

**Revised MINUTES
City of New Berlin
Utility Committee Meeting
November 5, 2003**

Please note: Minutes are unofficial until approved by the Utility Committee at their next regularly scheduled meeting.

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

Others Present: City Attorney Mark Blum, Larry Wilms (Division Engineer), Steve Schultz (Ruekert & Mielke), Tracey Munster (Wireless Capitol Partners)

Alderman Gallagher declared a quorum and called the meeting to order at 4:32 pm

ITEM J-03 Approval of minutes for October 1, 2003 meeting

Motion by Alderman Harenda to approve the minutes for the October 1, 2003 meeting. Second by Director Grzys and upon voting the motion passed 4-0 with Mr. Dude abstaining since he was absent for the meeting.

Item 30-02 Milwaukee Water Design

Steve Schultz from Ruekert & Mielke presented the monthly update on the design phase of the Milwaukee Water project. He said that the design is on schedule, and that there had been a public hearing on the Greenridge and Grange Avenue pumpstations. Comments were made regarding matching the existing brick at the Greenridge Station. Comment was made by a citizen regarding the pooling of water in his yard near the Grange Ave pumpstation and the hope that this problem would not be added to. Mr. Schultz stated that with the new design, they hope the design will improve the situation for the neighbor.

Mr. Schultz stated that the flood plain is the only issue to be resolved before sending the design for final approval to the DNR and SEWRPC by December 8th when it goes to the Planning Commission. Alderman Gallagher asked if there was a delay, could the system run with just one station online? Mr. Schultz answered yes, but not during peak times. Director Grzys stated that after the Planning Meeting on the 3rd, he talked with a Stormwater Engineer and he stated that it does not look the project will be delayed.

Item UT 33-02A Notice of Claim for Radionuclide Compliance

Steve Schultz from R & M stated that he is working with Director Grzys and Attorney Blum regarding the radionuclide compliance issue. The DNR sent the City a Notice of Claim on August 13th stating that the City was not compliant, and included a compliance date of December 8, 2003. They are working on a consent order regarding this issue. Mr. Schultz stated that a consent order is a legal agreement that the City would enter into with the DNR. The City would admit it is in violation and agree to take care of the issue by a certain method by the extended date of December 8, 2006. He stated that if this issue is not resolved, there are fines associated with it for up to \$5,000 per day.

Mr. Schultz stated that he had sent a draft letter to the DNR for review, laying out the program for compliance. Based on the report from last fall, Wells 1, 3, 4, 5, 7 and the entry point 200

from Well 8 & 9 were not in compliance. He stated that in 2004, they would look at Wells 1 & 3 (similar to what we did in Well 8) to see if backfilling, lining off the bad radium area, or stimulating radium in the good area, will resolve the problem. Well 4 (Greenridge) will be turned into a pumpstation for Milwaukee Water and either be abandoned or disconnected from the New Berlin system. He stated that at Wells 5 & 7, he recommends pursuing treatment there, probably by having the water from Well 5 pumped to Well 7 and then treating it. The last one (Entry Point 200) should already be in compliance after the work at Well 8, we just need to take four quarterly samples. Mr. Schultz stated that the best method to comply would be to obtain Milwaukee Water to the entire service area. The final document must be submitted to the DNR with the Mayor's signature by December 8, 2003.

Director Grzys asked if the Budget for 2004 covered the Well 1 & 3 rehab? Mr. Schultz answered that it will cover the investigative work, but not the rehab work. If what they find is the answer, the City has until 2006 to do the work. Director Grzys said that he would work with Mr. Schultz to ensure that the cost estimates and budget are accurate. Director Grzys asked about matching the brick on the addition to Greenridge pumpstation? Steve Schultz stated that this is difficult to match, perhaps painting the brick, using siding or another method will have to be used.

Commissioner Dude asked what savings could be seen by the City since Greenridge would not have to be used to meet radionuclide compliance because of Milwaukee Water? Steve Schultz stated that there are options such as abandoning the well (cost \$20,000 to fill with concrete) or using it as an aquifer storage and recovery area to store Milwaukee water and use it to pump in the peak season. The City will be charged higher rates during peak seasons and using a storage facility during this time could result in substantial savings.

