giving a half credit for the hoop house area for the time that they are open and plants are absorbing the rainwater. This credit would amount to approximately for a total of \$600.00 annually. This amounts to the square foot area of the hoop houses, divided by 2 since half the year the houses are covered. This proposed credit would be given with the following conditions:

1. The pond shall be installed and functioning.
2. The amount of credit would be based upon a site inspection to confirm that the pond has been completed and plants are growing, and to confirm the area of the hoop houses and that they are open and containing plants from May 1st to November 1st.

Mr. Nitschke said that staff has worked with the resident and his request to put in a pond. Mr. Garbe has also worked with downstream residents and asked their opinion of the installation of the pond and he is proposing to remove approximately 25,000 square feet of impervious area. Typically staff would not bring this item to you, and goes into the automatic calculations for the ERU and he would receive a credit; however, Mr. Garbe is asking for an additional credit for the hoop houses where they remove the covers from May to November where plants will absorb the rain and become a pervious area. Anything not absorbed by the plants will flow to the pond. Staff thought it would be appropriate to grant him a half credit for these months. The credit would be \$400 for the reduction of impervious area of the pond and \$200 for the removal of the hoop house impervious areas.

Commissioner Kern asked if this would be a permanent credit. Mr. Nitschke said that as long as the hoop houses are there with plants that it would be a credit, but that this would have to be verified annually by staff.

Alderman Hegeman asked what their annual stormwater fees now? Commissioner Kern said it was in the letter \$2,500.

Alderman Harenda said that the \$400 is an automatic credit and the \$200 is what you are looking. He said that he has talked to staff about concerns that this would be setting a precedent and asked if there was a potential for other requests for credit.

Mr. Nitschke answered that Prospect Hills Gardens, Sunny Slope Gardens, Nature's Nook and Action Garden that are similar to this situation and have the potential to do this system, but not this size.

Mayor Choivatero asked if the hoop houses are on pervious surfaces. Mr. Nitschke replied no, that they are on gravel and the pond will pick up whatever the plants don't absorb and is essential as the secondary best management practice to allow for this. One thing staff said they did not want to create a credit where anyone could plant a garden and want an extra credit for rolling carts of flowers into their driveway and claiming credit. He has a secondary best management practice in place to catch overflow.

Commissioner Kern asked if the pond maintenance was the landowner's responsibility. Mr. Nitschke replied yes, it would be Mr. Garbe's responsibility or any future landowner.

Mr. Garbe, the owner of Shady Acres Nursery said he wanted to clarify the credit request. The map that shows the hoop houses were marked in yellow on the map and those will be coming off, while the ones in

white to the south are where the pond would be located. He said he is looking at an additional \$600 credit per year besides the pond area which is \$100/quarter, and the yellow shaded areas are approximately 3 times the amount of the pond area, which would have been \$600/annually for a half ERU credit.

Mr. Nitschke replied that the correct credit total should be \$1,000 annually.

Mr. Garbe said that he understands the Committee might be hesitant to give him credit for a stormwater pond, since you don't want to set the precedence of anyone digging a hole in their backyard and asking for a credit. He said basically this would actually be a correction since the last couple of years since the Engineering department didn't know the covers came off these houses and the ERU's were based on plastic on these houses at all times. Since they are uncovered half the time, they are looking for this additional credit.

Mr. Nitschke added that Cathy Schwalbach had run the figures, and there will be some modifications made if only some planting houses have plants, there will be some fluctuations in credit based on what the operations are and the functionality of the business.

Alderman Harenda asked if there will be an administration issue. Mr. Nitschke answered yes, there will be an administration issue as far as tracking it; however, we have had a lot of requests for credits, and this would be a good start to try to establish some type of credit system. Alderman Harenda said that if there is impervious surface below potentially some type of collection device like a rain barrel, a rain garden or a roof garden, those customers will still be charged on the impervious surface even though they are using some type of best management practice. Mr. Nitschke replied correct, that is only controlling discharge, not controlling volume. When you have plants you are controlling volume that is uptake to the stormwater runoff, that's what sets this apart.

Alderman Hopkins asked if staff is prepared to make inspections several times a year. Mr. Nitschke replied yes. Alderman Hopkins said he spent all day looking at flooding issues. and that we should encourage people to do take proactive measures like this, as Mr. Nitschke said this is something that we can take credit for in the Stormwater Management Plan, and WPDES permit because it is not considered new development and is considered a water quality device. Alderman Hegeman asked if this works toward our 2008 and 2013 WPDES requirements. Mr. Nitschke replied yes, and based on that requirement we have to inspect it.

