

**MINUTES**  
**City of New Berlin**  
**Utility Committee Meeting**  
**Tuesday April 28, 2009**

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

Others Present: Rick Johnson (Utility Manager) Jim Hart (Utility Supervisor) Mayor Jack Chiovatero, City Attorney Mark Blum, JP Walker (City Engineer), Steve Schultz (Ruekert & Mielke), Bob Pulliam (New Berlin School District), Attorney Melanie Parks Alberts 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 C-09 Approval of Minutes from the March 24th meeting**

Motion by Alderman Wysocki to approve the minutes from the March 24th meeting. Seconded by Alderman Ament 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: Muskego is looking for direction from us. They have a meeting in May.

Walker: The Committee asked a few questions at the January meeting. One of them was how many vacant lots. There are 26, but a lot are legal nonconforming, they have a narrower width. If they were to be developed there would probably be an assemblage of lots so one should not think there would be a request for an additional 26 connections in the future. Because of the floodplain, a lot of those lots cannot be developed. The letter from the property owners is requesting an additional 7 connections, but 2 are already connected, so there are really 5. The issue is whether or not you want the intermunicipal agreement with Muskego to be updated to include 5 additional connections.

Harenda: Are the 5 remaining lots conforming developable lots?

Walker: There are 3 lots on the east side of Linnie Lac Drive that are the smaller dimensions and I believe there is an entity that would like to purchase the lots to create 1 connection and 1 lot.

Dude: They are hooked to Muskego. We bill the customers and we bill what Muskego charges us and it is a wash and is neutral?

Johnson: Muskego bills us but they charge more than we bill the customers so we lose money. The pay is set up by MMSD. We would have to get an approval from MMSD to increase the area's sewer rates.

Dude: How much is the difference?

Johnson: Every quarter we lose \$5.60 per residential property. There are 87 properties, but there are some commercial accounts so we lose more in there.

Dude: \$1,948.80. The only reason we lose money is because we don't bill them enough. We can go to MMSD and ask them for a rate change for that area.

Johnson: MMSD could change the rate to coincide with what Muskego charges us.

Harenda: Why don't we do that? Muskego is saying that we are going to reimburse them for all costs associated. We aren't even doing that with existing customers.

Wysocki: When we originally took on Linnie Lac sanitary sewage district it was assumed it would be no cost to us. We were doing it as a service to accelerate the sewer service to the area. I would be surprised that over time we are subsidizing to a certain extent that hook-up. I recommend putting on the agenda, the appropriate process to equalize that cost.

Johnson: When this issue was brought up to hook up more customers we went through the sewer charges with Ralph to determine the sewer charges to each property in that district. We would have to get the approval through MMSD and PSC on the rate case.

Wysocki: Mr. Chairman please put this on the agenda for our discussion and action. When we agreed to do this many years ago it was supposed to be a pass through in terms of cost.

Johnson: Because of the rate changes that Muskego had, we never followed up to get the costs back.

Harenda: Out of the 5 lots here, they are looking to put it down to just 1 or 2?

Walker: Right now there are 5 lots. Based on conversations I had with potential buyers, there may be interest in combining several lots to make a buildable lot but until that takes place there are 5 lots.

Harenda: If we authorize 5 connections and they reduce it to 1 or 2, do the other ones go back into a reserve capacity for future hook-ups?

Walker: Yes. Based on my research of our files, the Sewer Utility that has been installed can serve 100 connections and we are at 87.

Dude: This doesn't go against New Berlin and MMSD capacity does it?

Walker: No. This is a sewer shed on its own and contributes to Muskego.

Wysocki: Our amendment is to increase the number and not the size of the district correct?

Walker: Just the number.

Harenda: I don't have any concerns with this. I know there has been concern of sewer extension to the corner of College and Racine and also the Mill Valley site, but that will be a separate discussion. You need to give Muskego a written request of what we are requesting. We need to amend the existing agreement with them?

Walker: That is the starting point. I am not sure what analysis they have to be involved in. It is not a capacity issue that I am aware of, but it is their system. Their committee will take up the same issue and assuming they will agree to amend the agreement, and then Attorney Blum would work on the draft agreement.

Ament: On the original request, there was a request for 7 parcels, are we changing it?

Walker: 2 of these parcels are already connected as noted in the January 22, 2009 letter.

Motion by Alderman Wysocki to direct the City Attorney to draft an amendment to the existing Inter-Municipal Agreement between the Cities of New Berlin and Muskego to increase the number of sewer connections to 92 to include the lots listed in the written request from the property owner who owns multiple parcels (tax key numbers: 1280102, 1280101, 1280100, 1280099, 1280098) on Linnie Lac Drive. Seconded by Commissioner Dude and upon voting the motion passed unanimously.

