

MINUTES
City of New Berlin
Utility Committee Meeting
Tuesday January 27, 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), Ralph Chipman (Accounting Manager), Steve Schultz (Ruekert & Mielke) and Sue Hanley (Administrative Supervisor Utilities & Streets)

Alderman Harenda called the meeting to order at 5:02 p.m. with roll call and declared a quorum with all members present.

OLD BUSINESS

UT J-08 Approval of Minutes from the November 18th meeting

Motion by Alderman Ament to approve the minutes from the November 18th meeting. Seconded by Commissioner Dude and upon voting the motion passed unanimously.

OLD BUSINESS

UT 12-04 Milwaukee Water Expansion – Timeline

Schultz: We have completed the drawings and specs for modification to the Milwaukee Water pump stations to implement the plan. Those we resubmitted to DNR at the end of 2008. They have been reviewing them and we have been exchanging information back and forth. Rick has also been in contact with the local rep and he indicated it was their #1 priority and we expect an approval letter. We have been working with the DNR in Madison. There were new rules with the signing of the compact by the President, so because of that, we had to wait until December 8, 2008 to submit anything regarding the diversion to the state. That was submitted and they asked that we put the information in a different format. We had referenced items in previous submittals; however they said they want a separate stand alone document that meets the letter of the law that says Water Supply Service Area Plan and along with the new rules. While they are implementing rules that need to be established, there are certain requirements that had to be in the plan that was prepared. One of the requirements was that it had to go to Public Hearing which is set for February 10th and will precede the Council meeting that night.

Harenda: Who set it?

Schultz: We worked with the Mayor's office and with the Clerk.

Harenda: That is why I am confused. I received an update from the Mayor on January 19th assuming this is moving along and following the articles in the Journal with regard to the DNR potentially fining municipalities for not complying to the consent agreement and it sounds like we are getting the same process with the DNR of going back and forth, submitting stuff to them, they are coming back and asking for something else. It is costing our Utility customers more money for you to do these resubmittals and now out of the blue we are having a public hearing. When was that decided? I was unaware of that and neither was this committee.

Schultz: Since the last meeting we obtained information from the DNR that you need to hold a public hearing. I informed the Mayor and the City Attorney and the City Clerk that we needed to do that as expeditiously as possible and will be released for publication on Thursday. The Public hearing will precede the Committee of the Whole/Council meeting at 7:00 on Tuesday February 10th.

Harenda: The Mayor doesn't have the authority to set the public hearing. Doesn't it have to come to Council to set it? Am I correct on that? I don't see it on our agenda this evening.

Blum: I think you are referring to the normal procedure for rezoning when the statute requires the Council establish the public hearings and Council has the authority to issue the notices and conduct those public hearings. Usually that gets delegated in that case to the Plan Commission and you see those directions for public hearing coming through the Common Council. In this instance as Steve has indicated this law is brand new and we are talking to these people and getting different interpretations and those interpretations are changing as we are submitting new pieces of information. They are saying they want a public hearing with respect to the matter, but there are no rules that set forth a procedure with respect to that issue. Is there a statutory requirement that requires the Common Council to review, and approve and set those public hearings, no, but I think the idea was in order to move this along as expeditiously as possible the date was set. If some reason the Council doesn't want to have it on that day or push it back, you certainly have the ability to do that. It is a different public hearing process than you are used to in other contexts where public hearings are required.

Harenda: I guess from a standpoint procedurally as long as I have been here for 7 years, the Council has always set the public hearings. I understand the reason for that but I am concerned that we are going back and forth with the DNR like 3 years ago where they told us to go in one direction and 2 years into the process they told us you have to do it another way and we spent hundreds of thousands of dollars doing addition work and now we are having a public hearing which I was not aware of.

Blum: We weren't aware of the requirement either until this issue was raised by the DNR. There was nothing in the process that we knew about that this was being drafted and implemented. We are the first case so moving through the process we are the guinea pig that has to deal with the issues being raised.