Alderman Gallagher asked if the consent order had to go to Utility prior to going to Council. Attorney Blum said probably not. He clarified that by signing the consent order, the City would receive an extension, but will have no defense if they cannot meet time limitations and the City would be subject to fines. He stated that he has asked for a reopener clause and also for a clause if there is a change in the interpretation of the rules, or if Milwaukee Water becomes available for the entire service area. They are also adding a clause to add additional time to comply if there is a labor strike, a severe weather problem or something reasonably related. He is looking for the ability to modify the agreement if necessary and it is the best we can do under the circumstances.

Item UT 14-03 AT&T/Telecorp Cellular Tower Lease Renegotiations

Tracey Munster from Wireless Capitol came before the committee to talk about the lease options and offer from AT&T. Commissioner Dude stated that a memo from Mike Holzinger, Director of Finance and Administration recommended rejecting the offer. He stated if the lease were renewed for another five-year period, he recommended negotiating a higher starting amount for 2004 with the annual percentage increase based on the 10 highest leases as stated under 4d of the lease. Based on the average for 2004, this amount would be \$24,360. After a brief discussion of rates of return, Alderman Gallagher stated that AT & T would have to write a letter within 60 days to either renew the contract or take down the antenna.

Item UT 11-03 Intermunicipal Agreement – Town of Brookfield Sanitary District #4

Attorney Blum stated he was directed by the Utility Committee to prepare an Intermunicipal Agreement relative to serving the residents on Copenhill Drive through the Town of Brookfield Sanitary District. The Town has reviewed the draft agreement and they changed basically one word in the document which he said he believed was acceptable. The change was to add the

word "Connections" under 3D (construction costs) so that the Town was not responsible for connecting the two properties. Alderman Ament asked who was responsible? Attorney Blum said that the water main is there, and the responsibility lies with the property owners. The City needs to get an agreement and acknowledge the cost with the property owners.

Alderman Harenda asked about the maintenance of the main and that normally this is the City of New Berlin's expense, usually Utility and a special assessment is made back to the resident. Attorney Blum said that the agreement makes the City responsible, whether or not you would back bill the residents is what you need to decide. Alderman Gallagher asked who gets the revenue off of these two properties? Larry Wilms stated that they will become a regular customer of the Town of Brookfield. Attorney Blum said that he would add the transferred capacity amount of these two households to the agreement.

Motion by Commissioner Dude to recommend to Council to authorize an Intermunicipal Agreement between the City of New Berlin and the Town of Brookfield Sanitary District #4 for Water and Sewer Service for properties 1400 and 1405 Copenhill Drive contingent upon said property owners consenting to pay all charges related to the connection and future maintenance. Second by Alderman Harenda, and upon voting the motion passed unanimously.

UT 19-03 Town of Brookfield's Acceptance of New Berlin's final price for purchase Sewer Capacity

Alderman Gallagher stated that he talked to some of the residents in the Westbrook subdivision and a handful want sewer and water, a handful don't and the rest are somewhere in the middle or cannot afford it. Larry Wilms stated that we must either implement the sewer program or sell the capacity, but don't stay in limbo. Commissioner Dude asked if we could put this to a vote to the residents? Attorney Blum stated that you can't poll a specific area, but rather could use a non-binding survey. Alderman Gallagher stated that this was done several times already a few years ago. Alderman Harenda asked if we could allow other people to hook up to the Town of Brookfield. Larry Wilms stated that this was not fair to residents further in from the boundary area and encouraged the Committee to treat the whole area. Discussion was made of other options such as a holding tank or use of a mound system for residents whose septic systems were failing.

Alderman Ament stated the Town of Brookfield needs the capacity and the decision was made by Council to sell it. Director Grzys stated that the negotiating committee came up with a good offer. Alderman Gallagher stated that if the City forces water and sewer into the area now, it would probably hurt more people than it would help.

Resident John Suchorski from 1400 So. Villa Terrace asked if the City changed the entire area to water and sewer and averaged the costs, if it would help. Alderman Gallagher stated that it is still a financial burden to some people with the cost being \$16,000-24,000 plus the cost to close a well. Larry Wilms stated that there were 75 notices sent out to the individual households and a notice also put into the newspaper for a public hearing in 1999. Approximately 20 people showed up, with 3-4 in favor and 12-15 against. Mr. Suchorski stated that a holding tank brings down the property value, but a mound system would be another option.

