

MINUTES
City of New Berlin
Utility Committee Meeting
Tuesday March 24, 2009

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

Others Present: Jim Hart (Utility Supervisor) Mayor Jack Chiovatero, City Attorney Mark Blum, JP Walker (City Engineer), Ralph Chipman (Accounting Manager), Steve Schultz (Ruekert & Mielke), Chris Stamborski (R.A. Smith National), Dr. Paul Kreutzer (New Berlin School District Supervisor) and Sue Hanley (Administrative 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.

OLD BUSINESS

UT B-09 Approval of Minutes from the February 24th meeting

Motion by Alderman Ament to approve the minutes from the January 27th meeting. Seconded by Commissioner Morrissey and upon voting the motion passed unanimously.

Harenda: Sue Hanley asked if the minutes of the Utility Committee could be abbreviated a bit more. Mark Blum suggested trying 2 types, doing the way she usually does it and one in the abbreviated format. I did tell Sue that I utilize the minutes to refresh my memory of past actions.

Wysocki: Let's try it.

UT 01-09 New Berlin School District Request – Sewer Extension to New Berlin West High School

CLOSED SESSION

The basis for the items to be discussed in Closed Session is as enumerated in Wisconsin Statute Section 19.85(1) (e) Discussion and possible action to enter into closed session pursuant to Wis. Stat Sec. 19.85(1)(e) Deliberating or negotiating the purchasing of public properties, the investing of public funds, or conducting other specified public business, whenever competitive or bargaining reasons require a closed session. More specifically:

Discussion regarding negotiation strategy for a sanitary sewer easement and a developer's agreement for a private sewer main to serve New Berlin West H.S.

Motion by Alderman Wysocki to go into Closed Session at 5:03 p.m. Seconded by Commissioner Dude. Role Call vote: Alderman Ament – yes, Commissioner Dude – yes, Commissioner Morrissey – yes, Alderman Wysocki yes, Alderman Harenda yes.

Ralph Chipman, JP Walker, Attorney Blum and Jim Hart were asked to stay for closed session

Motion by Alderman Ament to go into Open Session at 6:32 p.m. Seconded by Commissioner Dude and upon voting the motion passed unanimously.

Reconvene to Open Session

Commissioner Dude: I would like to reiterate some things going on in the session. I am basically favorable for us to helping the school district for 2 reasons. I pay about 291% more to the school district each year than I do to the Utility, however that is as a taxpayer. Up hear I am more concerned about the Utility situation. The concern I have is down the road. We can talk about the school, both of my kids went to West by the way, the school having a certain point where we can turn that off, but I am looking at

it in a different way. Because of the amount of sewage that the school has compared to an individual customer. I'm worried about what happens 10 years down the road when we have to make a significant capital contribution to fix, not necessarily the school's line, but our system as it takes it down to MMSD. I look at the school adding more to take up that capacity than individuals coming on one at a time. My concern is what happens down the road if we have to pay capital costs to significantly improve not the private line to the school but part of our system down the road. I realize some of that comes in terms of the rates but I look at the school as a higher probability of swamping our down road system. I am looking for in the process of negotiations of something to address that wherein the school adds some money over and above what they get in the typical rate that the typical residential people do because I look at that as really using up a lot of capacity in our downstream situation.

Harenda: Is there any action that you gentlemen want to take?

Motion by Alderman Wysocki to recommend that the existing negotiating committee work with the New Berlin School District in developing a private sanitary sewer agreement with the utility and presenting it to the Utility Committee for our review and discussions. Seconded by Commissioner Dude and upon voting the motion passed unanimously.

Harenda: With respect to that just a comment and directive per our conversation with the school district last week, you are aware our new urban service area boundary. You need to make a request to the city, which will be referred to this committee, and since you already have a request to SEWRPC and the DNR pending you can submit that as soon as possible and we can work on all of that at the same time.

UT 05-07 Water Conservation Measures –Potential Rate Adjustments

Harenda: The sub-committee met and we are working on putting together with regard to an overall plan with the city. We will be getting together again shortly and hope to have something in the near future.

