

MINUTES
City of New Berlin
Utility Committee Meeting
Tuesday February 24, 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, J.P. Walker (City Engineer)

Alderman Gallagher called the meeting to order at 5:02 pm and declared a quorum with all members present.

ITEM C-04 Approval of minutes from January 27, 2004 meeting

Motion by Commissioner Dude to approve the minutes from the January 27, 2004 Utility Committee meeting. Second by Alderman Ament and upon voting, the motion passed unanimously.

ITEM 30-02 Milwaukee Water Design (8th Update)

Steve Schultz from Ruekert and Mielke reported that the preliminary design documents have been completed for the Milwaukee Water project. He added that they are making progress on the Greenridge pumpstation design with the exterior treatment the biggest issue. They are trying to match the brick, but may have to go with siding or precast panels as an alternative. Mr. Schultz said that the basic design on the Grange Avenue pumpstation has been completed, but there are issues regarding Chapter 30 and environmental issues – namely, the Butler Garter snake.

Mr. Schultz stated that the designs for the water mains were submitted to staff and that a meeting is planned for March 4th for questions and to adjust the designs if necessary. When everything is completed it will go to the PSC Construction Authority and the Planning Commission for approval and finally the DNR for approval. The DNR is allowed up to 90 days. After that the bidding and construction will begin. Commissioner Dude asked when the design would be going to the DNR for approval? Steve Schultz said that depends on the March 4th meeting, but it should be reading at the next Utility Committee meeting.

Alderman Harenda asked if there was anything that Mr. Schultz thought the DNR would take issue with? Mr. Schultz said that he asked the DNR what way they wanted the project, as one big package or smaller pieces, and he did not see any problem. He added that he would probably submit the Engineering report to the DNR tomorrow. Alderman Harenda also asked Mr. Schultz for a map of the water mains on Grange Avenue for residents in his district who have been asking questions.

Mr. Schultz said that the Grange Avenue pumpstation preliminary design is 75-80% completed, Greenridge pumpstation preliminary design is 90% completed, the water main design 75-80%, and the pressure zone adjustment and PRV locations will be discussed on March 4th.

Mr. Schultz proceeded to tell the Committee that the next steps include: PSC approvals, the rate increase, construction authorization, which includes a request to the Bureau of Endangered Resources regarding the Butler Garter Snake. He stated that he is working with the DNR regarding the Chapter 30 permit. Mr. Schultz informed the Committee that on February 6th the Job Creation Act changed the rules for Chapter 30 permits for rivers and construction. This Act states that if the slope is less than 12%, the

distances is 75 feet or greater, and if the disturbance is less than 10,000 square feet, you don't need a Chapter 30 permit. Mr. Schultz stated if we don't need a chapter 30 permit, this will speed things up.

Mr. Schultz added that when completed, they will submit the final design, and then wait for City, DNR, PSC, DCOMM and other approvals before putting the project out for bids.

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

Steve Schultz noted he had requested a change in language on behalf of the City to move the request under NR142 to move the reconstruction of the wells to 2005 since it was not in the 2004 budget. He has not heard back from the DNR, but someone he had talked to there was sure it would be approved. Director Grzys interjected that the DNR is only concerned with the final deadline date.

ITEM 01-03A Approve Attorney's revised Infiltration & Inflow Ordinance

Alderman Gallagher asked Attorney Blum what changes were made to the ordinance and Attorney Blum replied that the changes made were requested by staff for modifications of language and terms, not modifying the ordinance or changing the intent. Attorney Blum highlighted each change.

Motion by Commissioner Dude to approve ordinance # _____ City of New Berlin Infiltration and Inflow Mitigation. Second by Alderman Ament and upon voting the motion passed unanimously.

ITEM 11-03 Town of Brookfield Sanitary District #4 Agreement Issues

Attorney Mark Blum stated that the original agreement was for the City of New Berlin to transfer a small amount of capacity to the Town of Brookfield Sanitary District No. 4 to provide services to two homes on Copenhill Drive. He added that this agreement was adopted by the Utility Committee and the Council. He is awaiting acknowledgements from the property owners to agree to pay for this, but to date no agreements have been signed. Attorney Blum said the attorneys for the Town of Brookfield said the previous agreement was not acceptable and they wanted to use a form agreement they had previously used, even though the original agreement had been approved by both the City of New Berlin and the Town of Brookfield.

Attorney Blum stated that the new document puts the City in between the Town of Brookfield and the residents in question, and that if there are additional charges or assessment, the City would be responsible to pay them, and then would have to charge back these two residents. He added that the original contract made these property owners customers of the Town of Brookfield.

Alderman Ament asked if there was any indication the owners still want to pursue this issue? Attorney Blum responded that the property owners want to know what it will cost and that Mr. Wilms had sent back a letter to them with estimated figures. Attorney Blum added that if this agreement does not go through, the 1,600 gallons that have been reserved for these residents could be put as part of the other agreement for selling the excess capacity.

Director Grzys stated that the Committee had directed staff to negotiate the deal to sell the extra capacity with no out of pocket expenses to the City. If the residents refuse to be connected, their capacity would go back and the 1,600 gallons would be added to the agreement.

