

**Minutes
Storm Water Committee Meeting
New Berlin City Hall
3805 S. Casper Drive
Council Chambers
December 14, 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), Ray Grzys (Director of Utilities and Streets), City Attorney Mark Blum, and Sue Hanley (Office Coordinator Utilities & Streets)

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

Item SW 01-04 Approval of Minutes from November 9th meeting

Motion by Mayor Wysocki to approve the minutes from the November 9th meeting. Seconded by Alderman Hopkins and upon voting the motion passed unanimously.

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 Mayor Wysocki to remove this item from the table. Seconded by Alderman Hegeman and upon voting the motion passed unanimously.

Eric Nitschke stated the rationale. The Stormwater Committee has discussed this issue on previous occasions. Engineering Staff have brought this issue to the Committee for the following reasons:

1. The confusion as to the responsibilities of the City and the owner of the land, or the adjacent land, as it relates to general maintenance of the easement or Right-of-Way.
2. The lack of any consistent reference in the City Municipal Code as to general maintenance of the easement or Right-of-Way.
3. The lack of resources for City crews to perform routine maintenance of these areas. He added that Attorney Blum had minor changes to the draft ordinance.

Attorney Blum said that as he understood it, the concern was that the property owner would have to take on more responsibility than the ordinance stated. He suggested adding the words "to extent practical" to conditions where the owner is responsible for maintenance. For example, if the slope is too steep to mow, or if a large tree falls into the ditch, the owner would not be responsible.

Alderman Harenda asked if this ordinance pertained only with stormwater issues? Attorney Blum answered that the ordinance appears in the section under stormwater matters.

Alderman Hopkins asked about a creek that meanders into private property in his district and if the resident has to keep it up. He stated that in the past the City said that it cannot go onto private property, does this ordinance say that the City crew will remove fallen trees now? Attorney Blum said that each situation would have to be looked at and evaluated according to size of tree, size of land, if the private property owner couldn't do this without proper equipment, etc.

JP Walker asked if we have a means to settle arguments, concerns or points of argument between residents and the City staff quickly? Mr. Nitschke replied that there is no means in place, but there is a set process, although rather long, but that there is nothing in place that says you have "X" number of days to clean out

your ditch. The Stormwater Utility itself does not have a policy, but the City does. Attorney Blum added that Mr. Nitschke or staff would probably have to send out a notice, and if the resident did not comply, it would be forwarded to Attorney Blum.

Alderman Harenda said that notification comes from Tony or Bob Sigrist in Inspections regarding ditches that need cleaning. Attorney Blum stated that was another ordinance regarding if you put debris in the ditch, deposit leaves, etc. He added that this particular ordinance is a "Maintenance" code where a tree falls, not an obstruction that the property owner places there. Director Grzys said that the Street department received numerous calls of culverts being plugged from the last storm and that some of the leaves came from property upstream. He added that if residents clean out ditches now, it will eliminate the Street crews having to thaw out frozen leaves with the steam cleaner in the winter to prevent water from flowing over the driveway.

Alderman Harenda added that we need to remind Council that the DNR is requiring us to keep ditches free of debris.

Motion by Alderman Hopkins to create ordinance section 230-13 of the Municipal Code of the City of New Berlin Maintenance of Public Rights of Way and Public Easements. Seconded by Alderman Hegeman and upon voting the motion passed unanimously.

Item SW 12-04 Approval of Amendment of Section 201-8 of the City of New Berlin Municipal Code Concerning Downspout & Sump Pump Discharge

Motion to remove this item from the table by Mayor Wysocki. Seconded by Alderman Hopkins and upon voting the motion passed unanimously.

Eric Nitschke read the requested action to recommend to the Common Council the approval of the amendment of Section 201-8 of the Municipal Code of the City of New Berlin. He stated the rationale. Previously, the Stormwater Committee had deferred discussion on this issue so that City Attorney Mark Blum could be present. He added that Engineering Staff have taken many complaints from residents relating to a neighbor who has run their downspout or sump pump discharge in a pipe directly to the property line. This results in an increase in Stormwater flow to a property that is downstream and in many cases currently experiencing water problems because of their lower elevation. Seeing that there had been no prohibition of this type of action in the City Municipal Code, Engineering Staff requested the recommendation of the City Attorney. This resulted in the draft of an amendment to current Section 201 of the Municipal Code. The amended language is contained in 201-8(b). He added that this is another item or tool for staff to use in private property problems where a neighbor diverts his sump pump or downspout discharge to cause problems such as water in the basement, erosion in ditches or standing water in a right of way. He added that there are several cases in the City now where this has happened and water sits in the ditch line. Since most ditches are clay lined, because of the area soils, they will not soak up the water. Mr. Nitschke said that is the reason they asked the City Attorney to draft an amendment to this ordinance.

