

**Revised MINUTES
City of New Berlin
Utility Committee Meeting
Tuesday January 27, 2004**

Members Present: Aldermen Gallagher, Harenda and Ament, Bob Dude (Citizen Member) and Ray Grzys (Director of Utilities and Streets)

Others Present: Larry Wilms (Division Engineer), Steve Schultz (Ruekert & Mielke), Attorney Mark Blum, Mayor Wysocki (arrived at 5:15 pm)

Alderman Gallagher called the meeting to order at 5:03 pm and declared a quorum with all members present.

ITEM B-04 Approval of minutes from January 7, 2004 meeting

Motion by Alderman Ament to approve the minutes from the January 7, 2004 Utility Committee meeting. Second by Commissioner Dude. Upon voting, the motion passed unanimously.

ITEM 30-02 Milwaukee Water Design (7th Update)

Steve Schultz from Ruekert and Mielke reported that this was the 7th Milwaukee Water Design update. He noted that they may need a small change order in February to do some piping changes in the design of connection for Well 8 (Valley View). They will look at the piping when it is cleaned in February. Mr. Schultz stated that they will be submitting a preliminary final design for the water mains later this week and that the Utility Staff has been very responsive and has worked with him on the project.

Director Grzys stated that he had talked to Greg Bolin regarding a Chapter 30 permit for the Grange Booster Station and that the DNR is working on the permit. The City should have a response by early next week.

ITEM 33-02A Discussion & Action on Notice of Claim for Radionuclide Compliance

Steve Schultz discussed the Radionuclide Remediation Schedule and Opinions of Cost. He stated that the DNR had requested this option and there was a February 3rd deadline for a formal request for water service through a Lake Michigan source for the entire MMSD service area. The DNR said in conversations with him that they prefer this request not come in at this time because the Council of Great Lakes Governors' Annex 2001 will be issued for comments on June 18, 2004. Anything issued prior to this time will be vetoed. Mr. Schultz said that we should not need to go before this Council because the law reads that less than 5 million gallons of water doesn't need consent, and there is no wasted water. He asked the DNR who would be sued and they responded the City of Milwaukee, City of New Berlin and Ruekert and Mielke.

Mayor Wysocki arrived at 5:15 pm

Mr. Schultz said that the consent order that the DNR issued said we are required to do this by February 3rd, but that they would grant us another date. He suggested that the City Attorney review NR142 to see if under current code you could hook up to Milwaukee water for the entire MMSD service area. Mr. Schultz asked the Utility Committee what they would like to pursue?

Alderman Gallagher stated that he is tired of waiting around and asked why doesn't the DNR want to do this? Alderman Gallagher said that the way he read the law, it is our right, and he asked the opinion of the City Attorney. Mr. Schulz agreed and said that the longer this is postponed, the more money will be spent on treatment. Physically, we can't wait 1-2 years and meet compliance.

Attorney Blum stated that he has not looked at this issue, perhaps the previous attorney had. He said that even if we are willing to do this, is the City of Milwaukee willing to? Mr. Schultz stated that Milwaukee won't approve water service to the entire service area until we have permission from the DNR.

Commissioner Dude discussed a law in the Assembly that would change the source from individual wells to what comes out of the tap (EPA standards) as opposed to WDNR's testing at wells. He asked what if the law goes through? Mr. Schultz stated that if the law goes through, shallow sources could share the blunt of supply and allow to sample in the distribution system at the first house next to the well. If 3 of 4 quarters are sampled with wells of low or no radium, and the 4th quarter was sampled with a well with high radium, all 4 quarters would be averaged and the result is what would be used for meeting compliance. Steve Schultz added that if the City puts wells on standby for use in high usage time or during fire, they could save 750,000 to 1,000,000 dollars for every well you don't have to use, but have on stand by instead of having to treat for radium compliance.

Alderman Gallagher said that this option still does not give us good quality water. Alderman Harenda added that he would like the City Attorney to look at NR142 and put in for an extension. Commissioner Dude asked what the drop-dead date was and where is the slack time? We don't want to spend \$4 million but we don't want to wait to get sued either. Steve Schultz answered he recommended that we don't go past July or August before we start pilot testing.

