

**Minutes
Storm Water Committee Meeting
New Berlin City Hall
3805 S. Casper Drive
Council Chambers
October 12, 2004**

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

Present: Alderman Harenda, Alderman Hopkins, Alderman Hegeman, Mayor Wysocki & City Engineer J.P. Walker

Others Present: Eric Nitschke (Division Engineer), Cathy Schwalbach (Project Engineer), and Ray Grzys (Director of Utilities and Streets)

Meeting called to order at 4:45 pm by Alderman Harenda and a quorum was declared

Item SW 01-04 Approval of the September 21, 2004 minutes

Motion by JP Walker to approve the September 21, 2004 minutes. Seconded by Alderman Hopkins and upon voting, the motion passed 4 to 0. Alderman Harenda voted present since he did not attend the meeting.

Item SW 26-03 Kelly Lakes Owner's Association Request

This item will remain tabled.

Item SW 31-03 Approval of Creation of Section 230-13 of the Municipal Code of the City of New Berlin, Maintenance of Public Rights of Way and Public Easements

Motion by Alderman Hegeman to take this item off the table. Seconded by Mayor Wysocki and upon voting The motion passed unanimously.

Cathy Schwalbach presented a brief history of this issue. She stated that the Stormwater staff has taken many questions over the past two years regarding the responsibility of the City in the area of drainage easements. The questions have been based upon the belief that the easement is primarily the responsibility of the City when it comes to all aspects of maintenance, including mowing, and the removal of brush and debris from the easement. Ms. Schwalbach stated that staff has researched this issue and the legal easement document describes the requirements of the easements, but it is difficult to determine to what extent the City and the residents are required to do day-to-day maintenance such as leaves, brush and mowing. Ms. Schwalbach read an example of wording from a legal document. She stated that staff took this issue to the City Attorney and this discussion has yielded a greater understanding of the maintenance requirement of drainage easements.

She added that the maintenance referenced in these documents generally pertains to the City having the right to perform any maintenance or work that is deemed necessary on right of ways or easements, but that this would not be the same as the day-to-day maintenance issues such as mowing or removing brush. Ms. Schwalbach stated that the City Attorney recommended that, in order to clear up confusion and to create a uniform and more easily understood policy, that Section 230-13 be created in the Municipal Code, explaining the responsibility of the property owner in the case of a public easement.

Alderman Harenda said that residents, especially the elderly, need assistance with some easements because they are hard to mow and many are heavily wooded areas. He added that residents are paying \$15 per quarter and many don't have a problem maintaining the easements, but would like the City to pick up the branches.

JP Walker agreed that some of the comments he has heard were regarding tree limbs and property owners being elderly. He stated that staff tries to coordinate with the Street department to assist with Stormwater management and assist citizens when a tree in the right of way or easement needs to be removed.

Mayor Wysocki said that he is concerned with the rural areas along farms and wooded areas that have significant drainage ditches. He added that some are not identified as public easements, but are just a natural part of the Stormwater management of the City. Mayor Wysocki gave an example of the beavers in the Deer Creek area and suggested that there be some recognition of instances that the City has a legitimate obligation to remove obstructions, sometimes substantial. Mayor Wysocki asked staff that as we move forward that they think about if there is a level at which point in terms of a capital type of stormwater system, that we the City should really be taking responsibility on this issue.

Alderman Hopkins added that there are some areas, for example Underwood South that became so clogged with trees, the property owner would not have cared if the City went and cleaned it up, because it ended up flooding some of the neighbor's basements.

Mr. Nitschke answered that we do some of the work now on private property with the owner's permission. He added that this was something left out of the ordinance, not on purpose, but it was assumed that the Stormwater Utility would handle these major issues. Eric Nitschke told the Committee that this section of the code pertains to general upkeep such as mowing, raking and removing debris, not major issues and that these are looked at individually. He stated that the Utility still needs to make sure drainage ways are functioning and take the responsibility.

J.P. Walker added that staff must be careful when we deal with waters of the state and that residents and the City just can't remove things willy nilly in these areas. These must be reviewed and approved by the City and the DNR. Director Grzys said that the Street department does receive quite a few calls regarding downed branches and trees, and crews do assist with trees in the right-of-way. He added that they are concerned with people who rake leaves into the ditch, which then freeze and make it difficult to unthaw in the winter. Director Grzys said that residents have the responsibility to mow these areas, however if there are some areas that are impossible to mow, we would look into assisting them. He added that time and material are charged back to the proper departments. Alderman Harenda complimented Director Grzys and the Street crews in doing a wonderful job to assist residents.

Cathy Schwalbach said that the City Attorney will attend the next meeting and present the ordinance.

Motion to table SW 31-03 by Mayor Wysocki. Seconded by Alderman Hegeman and upon voting the motion passed unanimously.

