

**MINUTES**  
**City of New Berlin**  
**Utility Committee Meeting**  
**Tuesday November 18, 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 Chiovero, City Attorney Mark Blum, Nick Roethel (IT Director), Ralph Chipman (Accounting Manager) JP Walker (City Engineer), Steve Schulz and Pat Wohlers (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 I-08 Approval of Minutes from the October 28th meeting**

Motion by Alderman Ament to approve the minutes from the October 28th meeting. Seconded by Commissioner Morrissey and upon voting the motion passed unanimously, with Commissioner Dude voting present.

**UT 12-08 Approval of Proposed Wastewater Utility Operating and CIP Budgets (tabled)**

Commissioner Dude said he met with Jim, Rick and Ralph over the past few months and wrote up some basic budget assumptions. 71% of the Wastewater budget is MMSD capital and disposal charges that we cannot control.

Revenues: The total revenues and consumptions that are budgets are relatively flat as they have been over the past 4 years. The rates have not been raised since January 1, 1996. We may have to look at that in the future. We show a little profit on our budget, but it is a little tighter. One of the reasons we didn't make our budget this year was our estimated interest income dropped. The last local government investment pool rates where most of our money is was 1.9% in October and we budgeted for a higher amount.

MMSD Capital: The charge decreased \$169,451 (3.3%). The capital charge has increased 1.6% per year since 2006 and is projected to increase 4.2% annually in 2010-2017.

MMSD Operating: Increased 11.8%, a large part which was attributed to the increase in natural gas prices. The disposal charge to the City of New Berlin increased an average of 13% per year since 2006.

Labor: No change in the number of workers. There was a 12% increase in health care. There has been a problem getting the health care percent nailed down and I strongly recommend getting that number earlier in the year. This allows time to negotiate a better deal with other companies.

I & I Expenses: Decreased \$194,725 to \$1 million from last year. Our year to date average is approximately \$900,000. This number will decrease in the future as older sections of the city are completed. We included \$20,000 for new mandated testing.

Controllable Contribution: These are operating expenses (other than I & I) that we can control at the Sewer Utility. Over the last 3 years they have increased an average of 2.32%.

Operating Revenues from 2008 to 2009 only a ½% increase due to projected utilization. Expenses are down \$136,000 (1.42%) from 2008 estimated and this is due somewhat because of lowering I & I expenses. Estimated Income for 2008 is down \$302,000 from our 2008 budget and we are budgeting lower for that next year down to \$525,000 in 2009. The Preliminary Budget Analysis table is broken out to show the Operating Revenues over the 3 year period from 2006 to 2009 and the average annual

increase is .41%. We are not getting any extra dollars; we didn't have a rate increase and very little utilization increase. Our expenses are laid out to show MMSD Disposal and Capital and I & I Collection System. Those 3 numbers are 81.4% of our budget. We do control some of the I & I, but we are committed to quite a bit of money. The controllable contribution part we control pretty well. An Average of 2.32% increase over the past 3 years. The graph of the I & I work the past 10 years shows an average \$893,132. Rick did a forecast for the next 4 years 2010-2013 and projects \$800,000 per year. Rick said we have about a 10% improvement in our flows and eventually you will patch all of the sewer pipes in the City and I heard that will last about 50 years. I would like to see what we are compared to our neighbors.

Wysocki: Our depreciation has been pretty consistent over the years; with all of the work we are doing with I & I obviously we are improving the capital assets or piping. Is there any analysis that is showing a positive impact on the depreciation analysis?

Chipman: The expected lifespan is 75 years when they initially went in. These improvements that they are making right now are akin to roofing your house. It is an expense but it does not change the life of your house. If it is just relining it is an expense. If it has to be dug out and replaced then it becomes a capital asset and affects the depreciation.

Dude: The capital budget is \$106,420 and the funding source is Working Capital.

Johnson: The generator is a replacement for a 35 year old generator that we use at our liftstations if we need to get power to it. The pole camera will be used when we just have to check 1 manhole, instead of sending our CCTV truck out to investigate the condition of the sewer line. The Communication system is to upgrade the VCR and security video cameras at our liftstations. The floor drain is in the part of the shop that used to be the old fire station. The pipes have collapsed and when the trucks are brought in and it rains and snows, it floods out that part of the shop.

Wysocki: There isn't any project for the Westward Manor liftstation?

Johnson: We are working on securing the easement and are getting quotes on raising the liftstation.

Harenda: Are you going to do it next year?

Johnson: We are looking at different alternatives.

Wysocki: Is there a better solution?

Johnson: We looked at trying to move the station, by leaving the wet well where it is and moving the controlling part of the liftstation in a different area. If we raise it we are going to have the same issue that we always have and will have to sand bag it, and it will still be difficult to access because the road floods out.

Wysocki: We will always have that liftstation there are no plans for it eventually to be...?

Johnson: Yes. There are no plans that I know of.