Motion by Alderman Ament to recommend to Council to approve the Town of Brookfield's Sanitary District #4 offer of \$213,134 to purchase the remaining 43,320 gallons of sewer capacity from the City of New Berlin. Second by Commission Dude, and upon voting motion passed unanimously.

Item 07-03**Authorization for Professional Services Agreement for Sanitary Sewer Basin I & I Reduction Quantification Analysis**

Director Grzys read the requested action, fiscal impact, source of funds and rationale for the project. Alderman Ament said that he was uncomfortable that this did not go out for bidding. Director Grzys stated that R.A. Smith had the background data from the test project in Basin NB9 and followed the methodology MMSD could use. The end results through monitoring showed an additional 1.21 million gallons/day capacity in the pilot study of Basin 9. He stated that we need to analyze additional basins because of in-lots that people have requested to build on. MMSD said that by continuing monitoring, and analyzing other basins, we can hook up all the in-lots in the other basins.

The committee consensus was that a bid should be done on projects. Commissioner Dude said that the City should get a profile on various companies of their overhead profit before taxes and determine if this is an industry average or close. He stated that the agreement could be approved by striking out paragraph 2 of section 4,

Motion by Commissioner Dude to recommend to Council to approve a Professional Services Agreement with R.A. Smith & Associates Inc, for Sanitary Sewer Basins NB1, NB3, NB4, NB5 and NB6 Inflow and Infiltration (I/I) Reduction Quantification Analysis for a total NTE \$48,800, funded by A/C 831.04 and striking out paragraph 2 of section 4 under Professional Fees: "The above not-to-exceed fee assumes that approval by MMSD can be obtained in 2 submittals. If more analysis and submittals are required by MMSD, the additional work will be invoiced on a time-and-material basis". Upon voting the motion passed 4 to 1 with Alderman Harenda opposed.

UT 22-03 Adopt Resolution 03-44 Declaration of Public Necessity & Relocation order for Janesville Rd Sanitary Sewer Main Construction

Brief discussion about the Resolution 03-44. Larry Wilms stated that we need to add Planning Commission to the requested action.

Motion by Alderman Ament to Recommend to Common Council and Planning Commission to adopt Resolution 03-44-2003 pursuant to Section 62.22(4)(d), Stats, Declaration of Public Necessity and Relocation Order for Janesville Road Sanitary Sewer Main Construction. Second by Commissioner Dude and upon voting, the motion passed unanimously.

UT 23-03 Award of Professional Services Contract for Construction survey on Moorland Road and Janesville Road Project

Larry Wilms stated that this RFP was sent to 8 firms, but only 1 responded and he thought it was a reasonable figure. 18 properties need to be appraised.

Motion by Director Grzys to recommend to Council to award Professional Services Agreement with McSorely & McSorely Real Estate Services, Inc. of Waukesha, Wi, for appraisal services for a fee not to exceed \$18,000 from A/C #923.42, for Construction survey on Moorland Road and Janesville Road. Second by Commission Dude, and upon voting, the motion passed 4 to 1 with Alderman Ament opposed.

**UT 24-03 Award of Professional Services Contract for Construction survey on
Janesville Road Project**

Motion by Alderman Ament to recommend to Common Council to award the Professional Services Contract for the location-topographic surveys along Janesville Road for sanitary sewer and water main extensions to Blummel Associates for a fee not to exceed \$4,425 . Source of Funds: The costs will be included with the total project costs for special assessment to benefiting properties in the project. Second by Alderman Harenda, and upon voting the motion passed unanimously.

UT 25-03 Discussion & Approval to submit to PSC Request for Rate Increase

Motion by Commissioner Dude to recommend to Common Council to approve request by staff to submit to the Public Service Commission an application for a rate increase for 2004 in the amount of 6% Rate of Return. Second by Alderman Ament and upon voting the motion passed unanimously.

Motion to adjourn at 7:31 pm by Alderman Ament. Second by Alderman Harenda and upon voting, the motion passed unanimously.