UT 07-08 New Berlin Urban Service Area Boundary

Harenda: The New Berlin Common Council passed an ordinance with respect to that which delineates the New Berlin urban service area as the existing sewer service area line. Any further expansion of that line would require a recommendation from the Utility Committee as well as approval by the Common Council.

Ament: And the Plan Commission

Harenda: As well as a ¾ vote by the Common Council to address and move that line. I tried to email that out to you, but it may have bounced back, but I will get a copy of that to you. It is written into the City ordinance. We can probably drop this from the agenda.

Motion by Alderman Wysocki to drop UT 07-08 from the agenda. Seconded by Commissioner Morrissey and upon voting the motion passed unanimously.

UT 03-09 Request 2009 CIP Budget Adjustment for Utility Shop Mezzanine

Motion by Alderman Ament to remove this item from the table. Seconded by Commissioner Morrissey and upon voting the motion passed unanimously.

Hart: We did the shop floor and drain and it wasn't as bad as we first thought. We budgeted \$25,000. We ended up using \$10,000 to do the floors and the drain. We would like to use an additional \$12,000 to put up a mezzanine for storage. This would increase productivity and improve efficiency for our storage of records and meters at the shop. The records are all over the shop and the main office, some have to be retained for 30 years, others for 7 years and this would improve efficiency overall. The bids that came in are good until April 5th. After that we would have to rebid it.

Morrissey: Did you mention that the bids that came in last month had a discount?

Hart: We got a better price because of the economy, people are looking for work and we did receive a considerable discount.

Dude: Capital budget items are a little different than operating costs in that capital equipment purchases are a transformation of assets. They go from being current assets called cash to a not current asset called building. The first thing you look at is materiality. You are talking about a \$10,000-12,000 piece. Last time I checked last December we had a little over \$6 million in working capital so that is not an issue. Therefore, two things hit me. 1. You are increasing productivity because people won't have to run all over to find something. 2. You have a minor theft issue. I think I would rather have them behind a door that you can lock. 3. If you can get a good deal on it because of the economy and we can stimulus at the same time, I can support that. If you put another zero behind that I take back everything I said. \$12,000 is not going to hurt the utility in terms of working capital. I am in favor of it.

Motion by Alderman Ament to recommend to Council to allow \$12,000 remaining of the CIP budget item request for Replacement of Drain System / Floor at Utility Shop to be used to construct a storage mezzanine. Source of funds: CIP Sewer Account 80.107000 in the amount of \$6,000 and CIP Water Account 90.107000 in the amount of \$6,000. Seconded by Commissioner Morrissey and upon voting the motion passed unanimously.

UT 02-09 Request to Amend Inter-Municipal Agreement between New Berlin & Muskego to Increase Number of Sewer Connections in Linnie Lac Sanitary Sewer District

Harenda: Linnie Lac sewer district. Is there any urgency on this JP?

JP: No.

Motion by Alderman Ament to table UT 02-09. Seconded by Alderman Wysocki and upon voting the motion passed unanimously.

UT 05-08 Status and Options Re: Westward Manor Lift Station Reconstruction

Harenda: Status of Westward Manor Liftstation

Hart: We still have not been able to work out an easement with Mr. Geipel. In the packet there were some options from the consulting engineer so that we do not flood out again. We did start making up 600 more sandbags. We are going to get some 4 foot x 2 foot x 42 inches high concrete retaining walls from New Berlin Redi mix and with the sand bags incorporated in plastic we can use temporarily so that it won't flood again.

Harenda: Your email between our engineer at Crispell Snyder and their engineer, there are a lot of insinuations that we are not working with them and because of that they aren't going to work with us on an easement agreement, that is the way I see this.

Hart: I believe that is with the urban sewer service area map. Mr. Geipel wants to develop the area out there and I believe Greg Kessler in Community Development should handle your question for that.

Harenda: What is the recommendation from the Utility, Rick or you to do on this. The sand bags and the floodwalls are a temporary fix.

Hart: This was more for information, just so that you were up to date on what we have tried to do. We have been working since last year to try to get the easement. We have plans designed and developed and ready to go, but can't get the easement from Mr. Geipel to permanently fix the situation out there.

Ament: So that is what they are looking for in exchange for this. They are basically holding us hostage.

Hart: More or less yes.