## **UT 05-07      Water Conservation Measures**

Harenda: I made a copy of the City of New Berlin Water Conservation Plan that we are working on. Read and review it and comment on it. I am also handing out a draft ordinance with regard to the Water

Conservation Plan potentially repealing and recreating our water conservation methods regarding sprinkling. Presently we have a voluntary odd/even sprinkling plan. This would make it mandatory in the times listed and fall in line to what we are trying to achieve with water conservation. Please review and comment. It will be on the next agenda to hopefully take action because it will have bearing on the upcoming summer months. There is also a copy of the City of Madison's Water Conservation and Sustainability Plan and information that Rick and the Mayor received at a seminar on April 21<sup>st</sup> for water conservation in Wisconsin under the Great Lakes compact.

The DNR has not approved our diversion request and has requested additional information including a water conservation plan. I have been hearing through the grapevine that I am dragging my feet with respect to approval on the water conservation plan. I believe the City of New Berlin and the Utility should get credit for measures it has taken in the past with stormwater, planning issues, development issues, I & I and other things they have done without jumping headfirst into things that we aren't sure we want to add on or require our Utility customers. We are methodically going through the plan to protect the environment and conserve water for future generations. The DNR has requested additional information that was previously submitted to the DNR, but in a different format so Steve Schultz and R & M has been submitting them. On the Council agenda tonight we have a resolution to reiterate to the state, the DNR specifically, our commitment to water conservation efforts. The City Attorney sent an updated draft with additional changes after the DNR reviewed it. This is not to say that if we approve this tonight the DNR will approve our diversion application, but it adds additional documentation to what has been submitted to the state to show them our diligence.

Wysocki: I am disappointment in the resolution because there is no credit given for the fact that we are in a groundwater management area. Back in 2003 Wisconsin formed a Groundwater Advisory Committee and they identified 2 crucial areas in the state they were concerned about drawdown in the aquifer with regards to groundwater, which was an initiative that has an assistance with the DNR. Somewhere in the resolution we should point out as a result of our actions taken to date and continuing action to go to Lake Michigan water, we will be substantially contributing to groundwater management and reducing drawdown. That is millions of gallons per day in the summer. Has that ever been pointed out to the DNR? We are going to get off of groundwater in the area.

Schultz: This was pointed out in the initial application and in the amended application, it was clearly stated one of the benefits of going to Lake Michigan water was that you would cease to continue to the regional decline in the deep aquifer and we would be off of that. The act is Wisconsin Act 310 passed in 2004. There is a Groundwater Coordinating Council in charge of writing rules related to using groundwater in the GMA's, the Waukesha area is one, and one of the statutory requirements of the rules they develop will be that you have water conservation in your plan. So it is appropriate that you mention you are in compliance.

Wysocki: That is one of the biggest water conservation contributions we make.

Chiovatero: The DNR is asking for a lot of clarification based on the comments they received in the comment period during our application. For the past few weeks the DNR has been sending us a letter on Friday, we scramble Monday and Tuesday to get them the information and then another letter shows up the next Friday with more questions. I have had some conversations with the DNR and asked why they don't give us all of the questions to us at the same time? We are a small Utility and we don't have an endless amount of money and we need to get this finalized. After a brisk talk with Mr. Ebersberger and he called me back a few days later. There were some questions they wanted Steve to answer about some of the calculations, but the biggest thing hanging out there that the environmental groups brought forward was the conservation plan. At that time I explained the issues we were having both practical and political and we were working on the plan, but when this goes through, our City will still be divided into half groundwater and half lake water. How do we put a conservation plan together that we can't enforce to the non-utility customers. How do I tell the customers that are paying for service that they can't do something, but the people outside the service area can do anything they want? I went through the scenarios and they said that is a good question. Mr. Ebersberger called back April 16<sup>th</sup> along with Bruce Baker and they said we want to give you credit for the current uses. I brought up that we should receive credit for getting off the aquifer and they said that is one of the main reasons for your diversion requests, but we need to address the conservation. He said there are 3 options: 1. Draft a letter with specific goals, talk about what you did in the past and what your plans and programs. 2. The DNR can hold off

