

**MINUTES
City of New Berlin
Utility Committee Meeting
Tuesday September 26, 2006**

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

Others Present: Rick Johnson (Utility Manager), Jim Hart (Utility Supervisor) City Attorney Mark Blum, JP Walker (City Engineer), Ralph Chipman (Accounting Manager), Jim Beier (Crispell-Snyder) and Sue Hanley (Office Coordinator Utilities & Streets)

Alderman Gallagher called the meeting to order at 5:01 p.m. declaring a quorum with all members present.

ITEM UT I-06 Approval of minutes from August 22nd meeting

Motion by Alderman Ament to approve minutes from the August 22nd meeting. Seconded by Commissioner Morrissey and upon voting the motion passed 3 votes to 0 with Alderman Gallagher and Commissioner Dude voting present.

ITEM UT 11-06 Update on School District sharing of costs of construction for Regal Manor Liftstation

Mayor Chiovaturo said that he talked to Dr. Bedfield about a month ago and he said that the school district will pay for their portion of the liftstation and had agreed to it.

Commissioner Morrissey asked to keep this item on the agenda for next month.
Alderman Harenda asked if the school was online yet.

Rick Johnson answered that they are not online and that the sewers have to be televised yet before we can connect the school.

ITEM UT 08-06 Update on Design of Proposed Treatment for Radium Compliance

No action taken.

ITEM UT 17-06 Approval of Water Utility 2007 Operating and CIP Budget

Commissioner Dude said that he met with Rick Johnson, Jim Hart and Ralph Chipman again this year and went over in detail the Water Utility budget. He noted that certain costs such as depreciation, fuel, Milwaukee water and the tax equivalency rates that are uncontrollable; however he worked with Staff to decrease the controllable costs. Commissioner Dude said that if the uncontrollable items are removed from the budget, the Utility is asking for an increase of 1.43%.

Alderman Harenda noted that there is \$142,700 budgeted for the radium project and \$267,000 in Radium project revenue and asked Mr. Chipman to explain that. Mr. Chipman responded that because the Utility will be doing the radium project, we will have to ask for a rate increase and that is the amount projected that is needed for the project costs. Alderman Harenda said this is the estimated cost from the project consultant that will cover the cost of chemicals and supplies.

Alderman Harenda said that some accounts were increased dramatically such as meter reading. Mr. Johnson replied that the Utility staff took that back in-house. Alderman Gallagher asked when. Mr. Johnson said that there were too many misreads the last few quarters by the contractor, and staff had to repeatedly go back out and re-read meters. Alderman Gallagher said that the Committee had talked about radio meter reads several years ago and would like this brought back to the table. Mr. Johnson said that he was looking into this since the technology is improved and it is more cost effective now. Alderman Gallagher said that meter reading is costing \$35,000 per year more. Mr. Johnson said that it is

actually cheaper than the meter company doing the reads and the Utility staff spending hours re-reading the incorrect reads. Mr. Johnson said that there are approximately 8,400 residential reads added, in addition to the 1300 commercial/industrial reads that Staff has been doing for years.

Alderman Harenda said that meter reading takes away from other work that the Utility staff should be doing. Alderman Gallagher said that this should have been brought to the Committee's attention and asked how long the meter reading takes.

Mr. Hart said that the commercial meter reads are done in approximately 2-3 days, and that we now use hand held meter reading instead of the more labor intensive books. The residential meter reading is assigned to 5 or 6 employees and takes approximately 4-5 days. Mr. Hart added that doing the re-reads for this company took 4 days with 2-3 employees.

Mr. Johnson said different radio reads, as the price was \$1.1 to \$1.2 million a few years ago, but now the prices have decreased dramatically.

Commissioner Morrissey said that he was glad that staff did this for the short term, but would like this on the October agenda and would like to see valuable trained employees doing something better.

Alderman Harenda asked why the Hazardous Material report was up from \$1300 to \$4,000. Mr. Johnson said that there are more chemicals and additional paperwork to fill out for the radium project.

