

# UTILITIES SERVICE BOARD MEETING

April 13, 2009

***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, Pedro Roman, Sam Frank, Jeff Ehman, John Whikehart, Jason Banach, Julie Roberts and ex-officio members Tim Mayer and Tom Micuda. Staff members present: Patrick Murphy, John Langley, Vickie Renfrow, Phil Peden, Tom Staley, John Callahan, Mike Hicks, Missy Walden, Mike Trexler, Michael Horstman and Mike Bengtson. Others present: Sue Mayer.

## MINUTES

***Board member Frank moved and Board member Ehman seconded the motion to approve the minutes of the March 30<sup>th</sup> meeting. Motion carried, 6 ayes, 1 member absent, (Roberts).***

## CLAIMS

***Board member Frank moved and Board member Banach seconded the motion to approve the claims as follows:***

***Claims 0990481 through 0990533 including \$193,991.95 from the Water Operations & Maintenance fund for a total of \$193,991.95 from the Water Utility; Claims 0930257 through 0930289 including \$141,168.41 from the Wastewater Operations & Maintenance fund for a total of \$193,991.95 from the Wastewater Utility; and claims 0970017 through 0970023 for a total of \$14,961.40 from the Wastewater/Storm water Utility. Total claims approved – \$350,121.76.***

Board member Frank asked about the payment for American Structure Point. He said he was not familiar with this project. Assistant Director of Engineering Bengtson explained that it is an on-going contract for evaluation of the sewer lift stations. This project is close to being finished. The data is being finalized for delivery.

***Motion carried, 6 ayes, 1 member absent, (Roberts).***

***Wire transfers and fees for the month of March 2009:***

***Board member Frank moved and Board member Roman seconded the motion to approve the wire transfers and fees for the month of March 2009 in the amount of \$627,959.82.***

***Motion carried, 6 Ayes, 1 member absent, (Roberts).***

**APPROVAL OF THE INTERDEPARTMENTAL AGREEMENT WITH THE CITY OF BLOOMINGTON:**

Assistant Director of Finance Horstman explained how the water utility work sheet was used to determine the net book value of Utilities. There are categories of assets shown with the net book value of each category which adds up to \$51,367,000. The items that are inside the City limits were determined.

Assistant Director of Engineering Bengtson explained how it was determined what proportion of pipes are inside and outside the City limits. He presented a spreadsheet that showed an accounting of all of Utilities' water pipes listed by material types with total length of pipes of each material shown with the diameter of the pipe. The totals inside the City limit were separated from those outside. In the case of water pipes, segments are defined as the length of pipe between fittings. If the line defining the City limit intersects with a segment of pipe the portion of that segment that is in the City is determined. Mr. Bengtson mentioned that Assistant GIS Coordinator Gray had done most of the work on this.

Board President Swafford asked if the location of each of the pipes can be identified. Mr. Bengtson said every line segment has a unique identifier in the GIS system. There is a unique tabular representation of that pipe that includes all of the data concerning that line segment.

Board member Banach asked how a line segment is determined. Mr. Bengtson said the segments vary in length. On the wastewater side manholes represent the ends of a segment. With water pipes it is wherever there is some fitting such as a valve or an appurtenance. The storm sewer system is still being mapped.

Ex-officio board member Mayer asked if the pipe that was recently discussed with regard to a new building on S. College could be identified in this manner. Mr. Bengtson said that as things were transferred from the old system of identification to GIS, every as-built drawing that was associated with water was looked at. The oldest water design record was from 1922. Since then some old fire maps have yielded information about pipes that were constructed in the late 1800's. All of this information is fed into the GIS database so any particular line segment can be graphically queried on screen and a window will pop up containing all the information about that line segment.

Board member Roberts asked if this had been done for the wastewater system as well. Mr. Bengtson said it was.

Assistant Director of Finance Horstman said the category for pipes on the work sheet had been valued at approximately \$21,000,000. The percentage of pipes in the City was determined using the spreadsheet Mr. Bengtson had presented. In total, there are 402.85 miles of water pipes. Of that 283 miles are inside the City. There are 312 miles of sewer pipes of which 228 miles are in the City. There are 79 miles of storm water pipes in the City. The percentage of pipes in the City was used to determine the portion of the total value of Utilities pipes that exist in the City. The total value of water pipes is approximately \$21,000,000; the value of the water pipes in the City is approximately \$14,000,000. The total value of all of the Water Utilities' assets inside the City limits is \$21,447,332.19.

