

**Minutes  
Storm water Committee Meeting  
New Berlin City Hall  
3805 S. Casper Drive  
Council Chambers  
January 13, 2004**

***Please note: Minutes are unofficial until approved by the Stormwater Committee at their next regularly scheduled meeting.***

Present: Alderman Bullerman, Alderman Gallagher, Alderman Wilkens, Mayor Wysocki & City Engineer J.P. Walker

Others Present: Eric Nitschke (Division Engineer), Cathy Schwalbach (Storm Water Engineer), Ray Grzys (Director of Utilities and Streets), City Attorney Mark Blum

Meeting called to order at 4:51 pm by Alderman Bullerman and a quorum was declared with all members present.

**Item SW 01-04 Approval of the December 9, 2003 minutes**

Motion by Mayor Wysocki to approve the December 9, 2003 minutes. Second by Alderman Gallagher, and upon voting, the motion passed unanimously.

**Item SW 13-03 Culvert Replacements**

Motion by Alderman Bullerman to remove from the table. Second by Alderman Gallagher, and upon voting the motion passed unanimously.

Cathy Schwalbach, Project Engineer, wanted to update the Stormwater Committee and give a little history of this item. She said the Stormwater Committee had previously discussed deteriorated culverts that are affecting upstream drainage and the authority of the City to replace the damaged culvert and charge the responsible resident for this work. The Committee directed Staff to work with the City Attorney to draft an ordinance, which would clearly define the City's authority to replace the obstructing culvert at the cost of the resident.

Engineering Staff have worked with the City Attorney in reviewing municipal code with the intent to draft this ordinance. In reviewing current Code, Section 230-3 was found to appropriately address this issue with a minor change required. Current language gives authority for the process described above to the Board of Public Works. On December 1, 2003 this issue was presented to the Board of Public Works. A decision was made by the Board to recommend to Common Council the revision of Section 230-3 of the City of New Berlin Municipal Code to give authority to the Stormwater Committee. Ms. Schwalbach directed the Committee to review the revision that is on the Agenda for the January 13, 2004 Common Council meeting. The primary action is to move the authority from the Board of Public Works to the Stormwater Committee.

Alderman Wilkens asked about a fee schedule and if these are driveway culverts? Ms. Schwalbach answered yes they are driveway culverts, and the action was only to move the authority from the Board of Public Works to the Stormwater Committee. Alderman Wilkens asked if there would be a standard fee schedule or if these are estimated individually? Ms. Schwalbach again answered that staff will come up with a fee schedule. JP Walker said that Item SW 03-04 will be discussing the culvert permit fee.

Mayor Wysocki stated that when reviewing Section 230-3(C2) under the cost of the culverts and payment for them that perhaps the words "City Clerk" should be changed to the "Director of Finance and Administration." Mayor Wysocki stated that he had talked to the City Clerk about this item.

.Municipal Code 230-3( C ) 2 reads:

*If the cost is not paid to the Director of Finance and Administration on or before November 1, the same shall be entered as a special tax against the property. The cost of the culvert, if supplied by the city, shall be paid to the City Clerk. If the Board of Public Works decides the appeal in favor of the property owner, the cost shall be borne by the city.*

Motion to amend Municipal Code 230-3(C) (2) to read "shall be paid to the Director of Finance and Administration" instead of City Clerk. Second by Alderman Gallagher and upon voting the motion passed unanimously.

Mayor Wysocki also asked if the Board of Public Works should be the one to decide on these appeals? City Attorney Mark Blum asked where the Committee wanted the appeal to go and asked for input from the Committee? He asked do you want the same body that decides to charge the resident for the culvert work be the same body that reviews it? Mayor Wysocki dropped his request to change this particular item.

JP Walker asked at what point do we act on the resolution? Mayor Wysocki responded that tonight at the Council meeting, the ordinance will be under the Board of Public Works requested actions. Attorney Blum's recommendation was that the Board of Public Works was different from this body. He suggested that you throw back to the Board of Public Works or reconcile the change at the Council meeting tonight.

Alderman Bullerman asked for a motion regarding Item SW 13-03 and the request to change the authority of Municipal Code Section 230-3(C) (1) to the Stormwater Committee.

Motion by Alderman Gallagher to amend Section 230-3(C)(1) of the Municipal Code of the City of New Berlin to give authority to the Stormwater Committee for authority to replace the obstructing culvert at the cost of the resident. Second by JP Walker and upon voting the motion passed unanimously.

#### **Item 15-03                      Calculation of "Buy-In" to Existing Stormwater Management Facilities**

Motion by Mayor Wysocki to remove this item from the table. Second by JP Walker, and upon voting the motion passed unanimously.

Motion by Alderman Bullerman to drop this item from the agenda. Second by Alderman Wilkens, and upon voting the motion passed unanimously.

