

**MINUTES**  
**City of New Berlin**  
**Special Utility Committee Meeting**  
**Friday July 6, 2007**

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

Others Present: Rick Johnson (Utility Manager), Jim Hart (Utility Supervisor), Mayor Jack Chiovatero, J.P. Walker (City Engineer), Bill Mielke (Ruekert & Mielke) and Sue Hanley (Office Coordinator Utilities & Streets)

Alderman Harenda called the Special meeting to order at 10:03 a.m. declaring a quorum with all members present. He said they were going to Open Sessions items first.

**UT 12-04                      Status on Milwaukee Water Negotiations**

Alderman Harenda: Asked if there was anything new on this item from the Governor's Office or WDNR for remaining half of the Water Utility Service area?

Mayor Chiovatero: Todd Ames of the DNR said they have all the information they need to make a decision and indicated he was positive the ruling would be in our favor. The Governor's office did not communicate with him but indicated they concur what the DNR is going to be recommending. The indication that Mr. Ames was getting from the State of Michigan was that the Governor may not object but the Attorney General would, so they are trying to figure out the issue. I have had no communication from Michigan, but I think they are going on the same premise that they did in November that they don't feel lake water that passes outside of the basin.

Alderman Harenda: Were there any Canadian provinces objections?

Mayor Chiovatero: I have heard nothing about Canadian provinces having any objections. Mr. Mielke had nothing to add.

Alderman Ament: We have 90 days to respond to the contractors and consultants, what is the drop dead date?

Mr. Johnson: August 31, 2007.

Alderman Ament: Is the radium treatment option ready to go, could we decide in the August Utility meeting and have time for that contract?

Mr. Johnson: The bids are for 2 buildings at Pumphouses 3 and 7. It will take 26 weeks to order and receive the equipment.

Mayor Chiovatero: We have until August 31<sup>st</sup> to accept a bid proposal that is out there, based on the buildings for 2 pump stations. We haven't ordered the equipment yet, there will be a lag time for that.

Alderman Ament: We don't want to blow that because we have been working hard at getting water for the western half of the Utility as opposed to what it says in the newspaper for the western half of the City.

Mayor Chiovatero: The media seems to have it mixed up. It is the western half of the Utility only.

Alderman Ament: We are fast running out of time and I don't see it coming together in that short of time. The DNR and State are a serious maybe, and what I read in the paper that Milwaukee is a NO.

Mayor Chiovatero: We are trying to stay positive. I have a meeting with Mayor Barrett's on Tuesday and this as a positive sign.

Alderman Ament: Requested an update after the meeting before we read it in the paper. Based on the number of meetings cancelled in the last couple of months, there has been no significant progress since November. We need to get serious about making sure we don't lose the contract deadline and have to start all over.

Alderman Harenda: The meetings were canceled because there was nothing new to report, but now there have been a lot of things said in the newspaper and not all of it is correct. There is a great amount of urgency regarding this deadline with the contracts to go one direction or another and if we don't get cooperation from the Governor, Milwaukee and the DNR, then we have plans in place to go the other direction. Mayor Chiovero has a meeting with Mayor Barrett next week after which he will update us.

Commissioner Morrissey: As of the 1<sup>st</sup> of January we have been in penalty situation, but we have adjusted our pumping not to use radium wells until April.

Mr. Johnson: Our deadline was December 4, 2006.

Commissioner Morrissey: We were technically over the late hour and are in a penalty situation.

Mayor Chiovero: Information from the DNR said that we were not in a penalty situation until mid-April.

Commissioner Morrissey: We are now in a penalty. How much longer will the EPA and DNR be patient with us?

Alderman Harenda: I am also concerned. In the past we have been told to go in one direction by the DNR and then we had to switch directions about 1 ½ years ago. The DNR and EPA are hopefully working with us, but at any moment they could start fining us.

Commissioner Dude: Who is the keeper of the asylum? I hear on one side we are under penalty by the DNR, but the Governor who runs the DNR are on our side. We are talking about a \$3.5 to \$4 million "investment" to cure a problem that has been around 2,000 years and I am not turning green after 25 years of New Berlin water. I don't see the tremendous issue to pump money into this. Who regulates the time and who makes the rules, if the thing is positive, why are we in a hurry to dump this kind of money when the cost is so much?

