

MINUTES
City of New Berlin
Utility Committee Meeting
Tuesday May 27, 2008

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

Others Present: Rick Johnson (Utility Manager), Jim Hart (Utility Supervisor) Mayor Jack Chiovatero, City Attorney Mark Blum, JP Walker (City Engineer), Bill Mielke (Ruekert & Mielke), Evan Zeppos (Zeppos & Associates) 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.

UT C-08 Approval of Minutes from the April 22nd meeting

Motion by Commissioner Dude to approve the minutes from the April 22nd meeting. Seconded by Commissioner Morrissey and upon voting the motion passed unanimously with Alderman Wysocki voting present.

UT 04-07 Update & Status on MMSD 2020 Plan – Impact to City of New Berlin

No new information at this time.

UT 05-07 Water Conservation Measures –Potential Rate Adjustments

Alderman Harenda: Commissioner Dude, myself, Alderman Moore and Staff have been working on a water conservation plan for the City and already have a lot of things in place. I have worked with Staff from Water Resource Management, Utilities, DCD, Engineering, and Planning and there are a number of things that we have been promoting for conservation that other municipalities are just implementing now but we have been doing for years. Staff is compiling the information so that we can incorporate it into an overall plan. Current activities that promote water conservation and protection include: codes/ordinances; sprinkling restrictions, utility activities, development/land use regulations, well head protection, stormwater regulations 3-D (groundwater, surface water and stormwater infiltration), public awareness/education and SEWRPC RWQMP. Some of these are being updated in our Stormwater Master Plan and Comp Plan update as well as incorporating this into some public awareness/education campaign and various reports from SEWRPC to incorporate what we have been doing in the City. Hopefully at the next Utility Committee meeting Greg Kessler and staff will present to you what we are already doing within the City and after that meeting we can more discuss what direction we want to go with water conservation and efficiency plans within the City and a mission statement. The other sheet is compiled from information that I received from the State of Wisconsin as well as the City of Waukesha. Waukesha hired a consultant to put together a proposed water conservation and protections measure plan in place. We have a lot of components of that already and we just want to incorporate it into our own policy, procedures and plan. I have listed goals and things we are already doing within the City, as well as rate restructuring, sprinkling ordinances and restrictions, outdoor water usage, development and current operations with the Water, Sewer and Stormwater Utilities. Instead of submitting for a rate restructuring we are still waiting to see who we might be working with and direction we are going with the water supply issue; the City of Milwaukee, City of Oak Creek, the City of Racine or a filtration system within the City. We will have to submit for a rate restructuring in the future anyway, so if we are going to do a rate restructuring for conservation measures we will tie all of that together and do it once. We will also be getting involved with our commercial, industrial and residents and get feedback from them. We are looking for input from the Committee members and hopefully at our next Utility Committee meeting, we will have Jeff Ripp from the Public Service Commission discuss some of the initiatives and actions that are going on statewide and utilize some of his resources.

Commissioner Dude: Waukesha has a goal of 20% reduction of water use per capita by 2020. The program needs to discuss what the water conservation goals should be, particularly if you want to include

water conservation into new rates. The new rates may provide money to help people achieve water conservation goals. I want to urge the various stakeholders to think about what kind of goal we should be talking about.

Alderman Harenda: I have included some of those issues with water use reduction, targeting older plumbing fixtures and incentive programs. Talking to Jeff Ripp, it is not just conserving water it is conserving different types of efficiencies in the Utility such as energy efficiency. Please bring forth any input you have.

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 concerning Bargaining for the Purchase of water from the City of Milwaukee, City of Oak Creek and City of Racine.
- ◆ Review of Negotiation Strategy for extension of contract with Ruckert & Mielke for Lake Michigan water Public Relations Consultants Proposals & Discussion of Negotiation Strategy.

Motion to go into Closed Session at 5:09 p.m. by Commissioner Morrissey. Seconded by Commissioner Dude. Roll call vote: Alderman Ament yes, Commissioner Morrissey yes, Alderman Harenda yes, Alderman Wysocki yes, Commissioner Dude yes.

Motion to go into Open Session at 6:24 p.m. by Alderman Wysocki. Seconded by Commissioner Dude and upon voting the motion passed unanimously.

Reconvene to Open Session

UT 12-04

-Status on Milwaukee Water Negotiations

-Status on Governor's Office & WDNR approval on Lake Michigan Water for remaining half of Water Utility Service Area

No new information on this item at this time.

UT 02-08

Sump Pump Requirements

Alderman Harenda: Jim Hart the Utility Supervisor wrote an article for the City's quarterly newsletter.

*Did you know that having your sump pump hooked up and discharging into the sanitary sewers in New Berlin is illegal? **Ordinance 267.11** states that all houses built in 1955 and after must discharge clear water from foundation drains and ground infiltration where the building is not serviced by a storm sewer shall either discharge into a conduit leading to a drainage ditch or onto the ground at least 3 feet out from the building and 1 foot above the permanent grade. Discharging of the water shall not be less than 10 feet from the lot line. The water must also be adequately dispersed when leaving the pipe so to not erode the soil or sod around it.*

Illegal sump pump hookups add thousands of gallons of clear water to the sanitary sewer system. During a substantial rainfall this can cause backups in residents' basements. Please help the Utility and your neighbors by having your sump pump discharge properly to a storm sewer or drainage ditch, not in the sanitary sewers. If you have questions, please contact the Utility office at (262) 786-7086.