Ament: I guess maybe the next option, since that is not likely to change, is to look at some type of jurisdictional offer or a taking, if those are the proper words to move this. Maybe that is a question for the city attorney. I don't see us jerking around with sand bags and having staff go down there, I think it is

potentially a safety issue for staff. Someone could go down there and get electrocuted or drown, not to mention the cost involved in continuously playing with this.

Blum: My suggestion would be is that this issue would be something we would take up independently from this discussion this evening. This is talking about the reconstruction and if you are going to go down the route of potentially acquiring the rights that would be agendaized a different way than is on here this evening.

Harenda: We have been given 3 options here, which is opposite of what was the approved action of this committee. That is why I am asking Jim and Alderman Ament is asking you City Attorney, what are our options and what course of action should we be looking at? The 3 options here don't seem to fix the problem that we have.

Blum: You are looking at an option to reconstruct this in a different location then the eminent domain option would be a necessary step and a part of that so if that is the direction you want to go, which I think was originally proposed, that would be a discussion that you are going to need to have. Again, I would not have that discussion this evening.

Ament: I would request that be put on the next agenda.

Harenda: Why can't we request that the direction.

Blum: As I understand it, what the Committee directed and the thought was that we did have sufficient rights to allow us to reconstruct it in the existing area. The bottom line after review of that is that we don't. The premise under which this was originally designed is faulty and so in order to move forward with the design you would have to take an eminent domain step which is why it differs from one of your alternatives.

Harenda: Can we get a motion from the Committee to direct staff in conjunction with the City Attorney to take the listed options here and report back to us on all of the options that the Utility has to deal with the issue in that specific area?

Blum: That's fine. I think I heard Alderman Ament suggest we move forward with an eminent domain option and that is not agendaized here.

Harenda: Let's have the utility and you look at the options and report back to us. Do we need an official motion?

Ament: I just don't want to hold us up too long; we have been playing with it long enough. If that is their position, those 3 options to me are not acceptable.

Harenda: I don't think we need a motion on that. I will just lead that on the agenda. If that comes up as an issue, that can be part of one of the options.

UT 05-07 Water Conservation Measures –Potential Rate Adjustments

Harenda: Commissioner Dude, Ralph, Rick and I have a meeting on this next week.

UT 12-04 Milwaukee Water Expansion -R & M Contract Amendment for DNR requests

Dude: Going back to 12-04, where are we with the little issue with the DNR? I am still looking for that date.

Harenda: Please update us with the DNR.

Schultz: I spoke with Eric Ebersberger who is in charge of the diversion request and Lee Boushon who is in charge of the radium non-compliance issue and essentially since the last meeting nothing was done. For the diversion request, the comment period is up March 27th. There was the public hearing that some of you were at here, hosted by the DNR. Attendance was about 6 people, and I think 3 people spoke and

they all were in favor. DNR said they have 6 formal comments, none of which is substantive and they have gotten indication from some groups that they will be commenting prior to the end of the comment period. They indicated they don't have a date that they are promising to get their opinion but he said that if nothing mind blowing comes in he does not see that it would take longer than 30 days from the 27th. On the radium issue, nothing new since the meeting that Alderman Harenda attended at City hall.

Harenda: Steve is correct. Some environmental groups will potentially be commenting on this prior to the end of the deadline.

Schultz: Yes. One person asked if they could comment as late as 11:59 p.m. on Friday?

Harenda: The DNR will as usually have to respond to that and take action. I had on this list a request for staff to update us on the pumping issue with respect to radium wells but we won't get into that tonight. Steve had pointed out they have taken no action and hopefully they won't with respect to that. The R & M contract amendment and the award of contract for the construction work can wait until the next meeting. I would like to spend up a special meeting on these issues. Steve, is there anything else you need from the Utility?

Schultz: At this point no. If for some reason we miraculously get approval sooner, you may want to consider a special session.

Motion by Alderman Ament to adjourn at 6:54 p.m. Seconded by Alderman Wysocki and upon voting the motion passed unanimously.

Harenda: We did have a scheduled Privilege of the floor but we have to move to our Common Council meeting.

Please Note: Minutes are not official until approved by the Committee

*Respectfully submitted,
Suzette Hanley – Administrative Supervisor, Utilities & Streets*