Alderman Harenda asked about drain tiles and gravity feed systems that have been in place for years. Would these have to be dug up and redirected? Attorney Blum said that if the stormwater flow was approved when the property was originally built, it would not have to be changed. Alderman Harenda asked about discharge into a ditch that is a City Right-of-way? Attorney Blum said that the discharge must be 10 feet away from the property line, then it is OK to run it into the culvert. Eric Nitschke said that Attorney Blum was correct, but that in his opinion the 10 feet distance was a minimum distance that could be increased on rear and front property lines.

Mayor Wysocki stated that many sump pumps have pipes buried to the ditch or backyard, but he thought that at one point the code said that all sump pump discharge must be directed to the front of the house. Mr. Nitschke said that the current Developer's Handbook says that now, but residents that installed it to the backyard previously will not have to dig it up and move it.

Director Grzys said this issue relates to the Utility issue of clear water infiltration and noted that downspout discharge to sewers must be eliminated. He said that by initiating this ordinance, the Stormwater committee will be working hand in hand with the I & I Utility Committee issue.

Motion to defer this issue and table until the next meeting by Mayor Wysocki. 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 Changes in the Operating Budget

Remains tabled

Item SW 25-04 Discussion of Stormwater Utility Logo

Remains tabled

Item SW 26-04 Award of Professional Services Contract for the Watershed Study of the Upper Root River Tributary Area

Eric Nitschke read the requested action, fiscal impact and source of funds (see below). He explained that the budget was allocated by the previous Stormwater Committee to conduct a drainage analysis of three stormwater sub-basins with the same watershed to determine flow volumes that will enter the tributary to the Root River located between Sunny Slope Road and the New Berlin Hills Golf Course located just south of Paddock Parkway. He said the sub-basins include: Parkwood Lane storm sewer, Overland Trail ditches, and Woodshire Detention are and Lincoln Avenue storm sewer. The Engineering staff asked for the study because of the problem that is caused by all 3 of these ditches flooding downstream and the golf course. He used the analogy of dumping 3 – 2 liter bottles of soda into a bath tub at once causing flooding, whereas if you would dump the bottles individually, it would not cause a back-up.

He elaborated that Parkwood Lane floods roads, floods basements and that there is a safety concern with the school where the ditchline runs into the storm sewer. He said that the residents in the area have witnessed kids that have gotten stuck in the storm grates. In the Woodshire Ditching project water backs up along the ditch and it is being analyzed because the sewer is undersized, there is standing water and hence a mosquito breeding area. The Overland Trail ditches also cause roadway flooding, ditches are undersized and there are safety problems for driving. Mr. Nitschke reported that all of these areas drain into the Root River Tributary and staff is looking to analyze the area as a whole.

Alderman Harenda asked if R.A. Smith was the low bidder? Mr. Nitschke said that they were 2nd lowest and that the 4 bids were analyzed by Mel Corley, J.P. Walker, Director Grzys and himself and were graded according to a rating system. He added that the low bidder was Baxter Woodman, who staff felt did not allocate enough time for the project.

Mayor Wysocki said that he appreciates this issue as at one time as 2nd district alderman, all of these areas were in his district and he related he experienced the flooding first hand.

JP Walker said that the key issue the Eric hit on was timing of the peak flow, and that we need to manage and control storms through this comprehensive approach.

Eric Nitschke added that when the designs have been completed, staff will come back to the Committee with proposals and requests for allocation to start the work.

JP Walker said that Overland Trail, Woodshire and Lincoln Ave are scheduled for 2005, and that additional funds would need to be allocated in 2006 for Parkwood Lane and an underground storage facility.

Motion by Mayor Wysocki to recommend to the Common Council the awarding of a Professional Services Contract to R.A. Smith & Associates, Inc. for consulting services related to the improving storm water drainage to the Upper Root River Tributary in the north central portion of the City. The amount of the Contract is \$82,500, and with contingencies the not to exceed amount is \$95,000. Source of Funds: Upper Root River Drainage Analysis Account # 04251171 61708 C2003 (\$120,000). Seconded by Alderman Hopkins and upon voting the motion passed unanimously.

Item SW 27-04 Discussion of Current Status of WPDES Permit Activities

Eric Nitschke reported the current status of WPDES Permit activities.

Each municipality shall submit a proposed illicit discharge and elimination ordinance, as well as discharge response procedures to the Department by December 31, 2004. Each municipality shall adopt the illicit discharge and elimination ordinance within 6 months after Department approval is obtained.

Each municipality shall submit a proposed construction site pollutant control ordinance, as well as inspection and enforcement procedures to the Department by December 31, 2004 and shall adopt the ordinance within 6 months after Department approval is obtained.

Each municipality shall submit a proposed post-construction stormwater management ordinance and a long-term maintenance procedure to the Department by December 31, 2004 and shall adopt the post-construction storm water management ordinance within 6 months after the Department approval is obtained.

Staff is working on a rough draft of the 3 ordinances and these will need to be approved by the end of May 2005. Mr. Nitschke stated that the Committee will be kept informed.

Motion to adjourn at 5:39 p.m. by Mayor Wysocki. Seconded by Alderman Hopkins and upon voting the motion passed unanimously.

Respectfully submitted,

*Suzette Hanley
Office Coordinator, Utilities and Streets*