Commissioner Dude asked who is riding point on this legislation? Mayor Wysocki stated that he talked to Senator Mary Lazich There are 12 days left in this session and there are a lot of communities sending letters of support to the governor. Based on discussion, we should know within 3 weeks.

Alderman Ament stated that even if the City does not meet the criteria set by the DNR, decisions are going to be difficult as options open up or are eliminated. He added the benefit to the legislation is that it can potentially buy us time, and some negotiating with the City of Milwaukee for water. Alderman Ament said that New Berlin still has a good product for customers that meet EPA standards, although most would prefer Milwaukee water.

Director Grzys said that the budget doesn't adjust for any major rehab of any wells. We are using time this year to negotiate and still anticipate a positive response.

Alderman Gallagher said that if legislation goes through, it should buy us some time. His opinion is that New Berlin water quality is not even close to Milwaukee Water quality and he sees the law on our side and did not want to dilly-dally and wait. He asked on what basis could someone sue New Berlin for exercising our legal rights? Alderman Harenda agreed that the City is always sitting on the sidelines. He asked if we submit a request for diversion, when is the City of Milwaukee brought into the discussion?

Steve Schultz replied that it is not determined who will provide the water. He asked the City Attorney if we need permission to pump to the west and does the water provider or water consumer make the request?

Director Grzys stated that he had conversations with Carrie Lewis of the City of Milwaukee and she would like to assist us in obtaining water for the rest of the MMSD service area, when a full-time mayor is in place. Commissioner Dude said that he recalled the contract with the City of Milwaukee was pretty specific with language to say where we can use the water and added that we may want to discuss this with the City of Milwaukee. He added that New Berlin's water problem probably would not be the first item of business on the new mayor's plate. Director Grzys asked that the City Attorney review NR142 and the whole contract with the City of Milwaukee. Attorney Blum asked why not pursue the letter of consent? Steve Schultz said that they will pursue this.

Mr. Schultz provided with the rest of his presentation including the logging of Wells 1 and 3 and what is scheduled for this year. He stated that if logging shows that it is not working, we would go to option 2 and pilot testing. He stated that Hydress Manganese Oxide treatment is recommended. Steve Schultz also discussed Well 4 (Greenridge) which would be discontinued for use. Shut off may be as simple as turning off a switch or Utility may have to fill the well with pea gravel or concrete.

Wells 5 and 7 will need to be pilot tested, DNR reviewed and treated. The higher levels of iron, manganese and radium need to be lowered. At Well 8 Utility must collect and submit samples.

Larry Wilms asked if this is Well 8 only or a combination with Well 9? Steve Schultz said that Well 8 is blended with Well 9 and the gross alpha and radium is reduced. Well 8 is not in compliance alone.

Commissioner Dude asked if the rate increase request from the PSC for the City of Milwaukee water covers these costs? He asked if the schedule and chart that Mr. Schultz presented stands, how much and when do we go back to customers for another rate increase? Director Grzys stated that only \$100,000 of the radionuclide remediation is covered with this rate increase.

Steve Schultz said that Entry Point 200 where Well 8 is blended with Well 9 is in compliance and that Utility should start now with samples.

ITEM 26-03 Building Addition for Utility Shop – Impact & RCA Fees

Alderman Gallagher stated that the use of RCA fees is not a legitimate use for the building addition for the Utility shop and that based on the legal opinion of Attorney Blum, he motioned to remove this item from the agenda. Second by Commissioner Dude and upon voting, the motion passed unanimously.

ITEM 01-03A Proposed Ordinance Citywide Private I & I Draft

Alderman Gallagher stated that he was comfortable with the ordinance as written. Attorney Blum said he felt the Committee's concern with the issue of clear water mitigation was if sale of the property would trigger an inspection. That section was deleted. Attorney Blum explained that Section 1 was standard information regarding the prohibition of clear water infiltration. Section 2 allowed general inspections at the option of the City, but were not automatically triggered by anything.