Mayor Chiovero: Our consultant Ruckert & Mielke has been in good contact with the DNR and they have been pleased with our progress. They could turn around and fine us tomorrow, but other municipalities are doing nothing and they are working harder with them to try to get off the starting gate, whereas we are doing something. New Berlin fits into the guidelines of the old compact and also the new compact to get water and they understand that. The DNR is working with us to try to obtain the water. I want to comment about Alderman's Ament about the remarks in the newspaper and those remarks I find out too by reading them. Some of the media have been aggressive about talking to Todd Ames from the DNR for quotes.

Commissioner Morrissey: The standard set by the EPA is 5 picocuries. I don't think the DNR is the problem, but if the EPA decides they have enough of messing around with the City, the DNR may not have a choice and will be forced to do something.

Mayor Chiovero: We have tried to work with the EPA.

Alderman Harenda: We had a meeting here 1 1/2- to 2 years ago with the EPA, federal officials, state officials and local officials and the EPA said they agree with what the DNR says, but we have the ability to do what we need to do, when we need to do it. They could come in tomorrow and say they are going to enforce the standard. The concern we have is that we are trying to get Milwaukee water, but are not getting that warm fuzzy feeling from the agencies we are dealing with state or local. Alderman Ament's concern is that at the end of the year we will be sitting here not any further than we are today.

Mayor Chiovero: We are waiting for the DNR to make a decision. The DNR worked with the Utility in shutting down the radium pumps until mid-April and we were compliant, but now we are forced to use

those pumps. I need to make the trip to Madison and sit in front of Todd Ames and the Governor and I think I will have to make noise, especially if they pass out water to other places.

Alderman Harenda: We need to make noise instead of tip toeing around.

Mayor Chiovero: There is an editorial in the Milwaukee Journal that is putting pressure on Milwaukee to give New Berlin water. They have been behind us. We have been working with environmental groups who said that if we come up with good conservation ordinances or rules, they would be more comfortable. We are working on the rates structures similar to what Waukesha has, and sprinkling ordinances to put some teeth into it.

Alderman Ament: Are these wells still off?

Mayor Chiovero: No they are on and we are not in compliance anymore.

Alderman Ament: Are we OK with the amount of water we have for fire fighting?

Alderman Harenda: That is next on the agenda.

Alderman Ament: We are 2 months away from making a decision that is not reversible even if Milwaukee said we can have water, because we aren't able to do both. We are working on conservation ordinances and issues on the mains for Milwaukee water, and this is going on for so long, I don't see it all coming together in a short time. Unless we rely on the DNR looking down on us in a favorable light, I am fearful that 1 letter from the EPA will force them to fine us and we still have to do what we have to do. I hope that the meeting with Mayor Barrett goes well.

Alderman Harenda: Acquiring water for the other side of the Utility is good for the environment and good for Milwaukee, there are no downsides for this and it is frustrating. I hope the meeting will be a good one.

### **Water Sprinkling Ban**

Alderman Harenda: We are drawing down on our reserve supply on the eastern side of the Utility supplied by Milwaukee and I have some concerns about that.

Mayor Chiovero: Had a meeting this morning with Milwaukee Water works. Our Grange station has shown some lack of water supply and we have been working with Carrie Lewis and their engineers. We did not have the issue in 2005 or 2006, and nothing in our system has changed. Milwaukee water is installing pressure meters on 124<sup>th</sup> Street and will hook up to our SCADA system to determine why we had this issue. Our pump is set up if we don't receive a certain amount of water pressure, it shuts down at minimal. The Grange system because of its elevation fills up our only reserve tank on the east side of the Utility at Sunny Slope and Beloit. Last Sunday because of the heavy drawdown, the Utility was concerned about the level there for emergencies such as fire protection, so Rick met with me. He and his staff, with their professional experience thought that we had to do something because of the dry weather and 4<sup>th</sup> of July, grills and bonfires so we put on the water restriction with the hope that it would rain. If it was not for the 4<sup>th</sup> of July being on Wednesday, we probably would not have to do this. In the meantime, Milwaukee has been working hard on their side and fixed some minor things. They have a tank that they use for reserve water also, but when it gets below a certain point, their system becomes more of booster pumping station with direct flow. Their tank is draining faster than they can fill it during certain times of the day, especially 4 to 9 p.m. with other communities like Hales Corners and South Milwaukee residents with no restrictions on sprinkling. Carrie Lewis said that they can supply the water to us but there is a lot of pressure on their system and if they increase the pressure they may start blowing some water mains and this could put the whole distribution system in danger. We are working with Milwaukee to make sure that we have enough water for fire suppression. Did we call the water ban a little premature? Perhaps, but at the same time I don't want to jeopardize the safety of the homes so that lawns can be green.