Commissioner Kern agreed that this should be encouraged but asked what he thought what he thought would occur at the other nurseries. Mr. Nitschke said that he hopes this will happen, as many of the drainage problems are on private property and it is hard for us to access, and by allowing this option for credit and solving drainage problems in their area, it is a win-win situation for residents as well as the Utility. The phone calls take up staff time with inspections to determine if it is a private or utility problem. Commissioner Kern asked if we should advertise to encourage the other nurseries to think about it. Mr. Nitschke said that at this point no, until the Committee has time to look at other options because publicizing this before you establish a citywide policy would be difficult, as opposed to taking one at a time and work on our 5-year plan; however, if someone asks, we will openly provide the information on this credit.

Alderman Harenda asked about maintenance since this is a private pond? Mr. Nitschke said that a maintenance agreement will be required and if maintenance is not followed the credit will be removed.

Motion by Alderman Hopkins for a credit for stormwater billing approval to give .5 credit for the hoop house area for the time that they are open and the plants are absorbing rainwater. The credit would be approximately \$600 annually, this amounts to the square footage area of the hoop houses divided by 2 since half the year the houses are covered. This credit will be based on the following 2 conditions: The pond shall be installed and functioning. The amount of credit would be based upon a site inspection to confirm that the pond has been completed and plants are growing, and to confirm the area of the hoop

houses and that they are open and containing plants from May 1st to November 1st of each year. Seconded by Alderman Hegeman and upon voting the motion passed unanimously.

Note: Mr. Nitschke said the total credit is \$1,000, but we automatically give \$400 annual for the removal of the impervious area for the pond.

Alderman Harenda told Mr. Garbe he appreciated his taking the initiative on this.

ITEM 03-07 Recommendation of Award of Contract for Construction of U-317 Lincoln Calhoun Easement Drainage Project

Mr. Nitschke said the recommendation to the Common Council is to approve the awarding of the Construction Contract for the U-317 Lincoln Calhoun Drainage Easement, to the lowest responsive responsible bidder, Capitol Pavers for the amount of \$444,809.10. Source of Funds: Water Resource Utility CIP Account # 04251171 61716 C2004.

Eric Nitschke read the rationale: The Industrial Park Drainage Easement just north and east of Lincoln Avenue has been documented to have significant drainage and flooding problems over the past 15 years. HNTB Corporation has completed design for improvements to this easement to upsize the capacity of the easement area in order to protect neighboring business properties that have been affected by frequent storm event flooding.

Mr. Nitschke said that originally this easement was looked by HNTB as the overall water quality improvement project in the industrial park in 2005 when they did a preliminary analysis and estimated the cost at \$210,000; however, HNTB missed a length of pipe that was supposed to be installed and had not calculated the concrete invert for that length of project. The project bid estimate was \$500,000 so this bid was 10% under that estimate; however, the budgeted amount was \$250,000. We had \$500,00 remaining from Buena Park, Gatewood and Inez Drive and we allocated \$250,00 to do the design and construction of this project. Staff has looked at this project and determined one of the big cost factors is the concrete invert, which is about \$125,000, but based on the flow and storm sewer that is needed to get the sizing that we need, the concrete invert is necessary to maintain this easement instead of leaving this area as grass, which staff feels is important to prevent erosion and pooling. The Industrial Park has been waiting for drainage work for a long time, and by using the \$250,000 funds from the Buena Park, Gatewood and Inez Drive projects that have come in under budget, that could be reallocated but it leaves little money for contracted services. Mr. Nitschke said the City has the staffing ability to do our own contracted construction inspection services, and propose to move forward with the Lincoln Avenue drainage project and the approved contract, and that the construction services cost come out of our Engineering department and have one of our engineers do the construction inspection. Mr. Nitschke said that he has talked to JP Walker and Mel Corley, and they are comfortable doing the construction inspection, and Mr. Corley has worked with the contractor before. If we delay bidding, we will have reject bids, rebid at a later date and delay the project.

Alderman Harenda said there was flooding last year in this area, and this Committee is looking to make an effort to improve this area. He requested that the Committee receive copies of the bids and asked if this was on the Council agenda tonight.