Alderman Harenda asked if the City would have to have the owner's consent or would a warrant be necessary in absence of consent? Commissioner Dude asked if the City has a right to inspect property now? Attorney Blum stated that this section gives the City the right to inspect determine compliance with this ordinance. Attorney Blum said that Section 3 explains what the City may do to assist the owner with the cost of any necessary rehabilitation, disconnections, etc. in the form of grants, loans or other sources of funds. It does not require the City to provide help, but it is an option available. Commissioner Dude said that if we are concerned with pre-1955 backup, section 3 gives the City and Utility ability to do this? Attorney Blum said that this allows for reimbursement of the cost to the owner or allows the City to perform the work.

Commissioner Dude asked if there was anything on the books now? Attorney Blum answered no. This provides an option in the future, not a mandate. Some communities have sections 1 and 2, which prohibits I & I and allows for inspection, but doesn't provide a resource.

Alderman Ament asked if this ordinance were enacted, how would we do this? Director Grzys stated that last month's Utility Committee packet had examples of permits and applications that could be used. Some of the work would be handled in the Utility department, such as tracking permits. He stated that there are two types of inspections – cameras and a pressurization test. Some of the cost for this testing could be picked up by the City, others by a grant or low interest loans. Inspections would be done by outside contractors, the permit fee (\$100) being charged to the homeowner. Alderman Ament asked how long it would take to inspect the entire City? Director Grzys stated that they projected 1600 homes per year over 10 years. He added that maybe if enough people had sewer lateral problems, the City could hire contractors to do work in an area at a reduced rate.

Larry Wilms reminded the Committee that when the City of Milwaukee approves their budget for I & I, there will be a pilot program in it. Director Gryzs stated that the Committee had decided to put this issue to rest until we apply with the City of Milwaukee for their pilot program, based on our pilot program in Buena Park. Larry Wilms said that he understood the draft, section 1 states the things the City prohibits, section 2 states the City can inspect the properties, and section 3 discussed funding. He asked how would we determine what triggers section 2? Alderman Gallagher responded that if a plumbing inspector said a sump pump or downspout was hooked up to the sewer, we would have the authority to inspect the property. Mr. Wilms responded that if we adopt the ordinance, we still need a trigger mechanism consistent to all sewer customers. Alderman Gallagher responded that there are no triggers for building inspections, which is a similar situation. Attorney Blum said the only trigger he would see is if a large amount of flow was in these areas, and we would inspect homes to check for clear water infiltration. As part of the plumbing inspection, Attorney Blum said that you could do one of these inspections at the same time.

Alderman Gallagher asked if we could grant immunity or exempt a certain area and put this into an ordinance, for example, Buena Park? Attorney Blum responded that he was reluctant do this, what right do these people have and how long?

Commissioner Dude said that we were looking into this issue since 1999. Flooding drove the issue and we don't want this to happen again. We would like to see this ordinance passed when basements are dry and make sure people in Buena Park know funds are available. He said that we should get this ordinance passed. Alderman Ament agreed that he is comfortable with the ordinance, and that it is not all encompassing, but gives authority and latitude in each situation as these things come up.

Alderman Gallagher added that after the ordinance is passed, we will need to give notices and time to residents of Buena Park that have problems. Our goal is to keep water out of basements and only have an occurrence here and there. He asked that Director Grzys prepare this to be voted on at the next Utility meeting. Director Grzys said that one of the requirements from MMSD is to require in lots that want to connect to the system to get permission to hook up if we continue to do I & I studies. If extra capacity is found, good, if not, continued monitoring I & I. This would meet the requirement. The City of Milwaukee would like to see more communities go into private I & I to eliminate clear water in the system. Alderman Gallagher asked that this item be placed on the agenda next month for approval.

ITEM 01-04 Discussion on the change of date and time for Utility Committee meeting

Alderman Gallagher asked that the Utility Committee meeting be changed to the 4th Tuesday of the month prior to the Council meetings. A brief discussion about how this would help combine meetings on the same night and be more efficient with a set time. The Utility Committee unanimously decided to set up a trial run for the 4th Tuesday of each month at 5:00 pm. The next scheduled meeting would be Tuesday February 24th.

Motion to adjourn at 6:28 pm by Alderman Ament. Second by Alderman Harenda and upon voting, the motion passed unanimously.