Harenda: If you need money are you going to come back for a request next year?

Chipman: Scott Schulpius the Emergency Government Director has filed a claim with FEMA to try to get grant funding that is a separate program from the money we got for the original flooding. We received money from FEMA for the work we did to maintain it but this is a separate funding request to move it or change it. We have not heard back yet on that. We have Equipment Repair and Replacement Funds in the budget account if we need to use it.

Motion by Commissioner Dude to recommend to Common Council to approve the 2009 Wastewater Utility Proposed Operating Budget in the amount of \$9,419,513. Seconded by Commissioner Morrissey and upon voting the motion passed unanimously.

Motion by Commissioner Dude to recommend to Common Council to approve the 2009 Wastewater Utility Proposed CIP Budget in the amount of \$106,420. Seconded by Commissioner Morrissey and upon voting the motion passed unanimously.

Wysocki: I would like to compliment Commissioner Dude and staff for working on the budget.

Harenda: Yes, thanks to Bob, Rick, Ralph, Jim and Sue for their work on the budget. The assumption sheet is particularly helpful when answering questions from constituents.

#### **UT 11-08 Approval of Proposed Water Utility Operating and CIP Budgets (tabled)**

Dude: Water Budget Assumptions

Revenues: Rates currently under review by the PSC – we are asking for 14%, which does not include money for the IGA payment of \$1.5 million. The PSC has 160 days to review it. The assumption is that on July 1<sup>st</sup> we will switch over to total Milwaukee water and the rate increase will go into effect the 3<sup>rd</sup> quarter, which translates into 7.5% increase in water since you only have it for about a half year. There will be less chemicals and electricity expense. There is no conservation in this particular budget yet. We will have 6 months of old rate and 6 months of new rate. The interest rate on the LGIP is budgeted at 1.9%.

Purchase Water: Purchase water budget assumes entire current water service and will increase from \$604,160 to \$957,820 for purchased water in 2009 or a 58.5% increase.

Labor: No increase in positions, however 2 long term positions were given an early retirements and as part of this package, the utility will pay their health insurance premiums for 2 years. The 2 positions were replaced by one operator in training.

Milwaukee Intergovernmental Agreement: Under our contract with the City of Milwaukee we must pay \$1.5 million IGA payment by January 31, 2009. The payment was not included in the rates under review by the PSC. We are proposing to use Reserve Capacity Assessment (RCA) fees for \$1.4 million. This does not show in the Utility books, but it does earn revenues. It is a special fund on the city's books. There is between the RCA funds and working capital sufficient money to pay the \$1.5 million without borrowing.

Capital: \$954,986 requested in the capital budget of which \$478,566 is for the Milwaukee water project which we are proposing impact fees to pay for.

Operating Revenues. Increase from \$4.6 million to a little over \$5 million (7.5%) in 2009. That is mainly the cost of the rate increase as opposed to more capacity. Operating Expenses go up \$358,280 or 8.73%. \$353,660 of that is what we are paying the City of Milwaukee. Interest income dropped and interest on debt decreases. Average annual revenue increases over the past 3 years was 3.2%. Total operating expenses is up 5.1% from 2006 -2009 we average 5.1% increase. Net income bottom line is \$445,407. The Utility is in good shape.

Dude: The Milwaukee Intergovernmental Agreement \$1.5 must be paid by January 31, 2009.

4 advantages to using RCA funds:

- 1) The cash is available for this use-increasing the quantity & safety of water supply.
- 2) If the funds are not used for an allowable purpose they may have to be refunded.
- 3) There are no immediate or future plans for these funds (they were put in by developers to put in water to new development).
- 4) Saves \$52,500 of interest payments, currently not budgeted.

According to City Attorney Mark Blum's letter dated September 26, 2008, he states, " I think it could be successfully argued that this is a legitimate impact fee expense" As far as the RCA, it really wasn't clear what it was supposed to be used for, but in the letter of Attorney Blum's opinion it states, " In summary, based on the record that we currently have and the absence of any determination that these connection charges were in fact an impact fee and further in the absence of a description in those enabling ordinances to show what the purpose of those connection charges were and further since the payment of the IGA fee is intended to anticipate the cost necessary to expand the lake water service area for the

benefit of new connections to our water system. I conclude it would be reasonable to utilize the connection fees for the IGA payment.

