

## UTILITIES SERVICE BOARD MEETING

March 31, 2008

***Utilities Service Board meetings are recorded electronically or stenographically and are available during regular business hours in the office of the Director of Utilities.***

Board President Swafford called the regular meeting of the Utilities Service Board to order at 5:00 p.m. The meeting was held in the Utilities Service Board room at the City of Bloomington Utilities Department Administrative Building in Bloomington, Indiana.

Board members present: Tom Swafford, Tim Henke, Pedro Roman, Julie Roberts, John Whikehart, and ex-officio members Tim Mayer and Tom Micuda. Staff members present: Patrick Murphy, John Langley, Mike Bengtson, Rachel Atz, Tom Staley, Adrian Reid, Michael Horstman, Mike Trexler, Jane Fleig, Phil Peden, Mike Hicks, Jon Callahan and Vickie Renfrow. Others present: Donnie Ginn representing Black & Veatch, Ben Beard representing Gentry Estates, Mark Menefee representing Indiana University, Mike Snapp representing 349 S. College LLC and Sue Mayer.

### MINUTES

***Board President Swafford asked that the minutes for the November 13, 2007 Utilities Service Board meeting be tabled until the next meeting on April 14<sup>th</sup>.***

### CLAIMS

***Board member Roberts moved and Board member Henke seconded the motion to approve the claims as follows:***

***Claims 0890393 through 0890475 including \$333,245.92 from the Water Operations & Maintenance fund, \$17,500.00 from the Water Construction fund and \$200.00 for water hydrant meter rental for a total of \$350,945.92 from the Water Utility; Claims 0830233 through 0830296 including \$270,131.22 from the Wastewater Operations & Maintenance fund and \$17,500.00 from the Wastewater Construction fund for a total of \$287,631.22 from the Wastewater Utility; and claim 0870019 a total of \$708.59 from the Wastewater/Stormwater Utility. Total claims approved – \$639,285.73***

Ex-officio board member Mayer asked about the claim for Schmidt. He wanted to know if the payments for the new building are almost done. Utilities Director Murphy said that at the next meeting there will be a change order for CDI who will pay Utilities \$25,000 of the \$35,000 being paid by Utilities to Schmidt.

Board member Henke asked how the project with Maddox Industrial is proceeding. Assistant Director of Engineering Bengtson said that it is going fairly well. He doesn't know if they will be finished by the May 1<sup>st</sup> deadline. They have been working 12 hour days, 7 days a week. There have been some further mistakes along the way. The fourth and final filter was turned over to them on the day of this meeting. Capital Projects Manager Hicks said they will miss the May 1<sup>st</sup> deadline for the contractor to complete all the work associated with the filters by about 10 days to 2 weeks. Mr. Bengtson said that some extra time had been built into the contract as a safety factor.

***Board member Roberts moved and board member Roman seconded the motion to approve the claims. Motion carried, 4 ayes, 2 members absent, (Banach and Ehman).***

## **APPROVAL OF THE REQUEST FOR AN EQUIPMENT PURCHASE TO REPLACE THE NPK HAMMER**

Utilities Director Murphy said that Utilities has a policy that any equipment purchases of over \$25,000 gets put on the agenda for the USB's approval. The NPK hammer is the primary rock breaking equipment. It is often referred to as a hoe ram. It goes on the back of a back hoe. It will cost approximately \$40,000. A couple of years ago \$10,000 was spent to re-build the old one which is nearing the end of its useful life. It makes no sense to think about rebuilding it again for 20% of the total cost of a new one. Quotes were solicited for this and the lowest quote for the most effective piece of equipment was \$40,800. As the construction season begins this is an important piece of equipment.

Board President Swafford asked Assistant Director of Finance Horstman if funds are available for this. Mr. Horstman said it can be paid for out of Operations and Maintenance.

***Board member Henke moved and board member Whitehart seconded the motion to approve the request for an equipment purchase to replace the NPK hammer.***

Ex-officio board member Mayer asked if this piece of equipment would be better than the one that is being replaced when it was new. Superintendent of Operation Staley said that this piece of equipment was purchased when the first excavator was bought. It has served very well. Since then another excavator and hoe ram have been purchased of a different brand. That is the brand for which approval for purchase is being sought. The brand that was bought the second time is superior to the first one and is also cheaper. It will do a better job for less money. Mr. Mayer said that was good to hear.