Alderman Harenda: This is an ongoing issue that we are having to deal with as we are aware from the Buena Park study a number of years ago as well as MMSD applying more pressure on communities to deal with some of these illegal hookups, especially since the last significant rainfall we had brought some issues with I & I in one of the mains that MMSD is tracking.

Alderman Wysocki: Do you know what basin it was?

Alderman Harenda: I don't know, it was in the paper, but I can check with Rick to find out. We are trying to target these issues and Jim put this together and it will be in our next newsletter.

UT 03-08 Request for the City to Reconsider a Condition that was added for Vacating an Old Force Main Utility Easement

Alderman Harenda: At our last meeting we made a recommendation that the City Engineer send out a letter to the Developer that we would be willing to do that, but we are requesting reimbursement of \$91,285 before the City would vacate the Utility easement as well as some other legal language that we added for liability issues. The developer is here this evening to address us.

The Committee gave permission for Mr. Kasian to speak at the meeting.

Dennis Kasian 20203 West Lawnsdale Road. I appreciate the opportunity for me to talk. I think it is absolutely key that everyone understands that we did not have to go up to the Spruce Road liftstation to service the areas in our development that we put in sewers. At the beginning we had agreed as an effort of mutual cooperation to take out that liftstation and make it a gravity feed because we could lay in these new pipes. We submitted plans to go to the west route that came onto our golf course and came into the pipes that we were laying. I have letters from the DNR in 2000 where they had reviewed the routes and approved it. In 2001 we began construction and laid the first phase underneath the golf course. The existing sewer was on the very west end of our development and that is where we had to take all our pipes to. At no time during our development did we have to run up to that liftstation. After we laid the first phase, we were not going to do anything else until 2004-2005 when we were preparing the final plans for that last phase of the development. At that time Larry Wilms who was in the Engineering Department changed his mind and said he wanted us to run up the Spruce Road route. I stood toe to toe with Larry and said that I don't own that land, we don't have to go that direction to service our area. They brought it in front of Paul Reilly the City Attorney at that time who made it clear to them that you couldn't make the developer run across property that we didn't own and go up to an area that we didn't have to service. After that decision Staff decided to condemn Tesch's land and they took it. I submitted 14-15 petitions from people in the area there, we were all opposed to it. It was not necessary that it had to be done, but someone on Staff wanted to go that route. After it was told that they would take the land, no one ever told us that we would have to pay back for the land, we always had this other route. We had to go down 16 feet deep on that street where our first route we only had to go 8 feet, and because we were digging in a street we had to fill the trench with stone and use larger pipe because we were picking up all of the subdivisions from that liftstation all the way to National Avenue. We submitted pricing from 2 different contractors and engineering firms to let Mr. Wilms know how much this would cost, and I believe several different committees looked at this and agreed to pay us. As part of our developer's agreement it stated the City would pay us \$35,285 for the alternate sanitary sewer route. This is the alternate route that the City chose, not the one that we originally presented. I find it unjust that you ask for the \$35,285 after the agreement was signed saying that you would pay for that, and to try to get the rest of the \$60,000 for the land that the City purchased from the Tesch's when we had the original route in place and it was approved.

Alderman Wysocki: I remember a lot of the discussion and that the original engineering proposals utilized the force main and the liftstation; however as we looked at all of the further development including yours and the development to the south, the engineering department became aware that we could abandon the liftstation, which is an ongoing expense for the Utility in terms of electrical and maintenance expense, as well as a force main by going the route we eventually we had you go. It was a cost savings to the Utility. We did purchase the Tesch property to get the land and the easement which enabled this system to be put in place. My question is, we now essentially are giving back land to you by this vacation, am I correct?

Mr. Kasian: Actually we own the land, the whole vacated area starts at the liftstation and goes entirely across the whole golf course. I am asking you to vacate that.

Alderman Harenda: It is our easement yes.

Mr. Kasian: The pipe that is in this easement area has been abandoned. The original route that we proposed all along was a gravity feed and similar to the route in terms of service as the one we put into Spruce Road. The pipes and service would have been exactly the same. We would have picked up all of the Glen Park subdivision on a gravity feed.

Alderman Wysocki: I remember differently. Going back as much as I could in the last week, it would have required us to maintain at least the liftstation.

Mr. Kasian: No, you are incorrect Ted, I respectfully disagree with you. I have letters from the DNR that approved that route, it was a gravity feed.

Alderman Wysocki: I remember it differently.

Alderman Harenda: It goes back a number of years. I recall it vaguely.

Commissioner Dude: In your discussion earlier, you said we were looking for the \$91,000 plus the return of the \$35,000. In your letter of May 6th you indicated that we in fact paid the \$35,000 to you as part of the fees and JP Walker's letter, we are not asking for \$35,000, where did that come from?