the application and have you do a complete application plan. 3. Decrease the amount we are asking for and force us to do a conservation plan. He said draft a letter that states our specific goals. These are goals not numbers. They don't have a law in the state of Wisconsin to make you reach these goals but good attempts and good programs will probably get you to those goals. They suggested we not put less than 10% reduction/capita by 2020. You already talk about getting a 4% decrease when water softeners are gone. I said the part of the city getting this is not heavily residential but it is the industrial park, and explained the issues with them. I talked to Steve and Mark Blum and it was suggested that we draft a resolution. The changes that the DNR requested were very minor word changes, but they want the 10% reduction by 2020 starting with a base of January 1, 2008. I said we should do it based on 2005 because of the conservation methods we are already doing, including reduction of the water softeners in this area. He said we are giving you credit for a lot of the things you have already done and are only requesting a goal of 10% instead of the 20% they are asking of other communities. Yesterday when I talked with Eric he made one final word change from "achieve" to "goal" which is more favorable. I said that we would put this into the resolution to be approved at the Committee level and Council tonight. He said that if it passed he is prepared to send the paperwork with his recommendation by early next week to the Secretary for the approval application. He said this is the last piece of the puzzle. I explained that our Utility is very small. Our Utility Manager is an operations manager; he doesn't have an engineering background, although he could probably answer the questions. From there it falls on to me. I am the Mayor and I don't have the qualifications to do that, so it goes back to the consultant. Every time you keep asking for something it adds more dollars and we can't afford this. Rick put together a lot of the information for this second request for Steve and he sorted it and passed it on. They were happy that we respond to the questions in a timely manner and understand our situation.

Ament: This 10% reduction, if we pass this resolution are we held to that?

Chiovero: He said there was no Wisconsin state law that can hold us to that amount. That was my concern. If they were to pass a law, it would be statewide and he said that would never happen because of all of the situations in the state. That's why he changed the word achieve to goal.

Ament: At some point along the line I would assume it would be more than a goal and they will want us to get at least close to that. How will this affect future developments we have planned or approved, for example, the hotel, section 35, the City Center?

Chiovero: Section 35 and the City Center are not included in this because that is already on Milwaukee water.

Ament: If we have to reduce the amount of water and we go and develop that, I don't know how we are going to reduce if we add more usage.

Chiovero: It is residential use per capita. The new homes have updated fixtures and restrictions.

Ament: On the surface it looks like this is not an achievable thing unless we say we have a moratorium on any residential development until after 2020. I don't know how we can reach these goals. You mentioned that our Utility manager is not qualified.

Chiovero: He is not an engineer to answer the questions being asked.

Ament: A director would be an engineer like Ray Grzys would be an engineer?

Chiovero: I don't think he was an engineer but I think he used a lot of the resources from R & M. I told the DNR the reason we can't afford these multitude of questions is because we don't have people on staff to do it.

Harenda: Originally I asked the Mayor to facilitate a meeting with the DNR and ask them to come to our City Hall and explain to us what is going on but they apparently balked at that. We had to go to them if we wanted to do something. Steve had to run to Madison to supply them with the same information we had previously supplied them but in a different format and at the last minute they wanted additional information. I am hoping this is the last request. To follow up on what Alderman Ament said about reducing per capita consumption, the City of Madison is using a 20% reduction and the average

residential customer uses 73 gallons so they want to see a 20% reduction in the next 20 years so they want to see the average customer to use 58 gallons per day. So if you add new development on, they are looking at as an overall number per capita basis. If we add new development on, it should not work against us, because it works on an average basis.

Ament: How would we monitor whether it is new or old? They are assuming as time goes on we will put more restrictions on to control it. Let's say in 2015 if we think we aren't going to make it, will we put on more controls?

Chiovero: Basically this is a commitment to put a conservation plan together and move forward.

Ament: Did they approve that plan?

Chiovero: We don't have a plan.

Ament: We are saying we are going to do one. Let's say a year from now we have one. Do they have to approve it?

Chiovero: No.

Dude: I think you worry too much. I think the City Attorney did a good job, "...The City of New Berlin commits to a conservation goal not less than a 10% reduction in residential water consumption based on January 1, 2008 per capita levels by January 1, 2020." When we had our subcommittee meeting we put our goal in a 10% reduction, we have done it. What we are trying to achieve here is to satisfy DNR regulation. What we are committing to is putting this into our goals. The last time with very little effort, when we dropped all of the water softeners we will conserve a whole bunch of water. The irony is the more we conserve the more money it will cost us because the fixed costs are supported by volume. If we do something like restricting hours like 5-10 for sprinkling plus the water softeners plus paying for water saving plumbing devices, it's a slam dunk because people don't have to think. This means nothing to us and it means a lot to the DNR.