Harenda: Is this an administrative rule that they are writing?

Schultz: Those haven't been written yet.

Harenda: How can they request a public hearing when the law hasn't been passed yet?

Schultz: There are requirements for public hearings, but the implementation of those requirements is up in the air yet. Their initial interpretation is that it will follow a similar path as a 208 area change would which involves a public hearing.

Blum: We have dealt with this in terms of the agreement with Milwaukee in public meetings and the interpretation that was being given was that these issues were reviewed in public; they were determined by the Council and are moving forward. Now they are saying that they want this specific plan and specific action documenting that plan. Again, this is something that has just arisen over the past 2 weeks.

Wysocki: What exactly is going to be the topical notice or purpose of this public hearing?

Blum: The purpose is to review the plan and the service area that this diversion will be servicing. It will refer to the fact that this plan is on file with the Clerk's office and will be available for public inspection. This is the same service area that was approved as part of the Milwaukee Water agreement.

Wysocki: In conjunction with that, we have other agreements in place, one of which is activated by a particular payment that is due very shortly, but as I recall there is a contingency that it would not be made until DNR had approvals?

Blum: There are 2 agreements. One is the amendment to the service agreement which references in its text that the effective date is the date there is PSC approval. PSC approval is going to require DNR approval to get us to that point. In terms of that agreement being effective, PSC approval will be necessary for that to take place. The intergovernmental agreement will require the benefits payments that you are talking about. In order to effectuate the essential purpose of those 2 agreements, they have to be read together. The bottom line is I think that PSC approval is necessary as a contingency for implementation of the expansion of the lake water service area.

Wysocki: Does that intergovernmental agreement payment had a time specific to be paid?

Blum: January 31st.

Wysocki: Are we still able to do that in view of the fact we don't have DNR approvals much less the PSC approval?

Blum: That is an issue that we are dealing with Milwaukee at this point. We are in a position none of us anticipated being in and in light of those circumstances, we need to follow through the terms of agreement to preserve that but I think we also need to have a supplemental understanding that the funds that are being submitted will be held in a trust type of relationship until such time as there is PSC approval and if we don't get that, the funds are returned to the City. Those are discussions that are ongoing.

Wysocki: Have they indicated what their thinking is on that?

Blum: Again, we are having meetings with them this week to discuss that. There is no understanding that I can tell you at this point.

Dude: It is important that the payment does get there as per the agreement by January 31st. We are talking about \$1,250 of interest per month. I am not saying that is an insignificant number. Saying that however, you say you are talking to the City of Milwaukee, but you are not talking to Alderman Bauman and some of those other folks. I do not want them to have any opportunity not to fulfill this agreement, and I have enough confidence in you Mark, that if we pay the \$1.5 million without an escrow agreement, and if we don't get DNR approval, you could get the money back. I am very worried about anything that doesn't put the check in their hands with a date of receipt by the City of Milwaukee prior to the 31st of January, because we are leaving an opening for those folks to reconsider the contract after all the work we've done on this. Secondly, I have also heard a rumor that the DNR is fining people who are not in compliance because of the radium situation. This is a good piece of defense if they come that way that we are intent on replacing the water. We made our payment, even though they haven't given us approval. I hope we are keeping notes on this as if they do try to fine us, we can say, these rules just didn't happen on December 8th. You've had about 5 years to figure this process out, so why are we waiting now. It's fine to get an escrow agreement, but I want that bloody thing paid and receipted before end of business on Friday. I do not want them to be able to renege on the agreement.

Harenda: The payment is in the Mayor's hand and has already been approved.

Dude: It hasn't been delivered. Are we going to give them the check before the 31st?