Attorney Blum: The purpose of the impact fee is to provide for funds to deal with the ramifications of new development. A subdivision is put in, demands are put on the utility resulting in additional infrastructure expenses to service that. This is as opposed to maintaining existing infrastructure, such as replacing a pump that fails. If you have to add a pump or increase a pump size, that is impact fee eligible expense. There was a period of time that the City collected connection fees before the impact fee statute was imposed. I tried to figure out the purpose of the connection fees and I suspect it was similar methodology to the impact fee but I did not find anything that specifically told me that, so I can't tell you there any specific constraints on the pre impact fee connection charges. As to the impact fee charges that we have made since that time, those would have the limitations I just mentioned. Part of the analysis I did for the Milwaukee water situation is that you purchased additional capacity from Milwaukee. When you looked at the numbers that we are currently drawing for water service and looked at what we have the right under the contract to actually take, there is a difference and part of the concept was that there are needs for additional properties or businesses to be served, so there is additional water capacity there. You are paying for the right to draw that additional water in the future and that is something necessitated by additional development and the impact fees that we have been collecting. In summary, we can utilize the pre-impact fees for this purpose and the post-impact fee charges that we collected, at least a portion of those could be allocable based on the situation where we are adding additional capacity available as a result of the Milwaukee water purchase.

Harenda: This is not for infrastructure, this is for capacity. We have 2 separate agreements with the City of Milwaukee.

Blum: This charge is the IGA payment. As it was phrased, it didn't use the term license but thinking through what it really means, it gives you the right to service not only existing customers but also future customers of the utility. That was in the whereas clauses in the agreement. You are looking down the way to meet the needs of the present water needs of the city and the future for the life of this agreement and beyond. You are paying this charge as a license to use that capacity down the way. It seems to me even though it is not a direct capital expense which is what impact fees are used for, overall this is a license to purchase that capacity over time and I think that an argument could be made it is a justifiable expense.

Harenda: If we would have had to borrow this money to pay this payment we would have had to pay it back but with the RCA fees we don't have to replenish it, future development will.

Chipman: We haven't collected RCA fees since the impact fee law went in 1993. It has been sitting there since and has not changed except for interest being added. When the impact fee law went into effect, we collected those in a separate account. Once the RCA fees are gone, it won't be back.

Dude: We propose that \$1.4 million from the RCA fees be used to pay the City of Milwaukee and the balance of which will be paid by working capital.

Blum: You will be utilizing the impact fees for the infrastructure and actual pumping capacity that we are going to be purchasing is that correct?

Dude: Yes.

Wysocki: I don't see anything in the 2009 budget for SCADA so I assume all of the costs will be out of the 2008 budget?

Johnson: Correct.

Wysocki: There are no anticipated additional expenses for 2009.

Dude: 2009 Capital Budget for the Milwaukee Water includes the Grange Ave Booster station \$218,566, Reservoir Piping \$156,000 and SCADA \$104,000 out of impact fees.

Chipman: There are 2 separate SCADA items. There is one for Milwaukee Water and also the upgrade issue.

Dude: The other items are from Working Capital not having to do with Milwaukee water.

Johnson: The SCADA upgrade on the capital budget \$104,000 is necessary to make the Milwaukee water work for us.

Harenda: You have \$80,000 for construction and SCADA programming and \$119,000 for an upgrade on the SCADA system. Is the \$104,000 on top of that?

Johnson: Right. The SCADA upgrade is for the complete upgrade of our SCADA system that had to be done whether we got Milwaukee water or not. This \$104,000 is just for the Milwaukee water upgrade.

Ralph Chipman explained how the contingency amount in the R & M proposal for the Milwaukee water upgrade was allocated and this is reflected in the \$104,000.

Ament: Is the Calhoun water main extension the extension we were talking about 2 or 3 years ago?

Johnson: Yes, it is between Victor and Ryerson. There are 2 dead ends there. If there is a problem or a water main break and we have to shut down the whole area, it will loop the whole system and allow the water to flow through the industrial park a lot easier.

Ament: That will run along or under Calhoun Road?

Johnson: Along it on the east side south of Cleveland.

Motion by Commissioner Dude to recommend to Common Council to approve the 2009 Water Utility Proposed Operating Budget in the amount of \$4,767,095. Seconded by Commissioner Morrissey. and upon voting the motion passed unanimously.

Motion by Commissioner Dude to recommend to Common Council to approve the 2009 Water Utility Proposed CIP Budget in the amount of \$954,986. Seconded by Alderman Wysocki and upon voting the motion passed unanimously.

The committee thanked Commissioner Dude, Rick, Ralph and Utility staff.

Harenda: I appreciate the budget assumption sheets from Commissioner Dude.

#### **UT 12-04 Milwaukee Water Expansion – Timeline**

Will be discussed in conjunction with the other items below.

#### **UT 05-07 Water Conservation Measures –Potential Rate Adjustments**

Harenda: The subcommittee is going to meet in December to talk about rate adjustments and conservation.

#### **UT 07-08 New Berlin Urban Service Area Boundary**

Harenda: A public hearing was discussed at the Plan Commission. They will be talking about that at their December meeting and a recommendation will come forth to Common Council.

Wysocki: Does that come back to our Committee for review or comments?

Harenda: No. I can bring it back. All we are doing is solidifying the existing boundaries in place. We are not expanding anything. I will keep the Utility Committee informed because it has impact, but any action

taken will be by the Common Council. As Commissioner Dude points out, the Utility doesn't always like to expand. It costs the Utility money.