Harenda: This is basically a goal setting. We still have to comply with the DNR administrative rules. I don't think they can force municipalities to have percentage reductions. We are putting something out there we think we can achieve. If you look at the Madison report on toilet replacement, they did an audit between old homes and new homes and found a significant difference. I'm not saying replacing all of the toilets will save us money but that and the softener and sprinkling issues will offer some benefits. The language that Mark put together isn't forcing us to do anything even the stuff in the diversion request and potential options are still options. We need to move forward.

Morrisey: Ken, you and Bob have been working on a conservation plan. Steve does the DNR realize it?

Schultz: We did present them a draft of the conservation plan that Alderman Harenda handed out.

Morrisey: I am disappointed that the DNR didn't come to us earlier in the process. I realize we are on new ground with the diversion request, but we don't want to continually jump through hoops.

Chiovero: This is what I told the DNR. They are going through our old application and our water service area plan and wanted to know why some of the numbers changed. The reason they changed is because we have more accurate numbers and we did things so that is why Steve had to go to Madison.

Schultz: I spent an afternoon with the reviewers. When they made this new department to cover what was under the Great Lakes Compact they brought in people from other areas of the department.

Morrisey: I agree we should go ahead and pass this. We are moving forward with a conservation plan and we are out in front like Waukesha and Madison who has plans, but I hope it doesn't come back like our I & I work that we put so much into and here we are today and it seems to be lost in the shuffle. I hate to be out in front of this, put a good plan in, and then they come to us in 2020 and say you need another "X" percent when we have already achieved it and other people haven't.

Harenda: If you review the Madison and Waukesha plans, we have implemented a lot of the conservation items in there years ago, including stormwater infiltration. I want a credit for that.

Wysocki: If you don't think the DNR is going to at some point in the future and point out to us the obligations we committed to, then you don't know the DNR. I have dealt with them on snakes, on stormwater, so let's not kid ourselves. There is one "Whereas" on the 2<sup>nd</sup> page that obligates us to comply with all applicable water conservation and efficiency measures required by the DNR pursuant to Wisconsin Statute section 281 and 346.

Chiovero: That is the compact so we have to comply with that.

Wysocki: These are intended consequences. They do give us some credit for what we have gone through, that the City has been a leader within the MMSD taking steps to minimize I & I before such requirements were mandated. They don't give us credit though for groundwater management in this area. It is not just conservation, it is protection. I wish this resolution was titled, "The City of New Berlin Commitment to Water Conservation and Protection Measures" because we are taking less groundwater and insuring the environmental issues with regard to water resources for other communities who will have to rely on the groundwater. Waukesha just took a well for a million gallons in the Shell aquifer. They get away with diluting their polluted radium water with this and meet the measures, but for some reason we couldn't do that. The DNR is not going to forget about this commitment, but we want to put an end to it. I am just worried that future councils, commissioners and citizens will be committed to something we are going to do here in our anxious effort to get this done.

Harenda: What would your suggestions be? I like what you said about getting credit for it.

Wysocki: I looked it over and a couple more "whereas" might be better than having to go to it, but if I understand the Mayor correctly, there is no negotiation with regard to this 10% reduction.

Chiovero: They said we already cut that in half since we are requiring other municipalities to do 20%. This is a resolution committing to a conservation plan. If we had a conservation plan done we could turn it over. This is to do it expeditiously to get it done.

Wysocki: That is our perspective, but to their perspective it binds us to a plan.

Chiovero: It doesn't bind us to any specific plan. There isn't a law to commit you to anything. We are asking for 10% by 2020. If you make 9% there is nothing they can do about it.

Wysocki: A resolution has some legal binding. You are going to sign it and it goes to the DNR to the Governor, Senator, representative and it has some binding to it that they can come back to regarding our efforts. If this is what you guys have negotiated over the years I have said what I need to say.

Morrisey: We are required to have a conservation plan in place for the diversion request that is part of the compact.

Schultz: Yes. The rules regarding what the conservation plan has to contain are not made.

Wysocki: They aren't made. Then we can point to conservation methods we have taken and one of the biggest is that we will not be taking groundwater. 6 million gallons a day.

Morrisey: I think the conservation measures refer to lake water.

Wysocki: We are returning the lake water.

Chiovero: It goes to all water.

Morrisey: We have to go ahead. The DNR sets the rules.

Chiovero: They did remind me several times that they are trying to comply with the language of the compact. These are not Wisconsin rules and they are trying to follow the language of the compact. If

you remember the comments that came out of the comment period from these environmental groups it was the lack of conservation plan and the DNR feels they can move forward if we commit to a conservation plan. Ted, as far as what you are saying about groundwater or lake water, they want us to use less water.

Harenda: The City of Madison is basing their average goals on 2006 and we are being held to 2008.

Wysocki: And they rely entirely on groundwater.