Alderman Gallagher said that Copenhill Drive is a street that is in Brookfield and receives no services such as snow plowing out of New Berlin, they just pay taxes. He stated that if we have to pay a little extra, that is no problem. Larry Wilms responded that the Town of Brookfield is passing off all customer responsibility to the City of New Berlin. Director Grzys added that in the new agreement, the City of New Berlin would be required to install and read the meters. Attorney Blum answered that we would have to put that charge on the property owners. Director Grzys asked Mr. Wilms if the estimates that he did were per foot amounts for water and sewer estimates? Larry Wilms answered no; they were indexed costs or recent construction costs. Mr. Wilms added that this is a reasonable solution for serving these 2 properties and is the most cost effective. Commissioner Dude responded that if the residents want to pay for this, then go with it, but take the City out of the middle of it. Alderman Gallagher said that if possible, the City

should stay out of the middle of it, but that if we have to we can go the extra mile.

ITEM C-04 Approval of minutes from January 27th meeting

Alderman Ament stated that he wanted to revise the approved minutes for two changes.

Motion by Alderman Ament to reconsider the matter before approving. Second by Alderman Harenda, and upon voting, motion passed unanimously.

Motion by Alderman Ament to change the word EPA to DNR on page 2, 1st sentence of 6th paragraph. Second by Alderman Gallagher, and upon voting the motion passed unanimously.

Motion by Alderman Ament to correct a typo and change the phrase on page 3, last paragraph to say low interest loans instead of loan interest loans. Second by Alderman Gallagher, and upon voting the motion passed unanimously.

Motion by Alderman Ament to approve revised minutes from January 27th Utility Committee meeting. Second by Alderman Gallagher and upon voting the motion passed unanimously.

ITEM 02-04 Approval of Fees for Water/Sewer in lieu of Special Assessment for Lowell Place Utility Service area

Larry Wilms stated that the properties located south of Janesville Road on Lowell place would be in this Special Assessment District. The cost for the Sanitary Sewer and Water Main Extension were analyzed based on accessible frontage, land value, and water and sewer connections. Mr. Wilms said that upon reviewing the figures, he recommended Alternate 3A for Water and Alternate 12 for sewer service to be the fairest and make the most sense.

Commissioner Dude asked what was the standard? Mr. Wilms stated that it is based on reasonable and equitable distribution of costs per statutes. Attorney Blum added that when creating Special Assessment districts with the City's police power, you can't charge people with more benefit than they are receiving. He added that reasonableness is the standard, but there is not a bright line. Alderman Ament asked Attorney Blum if Alternates 3A and 12 will cause the least problems? Attorney Blum replied that he could not disagree with Mr. Wilm's selections, since he is striving to make sure each property owner is paying his fair share based on the benefits. Attorney Blum stated that since this is not a new project, a public hearing is not necessary at this point. The properties are benefiting from an existing sewer and the idea is to have the properties brought in line to pay their share of benefit they are receiving. The people are paying a fee in lieu of having special assessments made. Attorney Blum stated that the cost will be determined based on what the Committee decides, then they will go to the owner with the approved amount in lieu of actual special assessments being made. He added if the owners don't consent to the amounts, we may be in a different posture and may need a public hearing then.

Alderman Gallagher asked Attorney Blum what the next step was? Attorney Blum replied the approval of the methodology and distribution of costs. Alderman Harenda asked if the owner's can dispute the methodology? Attorney Blum responded yes.

Motion by Alderman Gallagher to approve the fees in lieu of Special Assessment as recommended by the Utility Engineer Larry Wilms, going by the spreadsheet Alternative 3A for Water allocation and 12 for Sanitary Sewer Allocation. Second by Director Grzys and upon voting the motion passed unanimously.

ITEM 03-04 Authorize staff to negotiate contract with Ruekert & Mielke for Bidding and Construction services related to Milwaukee Water Program

Director Grzys stated that we need someone online to follow-up on this project and since Ruekert & Mielke has worked on the design of the Milwaukee Water Project, he would like the Committee to give authorization to staff to negotiate with them.

After a brief discussion, the Utility Committee members agreed that there are some times that you don't want to go out for bids when a company has the time, knowledge and money invested in a project. Commissioner Dude suggested that perhaps in the future, the Committee should look at consultant agencies to review their profit margins, internal costs, etc, then use them as a consultant for a period of time, saving time by not having to go out for bids for each project. J.P. Walker responded that he agreed with Commissioner Dude in one direction, however cautioned that the designers should not handle the construction oversight. He cited that R.A. Smith knows the City's Developer's Handbook like the back of their hand and that it is important to have confidence in the consultant. Alderman Gallagher added that the Committee wants the best price, but also must speed up the process at times. J.P. Walker said that perhaps a comparison of schedules should be made on an annual basis.

Motion by Alderman Ament to authorize staff to negotiate a contract with Ruekert & Mielke for bidding and construction services relative to the Milwaukee Water Project. Second by Commissioner Dude, and upon voting the motion passed unanimously.

Director Grzys said that there will be a public hearing on the water rate increase with the Public Service Commission on March 26th between 9:00 am and 11:00 am in the Council Chambers. He also noted that Commissioner Dude was nominated to represent the City of New Berlin and MMSD on the Citizen Advisory Council.

Motion to adjourn by Alderman Ament at 6:33 p.m. Second by Commissioner Dude and upon voting the motion passed unanimously.