***Motion carried, 5 ayes, 2 members absent (Banach and Ehman).***

## **APPROVAL OF CHANGE ORDER NUMBER 5 WITH DANIS INDUSTRIAL CONSTRUCTION CO:**

Capital Projects manager Hicks said that things are getting close to being finished with Danis. Utilities has had a construction contract with them for the Monroe Water Treatment Plant Improvements Project that started in February of 2004. Danis completed most of the work by about October of 2005 but they left the site with some things unfinished. Change order number 5 will finalize and reconcile items that were left open with Danis. They have agreed to this as well as another memorandum of agreement to finalize the project, produce all the documents, release of liens by affidavit, and all other important closing documents. This is one part of closing this project. Utilities retained Black & Veatch for construction phase engineering services and inspections services. Mr. Hicks introduced Donnie Ginn of Black & Veatch to explain the Change Order.

Mr. Ginn explained that Danis had started this project in February of 2004. The original final completion date was September 9<sup>th</sup> of 2005. Through various revisions, including this change order, the final completion date was revised to November 9<sup>th</sup> of 2005, which was a 2 month extension. The work was actually completed in October of 2006.

Mr. Ginn said there are 10 items on the Change Order. The first is credit for deleting the interior coating on the wash water tank from the contract. This decision was made in October of 2006 because there were issues with getting that work completed. It was then included in the contract with Maddox for the filter rehabilitation. That was a credit for \$85,500.

Item number 2 is credit for consolidation of flocculation equipment and adjustable frequency drive training. Part of the contract included Danis providing a variety of training services for the plant staff.

Because they were able to combine some of the training activities it was possible to gain a \$600 credit for that work.

Item number three was for additional costs to install an additional plant water line. As part of their work they were required to put in a temporary water line to do some by-passing for plant service. They worked out an agreement with Utilities to put in a permanent line so that line could be used in a similar situation in the future. That worked out to the benefit of Utilities as well. That's an increase of \$936.

Item 4 is time an extension associated with the start up of the chemical feed system. When it became time to turn over the chemical feed system Utilities made a decision to delay turning over the existing chemical feed systems for demolition by 11 days to insure that the new system was operable. This decision was based on the history with the project. These 11 days are reflected in Change Order number 5.

Item 5 is for additional costs for the increased surface area of the wash water tank based on field verified dimensions based on actual surface area. This item is \$13,862.

Number 6 is an adjustment of the furniture allowance. There was an allowance for furniture for the control room as well as the record storage room and maintenance staff office space. That allowance adjustment came to a credit of \$3,244.

As a part of the project, on item number 7, Danis put a meter on the power of MWTP to be used to record the power being used for their equipment and that type of thing for construction. This was being credited on various Change Orders. There was one remaining credit from May 1, 2006 through September 30, 2006. It was for \$75.00 for the usage of power.

Item number 8 is for an additional power supply for the chemical building door release. This was additional work that Danis was requested to do to coordinate with some equipment that was supplied under a separate scope by the security vendor for the project. That was an increase of \$1,323.

Number 9 is extra engineering costs. These were some additional costs that were incurred by Black & Veatch for several items that included clarifying equipment construction related issues. There were some problems with the installation of that equipment. Also there were issues associated with the basin baffle wall construction. There were some hours the contractor requested for overtime work for the resident engineer to do while the contractor was working overtime for various activities. There was also additional shop drawing review beyond what the contract documents had required Black & Veatch to review. That was the responsibility of Danis because they were re-reviews of existing shop drawing they had submitted. That was a credit of \$54,598.

The final item is the final settlement adjustment. This is the final negotiated settlement with Danis to close out the project. This is a credit of \$400,000 which covered all the additional engineering associated with Black & Veatch's services for the year long delay that took place.

This Change Order is a total net decrease of \$527,896. It has been executed by Danis and once it is executed by Utilities and some final documentation has been received the project will be finalized and closed out.

Board member Henke asked if Utilities has the retainage to cover this. Assistant Director of Finance Horstman said it is available. Mr. Henke asked if that meant that a check will still be written for Danis but for a smaller amount. Mr. Ginn agreed. Mr. Henke said he gives credit to Mr. Ginn for that

because at one time there had been concern that Danis would owe Utilities more than Utilities owed them.

***Board member Roberts moved and board member Henke seconded the motion to approve Change Order number 5 for Danis Industrial Construction Co. Motion carried, 5 ayes, 2 members absent, (Banach and Ehman).***

Board President Swafford said that this has been a very long drawn out project and he is relieved that it is finally over with. Assistant Director of Engineering Bengtson said that this was the worst project he had experienced in 35 years. He commended Capital Projects manager Hicks and Donnie Ginn for their good management. He said he knows that Danis used at least 3 attorneys who have worked on it from Danis' side. The final one was from Atlanta so he thinks they were going further and further away to find someone to bring Utilities to court. All agreed that Utilities had them where they wanted them. He thinks that Attorney Renfrow's reputation had preceded her. She wins a lot when things go to court. Capital Projects Manager Hicks thanked Donnie Ginn and the Black & Veatch staff who did such a good job of documenting this project which was very helpful to the attorneys.