Harenda: We return more than we take.

Ament: Somehow it is being implied that if we ask questions that we are holding up the process. It is not the Committee, the Council or the City that has been holding up the process. We have been trying to move this along, we have been told we are going to get fined if we don't move it along, yet we are not the ones holding it up. With all the reversals we have seen with the DNR, I have no doubt in my mind that Alderman Wysocki is correct. We will have multiple changes. On the other hand I agree that we are engaged in a gunfight we didn't pick and we only have pocket knives. We have to approve this. I think it is vague enough, but I am not comfortable with it. One question I still would like to ask is, how can this potentially affect our industrial customers? Some of the idiotic things I heard before about punishing them if they use too much water when all along we have been encouraging them to use more water. One of them is Industrial Towel and Uniform. Are we going to drive them out?

Harenda: This resolution and the other plan submitted by the City of Madison targets residential customers only. They are looking at reductions, but they aren't setting a goal for that are they Steve?

Schultz: I have not seen anything targeted at industrial customers.

Ament: I can be assured as we develop this water conservation plan we aren't looking at them?

Harenda: No. It has been discussed. We were going to push conservation efforts across the board, but if you look at one specific tool, conservation rates, Waukesha and Madison have targeted the residential base. The PSC is looking at businesses too. We were looking at rates in that scenario and it could impact businesses. We haven't come to the conclusion that we want to target that. There has been a difference of opinion, but it is a discussion point.

Chiovero: But that is under our control.

Harenda: Yes.

Dude: I agree with what Ted and Dave said. In the real world where you are not trying to do battle with the people that write the rules, you can change them as often as you want, you would have the opportunity to negotiate. Secondly you have to look at your alternatives. If we say no they could turn around and sue us for being out of compliance and then we have to go back and spend not \$400,000, but \$4 million to get below 5 picocuries. You are trying to negotiate with people writing the rules on the fly. We don't have a choice, we have a deadline. I am confident we will be able to achieve this goal.

Ament: Is there a timeline for when this plan has to be completed?

Chiovero: They could hold off if we have a written conservation plan. I have pushed hard to give us an approval so that we don't lose our bids. This commits us to writing a plan, but there is no timetable.

Harenda: There is no way to adjust the date to the day we began using Lake Michigan water?

Chiovero: I talked to them about going back to 2005 and they came back and said they wanted to use 2008 and they reiterated they have no way they can enforce this. That was the date of the approval of the compact.

Wysocki: Is there any possibility that you or a designated representative of the Utility Committee be at the meetings with the DNR and the mayor take place?

Harenda: I would be happy to. I know I was in one meeting a few months ago and it wasn't pleasant.

Chiovatero: He has been in a lot of the meetings. These are just phone conversations and I will be quite honest they didn't want to put these things in letters.

Harenda: They are afraid to meet with us too.

Chiovatero: They aren't afraid to meet with us; we just have to go up there. Eric would come anytime.

Harenda: What other applications do they have pending besides us?

Schultz: No. They are working with Waukesha in their preparation of an application and they have other duties besides reviewing compact applications. There are other things required in the enabling legislation under the compact to account for water statewide and then there are accountability requirements they have worked on assigning a base use and there are more duties than just reviewing applications.

Harenda: They work for us. This has gone on way too long. Get them in a room and go over the issues. We are spending money we shouldn't have to spend. This is good for the environment, good for New Berlin, the state of Wisconsin, Lake Michigan and the groundwater.

Morrisey: If this does not trigger the application being sent to the secretary to be signed then we have a meeting with all of us.

Chiovatero: They agreed to a meeting. Eric could come down here, but I wanted at least Secretary Frank, Todd Ames and the only that would happen is if we went there.

Morrisey: I don't know what we can do to speed up the process. We have bent over backwards. We don't have any choice.

Harenda: Even with the meeting we had with the DNR a month or two ago, the right hand didn't know what the left hand was doing, that's why having one person come down and talk to us is useless. We need to get everybody in the same room and holding them accountable publicly. We are doing everything we can.

Motion by Commissioner Dude to recommend to Council the approval of a resolution reaffirming the City's commitment to water conservation. Seconded by Commissioner Morrisey and upon voting the motion passed unanimously.

*There was some concern about bringing this item to Council on the same night it was passed at the Committee, but it was agreed this was important to try to pass at Council tonight.*

Harenda: I would like to act on the sprinkler ordinance at the next Utility meeting. It is based on the voluntarily sprinkling program that we have now; we will just adjust the hours. We can incorporate that into the conservation plan.

Morrisey: Can you provide the committee with what is currently in place?