**Item SW 12-04 Approval of Amendment of Section 210-B of the City of New Berlin
Municipal Code Concerning Downspout & Sump Pump Discharge**

Motion by Alderman Hopkins to take this item off of the table. Seconded by JP Walker and upon voting the motion passed unanimously. The Committee decided to move on to another item at this time.

Item SW 17-04 Approval of Asphalt Invert Replacement Policy

Cathy Schwalbach told the Committee that this policy was previously discussed and recommended changes were made in the policy. She noted section 3.6 under Item 3.0 Policy "In the case of larger invert width requirements, the cost of material will be adjusted for the larger amount of material used."

Alderman Harenda asked who makes the decision if upgrade to concrete is necessary? Ms. Schwalbach answered that the Engineering Department does and added when it is a shared cost, it is offered, but not required. Ms. Schwalbach added that approximately 5 property owners had declined culvert replacement based on the old policy of \$33.49 / lineal foot, but staff would contact them again and offer them the new policy of the cost difference of \$1.13/lineal foot.

Alderman Harenda asked how often the cost will be changed? JP Walker stated that the policy should be generic and reflects the difference in the current cost of asphalt vs. the current cost of concrete and reviewed on an annual basis. Ms. Schwalbach stated that the issue paper states the actual cost now for comparison, but the policy states that the cost of the upgrade is the difference between the two amounts and that the current cost would be kept in the City Engineer's office.

Mr. Nitschke added that staff is trying to maintain consistency throughout policies. He said that citizens don't have a problem paying the cost of the extra material to improve their properties, but they do have a concern paying for the labor and time. Mayor Wysocki asked if the City prefers concrete inverts over asphalt inverts? Mr. Nitschke said that it is a win win situation with the lower cost of maintenance and the property owner receives an upgrade to his property.

Motion by Alderman Hopkins to recommend to the Common Council the approval of the Stormwater Utility Asphalt Invert Replacement Policy. Seconded by Alderman Hegeman and upon voting the motion passed unanimously.

Item SW 23-04 Discussion of Culvert Installation Costs to Exclude Cost of Labor and Machine Charges in the Operating Budget

Eric Nitschke said that in 2002 staff started a drainage list for miscellaneous resident drainage concerns and questions including re-ditching, concrete invert maintenance, public easement work, re-setting culvert and/or replacing culverts.

Mr. Nitschke stated that one question that has consistently been brought forth is who the responsible party is for maintaining and replacing driveway culverts. The Storm Water Committee addressed culvert replacements in agenda item 13-03. For item 13-03 Ordinance 2221 was drafted and later approved in early 2004. Ordinance 2221 addresses individual culverts that have not been maintained or installed properly by individual homeowners. The City may, if deemed necessary, replace the problematic culverts and bill the homeowners. What Ordinance 2221 does not address are areas that the City is doing work on a drainage project for multiple properties.

Staff has followed Ordinance 2221, as approved, and are currently charging all residents who have their culverts replaced by the Streets department the full amount for culvert replacement. Staff is looking for discussion on the merits of a different payment schedule. Staff would like discussion, input, and recommendations regarding resident payment of private driveway culverts for Storm Water Utility projects. Some payment options may include time and materials, materials only, or no payment at all.

Mr. Nitschke added that he had talked to Alderman Ament who said that residents are not against paying for materials, they just don't want to pay for labor and time. Mr. Nitschke said that in 2004 we charged residents approximately \$5,800 but if this policy goes through, it would bring that total down to \$1,500 and we would reimburse those property owners. He added that if the culvert needs to be installed on a major project and we institute the work, currently we pay for it, but if the homeowner requests to be placed on a ditching list, they currently pay.

Alderman Harenda asked if there is a checklist to determine if a culvert should be replaced. Mr. Nitschke answered that there is a field investigation and a meeting with the resident to discuss their concerns and to determine if it is a drainage issue or culvert that is heaved. The issue then is discussed by Engineering staff.

Mayor Wysocki stated that when the Stormwater department was first developed, the initial study and goals addressed major projects; however, it was later seen that 20% of the work to be done is in culverts which are the backbone of the Stormwater Utility.

Mr. Nitschke said that in the Stormwater policy, there is no set policy for drainage issues and the ditching list was created to deal with these problems. He said that there are 72 items on the list for 2004, and we will be able to finish approximately 50 of them this year, due to excessive rain and equipment failure. He added that in 2003 the Stormwater crews completed approximately 50 projects including ditches, channels and storm sewers.

Motion by Mayor Wysocki to table Item SW 23-04. Seconded by Alderman Hegeman and upon voting the motion passed unanimously.

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The Committee came back to this issue and felt that they did not have sufficient time to discuss this item.

Motion by Alderman Hopkins to retable Item SW 12-04. Seconded by Alderman Hegeman and upon voting the motion passed unanimously.

Motion by Alderman Hopkins to adjourn at 5:25 p.m. Seconded by Alderman Hegeman and upon voting the motion passed unanimously.