Mr. Nitschke said that this will remain on the table tonight. Capitol Pavers will grant us an extension to their contract and at the next meeting we will reallocate funds from Gatewood, Buena Park and Inez Drive, and then take action on this item and present it to Council on the 27th.

Alderman Hopkins agreed that this work needs to be done in the Industrial Park and remembers the flooding last year and doesn't want to rebid this. He said that this is a good place to start in the Industrial Park.

Alderman Hegeman asked when this work would be completed. Mr. Nitschke said that substantial completion would be the end of June and final completion would be mid July.

Alderman Harenda asked if there would be any problems with this area being under construction during possible rain events. Mr. Nitschke replied that they start work on the downstream end and work their way up, and the problem actually bottlenecks at the upstream end so as soon as they open that up they already have the downstream end completed. He added that this was not originally in the 5- year plan, but by following the aggressive schedule that we did and savings that we had, we can use these leftover remaining funds to do these projects that came in under the engineer's estimates. He said that they are looking for motion to approve and at Council level they will address the separate funds being transferred into this account and the requested action to approve the contract with Capitol Pavers.

Motion by Commissioner Kern to recommend to the Common Council to approve the awarding of the Construction Contract for the U-317 Lincoln Calhoun Drainage Easement, to the lowest responsive responsible bidder, Capitol Pavers for the amount of \$444,809.10. Source of Funds: Water Resource Utility CIP Account # 04251171 61716 C2004. Seconded by Alderman Hegeman and upon voting the motion passed unanimously.

ITEM 04-07 Approval of Ongoing Illicit Discharge Screening

Mr. Nitschke said he is asking to approve the Illicit Discharge Screening Contract with Stilling Engineering. The Contract is to be for an amount not to exceed \$14,900, and the funds are to be charged to Drainage Account 70710710 59060.

FISCAL IMPACT:

70710710 59060 Account Balance	\$129,058
70710710 59060 Project Cost	<u>\$ 14,900 (not to exceed)</u>
Remaining Funds	\$114,158

He added that this is an extension of the 2006 contract with Stilling Engineering and the fees have increased (\$12,000 in 2006) based on services that staff has requested. In 2006 the contract was just for the overall maintenance inspection, and this now asks them to test outfalls and be on call to test suspected illicit discharge and work with the DNR who wants us to stay on top of this issue.

Alderman Harenda asked how many illicit discharges there were in 2006. Mr. Nitschke replied 3, and they are still trying to locate the 3rd one. Alderman Harenda asked if we can back charge when we determine who is responsible for the illicit discharge. Mr. Nitschke said that he would have staff look into this.

Alderman Hegeman asked if anyone was caught in the past. Mr. Nitschke replied that there had been no one in New Berlin, but in a previous job he did see several businesses fined by the DNR and collected the fines.

Motion by Alderman Hopkins to approve the Illicit Discharge Screening Contract with Stilling Engineering. The Contract is to be for an amount not to exceed \$14,900, and the funds are to be charged to Drainage Account 70710710 59060. Seconded by Alderman Hegeman and upon voting the motion passed unanimously.

ITEM 05-07 Approval of the 2008 Operating Budget Expenditures for the Citywide Comprehensive Plan and Stormwater Management Master Plan Update

Alderman Harenda said that this is a 2008 expenditure, and we don't have a 2008 budget yet – is this premature talking about it now versus talking about it in the budget cycle?

Mr. Nitschke said the requested action is to approve setting aside funds in 2008 for completion of the New Berlin 2020 Comprehensive Plan. The funds contributed by the Water Resource Management Utility shall be used for updating the Stormwater Management Master Plan in conjunction with the Comprehensive Plan. The cost is to be for an amount not to exceed \$120,000. The funds are to be charged to Drainage Account 70710710 59060.

Mr. Nitschke said on page 3 of the attachment under item #4 Utilities and Community Facilities it states:

"Incorporate and update (chapters 1-4 and 7-10) of the City's Stormwater Management Master Plan (adopted May 2000, update and integrate)

- Focus on volume control

- Three-dimensional water resource planning

-Study areas to include: Tess Corners Creek, Underwood Creek, Poplar Creek and Calhoun Creek

-Incorporate innovative stormwater management designs for new development beyond stormwater ponds."