Blum: You are asking the attorney who is going to give advice to those who will make that decision. We are in the middle of discussions with the City of Milwaukee with respect to that issue and with all due respect to the committee I don't think it is appropriate to say more than that at this point. I can tell you I fully understand the significance of what you just said and I don't disagree with what you just said and we are doing everything possible to effectuate this and make sure everything is taken care of by the end of business on Friday. We understand the deadline is coming up and the position that the contract places us in, in absence of DNR approval at this point and we are taking the steps that are necessary to address that and feel confident we will get that done.

Schultz: On the schedule, I would anticipate getting approval on the work being done at the pump stations prior to getting approval for the diversion. So with that in order to keep things moving, at the last meeting we did not get approval to bid the project out, but it may be the time to look at approving once we get the approval for the pump station and bid it out and then we would receive the diversion approval. There is a 30 day public period that is built into the new law that the DNR has to go through which would start on the day of the receipt of the plan, which would be the day after the February 10th meeting, assuming the service area plan gets approved following the public hearing. If there are no significant objections after the 30 day comment period they approve it. Mid-March is the earliest we would get the final rubber stamp on the diversion and the way things are coming together and that would be about the time we would start the construction of the final phase, assuming everything falls into place as I just laid it out.

Harenda: We heard that a month and a half ago before we heard we needed a public hearing.

Wysocki: I think at the very least the Chairman of this Committee should be intricately involved in what you are trying to achieve within the next week, because that is all we have left. I too am a little taken aback by not being informed as a Committee member of public hearing. All I am asking is I think it would be appropriate if the Chairman of the Committee be involved in whatever meetings or negotiations you have going, so there is representation of this Committee which has the ultimate authority. I don't know if we need to make a formal motion, I wouldn't think we would have to do that. I would hope that you would have agreement that of this time forward, he is involved in any meetings or negotiations you are having.

Chiovatero: I don't see a problem with that for myself. There is a meeting tomorrow at 2:30 in Milwaukee at City Hall, which is the only time we could get.

Wysocki: Are you aware of that Ken?

Alderman Harenda shook his head no.

Chiovatero: I don't like the tone of not being notified. I have tried to have 3 meetings with Alderman Harenda to discuss this and he has not returned the phone calls to set up the meetings. I know he has been busy, he had some personal issues he took care of, but I had this on the docket to talk to him about. The public hearing came up as a surprise to all of us. We tried to do it as soon as we can and the earliest date with the publications that we had to have was February 10th. There was full intention to get everyone involved in this but I thought it was a discussion I should have had with the Chairman, but we were unable to coordinate that meeting. As far as the issue for the payment, that is being discussed to figure out the best way to do this. At the same time, we don't know if they are willing to put this into an account but they are aware that if the DNR and PSC don't approve it, this money will have to be returned. We are going to negotiate with them to make it easier to segregate the funds. We looked at not paying them until we had approval, but looking at the contract and the IGA, it does not have that stipulation so in order not to jeopardize the agreement we currently have with Milwaukee, it was decided to arrange this meeting and to turn over the check and hope they will agree to have it in a segregated account.

Wysocki: Please don't misunderstand. My tone is one of concern and legitimacy of this Committee to be involved in the final outcome. I think it is very important that the chairperson be involved so there is some additional input that could be given by the chairman. As you have indicated Mayor we have worked very long and hard with a whole variety of agencies and this is a critical juncture that hopefully with the input of the chairperson in your meetings and discussions, we can come to some agreement. I do have a concern as Commissioner Dude indicated, we have a series of approvals yet to go through, the DNR and PSC, and I want to be careful that if we give Milwaukee the \$1.5 million and something happens without the necessary contingencies there, it could be money just gone.

Chiovatero: The IGA does specify that there has to be other agreements approved so I am sure if the PSC does not approve the IGA, there would be a requirement that Milwaukee give us back the money. We are trying to make it easier for Milwaukee to segregate those funds.