Dude: New Berlin West school is in fact within the boundary am I correct?

Harenda: It is being decided. The Plan Commission hasn't decided which way it is going to go. It is in the Ultimate sewer service area, it is not in the current service area and in the urban sewer service area boundary I believe...

Ament: It was a separate item. It will be part of it eventually if it is approved by the Council. It was approved by the Plan Commission and it is on the Council agenda tonight for New Berlin West.

Harenda: At the next Utility meeting we are getting some information back from the school district regarding an engineering analysis regarding infrastructure that we will put on our next agenda to talk about, specifically the New Berlin West issue.

Wysocki: Please keep in mind that we represent the Utility users. These expenditures that are being voted on for potential expansions will be born by the Utility users not the taxpayers. We have the responsibility as the Utility Committee to be if nothing else the primary guiding influence to Council decisions on these kind of things.

Harenda: This will probably come out of the Plan Commission next month. We will have to move up our December meeting because of the holidays. We may be able to tie both of those together before going to the Common Council.

Ament: This issue of the New Berlin urban service area boundary and the New Berlin West school is the same only different.

Harenda: The New Berlin West issue will be on the agenda next month, at least for discussion because it has impact on the overall utility as well as infrastructure.

#### **UT 09-08 Milwaukee Water and Rate Case Requirements**

Harenda: Ralph has submitted that to Public Service Commission.

Chipman: I called them this week and they are still saying it is 160 days for the review cycle.

Harenda: I asked Ralph to put together a bullet point sheet on what he submitted to them to update the Committee on this.

#### **NEW BUSINESS**

#### **UT 16-08 Discussion and possible action to approve agreement to prepare bid specifications and review bid submissions for the upgrade and maintenance of the utility SCADA system.**

Harenda: We had discussed possibly bidding out the SCADA system upgrade and operating the system on retainer. We utilized R & M for some time and was to just look at to see if we were in the ballpark. Rick Johnson has made some calls to a number of vendors that could provide comparable service to the Utility for the SCADA upgrades and you should have received the November 11<sup>th</sup> letter stating that for anyone to bid on this they would have to have some type of assessment done and they would charge us to do the assessment to tell us what it would cost to take over that responsibility. Strand, Clark Dietz, and SEH are included in the packet. Ruekert & Mielke's is just the upgrade cost as an assessment is not needed. We can spend \$11,000 to \$23,500 to assess to find out we are OK where we are, or we can do a total review in the next 5 year which is what Nick and Rick said.

Johnson: Nick and I looked at the comparable people that use the Wondeware system and the surrounding engineering firms that will work on our system. We interviewed all of them, they gave us a quote on the price and most of them said it would take about 2 months to give us an assessment of what

we have and what we would need for an update. It did not include the update. Some we did not receive responses and were not interested in doing the work.

Dude: I wasn't at the last meeting but I have read the minutes and have talked to Rick about the subject. I agree that consultants that we work with should have their feet held to the fire periodically to make sure their dollars and cents are within reason of the competition, but from what I gather in 5 years the system will be looked at to replace the entire system and I certainly think we should be doing specs on that a couple of years out to start that process. Right now, I can't agree with bidding this thing out for a spec and then putting out the spec and having someone by the month of March, April and May tell us we have to redo the whole system and I say this for a couple of reasons. First and foremost is the time question. We do have the City of Milwaukee and the DNR and we are compliant to do something about radium and I don't want to see all the work we put into this thing drop by the wayside because someone said you aren't proceeding on your SCADA development. Second and perhaps it is because my 20 years working with IS or IT as it is now called and working with home grown systems. First of all the base system that's used here, and Rick has looked around and this is Wonderware is the recommended software. It is no longer canned software because it has been adjusted for our needs over a long period of time. I went through this similar thing. There was no canned software that we could buy off the shelf. We built our own software and employed programmers and salaried employees. We had a good system, saying that, no system is documented. They are always saying that they will do that next week, next year, it never happens. I would be very fearful if you brought someone else in to try to jury rig a system that someone else has been working on and maintaining over a long period of time. You have a problem with time and a problem with our contract with Milwaukee is quite punitive if we run over if our SCADA system breaks down. We are talking \$10,000-20,000 fines for a short period of time of overuse. I recognize the need to periodically put R & M or any consultant's feet to the fiscal fire, however I cannot support with another vendor right now because we are running against the clock and I don't think someone else coming in from the cold can handle this.

Harenda: I concur with Commissioner Dude and appreciate Rick getting the figures. Going through these exercises to collect this information is a learning experience and better informs me what is going on. With that said I guess, there was a comment made by one of the R & M engineers that there will be an upgrade down the road in about a 5 year period. When do we look at this?

Johnson: I would say that we would have to do it within the next 3-5 years. Talking with Nick and him trying to write a spec on it, it is a completely different system than he is accustomed to. I would have to have an electrical engineer do it. We would have to hire someone on the outside to spec it out.