Ex-officio board member Mayer asked for further clarification of some of the numbers. Mr. Horstman said the value for the Water Utilities inside the City limits is approximately \$5,500,000. This can be determined by the description. For instance there are boosters and things whose locations can be identified as being in or out of the City. The total value of pipes is approximately \$21,000,000 which is multiplied by the percentage inside the City limits which is

.703, giving a total value inside the City limits of approximately \$14,000,000. Water meters and hydrants were figured in the same way since they are also both inside and outside the City limits. That gives a value of approximately \$21,000,000 for water assets.

The same analysis was used for wastewater and storm water. Storm water pipes inside the City are valued at approximately \$10,000,000. In the case of sanitary sewers 73% of what Utilities' owns is in the City. The same calculation was done with meters as for wastewater pipes. The net book value of items inside the City limits for wastewater is \$39,374,652.77. The values for water and wastewater add up to \$60,821,984.96. This is the net book value of items inside the City limits that the Controller's Office uses to determine the maximum value that can be charged in lieu of taxes.

Board member Roberts asked if the storm water assets were determined in the same way and if there are storm water pipes outside the City limits. Mr. Horstman said there are no storm water pipes owned by Utilities outside the City limits. Assistant Director of Engineering Bengtson said Utilities' inspectors do gather information about storm water pipes outside the City but Utilities does not own them.

Mr. Horstman explained the in lieu of taxes payable this year for last year in water is \$155,407. For wastewater it is \$285,309. That is based on the net book value of approximately \$60,000,000 plus the corporate tax rate.

Board member Roman asked if storm water is included in waste water. Mr. Horstman said that is right. Mr. Roman went on to ask if the City were to annex a new area would the values for it be added in. Mr. Horstman said yes.

Mr. Horstman pointed out there was a category labeled undetermined. It was possible to determine where 98.5% of the items are located. With the other 1.5% the description doesn't allow the determination of their location. As an ongoing project old books will be examined to see if their location can be determined.

Mr. Horstman introduced City Controller Mike Trexler to answer any of the board's questions.

Mr. Trexler said the in lieu of taxes portion of the Interdepartmental Agreement had been discussed so he would move on to the second portion of the Agreement which is for services provided by the City to Utilities. These are services Utilities could contract for, however an agreement has been made to take advantage of economies of scale and allow the Utility to take advantage of services the City already provides. A break down was provided of what percentage of their time each City department provided to Utilities. These numbers are not necessarily updated every year. This year Mr. Trexler surveyed departments and found there was no significant change.

The next portion of the agreement deals with the Health Insurance Trust Fund. There is one component of this that is based on a per employee rate. There is another portion that is based on quarterly compensation claims and liability and a rolling average of each department guides how much should be charged to each department.

The final section is Fleet Vehicle maintenance costs which is a per vehicle expense. The entire fleet budget is divided by the number of vehicles that are serviced. The amount each department pays is based on the number of vehicles owned.

Finally, the City pays for half the legal costs for PCB's, with Utilities paying the rest.

Board member Frank informed the USB that the Finance Subcommittee had met and voted to recommend approval for the Interdepartmental Agreement. The Committee was very pleased by all the work put into the allocation method for coming up with what is inside and outside the City. It is a good step in the right direction although they would like to have more information on some of the things discussed in the general services area concerning allocations.

Board member Banach said Mr. Frank had characterized his concern which is how the allocations of time are made by the various departments. The amounts for Employee Services and IT make sense but as someone who was on the City Council for 10 years he finds it hard to believe 7.7% of their time is spent on Utilities. Mr. Trexler said it could be for legal services. Anytime an ordinance that deals with Utilities comes to the Council the staff and the Council would be spending their time on it. The majority of the Council's budget is for salaries. Dan Sherman, the legal counsel for the Council, spends time preparing documents that relate to Utilities. Mr. Banach said in the future he would like to see more of the rationale for how the departments arrive at these figures. Board President Swafford said the Finance Subcommittee had asked that all of these be reviewed for next year.