Harenda: The Mayor is correct that we have had a couple of cancellations, but the meetings I have tried to set up with you were basically issues that I wanted to discuss with you within my district. I was not aware you had specific issues regarding this issue that you wanted to speak with me. Worse case if something comes up, pick up the phone and call me. I have been busy and we had one cancellation due to a personal issue. The first I learned about any of this was the email between you and Alderman Ament. The concern I have is the City and this Utility has had to go through a lot the last few years with the DNR and we are back here again and reading in the paper that a lot of municipalities were told they would not be charged with radium removal or consent agreement violations and are looking at fines. Then this public hearing popped up. I know we authorized the \$1.5 million at our last Council meeting and we are working on other things on this time table. I don't have a problem being involved and present at these meetings, but I would request you or Steve Schultz since R & M is our consultant, or the Attorney or Rick to update this Committee at least on a biweekly basis on what is happening. We only meet once a month, and since last time we met, things have changed again and the DNR, I wouldn't say are making up the rules as they go, but they are trying to go through a tough process and we are the first applicant in this process. I don't want to be held accountable that we are dragging our feet. We can bring forth a motion from this Committee as well as the Common Council that we are doing what we were asked to do multiple times and we are still not where we want to be. Commissioner Dude makes a good point. We

have an agreement with the DNR and the City of Milwaukee and are having a public hearing. They are only requiring the City of New Berlin not the City of Milwaukee to have a public hearing since they are supplying us with the water?

Schultz: As I understand it, there are 2 public comment periods, one being the public hearing in the City of New Berlin, and the DNR will open a 30 day comment period following yours. Those are the only 2 requirements that the DNR has told me about.

Harenda: I am requesting we be kept informed. In an email or letter if it is a confidentiality issue, just so we don't get here at our monthly meeting and spend the time arguing about something we don't need to.

Chiovatero: All this has happened in the last week and a half. I have sent you emails about our meetings. I knew we were going to meet and I was going to introduce this to you. In fact I had an email to meet with you last Friday and never heard. We are trying to figure out what the DNR is doing. I made a call to the Governor's office last week. I have a huge concern if the right hand knows what the left hand is doing. I think we are getting some reply because yesterday Rick received a call from the region that said they are making our request for water a priority which tells me that someone in Madison said New Berlin is not dragging their feet, we are. We have documented everything we have done. The City Attorney has gone back to 2006 when we asked for the consent order to be modified for the date. When we talked to the DNR, I wouldn't say they backed off, but they said they would have to review all of this. That is why I called the Governor's office last week to try to get an audience with him and the Secretary of the DNR Ann Frank to try to discuss this and find out where they stand. Because honestly all of us are wondering what is going on and just like you are concerned we are getting last minute information. There has been no action taken, there has been nothing to go around this Committee at any time. We have been keeping you fully informed, but this is the first time we have had to inform you and all of this has happened within the last week and a half.

Harenda: What is the DOJ's position?

Blum: It has not been a referral to DOJ so they have not been involved.

Ament: I hope the tone that is coming from this Committee is frustration. This is not the first issue and not the first time that we seem to get last minute surprises at the meeting and more so than any other Committee that I am on. Some are probably unavoidable and the frustration probably could have been eliminated right from the beginning had we included someone like the Chair of the Committee be part of that negotiating team so that we have someone to go to. We may not be the ultimate decision maker on this because we are a Committee and it is the Council, but we are the Committee that is responsible to the utility customers and the Council and when we are left out of the process or feel we are left out, whether it is intentional or not, that is debatable, it just seems to happen regularly here. We don't know when the check is going out; we don't know when these things are happening. There has to be a way to be kept in the loop. I don't know how it can be done. That is up to the experts like the City Attorney to advise you guys. This has been through the sewer service area, the Milwaukee Water and other issues where at the last minute somebody gives us information and tells us you better decide quickly. We are responsible for making these decisions and making the recommendations to Council. If we are going to get surprised and we are not going to be able to look at these things, and I realize there are some things that will happen, but if our Chair is not kept in the loop, we have no one to go to go come for the answers that we are looking for. The tone isn't one of accusation, it is one of frustration.