Alderman Harenda asked if the interest on the long term debt will increase because of the Milwaukee water and radium borrowing, since we want to keep the debt issue fairly flat. Mr. Chipman said it will depend on how close the actual borrowing is to what we have to borrow. He added that for the radium project, we will be borrowing from the Sewer Utility which is more advantageous and will probably spread out 20 years.

Rick Johnson said that the the first CIP budget item consisted of water meters \$142,000.

Alderman Gallagher asked about the meter replacement account. Mr. Johnson answered that meters are changed out and tested every 10 years per the DNR and PSC, and electronic ones are changed every 15 years.

Mr. Johnson said the other CIP item is for \$15,000 to replace hydrants on Calhoun Road since they can no longer get parts for the old hydrants as the technology has changed. Mr. Johnson said the replacement will be done during road construction or resurfacing on Calhoun Road. He added that the life span of a hydrant is 25-30 years.

Commissioner Dude said that the radium project was already budgeted for. Mr. Johnson said that he thought it was approximately \$3.4 million.

Motion by Commissioner Dude to recommend to Council to approve the 2007 Water Utility Operating Budget. Seconded by Commissioner Morrissey and upon voting the motion passed unanimously.

Motion by Commissioner Dude to recommend to Council to approve the 2007 Water CIP budget. Seconded by Commissioner Morrissey and upon voting the motion passed unanimously.

ITEM UT 13-06 Request for Reconsideration of 4511 Moorland Rd Utilities Special Assessment

Alderman Gallagher said that the Committee was looking for documentation of whether or not the property owner was made aware of the proposed sewer before he installed his mound system.

Motion by Alderman Harenda to remove this item from the table. Seconded by Commissioner Morrissey and upon voting the motion passed unanimously.

JP Walker had sent the Alderman a written response in the August Utility Committee packet to their questions at the July meeting and they were discussed.

When was sanitary sewer proposed for that portion of Moorland Road in front of 4511 Moorland Rd?
- Utility Committee recommended approval of the original design contract to have Earthtech design the water main on January 8, 2003. The Utility Committee recommended approval of an amended contract to include sanitary sewer on February 5, 2003, therefore sewer was added in 2003. Mr. Barker replied that he had signed a contract with at least 2 years prior to obtaining state approval.

Documentation as to when Mr. Barker was told that sewer would not be installed on Moorland?
-Discussions with Ray Grzys, former Director of Utilities & Streets (retired) and Larry Wilms former Division Engineer for Utilities (retired) concluded with neither gentlemen having any recall of any conversation with Mr. Barker where the statement was made that sewer would not be installed on Moorland Rd in the near future.

When was the Notice for the 2nd Public Hearing mailed to Mr. Barker?
- City Clerk copy of Notice mailed to Mr. Barker on August 20, 2003 by registered mail.

Expended life of a mound system?
- According to Alice Shlusher at Waukesha County, the expected life for a mound system is 30 years.

The Committee members had a lengthy discussion about whether or not Mr. Barker signed a contract prior to the August public hearing and the installation of the mound system in December 2003.

Alderman Gallagher said Mr. Barker installed his mound system in December of 2003, about 4 months after he was mailed the notice in August of 2003 and Mr. Barker attended the meetings so he was aware of this.

Commissioner Morrisey said that if Mr. Barker could bring forth documentation that he had signed the contract prior to the August meeting, there may be cancellation charges that we could reimburse.

Alderman Gallagher asked Mr. Barker when he signed the contract to put the mound system in. Mr. Barker responded at least 2 years before that because it took him 2 years to get approval from the state for the mound system. Mr. Barker said that his contractor Herr Environmental requested the approval from the state. Alderman Gallagher said that at some point that he could cancel out of the contract.

Alderman Gallagher said that if we do grant this request, we will get requests from anyone who has installed a mound system within 1-2 years or even 3-5 of sewer being installed, requesting reimbursement saying they didn't get the maximum life out of their mound system.