Harenda: So within the next 3 years you would look at that?

Johnson: Yes. Our system is 10 years old.

Harenda: Hardware has changed significantly and software changes overnight. There might be an entirely different system available at that time.

Morrisey: Approximately how much hardware are we replacing in the existing system for the \$119,000 and I assume it is a complete software upgrade.

Johnson: The majority of it is the software and a lot of it is with the PLC programming. I believe there is also going to be an upgrade to our SCADA alarm system, if there is a problem with our SCADA system, it knows how to direct the calls to people on call to handle.

Morrisey: So in 3-5 years we will replace the hardware and the software in the existing system because I would assume that what we are purchasing for the Milwaukee water will be new and won't need replacing.

Johnson: Correct.

Morrisey: I believe the ballpark estimate is over \$300,000.

Johnson: Talking with some of the engineering firms about the assessments, we received that type of quote or rough estimates between \$350,000 to \$400,000 for a complete upgrade. It is hard to tell since they don't know how our system works.

Morrisey: Should we be doing this total upgrade now?

Johnson: We should be able to get another 5 years out of the system and because of the timing issues and trying to get everything working with Milwaukee water, I don't think it would be a good time to do it. To develop this, put it out for bids and have it redone it will take over a year to do a complete system upgrade.

Harenda: Commissioner Morrisey makes a good point. We are spending \$119,000 which is separate from the City of Milwaukee software upgrade. Is it better to spend \$20,000, bid out, and find the \$400,000 will save us in the long run plus we will have a new system.

Johnson: What we are looking at is the timing issue that is the most crucial thing. This will give us a little more time to take a look if there is any new technology out there instead of rushing into it.

Harenda: I understand the timing issue, but the \$80,000 we are spending with the Milwaukee water portion to upgrade the software plus the \$119,000 to upgrade the SCADA. You prefer to spend the \$119,000. You aren't going to come back in 2 years and say you need more money and the software is obsolete. If we spend the \$119,000 and \$80,000, that will buy us 5 years and we won't need to spend any money on top of that?

Johnson: That was the whole plan of this upgrade, to make it last another 5 years.

Roethel: Because of the proprietariness of the communication method there is a separation between IT. Granted you use computers to connect to it. Rick has been good at making sure they are putting in the City spec of PC that we are purchasing so that we have that common piece. I agree with Rick and Mr. Dude

Harenda: I know we brought this forth as an item. I still think we should take a look at it, but I understand the timing issue and listening to staff it doesn't look like it will cost us additional money in the next 5 years.

Motion by Alderman Harenda to drop this item from the agenda. Seconded by Commissioner Morrisey and upon voting the motion passed unanimously.

**UT 13-08      Discussion and possible action to approve agreement to assess the utility's SCADA system and to prepare bid specifications and review bid submissions for the upgrade of said system to monitor and control the equipment necessary to bring Lake Michigan water to the expanded lake water service area.**

**UT 17-08      Discussion and possible action to approve agreement with Ruekert & Mielke to prepare bid specifications and review bid submissions for the upgrade of the Grange Ave pump station to bring Lake Michigan water to the expanded lake water service area.**

Harenda: This item spells out the cost that we need for the engineering portion, which is the R & M contract that has been updated by Steve with respect study report, final design, bidding, procurement, construction and the SCADA upgrades for acquiring City of Milwaukee water.

Johnson: UT 17-08 has to do with the SCADA, the piping and the upgrade to the Grange Avenue piping system. UT 13-08 was the assessment that you wanted.

Harenda: 13-08 is the \$46,000 that we are approving?

Johnson: No, that was the assessment for all of the other engineering that we went through.

Harenda: I am confused with the paperwork.

Johnson: The assessment was for the other engineering firms to give us an assessment on our SCADA system.

Harenda: That was 16-08.

Johnson: 16-08 was if you decided to go with a different engineering firm and have them give us the assessment and give us a price on the upgrade.

Harenda: So 13-08 and 16-08 are the same thing.

Johnson: If you didn't do 13-08 you won't do 16-08.

Blum: My understanding is, that you wanted to look at getting bids to upgrade the system in general. That's 16-08. You also needed to look at the SCADA upgrades just dealing with Milwaukee water, that's 13-08. Then you have issues regarding upgrading the Grange Avenue pump station and that is 17-08. 17-08 has nothing to do with SCADA. 13-08 is SCADA relative to Lake Michigan water and 16-08 is requesting bid specs to update SCADA in general.

Harenda: The SCADA number for the Milwaukee water upgrade is comingled with 17-08 stuff correct?

Johnson: Yes, the \$47,000.

Wysocki: We are dealing with item 13-08?

Harenda: 13-08 has to do with the SCADA upgrades that are imbedded with the 17-08 and are included in the updated contract.