Harenda: Sue, can you email that to the Committee?

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

Harenda: I talked to Superintendent Kreutzer a few days ago to schedule a meeting to work on an agreement on the request. Today Greg Kessler received something from R & M the consultant for the school district regarding the holding tank capacities and that will be sent to our consultant at R.A. Smith to review and report back to us. We talked about additional capacity at our meeting at your office last month. At the next Plan Committee meeting you have a request to amend the urban service area and the SEWRPC boundaries. That is a separate parallel path that is taking place.

Mr. Pulliam: The school district wants to make it clear we are trying to comply with the City's requests and if we need to increase the tank capacity size from 25,000 to 40,000 or if we need to go bigger than that, we can look at that.

Harenda: I read the letter. There were some positives with increased capacity, but some negatives with the odor and if it was actually needed for capacity, but we will have our engineering consultant review it. In the meantime we will schedule a meeting this week or next to go over the particulars. You are on the Plan Commission agenda for May for the urban service area. The Plan Commission should make a referral back to the Utility Committee and also a request to amend the ultimate sewer service area and it goes through the formal process with SEWRPC, DNR and MMSD.

Wysocki: We discussed at our last meeting the memo from the City Attorney. I assume this will be the framework for the potential agreement?

Mr. Pulliam: Yes sir.

Wysocki: I think we gave directive to the City Attorney and based on your timeline the sooner the better.

Pulliam: We want to keep this moving.

Harenda: Besides the information that Greg Kessler received today from the school's consultant, we are working on the developer's agreement with the City Attorney and that will come back to the committee.

Morrisey: I have some technical questions.

Harenda: Please forward these to JP Walker and Greg Kessler.

Wysocki: Some of these items can be done in parallel – we can do the agreement while the Plan Commission is working on the requests from the school district.

Harenda: Yes. At the last meeting we asked the school to make a request to the Plan Commission to amend the ultimate sewer service area and this will be referred back to the Utility then on to Council. The Council agenda has the original request so we can act on both of the requests at the same time we will be working on the final agreement with the school district.

**UT 04-09      Award Contract – Grange & Greenridge Pumping Stations & Wells 3, 7 & 8 Pump, Piping and Electrical Modifications**

Schultz: On February 20<sup>th</sup> we opened bids and J.F. Ahern and Company was the low bidder for \$237,000 which was less than our engineering estimate. We have worked with them before and they are competent. We are recommending that you award this contingent on DNR and PSC approval for the project. We have received PSC approval. DNR approval is the diversion approval. There is a contingency that we recommend that you award for minor changes in the amount of \$10,000, for a total of \$247,000.

Harenda: If we don't get approval from the DNR in the next 30 days we have to look for an extension?

Schultz: We had discussion with Ahern "what if" for some reason we go past the May 21<sup>st</sup> date. They are very open to extending.

Harenda: It says specifically that they are not to expend any funds until it is approved by the DNR.

Schultz: If they spend any funds before the notice of award goes to them, it is their nickel.

Motion by Alderman Ament to recommend to Council to approve the construction contract for Filter Grange & Greenridge pumping Stations and Wells 3, 7 & 8 Pump, Piping and Electrical Modifications to the lowest responsive, responsible bidder J.F. Ahern Company in the amount of \$237,000 for a total project cost not to exceed \$247,000, which includes \$10,000 for legal, administrative costs, inspection fee

and contingencies. This contract is contingent on DNR and PSC approval of the project. Bids are valid for a period of 90 days after opening, or until May 21, 2009. Source of Funds: Utility Impact Fees. Seconded by Commissioner Dude and upon voting the motion passed unanimously.

**UT 09-09 Award Contract for Well No. 11 Wellhouse Demolition**

Harenda: What do you mean we spent \$10,600 out of this account? The CIP request was \$40,000.

Johnson: This was for engineering, the bidding process, and design work that has to be done to dismantle the wellhouse.

Harenda: The engineering itself cost almost as much as the demo. I have done smaller wells and basically we are grouting the well out and dismantling the equipment.

Johnson: You can see the bids range from \$48,000 down to \$12,000. The preliminary reports from the engineering company were that it would cost \$40,000 to have the work done, but the low bid came in for \$12,910. Crispell Snyder did the design work, permits for the landscaping and demolition, set up the bids and specs, did the bidding.

Morrissey: How much work did the City force us to do?

Johnson: We had to keep most of the electrical stuff and removed the MCC panels, heaters, lights, motors, pumps, air compressors so that we can use them again. Just to take care of the MCC alone the cost was about \$11,000-\$12,000 to remove it. The power will be shut off I believe next week and there is just a shell left. The well has been filled and abandoned.