Alderman Ament said that he worked with the City Attorney to come up with the requested action of \$12,545.03, which said, "The City Attorney expressed his opinion on which portions of the Special Assessment should be considered eligible for a deferment or credit in his May 25, 2006 letter. Staff recommends that Mr. Barker be granted a deferment until such time as his mound system fails and he has to hook up to the sanitary sewer." Alderman Ament asked the City Attorney if he could explain this.

City Attorney Blum said that when he became involved with this, he assumed that if the Committee was going to rebate this, and tried to determine what charges would be appropriate based upon the structure of the deferments and the assessment resolution. He said the letter he prepared was that assuming we were going to give some relief, this is what we could give relief on based on how the assessment resolution was structured. He added that he had not looked at the timeline, or the merits of whether or not the Committee should do this.

Alderman Gallagher said that the Committee was surprised when Mr. Barker said that he was hooking up to the sanitary sewer in July, and we were confused at that point. Alderman Gallagher said that if we approve this, we will have to look at every other mound system that becomes obsolete by the installation of sewer by the City, and will we have to refund all the money on those too.

Mr. Barker said that he thought it was last year that he asked for a deferment, but was told he couldn't have one and that he had to hook up to it. Alderman Gallagher said the point was that he put the mound system in after he was notified that he was going to get sewer.

Mr. Barker said that he had not received notification that he was going to get sewer. Alderman Gallagher said he had attended the Public Hearings where it was discussed in detail. Mr. Barker said that he did not think so. Alderman Gallagher said that I know so.

Alderman Ament said that the only meeting that I recall Mr. Barker attending was about water, and he had said that he needed a new septic and questioned staff about sewer. Alderman Ament said that Mr. Barker was told that this is not a sewer issue and that if when he made the decision to go ahead with the septic. He said that looking back to JP's letter, Mr. Barker is not asking for reimbursement of his septic system.

JP Walker said that he did not have the July 17th paperwork in front of him, but he recalled that part of his analysis looked at a prorated rebate and his discussions with former Utility Engineer Larry Wilms who recommended a 5-year depreciation. Mr. Barker had use of his septic system for almost 3 years now, and it still falls within the depreciation rate that Mr. Wilms suggested, but there was no intention for a total credit or refund for an entire mound system.

Alderman Ament asked Mr. Walker if that was when he asked for help from the City Attorney. Mr. Walker answered yes. Alderman Ament made the motion to grant the deferment or credit per the requested action statement for the sanitary sewer \$12,545.03.

Commissioner questioned if this was a deferment or credit. Alderman Ament said that it starts out as a deferment, but I think he has already paid it and it would end up being a credit back. Alderman Gallagher said that we need to reexamine the numbers since that was based on a difference premise than what we found out at the last meeting.

Alderman Harenda questioned if we bring sewers into an area after someone puts in a mound system within 5 years, will we have to give a credit. Alderman Gallagher said that it is not just the ones in the future, but possibly the ones in the past that will have to be looked at.

Alderman Ament said that he did not believe this to be the case, since in this case he specifically asked the question. He was told that it would not involve the sewer, and he recalls that Mr. Barker's reasoning at the time was that if he was going to get the sewer in a few years, he would not do the septic.

Alderman Gallagher said that he believes Mr. Barker did raise the issue and said that he didn't want water, but wanted sewer, and I believe that we said that sewer was going to be looked at.

Alderman Ament said that it was, but it meant down the road, we had other people that made the same request and I did not think they were valid because at the time they didn't specifically ask that question. He said that Mr. Barker was led to believe we were not installing sewer.

Alderman Gallagher said that it is a fact that he was sent a notice August 20, 2003 and he installed the mound system after that. Alderman Ament said there were some costs involved and he was basing it on the requested action. Alderman Gallagher said there were costs, but not the \$12,000.

City Attorney Blum said there was a Special Assessment that was sent to Mr. Barker in November 2005 of \$9,445.03 for sanitary sewer main and \$2,989.00 for the sanitary sewer lateral for a total of \$12,545.03 – that was the actual assessment. He added that the water charges were not applicable.