Harenda: The Mayor and I will work together on the issues of information. I do request that Rick, the Attorney or the Mayor update us on a biweekly basis or if we hit a milestone, if a check is delivered, a deal is worked out, or the DNR asks us to jump through another hoop. Commissioner Dude has raised this in the past, making more public the issues and the frustration we have to the press and jumping through hoops and doing everything we are asked and then start all over again.

Wysocki: February 10th is our public hearing, then it is open for 30 days based on the DNR allowing anyone in the region to comment.

Schultz: The DNR will not accept the final diversion application until that water supply service plan is approved on the 10th, then we send that in and it starts the 30 days.

Wysocki: Let's say March 15th, then they have to make a report up which will take a week or so. It concerns me is that you have alerted us that the PSC is talking at least 120 days.

Schultz: I believe that was for the rate case.

Wysocki: Wouldn't it be in conjunction with this whole issue?

Schultz: I don't believe you have to have the rates in place to start serving Milwaukee water.

Wysocki: As a matter of policy we would want that.

Schultz: It would be desirable; however, if the hammer over here is looming, you can start it prior to those rates being in place.

Wysocki: So we are looking at the end of June, early July as the best form of the timeline availability for the final decisions for the DNR and PSC.

Schultz: I would hope they would be prior to that, but worse case, yes.

Wysocki: The PSC would also, in a companion timeline deal with the intergovernmental agreement?

Schultz: That is being dealt with under the CA which is Construction Authorization. That was sent into the PSC late last year and that allows the authorization to do the physical work that needs to be done at these pump stations. They have indicated they want to see the DNR approval in conjunction with the diversion before they would issue that CA.

Wysocki: They wouldn't go ahead until they got the final approval.

Schultz: It would coincide with the DNR.

Blum: To clarify this, the information went in late last year. The actual agreements went it just after they were signed in September so they have had the agreements quite a while.

Dude: In going through my meeting folder, I don't find a revised timeline. Last time Steve when you were asking for payment, we had a timeline. We made a decision that night based on that timeline as to when we were going to make payments to you, and we didn't have a whole lot of time to think about it. We now have a new timeline, and I am looking for it and don't see it. Once upon a time, we said that by July 1st, we would have approved rates and have the water turned on. I don't think where we are right now gets us pumping Milwaukee water by July 1st.

Schultz: I can put one together. I have not been requested to do that.

Dude: I would like it. I would also like to know what you would like us to do in terms of bids. We don't have to accept them if we are not ready to go, but again I don't want someone coming in here at quarter to midnight and say we want the bids now. I am frustrated, because I spent my life doing planning, strategic things and we had a lot more time to make these decisions. If my management team ever did this to me, they would be looking for a new job. The point being, if we have to make decisions, it would be nice to know where this puts us. I know the PSC rate approval process gives them 160 days, but I don't know if this is from now or from DNR approval I don't know where the rate process is. We also don't know where the DNR is regarding approval, and now I hear they could be fining people. Where is our timeline on a piece of paper?

Schultz: I certainly can prepare my projections.

Harenda: Use the template or process we used last time when we worked on the eastern half of the Utility. You are very precise and detailed in cost or under your budget. We knew what you were spending. We authorized your contract. We haven't authorized the construction side of your contract yet. You are dealing with the DNR one-on-one and indirectly with Ralph with the PSC and you can let us know

where we are and if there are any changes. You can save money here if you authorize this here instead of later and the repercussions, as you said the hammer over us regarding the radium. At the meetings be more precise, more detailed, but on a biweekly basis, update us what the discussion is with the payment of the City of Milwaukee, payment received. When was the last submittal to the DNR?