Alderman Gallagher asked the Stormwater Engineers if this item will be put back onto the agenda at a future date? Eric Nitschke, Division Engineer, stated that possibly in the future it will, but right now staff has this item as a low priority since there are not a lot of projects that fall under this category. Alderman Gallagher stated that he did not want a developer to get a free ride on the back of what was already paid for. Eric Nitschke said that he would keep on top of this issue.

#### **Item 21-03                      Roadway Projects / Stormwater Projects**

Motion by Mayor Wysocki to remove this item from the table. Second by Alderman Gallagher, and upon voting the motion passed unanimously.

Motion by Alderman Bullerman to drop this item from the agenda. Second by JP Walker and upon voting the motion passed unanimously.

Alderman Bullerman asked why this item was being removed from the agenda? Mr. Nitschke replied that there is potential State legislation regarding roadway and stormwater projects. They would like to wait and see what happens on funding aspects. If you have a roadway CIP budget, it cannot pay for a stormwater project. He stated that he will keep an eye on what develops regarding this item.

**Item 31-03**

**Approval of the Creation of Section 230-13 of the Municipal Code of the City of New Berlin, Maintenance of Public Rights of Way and Public Easements**

Eric Nitschke stated the requested action to recommend to Common Council the creation of Section 230-13 of the Municipal Code of the City of New Berlin. The Rationale is that the Engineering Staff have inquired of the City Attorney as to clarification of the rights and responsibilities of the City in regard to drainage easements and City Right-of-Way. There has been confusion as to the responsibility for maintenance of these two types of property. City responsibility for maintenance is often questioned as it compares to resident responsibility for maintenance requirements. The City Attorney has recommended the draft of a new section of Section 230 in order to clarify the maintenance responsibilities.

Mr. Nitschke stated that there is confusion and question on who is responsible for ROW and public drainage easements. Attorney Blum suggested a draft of a new section. Some of the old developer's agreements state that the City is responsible, and the policy is not uniform throughout the City. What we are asking is that residents keep the right-of-ways and public easements clear of debris, keep the lawn mowed, inlets clear, etc.

Alderman Wilkens asked what keeping clear entailed? Cathy Schwalbach stated that when the issue becomes a problem with drainage like silt build up, it is the City's responsibility, but the resident is responsible to keep the areas mowed and keep it clear of debris.

Alderman Wilkens asked who is responsible for maintaining proper flow? Mr. Nitschke stated that if conveyance is a problem, such as silt build-up, the City is responsible for it if stormwater flow is affected due to no fault of the homeowner. The Street crews will reshape the culvert and dig it out.

Alderman Wilkens said that perhaps we should cross-reference another ordinance that deals with the conveyance issue. Attorney Blum said that indeed other provisions of the code deal with issues of water obstructions. This sections deals with debris, leaves and weeds. He added that we can certainly cross reference other areas of the code and add that information. Alderman Wilkens said that we have to remember that we may write the ordinances and understand them, but homeowners may not know this.

Alderman Gallagher asked the question about mowing the grass, and asked the staff if they had heard that vegetation helps keep water flowing? Mr. Nitschke responded that we do want to maintain swales. If you let the grass grow too long, it lies down and creates a higher velocity and you don't drop off suspended solids and particles. He added that you don't want 18" or 24" blades of grass. Alderman Gallagher answered that maybe we should specify a height that is acceptable. We don't have an ordinance in the City that says residents have to mow their lawns. Mr. Nitschke responded that he will get a figure.

Alderman Gallagher asked if the City should be responsible for tree limbs? He said that he thought this ordinance was going to be a common sense thing such as keeping garbage out of the ditches, don't put your Christmas trees in the ditch, etc. Alderman Bullerman related that several years ago a resident in his district had a large tree limb fall. He approached the City and they said if they brought in heavy equipment it would damage his property. If he had to do it himself, it may be a hardship.

Mr. Nitschke responded that tree limbs can be a problem with conveyance in a cross culvert and in ditches and can lead to personal property and structures flooding out. Maybe we can look at general maintenance, such as walking down the ditch line, what can you pick up by hand. We are not talking about a huge 100-year-old branch from a tree. He added there are serious problems in the City because some people clean out their ditches, while others don't and pile leaves and debris in the ditch. Alderman Bullerman said that he can support this, but hopes the City can look at this on a case-to-case basis and help out where necessary.

Director Grzys stated that we are looking at a common sense issue; pick up the normal things such as paper, cans, twigs, leaves. If there are large limbs, residents should call the City to look at possibly helping to pick them up. If an area needs more attention, we can come out and look at it. Alderman Bullerman stated that this would make an excellent article for the newsletter. J.P. Walker said that the Committee should look at this issue as nuisance vs. non-nuisance. He stated that when he looks at a large tree limb, he doesn't see it as a nuisance.