Commissioner Morrissey said this predicated on him not hooking up. Attorney Blum said that it correct. Alderman Gallagher said what Mr. Barker is asking for is a return on his investment for the mound system. Attorney Blum said exactly, that is his recollection of the last meeting.

Commissioner Dude said that question is whether or not there was a miscommunication from this Utility to Mr. Barker of the fact that we would be installing sewer. He suggested that we isolate any credit given

based on a miscommunication, that's it and make sure that any kind of policy that comes out of that is very specific and that going forward if the person can show something in writing where we told them we are not going to do this. He said that we don't have that right now and he wants a policy to isolate this as a miscommunication, and then if we have enough doubt there was, then we should base it on the amount of use he had, and some sort of depreciation.

City Attorney Blum stated that the August 20, 2003 public hearing was the 2nd notice and under this ordinance you are required to have 2 public hearings before the assessment, so based on our procedures there was one public hearing prior to that time and notices would have been sent out.

Alderman Gallagher said that this decision needs to be based on something in writing. We still don't have exactly what we are looking for. We have from staff that on August 20, 2003 the residents were sent a notice. Sue Hanley said they were sent registered mail based on the notation provided on a copy of the letter provided by the City Clerk's office. Alderman Gallagher asked if we can check if there was a return receipt on that. The 2nd thing we need to check to see if there were any sign-in logs to see if he attended the meetings that they talked about the sewer.

Alderman Harenda said that he agreed with Commissioner Dude that we should not make policy on the fly and we should document what we are doing. He said that perhaps we should look at some type of policy if someone puts in a mound system and that, for example 2 years later the City decides they are going to put sewer in the area, is the resident going to receive credit for that, perhaps depreciation or deferment.

Commissioner Dude said he was not adverse to a special meeting on this issue. Alderman Gallagher said that it is a significant issue, but he would like to wrap this up at the next meeting.

Alderman Ament said that his motion on the table was to approve the total deferment or credit of \$12,454.03.

Commissioner Morrissey questioned whether this was a deferment. Alderman Gallagher said the motion was to give him a check for \$12,454.03. Commissioner Morrissey asked if he paid the \$12,454.03.

Mr. Barker said that he has paid all of the fees.

Alderman Ament said that if it was a deferment it would automatically mean he would get a check back, which is how he reads it in the requested action.

The motion was seconded by Alderman Harenda.

Alderman Ament asked JP Walker to provide a clear breakdown of the dates and information for the next meeting. Alderman Gallagher said that he thinks the calculation of \$12,454.03 is null and void at this point since the situation has changed greatly and does not apply to this.

Alderman Gallagher said that we should table the issue but not the motion. Commissioner Morrissey asked for any additional information from Staff. Alderman Harenda made a motion to table this motion. Alderman Gallagher advised the Committee to retract the motion to defer or credit.

Motion to table the issue by Alderman Harenda. Seconded by Alderman Ament.

Alderman Harenda asked the City Attorney about the special assessment policy and if we can use this for reference. City Attorney Blum said that he is not aware of a policy with a situation such as this. You don't have a deferral of a sewer connection, you do have one of a water connection. He is not aware of a credit given off your special assessment if in fact you have put in a system in X years of the availability or sewer or water on your policy. Alderman Harenda asked if this should be make part of the special assessment policy or a special policy all together. City Attorney Blum said it is logical to make it a part of your special assessment policy but it is a big issue.

Commissioner Dude said he has a concern and that there should be no credit given for the lateral since it doesn't have anything to do with the mound system and suggested a policy with a percentage of what can be credited based on depreciation, based on any dollar amount, and lay out percentage of what.

Alderman Harenda withdrew his motion to table and Alderman Ament withdrew his second.

Alderman Ament withdrew his original motion to defer or credit and Alderman Harenda withdrew his second.

Motion to table this item by Alderman Ament, pending information from staff. Seconded by Alderman Harenda and upon voting the motion passed unanimously.