Alderman Harenda: I am not criticizing the water ban. The concern I have is other deficiencies in the infrastructure, and will we run into other problems if we acquire water for the rest of the system? I wasn't aware of this and I am receiving emails from citizens saying we are making stupid decisions and growth is

out of control because of demand on the water system. The problem is not our municipal well system; the problem is on the Milwaukee Water works side correct?

Mr. Johnson: Yes. Their demand is high and by the time it gets to us we have a bare minimum of pressure.

Alderman Harenda: In an emergency situation we can flip a switch and fill the system with municipal well water, but we can't blend by law.

Mr. Johnson: There are certain areas that we can isolate that have Milwaukee water and supply groundwater to them, but that would change the quality of water.

Commissioner Dude: We are a CUSTOMER. The City of Milwaukee has the capacity to pump 1 billion gallons a day, and they pump 500 million gallons. I question the email from Carrie Lewis. Why doesn't Milwaukee Water works use some of \$700,000 a year that we pay them, buy a few more pumps to pump more water and they would have fewer taxes. We have to get on them and say we are a Customer and supply us. We have a contract.

Mayor Chiovatero: They said that we are not short of water and that is why I am scratching my head why there is an issue. We knew there were some restrictions on their side, which we see they will be addressing.

Commissioner Dude: Why did it take 2 years?

Mayor Chiovatero: Carrie Lewis offered to be here and knows that we are the ones being embarrassed. The City Attorney was asked to review the contract and see what their obligations are to us. He had a family emergency and could not attend the meeting.

Commissioner Dude: What do they have to do technically to pump more water to us?

Mr. Johnson: We have 16" lines coming into our pump stations that they are feeding with 12" lines that are getting fed by 8" lines. The volume is there but there is no pressure to push it.

Commissioner Dude: So you are telling me they are cheap?

Mr. Johnson: A piece of pipe only holds so much water. We have our pipes in place to supply our system and they need to get the water into our system.

Alderman Harenda: It is 2 years since we hooked up and we spent years prior to that planning and putting millions of dollars into these systems on our side. Why are running into this problem now?

Mr. Johnson: Ruckert & Mielke designed this system to supply the entire service area, so we went with the larger diameter pipe.

Commissioner Morrissey: In both the pumphouses plumbing was upsized already, but the pumps would have to be upsized to supply the rest of the service area.

Mr. Johnson: Correct.

Commissioner Dude: The problem is not ours. We are the customer and have done what we are supposed to do. It is the supplier that is not delivering. They have got the money that we put into it for 2 years.

Mayor Chiovatero: There is no problem on the Greenridge station which is supplying water to most of the Milwaukee water customers. The Grange station supplies south of Howard and the reservoir, so we use that station because of elevation to get to this tower and that is where our caution has been coming up.

Alderman Harenda: Who dropped the ball?

Mayor Chiovero: What has changed? We had no problem the past 2 years.

Alderman Ament: In her email Carrie said "as you are aware, there is a solution that involves improvements to some large feeder mains and/or pump size changes at our pumping stations that will enable us to easily meet this demand and more. We plan to start some of this work in 2008." One would think that they would have all of this engineering information of how much water that we are going to use and what it will take to get it here. If they can't supply what we need now because of the 8" and 10" mains, how soon would it take to get everything running to handle the other half of our Utility?