Morrisey: What part of the 13-08 is in the 17-08?

Harenda: The SCADA phase.

Morrisey: The \$80,000?

Harenda: The \$33,000 for the construction cost for SCADA equipment and \$47,000 for the SCADA Control programming for upgrades. The November 12<sup>th</sup> letter from R & M has a breakdown of the construction costs and their costs for the engineering work.

Dude: I'm looking at something from the last agenda 13-08 approval of SCADA contract for Milwaukee water and I see \$132,152. Then I go to the letter of November 12<sup>th</sup> and I add up construction costs for SCADA Equipment, SCADA Control Programming for Upgrades and Engineering exclusive to SCADA, I am seeing \$80,000 on the November 12<sup>th</sup> and \$132,152 on the October 22<sup>nd</sup>. Where did the \$52,152 go?

Harenda: The \$132,152 is the R & M cost for their consulting services to design, bid out and oversee the construction as well as the SCADA upgrades to acquire Milwaukee water to the rest of the Utility. That is the updated letter and the contract that is dated November 12<sup>th</sup>. The letter dated October 22<sup>nd</sup> except the \$33,000 is not included in that.

Schultz: The October letter requested by Rick Johnson was sent to Mr. Chipman for his use in the rate case. It broke out all of the items that we put together for our cost estimate for the Milwaukee project. At the last Utility meeting Alderman Harenda asked that I break that down a little further, which is on the November 12<sup>th</sup> letter. The \$478,566 is consistent between the 2. I broke it out a little differently on the November 12<sup>th</sup> letter to identify those activities which are construction, things that are being built, which are included in what we put together and the contractors bid on. So it's the upgrade to the Grange Avenue Pumping Station, the reservoir piping for Milwaukee water transfer, the construction related costs for SCADA Equipment. I also added the control programming that will be done by us \$47,000 which is included in the scope of services in the attached contract and the \$85,152 which is the remainder of the design, the bidding and the construction activities related to the reservoir piping in the Grange Avenue

pumping station upgrade. That adds up to the \$132,152. \$25,286 is the contingency fund that may be comprised of any approvals needed, etc.

Dude: The \$132,152 from the October 22<sup>nd</sup> letter is included in the \$478,566.

Schultz: That is correct. If you add the \$85,152 and the \$47,000 you will come up with that number. The actual equipment and installation is \$33,000 that the contractor will take care of.

Harenda: We are discussing the consulting contract to get the work done. R & M will come back with construction contracts and bids before we execute those work order. Right now we are only approving the \$132,152. I asked Rick and Steve to give us an overall cost.

Dude: We are approving the SCADA for \$47,000 and the Engineering, specs for \$85,152.

Morrisey: Items 1, 2 and 3 will be bid out.

Schultz: Yes, a contractor will do that work and it is an estimate at this time. We had to prepare these for the rate case so I am sharing them with you.

Ament: We are approving the \$132,152 under 13-08 and 17-08.

Dude: I presume Steve that this is a "Not To Exceed" contract. Again, "Not To Exceed" \$132,152.

Schultz: That is correct. There is language similar to previous contracts saying that we need to come back to you to get permission.

Dude: This is a "Not To Exceed" Contract.

Schultz: Obviously if we have to adjust our scope I can't say I am never going to come back for any money, but the way it is written right now, you will have to approve any money for this. This contract is a "not to exceed."

Dude: So not to exceed I'll get a job done and you won't exceed \$132,152.

Schultz: I'll do everything I said I would do in the contract. You bet.

Wysocki: As I read 13-08, that is the breakdown for the \$132,152, a portion of which is in 17-08. These itemized costs are part of 17-08.

Harenda: The \$47,000 is in 13-08. The \$85,152 is in 17-08.

Wysocki: In the 13-08 the SCADA phase is \$46,749 and apparently you rounded off in 17-08 to \$47,000. The construction phase is listed as \$25,501, but the construction phase in 17-08 is \$33,000. If we approve the \$132,152...

Schultz: You will in essence be approving 13-08 and 17-08.

Wysocki: Components that are described here. The 16-08 is a whole separate issue in regards to the \$119,000 as you've explained, whether or not we got Milwaukee water, the upgrade cost is \$119,000 which is part of this Milwaukee thing, but not included in this contract.

Schultz: That was work that was going to be done anyway, but it will facilitate only having to do the Milwaukee stuff once. I do want to point out one additional item. Subsequent to the initial submittal at the last utility meeting on November 8<sup>th</sup> we received a communication from the new Director of the Water unit at DNR there are still some resubmittals required to the DNR because of the new Act 227 which in essence was the compact. They indicated on the 12<sup>th</sup> that they would get back to me within 2 weeks with the requirements, but they kind of laid them out. So I did include in this contract at the very end payments to the engineer a compensation amount to not exceed \$10,000 which will be done on an hourly basis for anything we have to do related to responding to DNR requests. I don't know what the scope is.

