

MINUTES
City of New Berlin
Utility Committee Meeting
Thursday August 26, 2010

Members Present: Alderman Harenda, Alderman Wysocki, Commissioner Bob Dude & Commissioner Jim Morrissey

Excused: Alderman Ament

Others Present: Rick Johnson (Utility Manager), Jim Hart (Utility Supervisor), Attorney Mark Blum, Ralph Chipman (Finance Director), JP Walker (City Engineer) and Sue Hanley (Admin Supervisor Utilities & Streets)

Alderman Harenda called the meeting to order at 5:01 p.m. with roll call and declared a quorum with all members present except for Alderman Ament who was excused.

OLD BUSINESS

UT 01-10 Approval of Minutes from the July 27, 2010 Meeting

Motion by Alderman Wysocki to approve the minutes from the July 27, 2010 meeting. Seconded by Commissioner Morrissey and upon voting the motion passed unanimously.

UT 07-09 Discussion regarding the procedures used to authorize the payments of costs and fees for utility consultants and contractors

No action at this time.

UT 14-10 Impact Fee Review, Discussion, and Possible Recommendation to Council

Wysocki: We have taken action on the Sewer Utility and discontinued it.

Chipman: The report shows the recap of the water utility impact fees and RCA fees. The Water Utility RCA Fees were closed out when we paid the IGA to the City of Milwaukee. Impact fees have also been just about closed out with the Milwaukee water payment and there is a balance of approximately \$10,000 which is basically this year's collection. Based on the time limits of when the money can be spent and what it can be spent on, should we continue to collect impact fees? If there are no projects on the horizon within 7-10 years, there is no reason to continue to collect water impact fees.

Harenda: In Section 35 or some of the older sections in the northeast part of the city that have sewer but not water, not to say they will get it some day, do we want to have something in place for the future?

Chipman: If in the future there is a major expansion, there could be another study done. Ehlers also said there is an option to have a zone impact fee which is only related to a specific section. Greg said that the zone impact fee has not been widely used, so we may be the first to use it and may be an interesting calculation. Are there any projects on the horizon?

Dude: The short answer is yes, we can use them quickly. We are in negotiations with the City of Muskego regarding Mill Valley and impact fees have been discussed. It would make sense to have them in place for that development.

Chipman: When we have had water people hook up to Muskego in the past, they have collected based on Muskego's impact fees and the money has gone to Muskego.

Dude: That is fine as long as it works if it is our community. Mill Valley is in the City of New Berlin but possibility the City of Muskego would be providing water and sewer.

Wysocki: There have been a series of state statutes that have impacted the impact fees. That is why we are reviewing them.

Blum: There have been several changes in 2006, 2008 and 2009 regarding impact fee usage. The limited period of time between collection and use is significant and played into the recommendation that we made in January as far as impact fees in general. Unless we had a project on the horizon, it did not make sense to continue to collect them. They can only be used for capital costs related to new development, so rehabilitation projects are not eligible. The Mill Valley situation is still in flux, but typically when we have worked with providing City of New Berlin utility through service from another City, we have had an agreement with the property owners which require they pay the connection fees and other fees from the jurisdiction supplying service. A few years ago a few properties that were being serviced for sewer through Brookfield, we had provisions and agreements they would be responsible for those fees and while they may be collected by New Berlin they were passed through to the jurisdiction that was providing the service. I would envision a similar situation that we would have an agreement with the developer to pass through those fees because it will be the other Utilities fees that would be doing the construction. In talking about Section 35, you do have new development and the City may have to construct an interceptor. That may be a situation it may be appropriate, but until you have the project on the horizon and have a study done, the properties that would benefit would be charged the impact fees.

Wysocki: Because of the economy, it does not appear that the development of Section 35 will occur as quickly as we thought. I think we would be gambling as to whether or not we would continue these fees to be applicable to Section 35 or take the action which I think is appropriate to stop collecting the fees and when and if we have plans for development, we can talk about alternatives.

Blum: There is a provision in the impact fee law that provides for an offset to the extent that there may be other assessments that might be made. You have to keep in mind that if you are special assessing a property for the benefit that you might construct that is in place of an impact fee. You would have that as an option if a particular property was benefiting from public infrastructure development; you would be able to recover your costs.

Walker: Can Impact fees collected be used to purchase utility easements that we need in Section 35?

Blum: I don't believe that would include purchasing easements, since that is not a capital infrastructure, there may not be the ability to do that. We would have to substantiate that it is necessitated by new development. I can look at that.

Walker: The issue we had is if and when the interceptor and conveyance main for water comes across Section 35, we are dealing with a minimum of 10 property owners. We already have a conceptual layout of that routing and the money is substantial. The question is whether or not already collected impact fees tied into the High Grove interceptor be used to extend the interceptor as far as purchasing easements.

Blum: There is a report that indicates part of your impact fees were collected for Section 35 work but I don't recall land acquisition as being part of it. They are traditionally looking at pipe in the ground. I will look into this. We can only use it for what was identified in the project study. I don't know when you would be in position of acquiring the lands; it is difficult to start laying the route out without having some idea of what development would be. We have some conceptual plans. I don't know if we are at a point yet.