Alderman Harena: If we got the OK from the Governor, the DNR and Milwaukee's Common Council, could they get the water to us?

Mayor Chiovero: If our entire distribution system is on Milwaukee water, we would not have this problem because we would have reserve capacity. I am not trying to defend them, but we had no problems until last weekend and nobody can answer what happened.

Commissioner Morrissey: If we were lucky enough to get Milwaukee water for the entire Utility, the Greenridge pumpstation has the capacity and we would not have this problem?

Mr. Johnson: Yes. Because we would have more storage with 2 more elevated tanks plus about 1.5 million gallons of underground storage that we could supply.

Commissioner Morrissey: We talked to Mr. Schultz last winter about what we would have to do to supply Milwaukee water to the rest of the City and he said that they would have to update their feeder lines and pumps.

Mayor Chiovero: They waited too long to start that work.

Commissioner Morrissey: If we did get Milwaukee water to the rest of the Utility, we wouldn't have to worry next summer about how much water that we could get.

Mr. Johnson: Hopefully.

Commissioner Dude: We should not accept this letter that they are starting work in 2008. We are a customer, we signed a contract that they will deliver this water, unless there is something in the contract that says maximum amount, it seems to me they are in breach of contract. We should contact them and say this is not acceptable and not fulfilling the contract by asking us to wait a year.

Mayor Chiovero: Alderman Harena's concern is that he did not know there was a weakness to the infrastructure. When I came into this office it was the first time he had heard about it, but everyone I talked to knew there was this issue there.

Alderman Harena: These deficiencies should not affect the eastern side of the service area. I have a concern about this and we should not be here today. It should have been dealt with before we acquired the water.

Mayor Chiovero: Ruekert & Mielke engineers are working on what is going on at the Grange Station.

Mr. Johnson: We are looking at the pressure differentials between the pumps. Now we can only run one pump and if another pump comes on, there is not enough pressure there and it shuts off. We are trying to have 2 pumps do the work and break it up.

Alderman Harena: You are trying at the worse time of the year and it is so hot.

Mr. Johnson: It will be worse this weekend.

Mayor Chiovero: We didn't have any issue like this until last weekend.

Mr. Johnson: Last year we didn't have any issue at all and people were watering like there was no tomorrow.

Alderman Harenda: We are looking at tiered rate structures like Waukesha.

Alderman Ament: Carrie Lewis said in the newspaper that problems arise during times of peak use in the summer and when fighting large fires because underground feeder mains that carry water from treatment plants along the Lake to New Berlin are too small. When did they determine that and now 2 years later they say they will start the work in 2008, not when it will be done? If we add the western half of the Utility, and throw in our deadline of approximately 60 days, I am getting more negative as we go along. Hopefully you will get some answers on Tuesday. Can they fix this and when?

Mayor Chiovero: Carrie Lewis will be on vacation, but her second in command Laurie Daniels who is very competent will be in contact with her. She will be hearing from me every morning and every afternoon.

Alderman Ament: We are paying a consultant to see what we can do to get around the problem that they have created or they have neglected. I agree with Commissioner Dude that I don't want to bite the hand that feeds us, but they aren't feeding us anyway.

Commissioner Morrissey: Even if we don't get water for the western half of the Utility, we need to resolve this problem, especially if we have a fire and don't have water to fight it. This is a serious situation.

Mayor Chiovero: We may have called the sprinkling ban a little early. Knowing what I found out Monday and Tuesday there are things we can do our side and Milwaukee water assured us they can supply water on their side if there is a fire. If I have to turn on a valve to bring ground water in to prevent a house from burning down, I will do it.

Commissioner Morrissey: I realize that. We need Milwaukee Water to provide us with long term solutions and provide us the customer with quality service.

Mayor Chiovero: The timing may help us put pressure on them to make the infrastructure modifications.

Alderman Harenda: We do have contingencies where we can flip a switch if we need to and merge the systems in an emergency. They need to do something now. Since the Mayor is meeting with Mayor Barrett and talking to Carrie Lewis, please give us an update before our next meeting.