He said the reason for this being included in the Comp plan is 3-dimensional stormwater planning which we have been practicing internally with our new developments coming in. There are many new requirements set up in our Developer's Handbook to combine good planning practices, good engineering practices and good stormwater environmental practices into one. We are taking new development and learning from mistakes made in the past and sending out projects that we feel will incorporate lessons learned. Instead of discharge control we are doing volume control. This Comp Plan that is required at the state level will incorporate some of the elements of stormwater management automatically; however, what staff wants is to incorporate our Stormwater Master Plan and update it and the fee that comes from the Utility is to specifically update the Plan. In our 5-year plan the estimated cost was \$175,000 to update our Stormwater Master Plan. A Master Plan is typically good for only about 10 years due to regulation changes, new technologies and thought processes so the planning becomes obsolete. When the Comp Plan is done, the current Stormwater Master Plan will be 9 years old and we would like to do the 2 plans together. The requested action is to allocate 2008 funds; however the Finance Manager can't officially sign off a Comp Plan that is over what was approved at the Council level because the funding for 2008 has not been approved.

Commissioner Kern said that we are required to update the Comp Plan and this approach would save us money by combining the 2 plans and potentially save us by costing us \$120,000 versus the \$175,000? Mr. Nitschke said yes the Comprehensive Plan will incorporate some components in the planning portions and by updating at the same time with the same consultant, we feel the overlap won't happen.

Commissioner Kern asked if the drainage account handles the maintenance list. Mr. Nitschke said no, that is the miscellaneous project account and would not have any impact on that list.

Alderman Harenda said he has talked to staff about this and being proactive and save money, but he would like specifics on where the funding is coming from. Alderman Harenda asked if we are required by law to update the Stormwater Master Plan.

Mr. Nitschke said that we are not required by any federal or state mandate, but staff receives calls every week from citizens asking where they are in the master plan and what the direction the Utility is going. The Master Plan is something we use as a directional tool and needs to be updated since it does not include the federal requirements of 2013, the new best management practices or the fiscal impacts that have come up since the plan was adopted. Alderman Harenda agreed the Stormwater Master Plan needs to be updated and the Committee agreed to have staff bid this out.

Commissioner Kern said that if we don't piggyback with this Master Plan, at some point staff would be coming forward with an update for a plan and in all likelihood it would cost more than \$120,000, is that accurate? Mr. Nitschke answered that is accurate. Commissioner Kern said that if we do it now, it will do something that has to be done anyway and it save the City money. Mr. Nitschke said a 3rd point is that it will be completed where we can use it to meet the 2008 and 2013 requirements. Mr. Nitschke said the

bids should come back by the next meeting and we will have more definitive answers by the next meeting, and staff would get the paperwork to the Committee members early enough for them to have time to review and place it on the Council agenda for the May meeting.

Motion by Commissioner Kern to table Item 05-07. Seconded by Alderman Hopkins and upon voting the motion passed unanimously.

**Communication From: Bonestroo, Rosene, Anderlik, and Associates
Deer Creek FEMA Floodplain Mapping**

Mr. Nitschke stated that staff was working with Bonestroo to remap the Deer Creek floodplain and this remapping is based on the regional facility that was constructed in 1999 and completed in 2000, SP-2, located just east and a little south of the post office. That facility was shown to lower the floodplain. FEMA required us to send us this FEMA form letter to every property that was impacted by the new study of the floodplain – over 700 letters – and received many complaints stating the letter was vague, and hard to determine if they are in or out of the floodplain. With 700 properties it would have taken a substantial effort to review and say if they were in or out of the floodplain, because some information we just don't have (from the post office to Greenfield Avenue). Staff has been available every afternoon from 1:00 to 2:00 to answer questions. This is a completely different project than the citywide mapping project, and we have disagreed with FEMA with properties we felt should be out of the floodplain that FEMA put in the floodplain. The maps were delivered 2 weeks ago and the City has 90 days to verify the maps and it is our responsibility to address it. There will be some heavy floodplain issues in the next few months, and we are estimating our residents pay between \$1,500 to \$1,700 per year on flood insurance that shouldn't be paid, and we have a dispute with FEMA on that.

Alderman Harenda asked how long FEMA has to respond. Mr. Nitschke said that FEMA will take in the feedback that they agree with and overlay it over time, but the changes will be immediate with regards to letters for insurance companies stating that they are no longer in the floodplain, but the map will take longer to change.

Motion to adjourn by Commissioner Kern at 5:57 p.m. Seconded by Alderman Hopkins and upon voting the motion passed unanimously.

Respectfully submitted, Sue Hanley, Office Coordinator Utilities and Streets