Dude: There is one bid of \$12,000 and another \$48,000, which is quite a difference. Some consultant told us it would cost \$40,000 and we paid them \$10,000 for that estimate. I would look for someone else for the next estimate.

Johnson: We just had a bid for the upcoming water main project and had bids ranging from \$170,000 to \$321,000.

Harenda: We deal with demolition projects all the time in the Milwaukee area and they go for dirt cheap, it isn't even the size of a house.

Johnson: A lot of it has to do with underground work and taking a water main from the station itself, digging down 15 feet and cut off the well pipe, taking the water service line going into our main and digging it out, the hydrants have to be removed, the valving has to be removed.

Harenda: How far back to you have to go up the line and how far away from the pump piping itself?

Johnson: All the way from the well itself to the water main line that is on the street. Everything has to be abandoned from that main.

Motion by Alderman Ament to recommend to Common Council to award the contract for Well No. 11 Wellhouse Demolition to the lowest responsive and responsible bidder, Schaefer Snowplowing & Grading, LLC of Muskego, in the amount of \$12,910.00. Source of Funds: Water Utility Account # 09020000-183212. Seconded by Commissioner Morrissey and upon voting the motion passed unanimously.

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

Harenda: This goes back to UT 05-07 with all of the activity that R & M has had to address with the DNR. We have a contract with R & M on the construction phase which we just approved on the pumphouse modification. That is totally separate. We originally looked at setting aside \$10,000 for the paperwork for the DNR and our diversion request. R & M has exceeded that amount and we are looking for an additional \$16,900. I had sent out some emails awhile back to question what was approved originally I

had a meeting with the Mayor and Steve came in to discuss the issues they were going through and have done a lot more to jump through the hoops. Do we have a contract with you for this or is this part of the construction contract?

Schulz: Originally I had a placeholder in the contract for \$10,000 and the Committee decided we will deal with that later. The question came up how are we going to deal with that and I said I would start to work on it because it has to be done and come back at a later time with a number. I wrote the 1<sup>st</sup> letter November 19, 2008 that we received some direction from the DNR, these are the things we have done and the things we plan on doing. Shortly after that we got our first letter back from the DNR requesting more information. That is when Alderman Harenda, the Mayor and I met and said how do you want to do this and that generated the March 18<sup>th</sup>, 2009 letter increasing the amount by \$2100 to cover those additional tasks. Subsequent letters I have been able to respond to without adjusting those figures. I would not anticipate coming back for additional funds.

Harenda: Steve has copied me on submittals to the DNR. He has put substantial time. That is why I suggested a meeting with the DNR since we keep going back and forth and we don't have a bottomless pit of money.

Wysocki: Are you satisfied with your review of this?

Harenda: With respect to this yes. Do you have any contract number on this?

Schultz: I can submit an amendment to our existing contract in that amount.

Motion by Alderman Wysocki to recommend to Council to approve the amendment to the current Ruekert & Mielke contract for the Milwaukee water project for an additional \$16,900 to cover costs associated with the diversion application and additional information requested by the DNR. Source of funds: 91004923-56250. Seconded by Commissioner Morrissey and upon voting the motion passed unanimously.

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

Blum: You obtained an easement originally for this liftstation that referred to the installation of a sewer main and made no reference to the construction of a liftstation. It was basically our form easement agreement, but did not include the specifics of a liftstation. I looked at the easement and gave an opinion to staff to get an amendment to that document to indicate a liftstation was contemplated because it was specific to a sewer lateral but not liftstation construction. Jim Hart has updated you with discussions with the Geipels and some issues on their willingness to consent to that. At the last meeting you asked me to look at options and I sent you a letter on April 1<sup>st</sup> that outlined that. Options:

1. Pursue an eminent domain path. You already have the easement, the area wouldn't need to be expanded but the uses in it would be. An appraisal would have to be done for the diminishment of the value of the property as a result of giving us that interest and then a negotiator would meet with the Geipel's to get their consent for a specific dollar amount and explain what we are interested in. If not we would have to prepare a jurisdictional offer document which would then transfer the interest for the use of the liftstation in exchange for the payment of the appraised amount of the value that is being lost on the property. Jim Hart had emailed you and checked with the engineering department on what options there were. They used a company called Single Source in the past and the appraisal given by Paul Koller was \$2,000 - \$2,500 and then about \$1,000 for acquisition fees according to Jim's email of April 3.
2. The 2<sup>nd</sup> option is to raise the liftstation. This would be a technical question to utility staff if we could leave the liftstation where it is and just elevate it. It would still be a problem with accessing it, but the contents would be hopefully protected.