Dude: I would rather not confuse the issue and put that on the side.

Harenda: One of the things I was going to do is to support executing these contracts but contingent on getting DNR approval before we go forth with the work. We have been down this road before and have spent 2 years working on this, and then have the DNR pull the rug out from under us. The point you have here for \$10,000 should be a separate contract.

Schultz: I am fine with removing that and addressing it at a different stage. I understand your concern with the DNR but it is almost a Catch-22. It's kind of a chicken and an egg thing. We are also going to need Public Service Commission approval for any construction that we do. So when we finish with the design we send that to the PSC for the Construction Authorization. They have indicated in writing that they need the DNR approval as well, so we need the DNR approval before we get the Public Service Commission to build this. Hence, my communication with the DNR trying to get some reasonable assurance to move forward. My experience with the regulatory agencies is that you are not going to get them to say yes until you give them everything they need.

Harenda: I understand that. The \$10,000 is a separate issue to handle that but approve these contracts pending approval of the DNR.

Schultz: My point is we need to go ahead with the design portion of this. I would agree that you don't want to award any of the construction contracts until you get DNR approval, but to get DNR approval you basically have to finish the design.

Harenda: They are not going to OK the application until we give them the design work?

Morrisey: I think you are talking about approval of the rate case.

Harenda: No. The agreement we have with the City of Milwaukee, to get the stamp of approval on that, not how we are going to get the water.

Dude: Included in the packet from last time is a proposed schedule for the Milwaukee Water project dated October 21, 2008 and we are already behind.

Schultz: I adjusted that in this packet.

Dude: What I am hearing Alderman Harenda say is that you want to wait until DNR approves, but your chart says the final design to DNR is on December 4<sup>th</sup>, so you have to do some work before you get it to DNR to approve. How do we stay on track because this is supposed to be turned on the 1<sup>st</sup> of July.

Harenda: I know Steve is making a point that there are additional submittals that the DNR wants. The irritating fact here is that we had to go to the DNR to ask for this information. We are waiting for them to get a stamp of approval and Steve contacted them and they said they want all this other stuff. We have been waiting here for all of these months and we are not getting it approved. They are jerking us around again. We have to get them these additional submittals, but approving all of this work and finding out we don't like where this pipe is or we need to put in another holding tank, I don't know, it may not be true or not. We have been down this road before and Steve has a good repore with the DNR, I say go ahead as a separate item within this contract, pull this out, wrap it up, get their approval and then approve this after the DNR stamp of approval. Commissioner Dude's concern is that we have that consent order to worry about. We have been doing our part, we have done due diligence, but we are waiting on the state again. The DNR is not going to take any action until December 8<sup>th</sup>, it is some federal issue with the compact?

Schultz: That is based upon some action from the state of Ohio. All of the states won't have approved the compact so it can't legal go into effect even though the president has assigned it until December 8<sup>th</sup>.

Harenda: We are going to handle this separately. I want to get moving on this, but I want to put the contingency on executing this contract based on the DNR's approval and then Ruekert & Mielke knows what they have to do, but in the meantime they are going to have to do some jumping through hoops for the DNR, some additional submittals and that is what the additional \$10,000 is for.

Wysocki: Is 13-08 a critical component of your initial report to the DNR? Do we need to approve this work because it is related to your design phase?

Schultz: I don't have my SCADA expert here with me but I'd say the SCADA controls are an intricate part of what we are doing and a big chunk of this contract because of the nature of how we are going to be bringing Milwaukee water in, filling the reservoirs, making sure you have adequate fire protection because you are operating on a totally different matter.

Wysocki: And staying within the stated amounts of water that we will be taking.

Schultz: That is correct. Control is going to be more important now than ever.

Wysocki: I would ask you Chairman Harenda would it be appropriate to go ahead with this phase of work knowing it is part of the total contract with a remaining amount of about \$350,000 that would still have to be done, but may be subject to your idea of before we go any further with any additional work, we need to make sure the DNR approves this.

Harenda: I don't have an issue with the SCADA phase. I can't give you a separate contract for the \$10,000. You already have it on this contract. We could authorize a portion of the contract, the \$10,000 and make the rest of the contract or put in a stipulation to not go ahead until after DNR approval. I don't know if we can do that legally.

Schultz: I would be so presumptuous to ask that you approve the \$132,152, the \$10,000 you can do at some future date, the contingency would be that you not award any of the construction contracts which are the vast majority of this until such time as you receive DNR approval.

Harenda: I understand that point, but I would like to wait on it all until we have the approval since we should have that shortly. I would hate to see them design something and have to change course 2-3 months into the job. When is the 1<sup>st</sup> bid supposed to be let if we stay on the timeline that you proposed?

Schultz: We are looking to advertise for bids in mid-December.

Harenda: We can only hold bids open for a couple of months any how. If we design it and put it out...

Morrissey: Then we are talking about awarding contracts the 15<sup>th</sup> of January.