Schultz: The first submittal was December 31st and then we received a response from them on January 7th and based upon that response we prepared the plan that will be discussed on February 10th, that needs Council approval and that is what they will constitute the final diversion application.

Harenda: The submittal that is being utilized for February 10th has been approved by the DNR?

Schultz: No, they sent it back with a list of additional items required which included the public hearing.

Harenda: Can you have their stamp of approval, I am not saying they are approving it, but make sure everything is in line before the public hearing?

Schultz: I delivered copies to the Clerk today and there is a copy in the mail today to the Chair.

Harenda: So that has been submitted?

Schultz: No, they won't allow us to submit it until it has been approved, hence the February 10th public hearing and Council approval.

Harenda: You see what I am getting at, not come February 10th or 30 days afterward; they want a long list of other things.

Schultz: I can submit a copy to them for their pre-review, but they won't put anything in writing, but I can probably get a phone call back.

Morrisey: I guess my expectation follows along with Bob, if I see an agenda item Milwaukee Water Expansion timeline that we are given something; it doesn't need to be in Microsoft Project to say where we are at today.

Schultz: I will update the timeline from November and get it to the Chair and he can distribute it.

Morrisey: My expectation is that every month we at least get a listing.

Chiovatero: I don't know if there is a lot of difference to the timeline because it was a curve ball to us, but they have committed that once this is done, they are doing the other stuff that needs to get done. They are waiting for the public hearing and 30 day comment period which will start right after our public hearing to keep things moving. There might be some minor adjustments, but I don't know if it affects when we turn the switch on. I know the PSC is holding approval of the IGA at this time but I don't know if they are holding the rate case.

Chipman: I just spoke with the initial reviewer with the PSC last week. The first person reviews it to make sure the numbers and expenses make sense. If they have any questions we go back and forth on that. Those numbers came in close to what we projected. It then goes to Dave Prochaska who does the rate structure. From what she said they will not review it until all of these approvals are done by the DNR and PSC, but it has not stopped our rate case from going on. The approvals from the DNR and PSC don't affect the numbers and we are moving on track where we need to be. I expect we will hear from them shortly with the rate structure they are proposing. We will forward it to the Committee and the next step will be the public hearing. The rates can be approved subject to us hooking up. The first time we did this was a double step. We did the initial for the construction and the 2nd step increase once we started pumping the water. We requested getting the rates in place and once we start pumping the water we will then update the rates. On one hand it will be held up until they do the approval by the DNR and PSC, but on the other hand it has been moving along unless something unforeseen happens.

Wysocki: I appreciate that update. We will have the public hearing on February 10th and we won't take any action on it until February 24th, because we typically don't want to take action on it the same night

with our Committee of the Whole and Council. All we have to do is take action on our own public hearing; we don't have to wait until the 30 day input do we?

Blum: That's correct. The 30 day input is for the DNR. Our approval is on the public hearing that we have and they would still have that 30 day comment period and make their own decisions based on the information they receive from us and the comments that they receive from that comment period.

Wysocki: If there were issues raised during the 30 day period that would bring questions to the DNR, do we have a chance to respond to those or is there some formal mechanism that allows us to say this is really this way, not to delay things.

Schultz: Again, we are plowing new ground here. It is my understanding if there is some type of vehement objection that the DNR deemed to be in order, they could prolong the process.

Blum: That doesn't mean we can't comment on it. We know the normal process for similar types of circumstances, but this is brand new and there is not a previous experience that we can look back to how they handled it. All we can tell you is based on the way these kinds of issues are handled, typically we would be able to respond and provide supplemental information.

Harenda: We dealt with this a few years ago, we thought, I wouldn't mention names or groups, but 3rd parties filing some sort of action or injunction or request and really screws the process up.

Wysocki: We have experienced this with endangered species. As you recall we have these hearings and the DNR opens it up and people make some comments and all of a sudden it creates a whole number of issues and responses.