Mr. Kasian: The total number that was mailed to me was \$91,000.

Commissioner Dude: That has nothing to do with the \$35,000.

Mr. Kasian: The \$91,000 as I understand it is a combination of the \$60,000 for the Tesch property and the \$35,000 that we are talking about right now.

Alderman Ament: The way I have it is, we paid approximately \$56,000 for the Tesch property and another \$35,285 for the sewer to Howard through the Tesch property.

Mr. Kasian: It wasn't just through the Tesch property for the \$35,285. It was for a larger pipe that went through the whole golf course because we were servicing the Glen Park subdivision so they were paying for the oversized pipe, which I believe is a common occurrence when a developer services an area he's got to use bigger pipe.

Alderman Ament: I have to agree with Alderman Wysocki. There are 2 buildings that are scheduled to be put right on that easement so it is a benefit to you to get the easement back which is obviously why you are here. The City did expend money to put that gravity feed through Spruce and I think as a Utility we have an obligation to recover money that we spent for that project. Had these projects not come along, we would not have had to deal with that at all.

Mr. Kasian: May I correct you Dave? There are not 2 additional buildings. There are no additional buildings. Our original route showed a 2 family building next to my sister's house. The plans that we are looking at right not that are coming in front of the Council shows the same building, just moved a little further away from my sister's house because that's been abandoned. There are definitely not 2 additional buildings here. The original route was a gravity feed, it was not maintaining the liftstation. If it had been a force main, there would have been no reason to relay a new one.

Alderman Wysocki: JP, I would like your opinion, if you can you recollect the facts. As I recall there was concern on the original engineering proposal on the future development of the remaining New Berlin Center which included the property in discussion and the remaining property south that the liftstation would still have to be in place. When Engineering came up with some information and further studies including the further development south of this property it was realized that we could get rid of the liftstation and the force main with a gravity flow and it was a recommended route to extend through Spruce Road into the property that we eventually purchased. It was a better route, a straighter line and cleaner and eventually Mr. Kasian felt it was a better route to go.

Mr. Walker: The original route that Mr. Kasian had proposed was a gravity route allowing for the abandonment of the liftstation. No question about it that liftstation was coming out whether the route

chosen was his route or the Spruce Road route, so the decision was made to take it down Spruce Road. I don't have the recall as to how or why the decision came about.

Alderman Wysocki: I thought there were discussions about angles and turns that was presented by Larry.

Commissioner Morrissey: I was not a member of the Utility Committee when this transpired and I'm a bit confused. Basically the liftstation was going to be abandoned whether there was development or not?

Alderman Harenda: No.

Mr. Walker: Because of the development there was an opportunity to put in a gravity system that would allow this liftstation to be abandoned. If it wasn't for that development, that liftstation would still be in operation today.

Commissioner Morrissey: Mr. Kasian had originally mapped a different route of a gravity feed in addition to the liftstation.

Mr. Walker: He referred to it as a west route, it was actually behind some property that was on Spruce Road along the back property line, his eastern property line. That would have provided the gravity feed system that would have allowed the liftstation to be abandoned also.

Commissioner Morrissey: The so called "west" route would have allowed the liftstation to be abandoned also?

Alderman Harenda: Is it possible to table this for today and put together a time table of what was expended, who paid what, what the developer paid, what we picked up on the Utility side, what other side agreements that we worked out, what money switched hands and from the standpoint of our Engineering department and from the Utility side the benefits of reclaiming some funds for money that was spent by the Utility. I don't want to get in the same argument, why we went with Larry's recommendation versus the developer that was presented a number of years back. I know that we went back and forth with it and I don't want to rehash that. I just want to look at what was expended and for what reasons and talk about it at the next meeting.

Commissioner Dude: Another thing that would be worthwhile, am I correct that you can't build on the property unless that easement goes?

Mr. Kasian: I'm not sure. I know there is one building now that is in the easement, just a corner of it and I don't know.

Commissioner Dude: Is there any market out there JP for what easements are worth?

Mr. Walker: I don't have an answer.

Commissioner Dude: I see this as kind of a business deal.

Alderman Ament: If you'll look at Exhibit B, which is on New Berlin Engineering paper, it shows the existing building that is on Fohr is approximately 1/2 way into that easement, I don't know how that happened in the first place. The 2nd one would be approximately 1/3 in that easement. I would not vote to table this I'm ready to rock and roll on this. I think the decision we made at the last meeting was the right decision and I'm willing to stand by it for the reasons I gave last time.

Alderman Wysocki: Am I correct that you would like to see some more information on this?

Alderman Harenda: Yes, it has been awhile.

Alderman Ament: If you do table this, that holds up the abandonment of the easement.

Mr. Kasian: I understand. I appreciate you looking at it more thoroughly.

Motion by Alderman Wysocki to table this item. Seconded by Commissioner Morrisey and upon voting the motion passed 4 to 1 with Alderman Ament voting no.

Motion by Alderman Wysocki to adjourn at 6:46 p.m. Seconded by Commissioner Dude and upon voting the motion passed unanimously.

Privilege of the Floor – There was no one in the audience who wished to speak.

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

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