Mr. Barker added that before the mound system he had a holding tank which was installed in 1987.

**ITEM UT 16-06 Approval of the Construction Contract for the Sanitary Sewer Relay Project
On Honey Lane and Elm Grove Road**

Mr. Johnson read the requested action to award the construction contract to Underground Pipeline for \$446,158.70 and answered several short questions from the Committee.

Motion by Commissioner Morrissey to recommend to Common Council to award the construction contract for the Sanitary Sewer Relay rehabilitation project on Honey Lane and Elm Grove Road, which includes lining, relay, manhole replacement, test and seal grouting to the lowest responsive and responsible bidder Underground Pipeline, Inc. of New Berlin, Wisconsin for a total project cost not to exceed in the amount of \$446,158.70. This contract award is contingent upon approval of the work from the Milwaukee Metropolitan Sewerage District and the Wisconsin Department of Natural Resources. When permit is obtained, we recommend that the contract be awarded to Underground Pipeline, Inc. Source of Funds: Wastewater Impact Fees. Seconded by Alderman Ament and upon voting the motion carried unanimously.

UT 19-06 Approval of Construction Contract for Shouldering on Forest Knoll Drive

Rick Johnson read the requested action to approve the construction contract to Payne and Dolan for \$67,769.50.

Commissioner Morrissey asked for a brief history of why this project had to be done. Mr. Johnson responded that when the water relay project was completed, the road was not replaced in the same way, and it was narrower than the original road, which causes a safety hazard.

Mayor Chiovaturo said that residents started calling him in November 2005. He said that the original plan called for the road to be restored to its original width of 26 feet, but the Engineering department said to replace it to a new width of 24 feet. Two inches of topsoil and grass were planted on top of where the old pavement was, making it almost impossible to grow and a lot of the residents put in marker posts, flags, reflectors and rebar to keep people from parking on it. He added that during a Christmas party in December, people parked on the road because of these posts, and snow plows and emergency vehicles could not get through.

Mayor Chiovaturo said that a Public Information meeting was held in May and there were 2 surveys taken discussing recycled materials and traffic bond. Everyone in the subdivision was happy with the road as it was except for Forest Knoll Drive, so \$200,000 was left in the project to make the repairs.

Alderman Ament asked why the plans were changed. Mayor Chiovaturo said that the Engineering staff made the changes on the fly, and that Staff even moved mailboxes back in the area. Commissioner Dude asked why the Utility is paying for this. Mayor Chiovaturo answered that the Utility project tore up the original pavement and it should have been replaced at 26 foot width not 24 feet.

Alderman Harenda said that there were several roads in his district – Egofskes and Martha where the road construction was not put back to the original way. Mayor Chiovaturo said this is different, as the

contractor was set to restore the road back to its original state, but the Engineering Staff made the call to narrow the streets based on our standards. He said the problem with the streets in Alderman Harenda's district was that the road was raised up 4" more than original road.

Alderman Ament said that something has to be done and that a lot of this is policy, but Staff should double check prior to making decisions and check the background information.

Motion by Commissioner Dude to recommend to Common Council to approve the award of Construction contract for Forest Knoll Drive Shouldering project to the lowest responsive and responsible bidder Payne and Dolan, Inc. of Waukesha, Wisconsin in the amount of \$67,769.50. Source of Funds: Forest View Water Main Replacement Fund. Seconded by Alderman Harenda and upon voting the motion passed unanimously.

UT 08-06 Update on Design of Proposed Treatment for Radium Compliance

City Attorney Mark Blum handed out some information for the Alderman regarding Lake Michigan Water.

ITEM UT 18-06 Approval of Wastewater Utility 2007 Operating and CIP Budget

This item was not discussed due to lack of time available.

Communication Ralph Chipman: Utility Revenues and Expenditures Year-to-date

This item was not discussed, as it was an informational item only.

Motion to adjourn by Alderman Ament at 6:42 p.m. Seconded by Commissioner Morrissey and upon voting the motion passed unanimously.

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