Mayor Chiovero: I was thinking about calling the sprinkling ban off today, but we are expecting heat over the weekend so I am looking for direction from the Committee. Even if we lower the total ban today and return to the odd/even sprinkling ban, it should release some of the pressure. We are supposed to get rain on Monday or Tuesday.

Commissioner Dude: I go back to her letter that we could supply water for even/odd day watering.

Mayor Chiovero: Now that the 4<sup>th</sup> of July is over I feel more comfortable.

Commissioner Dude: Is there any other way besides even or odd to restrict use?

Mayor Chiovero: If we restrict the water between 4 p.m. and 9 p.m. that would help.

Commissioner Dude: Is there a way to encourage people and say we'll turn the water back on, but restrict the evening hours use, or water once a week, instead of odd and even?

Alderman Harenda: According to the ordinance Rick has the ability to implement the water use for the protection of public health. We could do a mandatory odd/even day use instead of the voluntary use and the police department and utility crews can enforce this.

Mayor Chiovero: After the total water restriction ban on Monday, the Utility crews went out between 6 and 9 p.m. and found very few violators, although a few residents said they are watering anyway.

Alderman Harena: Make the restriction odd/even mandatory, this is my suggestion, but I am asking Rick who is the professional to monitor the system.

Commissioner Morrissey: I am comfortable with odd/even at Rick's discretion.

Mr. Johnson: With the upcoming hot weather, if we stop the ban today, the issue is there is nobody here on the weekend to monitor and man the system 24/7. There is someone on call, but by the time they arrive, you may be in a serious trouble and need the extra water. If we start this on Monday, we can monitor this and maybe Milwaukee is working on changing their operation.

Commissioner Dude: I suggest we take the quote from Carrie Lewis, when we say mandatory odd/even that we strongly recommend watering between 7:00 p.m. and 9:00 a.m. so that we are doing exactly what they tell us to do and setting the groundwork.

Alderman Harena: The press has been very helpful is getting the word out.

Mayor Chiovero: I will get a press release out today to that affect. We need to be concerned about our water consumption and water conservation anyway, part of the issue we are having with obtaining Lake Michigan water is the environmentalists. I have reduced the water consumption by over 50% in my own home with water efficient showerheads, washing machines, and reduced water use.

#### **UT 08-06                      Radium Compliance Wells 3, 5, and 7 –Update**

Mr. Johnson: There is nothing new until we award the contracts for the buildings at pumpstations 3 and 7. There is a lag time on the equipment, and we will probably have to revisit the type of equipment we need since there are new technologies come out since the time we made the decision.

Alderman Harena: The contract deadline is August 31<sup>st</sup>?

Mr. Johnson: That is for the buildings. The equipment is up to the City to purchase not the contractor.

Mayor Chiovero: Some of the new technology that is coming out may not require us to have tanks.

Alderman Harena: We do have a Closed Session scheduled. We will not be discussing the sprinkling ban in closed session since we have already done that.

#### **Closed Session**

The basis for the items to be discussed in Closed Session is as enumerated in Section 19.85(1) (e) and (g) of the Wisconsin State Statute.

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:

- Purchase of water from Milwaukee
- Review of Public Relations Consultants Proposals & Discussion of Negotiation Strategy

(g) Conferring with legal counsel for the governmental body who is rendering oral or written advice concerning strategy to be adopted by the body with respect to litigation in which it is or is likely to become involved. More specifically:

- State of Wisconsin notice of claim for alleged radium standard noncompliance in City wells.

Motion to go into Closed Session at 11:07 a.m. by Commissioner Morrissey. Seconded by Commissioner Dude. Roll call vote: Alderman Ament yes, Alderman Seidl yes, Commissioner Dude yes, Commissioner Morrissey yes, Alderman Harenda yes.

Motion to return to Open Session at 11:55 a.m. by Alderman Ament. Seconded by Alderman Seidl. Upon voting the motion passed unanimously.

No further action or discussion.

Motion to adjourn by Commissioner Dude at 11:55 a.m. Seconded by Commissioner Morrissey. Upon voting the motion passed unanimously.

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

*Respectfully submitted,  
Suzette Hanley - Office Coordinator, Utilities & Streets*