Schultz: What worries me the most is looking at the letter from Ebersberger. In the new Act 227 which is the implementation language of the contract, they do have a public review and comment period which is going to push us out so December 8<sup>th</sup> is not when they are going to give us the approval, they will probably give us the letter saying here are the remainder of the things you need. I don't think it is an insurmountable task by any means, I think it is less than a \$10,000 effort but if we wait until those gyrations are done, we are going to move that schedule back. If we can do it in conjunction with the approval process we can stay much closer to this schedule.

Wysocki: In all the years I have been involved in this and this is going back 8 years to when we started getting water, I think we should make it clear that under the worse case scenario of the contract which was a mandatory return of water, we comply with that. There were other contingencies or other possibilities for compliance, partial communities that were within the basin, that was to be grandfathered where you would be allowed to come in. I don't foresee anything that the DNR would say to us that would say that we can't do this. I really don't. I have been involved with this for a long time even back to the original purchase of the Milwaukee water which at that time was said by some DNR people that it really wasn't a diversion. We were returning the water and would be even beyond the subcontinental divide. I share the Chairman's concern and my concern and all of our concerns to get that water as soon as possible and July is still pretty far away. I think if we went ahead and approved the amount of \$132,152 to get the bulk of what I think you have to respond to the DNR, which is probably the technicality of how you are going to manage this system and make sure the return is there, that is what SCADA does for us and I think that has to be documented and approved. I do share the Chairman's concern about actually

going into construction the other \$350,000 and if we can manage to still go out for bids, but we can wait on awarding them, I think it can be done that way.

Harenda: Why don't we authorize item 1 and 7 and come back at a later date for authorization for the rest. That will allow them the study and report phase for \$12,120 and the SCADA phase for \$46,749. The approval I am looking from the DNR is for the system itself, but what I am talking about is for doing this period.

Schultz: What we have seen from the DNR is that they have given us a pretty clear path and we have followed it and have gotten approvals along the way. Now because of Act 227 the final thing that came out in the final session, there are a few more items that need to be done. DNR is not going to give you a prior approval. We need to make those efforts to satisfy them and we don't know what those are yet, but that needs to go on simultaneously with the work done covered under the 131 to meet the schedule. If you want to delay it, you are welcome to, but the schedule will have to....

Harenda: You are saying that they won't give us any type of approval until we spend \$132,000.

Schultz: That is not what I am saying. You probably won't get a timely approval on the diversion issue to allow us to meet this schedule if you hold up all the engineering until you get that approval.

Harenda: The Act 227 they are still writing the rules.

Schultz: They won't be done for 2 years so they will have to make a judgment on your application that it meets the spirit of the rules and you essentially have those letters in the file already from their approval for us to go talk to Milwaukee the last time.

Wysocki: The PSC will want the DNR approval before they act on the rate case. That is another important precondition effort we have to go through.

Morrisey: I think we need to move forward. It is a bump in the road and don't forget we are still under the threat of fines.

Harenda: I didn't say we shouldn't move forward but I don't think they can hold this against us because we are making our efforts.

Dude: Assuming we want to stay with the timeline, there is \$132,152 in this contract and there is this mysterious pile of stuff we have to do to make the DNR happy and that is \$10,000.

Schultz: I will do that work whether this gets approved tonight but I will come back and ask to get paid for that. We are trying to meet your schedule here.

Dude: Are we voting on the \$132,152 or the \$10,000.

Harenda: Approve the \$132,152, but put a stipulation on it that prior to going into the bidding phase we have the DNR approval.

Schultz: You would do 1, 2, 3 and 7, and we would hold off until we got the diversion approval for 3, 4, 5 & 6.

Wysocki: So the 1,2, 3 and 7 would be covered by the \$132,152.

Schultz: That may have an affect on the schedule, but not anywhere near as severe.

Motion by Alderman Wysocki to approve agreement with Ruckert & Mielke to assess the Utility's SCADA system and to prepare bid specifications and review bid submissions for the upgrade of said system to monitor and control the equipment necessary to bring Lake Michigan water to the expanded lake water service area in the amount of \$46,749. Seconded by Commissioner Dude and upon voting the motion passed unanimously.

Motion by Alderman Wysocki to approve agreement with Ruekert & Mielke to prepare bid specifications and review bid submissions for the upgrade of the Grange Ave pump station to bring Lake Michigan water to the expanded lake water service area with items 1 to 6 of Steve Schultz's November 12, 2008 letter not to exceed the sum of \$85,403 with approval of construction items 3,4,5 & 6 not to be done until DNR approval is received. Seconded by Commissioner Dude and upon voting the motion passed unanimously.

Harenda: We are looking to do a special utility meeting so that we don't have to have the meeting the week of Christmas, so I will be sending out an email.

Motion by Commissioner Morrisey to adjourn at 6:47p.m. Seconded by Alderman Ament 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