Harenda: We could add a zone impact fee when the development does come forward.

Blum: Yes. We would have to identify today's cost and that study then would be the basis to levy that zone impact fee on Section 35. I see that as a separate process from trying to impose it from existing impact fees.

Harenda: Can you research this for any options?

Dude: There is a purchase of land in 1999 with sewer impact fees.

Chipman: That was RCA Fees and there have been many law fees since then. I believe that was the land the shop was on.

Blum: The original collection of the RCA fees was under a separate statute in Chapter 66 that allowed for a collection of sewer fees. We collected them under an impact fee methodology after the study was done in 1995 so we have treated the RCA fees as impact fees but their genesis came from a different statute.

Wysocki: I will accept a friendly amendment, subject to the City Attorney's final review.

Motion by Alderman Wysocki to recommend to Common Council the discontinuation of the City of New Berlin Water Impact Fees and refund said money that remains in the account, subject to the City Attorney's final review. Seconded by Commissioner Dude and upon voting the motion passed unanimously.

UT 15-10 Review, Discussion and Possible Action on how Utility Components in Roadway projects should be Funded (tabled)

UT 16-10 MMSD Request to the WDNR to amend its 2020 Facilities Plan for sanitary sewer service to the southwest portion of Franklin and portions Muskego and New Berlin Discussion & Possible Action (tabled)

UT 17-10 Discussion & possible action on Sprint proposal to renegotiate cell tower lease for 2620 Calhoun Rd Site

Dude: The Sprint proposal started out at \$14,325/year, but if you go back to 1996 the increase at 5% would result in \$22,627. They reduced their starting rate by 36.7% from where we are and want to cut back on the percentage increases. They want 5 terms instead of 3 and also want 3 amendments to do what they want, when they want. Please contact them and tell them to start at \$22,627, you go up 5% each year, you get 3 terms and you can forget the amendments. This is not a negotiation it is an insult.

Blum: I will pass along that information.

Information Utility Payables, Monthly Financials and Financial Statements

Dude: Rather than producing the report that shows the vouchers paid over the past 2 weeks, I would prefer receiving the ongoing last variance report and the year to date report. If there is an unfavorable variance, we could ask Ralph to come to the meeting and explain it. I prefer to have paper that I am going to do something in a managerial style than just have paper.

Wysocki: He is doing it anyway for Council and I thought you would like to see it too.

Chipman: If you don't want the payables and just want a variance report, that is fine. We will be forwarding monthly financials from here on out.

Commissioner Dude and Commissioner Morrissey requested just the variance report.

Information: Parkland Green Update

Hart: The water mains, services and hydrants are in. They are working on their final punch list and they will restore landscaping after the roadwork. The Utility should be out in a week.

Wysocki: Thanks to the Utility crew and the contractor who have been very helpful. Also Mel Corley and JP Walker for keeping me informed.

UT 08-10 Award of Construction Contract for Westward Manor Liftstation Relocation

Hart: The bid opening was today and the requested action is to recommend to Common Council to award the construction contract for the Westward Manor Liftstation Relocation to Super Excavators, Inc. in the amount of \$ 610,215 with an additional \$86,000 for legal and administrative costs, inspection

services and contingencies for a total project cost not to exceed \$696,215. Source of Funds is: Repair and Replacement Fund.

Rationale: To award a construction contract for the relocation of the Westward Manor Liftstation. Due to the flooding issues the past 3 years the Utility needs to relocate the liftstation generator house and controls to a higher elevation to prevent flooding in the future. Therefore, staff recommends awarding the construction contract to Super Excavators, inc. based on their proposal for construction service.

Dude: You said that you did not have time to check references yet? Have you worked with the people before?

Hart: They have worked in the city before and have completed the project on time.

Harenda: What is the timeline?

Hart: The completion date is June 30th of 2011. We are hoping to have the building in place by January and hopefully by April or May to have it working, depending on rain, and final restoration by the end of June 2011. I will be checking references.

Motion by Alderman Wysocki to recommend to Common Council to award the construction contract for the Westward Manor Liftstation Relocation to Super Excavators, Inc. in the amount of \$ 610,215 with an additional \$86,000 for legal and administrative costs, inspection services and contingencies for a total project cost not to exceed \$696,215. Source of Funds: Repair & Replacement Fund. Seconded by Commissioner Dude and upon voting the motion passed unanimously.

UT 25-09 Milwaukee Water Utility rate application PSC contested case hearing – discussion and possible action

Blum: Testimony was taken at the hearing and the PSC will now review that testimony.

This item was not discussed in closed session.

Motion by Alderman Wysocki to adjourn at 5:36 p.m. Seconded by Commissioner Morrissey and upon voting the motion passed unanimously.

*Please Note: Minutes are not official until approved by the Committee
Respectfully submitted,
Suzette Hanley – Administrative Supervisor, Utilities & Streets*