#### **OLD BUSINESS:**

Utilities Director Murphy said that times needed to be scheduled for a Rules & Regulations and a Finance Subcommittee meeting and for a working group on the water project. He said he needs to wait for some more information about payments in lieu of taxes before scheduling the Finance meeting. Mr. Murphy said that he would like for both Donnie Ginn of Black & Veatch and John Skomp of Crowe Chizek to be present at the working session.

Board member Henke asked Attorney Renfrow to get anything about Rule 24 to the USB before the Rules & Regulations subcommittee meeting.

Mr. Henke also said that Andrew Franklin, who owns property at Lake Lemon had contacted him several times. He asked if the determination hadn't been made that the house Mr. Franklin refers to is on Utilities property. Deputy Director Langley said that is what Utilities' surveyor had said but Mr. Franklin has had an alternative survey conducted that Mr. Langley is in the process of looking at. Mr. Henke said that he is getting a different communication. He said that almost everyone has concluded that the house is on Utilities' property and that it is a boarded up wreck. Mr. Franklin is asking that Utilities have it torn down. Mr. Langley said that he agrees this should be done. He has received estimates for that. There are some other issues on the table but at this stage they are only rumors.

Board member Roman asked who the land is deeded to. Mr. Langley said it is deeded to the City of Bloomington. Mr. Roman asked if Utilities has the authority to act on the behalf of the City of Bloomington. Attorney Renfrow said that it is deeded to the City of Bloomington Utilities Department who has the authority to have the house demolished.

#### **NEW BUSINESS:**

No new business was presented

#### **SUBCOMMITTEE REPORTS:**

Board President Swafford announced that an Engineering Subcommittee meeting was held prior to this Board meeting concerning property at 349 S. College Ave. Utilities staff had requested that the developer, Mike Snapp, replace 260 linear feet of water main in order to be able to hook on to City Utilities. This is an 8" water main that was installed in 1896. The subcommittee recommends, after

listening to both sides, that he only be required to replace 150' of the water line which is the length of his property.

***Board member Roberts seconded the recommendation of the Engineering Subcommittee that Mr. Snapp be required to replace 150 feet of the water main to be allowed to hook on to it. Motion carried, 4 ayes, 1 abstention and 2 board members absent, (Banach and Ehman).***

Assistant Director of Engineering Bengtson said that the 150 feet is what Mr. Snapp had said. Mr. Bengtson asked that the wording be changed to the length of the property. The USB agreed.

#### **STAFF REPORTS:**

There were no staff reports.

#### **PETITIONS AND COMMUNICATIONS:**

Utilities Director Murphy pointed out that the USB had been supplied with the new brochure about sewer back ups.

Board member Henke thanked for the reports on extensions and replacements and the finance report update.

Ben Beard of Gentry Estates said he has some confusion over Rule 24. When Chitwood went to the County Plan Commission on March 18<sup>th</sup> for his property on S.R. 446, which is one of the areas on the map that was adopted for sewer extensions, board member Roman, who was in attendance, said that he felt there was a question as to whether that ground had been incorporated into the "A" area in Rule 24. Mr. Beard thought that it was made clear at the meeting at which the map was adopted that those properties are a part of area A. He had actually gone to the podium during that meeting to verify it. He thinks that the entire USB agreed that area had been incorporated into area A of Rule 24.

Board President Swafford said that if it is on the map it has been approved. If it is not on the map it is in area B. Mr. Beard said that the assertion has been that there needed to be a change in the language of Rule 24. His understanding was that if it is in area A sewers could automatically be extended to there.

Board member Roman said that as it is currently written Rule 24 defines 2 areas, area A, which is the City of Bloomington's planning jurisdiction, may have sewers extended to it and area B is excluded. As far as he knows Rule 24 has not been changed yet. For the new sewer extension maps to be used Rule 24 must be modified to shift from area A being the City's planning jurisdiction to area A being the new sewer extension map.

Utilities Director Murphy said that while the map has been adopted a written rule is needed to accompany it.

City Attorney Renfrow said there are references in the language of Rule 24 to the municipal boundaries and plan jurisdictions and so forth that need to be changed. Those changes could be made very easily with out any substantive change in the rule. This could be done at the next meeting. There are other changes that have been forwarded to her that are substantive and would take longer to be formulated. If the USB wants to just change the language to fit the map it can be done quickly.

Board member Henke said that it is clear that the intention of the USB was to have the new map replace the old one. They were unanimous about that. Ms. Renfrow agreed but said that the County Plan Commission doesn't know what to do because they have a new map but the language in the rule is about municipal boundaries.

Board President Swafford asked that a Rule and Regulations Subcommittee be scheduled within the next two weeks.

**ADJOURNMENT:**

The meeting was adjourned at 5:42 p.m.

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**L. Thomas Swafford, President**