Those are the options, eminent domain, raise it or possibly look at moving it outside of the land owned by the Geipels.

Dude: Wouldn't you just propose the 2<sup>nd</sup> option?

Blum: I don't know if there is an engineering reason. It seems to be the simplest way to deal with this, but I assume the utility staff thought otherwise which is why they are recommended the other option.

Dude: What is the cost to jack it up?

Johnson: I believe we had an estimate of \$15,000 to raise it. Even if you elevate it, if it floods out and you have a problem, you can't get there to fix it so you would potentially have a back up in that area.

Dude: When was the last time it flooded out?

Harenda: Last June.

Morrisey: And the year before right?

Johnson: Yes. Those were the 100 year storms we had 2 years in a row.

Harenda: The recommendations from Crispell Snyder on February 20, they are not permanent fixes.

Johnson: The permanent fix would be to move it to have access to it. The other options are to keep it from flooding again which is not a permanent fix. It will be moved toward Rogers Drive.

Morrisey: Currently the building is in the middle of the cul-de-sac.

Harenda: At the last meeting we directed the City Attorney to look at various options on top of what Crispell Snyder has given us. We talked about it last year and Jim Hart and the engineering firm looked at possibly relocating it but we ran into some resistance from the property owner in a way holding the city hostage. Do we do temporary fixes or take the initial steps to permanently resolve this and at the same time come up with some equitable and fair agreement with the property owner.

Blum: We received an email from Paul Kohler (City Assessor) who gave a rough estimate based on the size of the area in question of \$250-500 for the value of it. I strongly suspect the Geipel's would differ from that value but even if it is \$1,000, we are not talking about a huge amount. I am sure they will argue that they would lose the value and the ability to develop this site and those are the things we would deal with if we went through the eminent domain process.

Morrisey: You are set up for flooding this year?

Johnson: Everything is sand bagged. We put up a temporary barrier around it. If we need to get in there we have a temporary pump to go down there and a wet well to pump it to bypass it.

Harenda: I have only been around the Utility once when we had to use eminent domain to take a property away. What is the overall cost?

Blum: \$1,000 for the acquisition cost, \$2000-2500 for the appraisal, the acquisition fee for the negotiator, those numbers would total \$4500-5000 for that part of the process. Depending on how contested the eminent domain process would be the cost could change based on what we would have to do.

Harenda: We originally approved \$30,000 for the engineering aspect? What was the construction cost?

Johnson: Yes. Basically it will take a whole year to take liftstation and the control panels and move it toward Rogers toward the east. It will be a new building, but the control panels and electrical elements from down inside the tube will be moved. The only thing back in the cul-de-sac would be the wet well and where all the waste water goes into. I don't have the cost amount.

Dude: What is the down side if you just jacked it up?

Johnson: If you can't get to it if there is a motor failure or a pump failure, because the water is so high you can't get to it. You have to float in there and go in there with backhoes to get into the location. It is not the safest option because there is 3 phase electricity running into the building.

Harenda: The committee has to make some direction.

Dude: Did we try to negotiate; do we know where they are in terms of dollars?

Blum: It is not a dollar issue; it is another issue, a development issue.

Harenda: They want something that we may not be able to give them at this point in time.

Dude: If the pump doesn't work does his basement get full of sewage?

Johnson: Once the liftstation goes, the whole area is in jeopardy. I don't believe he lives in the area.

Wysocki: Do you need any action?

Harenda: It is more of an update, but if we take the other option that Mark went over with us, I don't know if it has to be put on the agenda differently. We have options for some quick fixes, but we may need to direct staff and the city attorney to go the other route.

Ament: The other route is my opinion. We need to do it right.

Blum: You would need to do a relocation order and need to retain the contractor to do the negotiation and the appraisal. This one company will get the appraisal and do the negotiation.

Harenda: For the next Utility Committee meeting the City Attorney can craft some language to do this and take it up for discussion and refer it to Council for approval. We would like to cooperate with the landowner so that we don't have to go through the formal process. That might be the case it may not. Please send me and Sue the language and we will put it on the agenda for the next meeting.

Harenda: The last 4 items will be addressed at the next meeting. Please look at your calendars. I may need to set up a special meeting. At the same time we may have some information on the New Berlin West issue and move forward to make a recommendation on that. Regarding UT 04-09, if we don't get approval from the DNR, Rick and Steve can you try to extend the bid date without doing any formal action? Can we get that in writing so that we can hold those numbers?

Motion by Commissioner Morrisey to adjourn at 6:52 p.m. Seconded by Alderman Wysocki 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*