Blum: We are moving forward with the information and requirements that are before us and is it possible that we may have a situation like that arise? Yes, but all we can do at this point is move forward with the circumstances as they currently exist and address whatever happens at that point.

Dude: Assuming July 1st is still workable, how much time between awarding of bids, the start of construction and what is construction time? When are you going to have to prepare the bids, and once we send the bids, how long do bidders have to respond?

Schultz: From the day of the first advertisement, they have 2 weeks to review the bids and then you can open them. You can reward them the next day if you want, then it takes about a month to do contracts. They have 15 days to review, sign and get bonds, then you have 15 days.

Blum: You can put in the specifications with a waiting period. We did that with the contracts for the radium remediation. We held them open for 90 -120 days to have a window before you act.

Dude: How long will it take once they start work?

Schultz: I would think at least a month, but probably 6 weeks to 2 months.

Dude: So by our next meeting, we should be authorizing bids if we have any idea that July 1st is still relevant.

Schultz: We have the bidding documents prepared pending approval to do that.

Harenda: As the DNR starts preparing administrative rules, can you keep the Utility Committee advised of that or our staff to submit comments on that before it gets to the public hearing process.

Schultz: I can tell you that you will be pumping Milwaukee water to the new area long before these new rules are written. There was an Act 310 done back in 2005 and the rules have not been written yet and are projected for 2010.

Harenda: They are trying to protect the environment, but there are cost impacts for future operations of the Utility sometime.

UT 05-07 Water Conservation Measures –Potential Rate Adjustments

Harenda: The subcommittee met and is working with staff to bring something to the Committee in spring.

UT 07-08 New Berlin Urban Service Area Boundary

Harenda: This was discussed at the Common Council after the public hearing and was referred back to the Plan Commission to hold another public hearing to re-delineate the urban service boundary over the existing service area line. That will be coming back to Common Council in the future.

UT 09-08 Milwaukee Water and Rate Case Requirements

Harenda: Ralph updated us on the rate case requirements.

Wysocki: Wanted to thank Ralph on the follow up and working diligently on this.

UT 14-08 I & I Expenditures Member Communities 2005-2007

Harenda: This was information given to us to let us know what we and other communities are spending on I & I, as well as a lawsuit that was settled some time ago.

Wysocki: If I understand this report correctly, it covers 2005-2007? Because if you go back to when we started our I & I in the mid 90's, there was considerably more spent and that's how we received the award from MMSD in 2002. We have a history of significant financial commitment that goes back to 1996.

Dude: On page 4 and 5, what does "Defaul" mean in Column 5? Does that mean Default?

Johnson: I will check on this.

NEW BUSINESS

Information TAT - Proposed Rev. MMSD Rules

Walker: There has been no discussion between New Berlin and MMSD on these proposed rules revisions. I have seen one community submit requested revisions and that was Brookfield so it is an opportunity for us to review the rules and make suggested revisions.

Harenda: You are in the process of doing this now?

Walker: I have reviewed them and haven't seen anything that I think needs to be changed. I am looking to see if there is any change from the committee members and I can forward it on.

Harenda: That is why JP put this on the agenda. MMSD has proposed things in the past and there is a trickle down effect to this Utility, so if there are concerns you see in there, please forward it on the JP.

Wysocki: Are the items listed here all changes?

Walker: I will have to find that out for you. I am not sure.

Wysocki: I just want to know if there are any cost impacts with the changes.

Walker: I will do some more research and let you know.

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

Harenda: This is an item tabled at the Common Council. I did have the committee copied on a letter and some information I requested from the City Attorney regarding liabilities and responsibilities with the potential of extending sewer to the New Berlin West High School. Ruekert & Mielke as engineer for the school district has prepared a report that has been forwarded on to the City. This has been forwarded to our consultant at R.A. Smith who did the originally modeling program back in the late 90's I believe. If you have any questions, please feel free to contact Greg Kessler, JP Walker and Rick Johnson. When that analysis comes back, it will lay out whether that possibility even exists, because we have prior reports from our consultant R.A. Smith that potentially it did not have infrastructure to support additional flows in that area. We don't want to create overflows or burdens on the existing utility customers.