Alderman Gallagher added that normal ditches in the front yard are 60-100 feet, and residents should have no problem maintaining these areas. In an area with a 500-foot long swale or big drainage easements, residents should not be required to maintain. Mr. Nitschke stated that Street crews do best after a storm event to maintain what they can while still keeping up with the drainage list from resident's calls. Mr. Nitschke also stated if the City's Streets crews are going to be asked to maintain more of the longer swales and larger drainage easements, the budget for such work must be considered. Currently the Utility budget was not set up to handle the City wide maintenance of longer swales and larger drainage easements.

Motion by Alderman Wilkens to table this item. Second by Alderman Gallagher and upon voting the motion passed unanimously.

#### **Item SW 02-04                      Project Update**

Eric Nitschke stated that 2004 is a year full of projects and it will be nice to see the fruits of our labor. A Public Informational meeting was held on January 10<sup>th</sup> regarding the Buena Park Subdivision. 90% of the plans and specifications have been received for this project.

Gatewood Subdivision Public Informational meeting will be held on January 17<sup>th</sup>. Final Plans and specifications have been received for this project and bids will be out in 2004. He added that it is a good time of the season to bid a project out.

The Malone Park project came in approximately \$200,000 under the engineer's estimate. A Pre-construction meeting for Malone Park is scheduled for January 21<sup>st</sup> and the construction will begin shortly after. Construction should start in late January or early February 2004.

New Berlin Hills Golf Course Project is currently under construction.

Calhoun Creek project is almost completed with a small amount of stabilization work still needed.

Inez Drive Storm Sewer project is moving ahead with design work. West side residents were experiencing some personal property flooding problems.

Mr. Nitschke stated the City of New Berlin has received a Park Design Award of Merit from the Wisconsin Park and Recreation Association for Calhoun Park's Streambank Stabilization and Pond Outlet Design. Alderman Bullerman asked why we were awarded this? Mr. Nitschke said it was for the stabilization, the benefit to the park, its functionality, appearance and retrofitting and outlet project. Alderman Bullerman and the rest of the committee members offered their congratulations and he stated that this should be including in the quarterly leaflet.

Alderman Wilkens asked if the New Berlin Hills Golf Course project was behind schedule? Mr. Nitschke responded that it was slightly behind, but that they were working with the golf course personnel to minimize construction damage to the golf course. Now that frost is in the ground, construction is moving full steam ahead.

Mr. Nitschke added that staff is also working on the Coldspring Road design of the underground retention basin and dry retention basin. He reminded everyone of the Public Informational meetings this month. He thanks the Street Department crews for their exceptional work this year and gave compliments to Chuck Trevor and Cathy Schwalbach who finished every item on their reditching project list for 2003 except one, and even started on a few of the 2004 projects. This includes a major overhaul of the City's right-of-ways, reditching projects, resetting culverts and digging out ditches (# of projects in the low 50's).

JP Walker said that during 2004 we should be able to judge the credibility of the Stormwater Utility. Staff has worked through a long list of complaints. Now we are into the bigger projects and citizens will receive bigger results. Alderman Bullerman said that this adds to our credibility and also offered his congratulations on a great job! Mayor Wysocki added that he would like to thank Sue Hanley, the Office Coordinator for Utilities and Streets for doing a great jobs behind the scenes with phone calls from citizens and handling the

committee paperwork.

**Item SW 03-04            Board of Public Works Actions and Potential Actions Relating to Culvert Permit Fee**

Director Grzys said that Staff would like to update the Committee regarding recent activities relating to the Culvert permit. On January 5<sup>th</sup>, he requested the Board of Public Works to make the following decisions based upon his analysis of actual City costs for culvert staking and inspection services.

1. Increase the current culvert permit fee for new culvert installations from \$100 to \$150.
2. Approve an amendment to Chapter 230-3(B), City of New Berlin Municipal Code to include replacement culverts to be covered by the Permit Fee.

The Board of Public Works approved the Permit Fee increase for new permits from \$100 to \$150. The Board did not, however, approve the amendment to include replacement culverts in the Permit Fee requirement. The BPW also discussed that the Municipal Code may need to be amended to give authority for Culvert Fee increases to the Stormwater Committee since culverts fall under the realm of stormwater issues. The BPW requested that this issue be placed on their next agenda for consideration. He gave a breakdown of the charges for labor, vehicle cost, lattice stakes and Engineering Department charges. The Stormwater Committee will be updated on the results after the next Board of Public Works meeting.

Alderman Wilkens asked if residents had the option to use a private contractor? Cathy Schwalbach stated yes, that was an option.

Motion to adjourn by Alderman Gallagher . Second by Alderman Wilkens and upon voting the motion passed unanimously. Meeting adjourned at 5:48 pm.