Board member Roman said he thinks that what with the rate increase, bonds, etc. the Council may spend more than 7.7% of their time on Utilities. He doesn't think any changes should be made in the Interdepartmental agreement for this year since the budget has already been set.

Board member Ehman asked how the Corporate Tax rate is calculated. Now that the assets are fairly well characterized it comes down to the corporate tax rate to determine the in lieu of taxes amount. He said he noticed last year's was .48% whereas this year's is .72%. He wondered why there is this discrepancy and if that can be anticipated for next year also and how these numbers are determined. Mr. Trexler explained the .48% number is for the general fund. It only supports the general fund. The City has about 50 different funds some of which have tax rates and some that don't. The total tax rate for last year would have been closer to .7%. The rate for the general fund this year is .4711% which is in line with the number from last year. There is also a tax rate for one of the bond funds, for Parks & Rec., 2 Cumulative Capital Improvement funds and a tax rate for all the transportation bonds. The idea behind the payment in lieu of taxes is that Utilities would pay a payment similar to what a private entity would, but only the amount that would go to the City. A private citizen would be paying all these different tax rates. The total tax rate they would pay would be the sum of all of them, which for this year is .7246% per \$100 assessed value. Mr. Ehman asked if the approximate \$60,000,000 of assessed value for Utilities is multiplied by .7246% to get approximately \$44,000. Mr. Trexler agreed. Mr. Ehman went on to say that last year there was an assessed value of \$88,000,000 and the tax rate was .48. Mr. Trexler said the number used last year was wrong. Only the general fund tax rate was used, not all the others. In considering this last time, the amount that was actually charged was compared to the amount that could be legally charged, which is much higher. Mr. Ehman asked if going forward the tax rate could be expected to remain around .72%. Mr. Trexler said that was right. In previous years the change in this total payment was based on the increase in the levy. Sometime around 1997 the value of the payment was determined. Since then the payment has been increased by the increase in the levy. It was clear that was not the way to go forward so instead of this method of trying to come up with a good value for Utilities assets in the City the assets were multiplied by the tax rate that is being used. Mr. Ehman said the fact that the tax rate has gone from .42% to .44% indicates the estimate was pretty close to what was being used before.

***Board member Roberts seconded the recommendation of the Finance Subcommittee for approval of the Interdepartmental Agreement. Motion carried 7 ayes.***

Board President Swafford thanked Mr. Trexler and Mr. Horstman. He said this is a record in getting the agreement approved before December as has happened in the past.

**OLD BUSINESS:**

No old business was presented.

**NEW BUSINESS:**

No new business was presented.

**SUBCOMMITTEE REPORTS:**

There was a Finance Subcommittee meeting that was reported on during this meeting

**STAFF REPORTS:**

City Attorney Renfrow said she had attended a seminar where she learned about a requirement that has been imposed on Utilities by the Federal Government. It is necessary to come into compliance with this requirement by May 1<sup>st</sup>. Back in 2003 Congress enacted the Fair and Accurate Credit Transaction Act, (FACT act), which has requirements concerning how accounts held by financial institutions and other kinds of creditors are handled. This includes Utilities because the kinds of accounts that are covered are the kind Utilities has with its customers. These are accounts where Utilities is selling services that the customer is paying for in arrears and it's ongoing. The reason for the act was to get financial institutions and creditors to think about the kind of things that might pop up that should be of concern. These are called "red flags" so its called the Red Flag Rule. It is a requirement that this policy be adopted and approved by the governing body of Utilities, in this case that would be the City Council. This policy will set out what will be identified as red flags, how they will be detected, how they will be responded to and how it can be insured the policy is being reviewed and adjusted in an ongoing fashion. The act was passed in 2003 but the regulations that indicate how to come in compliance didn't get approved until January of 2008. Those regulations set a date of November, 2008 to comply. That deadline was then extended to May 1<sup>st</sup>, 2009. The regulations do not specify what must be in the policy, it just says red flags must be identified, it should indicate how they will be detected and what the response would be. Using samples from other States and Cities Ms. Renfrow has developed a program that would bring Utilities into compliance and would reflect what Utilities would do if a red flag were to occur. Utilities is already being vigilant about anything that might look suspicious such as someone trying to open an account with an ID that doesn't have a picture on it. Ms. Renfrow said she had been meeting with Utilities and IT staff to craft a policy to take to the Council for their approval. This policy is just a starting point. It will be refined as time goes on.