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

Walker: Earlier this month we received a written request from the property owner that owns multiple properties on Linnie Lac Drive which is in the current sewer service area. There is sewer in the street in front of these vacant parcels and being vacant they are not part of the current inter-municipal agreement as far as the number of connections. In order to add these parcels as future connections, we have to amend the inter-municipal agreement to increase these connections. Now there are 87 connections with the list of addresses in your packet. This letter lists 7 parcels, but 2 of the parcels are already connected so that overall change is 5 additional new connections. The research I did show the sewers were designed for capacity to 100 parcels. With these 5 additional we will be at 92.

Harenda: Is there a timetable on this?

Walker: According to the attorney that is handling this issue, they are in a hurry to be able to sell the parcels. It is a financial issue with the property owner.

Harenda: I would like some additional time to look at this. Has this been presented to the Plan Commission or has anything come forth regarding subdividing the parcels?

Walker: Nothing has come forth as a formal application. I think there will be a merging of parcels, but I can tell you that the Muskego Utility Committee will be taking up this issue on February 16th.

Dude: How do the economics work on this? Who pays whom?

Walker: The way the inter-municipal agreement is set up we are charged on an annual basis for the number of connections we have. I am not sure what the charges are, but we pay Muskego because all of the sewer flows through Muskego.

Dude: Who does the property owner pay?

Johnson: They are our customers so we are paid.

Dude: Is it a zero sum game? Do we recoup enough from the customers to pay Muskego? There is a section of town, Planning's section J, that has a proposed number of commercial projects and its success has a lot to do with Muskego's sewer and water systems. So, it would seem we should be nice to Muskego, because we want them to be nice to us. How do they feel about it? If we are going to pass judgment on it, I would like to see the economics on it and I would also like to see what Muskego thinks about it. It may be in our best interest to do this if someday we want the Muskego Utility to do something for us.

Walker: As soon as we get information from Muskego, whether it is the Utility committee minutes or whatever that we will pass it back to you at the next meeting.

Morrisey: Have we ever expanded this agreement?

Blum: The original agreement was dated November 24, 1974. It was amended October 2000 and that was the agreement that expanded the service area and there are maps showing the parcels involved. As to the question of Commissioner Dude with respect to the payment structure, that amendment provides

that the Muskego RCA charges are passed through directly to New Berlin who has 30 days in which to pay that. In addition the charges that MMSD makes to Muskego for those same properties are passed through to us and in turn paid within 30 days and they also agree that Muskego's sewer ordinance is applicable to these parcels in terms of flows, restrictions and concentration.

Morrisey: If we amend this agreement, we will have 8 parcels left to add to this 100 parcel agreement? How many vacant parcels are in this sewer service area roughly?

Walker: I am not sure how many are left. I will bring it to the next meeting.

Morrisey: I am concerned if we could ahead with this that there are more parcels and someone is trying to get in front of somebody else.

Harenda: This original agreement was set up for the Linnie Lac area because of the failing systems adjacent to the pond or lake. A lot of the newer structures have either combined lots or utilized existing lots but there are some older homes that are still there. We want to make sure we are not giving away something that may be predetermined for somebody else. I assume there was a reason for the 100 parcels in the agreement.

Walker: There are 2 liftstations in that area and the correspondence that I reviewed talk about the number of lots that are allocated per liftstation and there was actual discussion about the capacity of the system is for 100 parcels.

Morrisey: Do we own and maintain those liftstations?

Johnson: Yes.

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

Motion by Commissioner Morrisey to adjourn at 6:15 p.m. Seconded by Commissioner Dude and upon voting the motion passed unanimously.

Privilege of the Floor – no one was present to talk

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

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