Board member Roberts asked if the thinking behind this is to protect customers from having their ID's stolen or to protect Utilities from not getting paid. Ms. Renfrow said the purpose is identity theft protection.

Board member Roman asked if this policy needs to be voted on by the USB. Ms. Renfrow said it does not. The only approval required by statute is the governing body which is the City Council. Mr. Roman said he disagrees with that. There are very specific functions with regard to Utilities including funding, rate increases and those kinds of things. It was his understanding that the way Utilities does business is set by the USB.

Ms. Renfrow said the policy starts with a statement about why it is being implemented. Its purpose is to put Utilities on notice that there might be issues about identity theft. The section titled Identification of Red Flags comes directly from the guide lines that are in the federal register. Because the rule applies to Financial Institutions as well as creditors some things were removed. It involves suspicious documents, suspicious personal identification information or activities that could indicate that someone is trying to access an account for purposes that aren't proper. To describe how red flags are detected Utilities policies are described; how accounts are opened, what kind of information is needed to open an account and how people accessing information, changing a billing address or banking information for the payment of bills are dealt with. Utilities requires something in writing for these activities. They may not be done by phone. This is the kind of information that would be verified if a red flag were to crop up.

Section 3 lays out what the response would be. Utilities seldom sees problems with anything that would be a red flag or identity theft on an account. If a situation were to occur the customer would be contacted, the account would be monitored, and if necessary, law enforcement would be notified. This is a pretty standard document.

The next section lists 26 policy points concerning protection of identity. None of them are required by the rule. It is just additional things that would be done if a situation arose where keeping identifying information secure and preventing identity theft was to be necessary. It refers to things like staff dealing with this kind of information logging off their computer at the end of the day or having a lock on it if they are away from their desk, having anti spyware and anti virus programs, etc. These things are not requirements of the red flag rule but it starts the process of identifying additional things that may be done beyond what the regulations require. These things also have to be considered in terms of other laws such as the public record act. As a public Utility it is not possible to do things a private entity might, such as the destruction of records. The Legal Department will be looking into how it might be possible to have less of that kind of material since it is all scanned into the data base. The hard copy isn't necessary except the law says it must be kept, it can only be destroyed under certain circumstances.

The final section indicates the Assistant Director of Finance will be the administrator of this program and will be responsible for oversight, development, implementation and administration of the program. He will work with the accounts receivable coordinator, the customer service coordinator and the technology support manager. They will form a committee that will monitor and review this program to see how effective it is being and if any changes are needed. Personnel who work with these kinds of accounts will receive training.

This document will go to the City Council for discussion on April 22<sup>nd</sup> and the final vote is planned for April 29<sup>th</sup>.

Board President Swafford said even though it is not required that the USB approve this, he would like to have the USB look at it. He asked that the document come back to the USB for their approval.

Board member Roman said this is too specific. These are issues the USB deals with specifically.

Utilities Director Murphy said the USB could endorse it at the next regular meeting on April 27<sup>th</sup>.

Board President Swafford said the USB should endorse this since it only applies to Utilities.

Board member Roman said the USB regulates everything that is contained in this policy.

Utilities Director Murphy reminded the USB that they had signed the plans for the West Third Street Corridor. For the last several years resources have been kept in the budget for this project. One million dollars have been reserved. Bids have been opened on the project. Mr. Murphy asked Assistant Director of Engineering to update the USB on this.

Mr. Bengtson said last week bids were opened for this widening project which will be from the Landmark area of Third Street west to Franklin Drive where the new fire station is. There will be a lot of re-location and renewal of the sewer and water lines. A little over a million dollars was expected to be needed for this project which was apportioned 60%/40% between wastewater and water. The bids for the entire project have come in about 24% below the engineering estimate so he expects a similar situation for the utilities portion of the project. This is very good news since there will also be relocation work done for the 45/46 By-pass project.

Utilities Director Murphy said a Memorandum of Understanding will be needed for this but it will have to wait until more information is available.

**PETITIONS AND COMMUNICATIONS:**

There were no petitions or communications.

**ADJOURNMENT:**

The meeting was adjourned at 5:52 p.m.

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**L. Thomas Swafford, President**