

**UTILITIES SERVICE BOARD MEETING**  
**11/20/2023**

***Utilities Service Board meetings are available at CATSTV.net.***

**CALL TO ORDER**

Board President Burnham called the regular meeting of the Utilities Service Board to order at 5:00 p.m. The meeting took place in the Utilities Service Boardroom at the City of Bloomington Utilities Service Center, 600 East Miller Drive, Bloomington, Indiana.

**Board members present:** Amanda Burnham, Megan Parmenter, Jim Sherman, Kirk White, Molly Stewart, Seth Debro

**Board members absent:** Jeff Ehman, Ex Officio Jim Sims, Ex Officio Scott Robinson

**Staff present:** James Hall, Michelle Waldon, Chris Wheeler, Kat Zaiger, Liz Carter, Dan Hudson, Phil Peden, Caden Swanson, Jill Minor, Kriste Linberg, Jane Fleig, Daniel Frank

**Guests present:** Debbie O’Heran, Tim Hanson

**PETITIONS AND COMMUNICATIONS:**

Debbie O’Heran - Vice President of Property Management - WS Properties Group. O’Heran noted that WS Properties Group provides property management for the Von Lee Building at 517 E Kirkwood, and Carmichael Center at 530 E. Kirkwood and she wished to raise awareness about the potential issues the Phase 3 Clear Creek Culver Reconstruction project will have on those properties and potential risk of breach of contract regarding building access, obstruction of building frontage, and ADA Title 3 compliance. O’Heran advised that she has attended several meetings for the business, but she is unaware of communications with the building owners. She also has not received any communication regarding areas of concern such as ADA accessibility for the IU Trustees, restaurant loss of sales, or loss of productivity for second and third floor offices due to noise and vibration. If agreements regarding these concerns are in place, they need to be provided to the landlords so that amendments can be made to the leases so that the tenants cannot put the landlord in default because of accessibility issues. O’Heran noted that the owners have an eight million dollar investment in the property that generates \$486,000.00 in annual income, \$156,000.00 annually goes to taxes, insurance, and common area usage, and she does not have an estimated loss of sales but that can be provided if needed. O’Heran questioned if the contractor has \$8,000,000.00 in coverage to handle any potential accidents, and if not, does the City carry significant enough coverage for a loss of that magnitude, including loss of rents and sales. Burnham requested clarification regarding the meetings that have been attended not including the building owners. O’Heran advised that she has attended several meetings, but when these questions were raised during the meetings, CBU representatives have spoken with the tenants who say they are fine, but they are not. O’Heran stated that she asked specifically about the ADA issue and the placement of trash at the front of the buildings and how that specifically will work, as with deliveries. Burnham questioned if O’Heran had spoken directly with CBU staff and she advised yes, but had not received a clear enough explanation on how the issues will be addressed. O’Heran stated that the tenants will say ‘do what you want’ to CBU, and then will look to the landlords when there

are issues, but the landlords will look to the City. Board member White noted that he has been at many of the same meetings regarding the project. The ADA problem stems from the only access to the elevator being on the north side of the building. The question is how to generate enough space that tenants can have access to the elevator and White is unsure if CBU has found a solution yet. White noted that Kirkwood Ave. is unlikely to be closed in 2024, which should help with some of these concerns, but noted that Indiana Ave. will also be closed during this project as well. White noted that he doesn't see a solution to concerns about loss of sales and noise concerns. With Kirkwood being open, they shouldn't be impacted by the project. O'Heran noted that these concerns were specifically for the second and third floor business spaces. The main impacts for the businesses facing Kirkwood will be deliveries and trash. White noted that O'Heran has pointed out some important questions and thanked her for sharing so the Board knows the right questions to ask. White also noted that large infrastructure projects such as this are always disruptive, but it is important to make the best provisions possible to minimize the effects. This project is part of CBU's responsibility to provide infrastructure to its citizens, and in this case, there is no other way for it to be completed. White noted that he has been impressed so far with what CBU and City Engineering have done in the planning of this project, but apologized for no one reaching out directly to the building owners, noting that it can be a challenge when the owners are often out of state. O'Heran commented that if CBU is reaching out to the tenants, that is not enough, as they are not aware of the particulars of the leases. White questioned if CBU needs to be communicating directly with the building owners. O'Heran advised that she represents the building owners and that she sends everything to them, but her larger concern is that there needs to be language added to the lease agreement to protect the building owners from liabilities regarding the noted concerns. O'Heran also questioned if the City is planning any kind of compensation to tenants for potential loss of sales or productivity. White noted that it's not appropriate for the USB to weigh in on the legal aspects, but noted that he appreciates O'Heran's comments.

Tim Hanson - WS Properties Group - added that the existing culvert is only about one foot away from the foundation of the Von Lee Building and that Engineering is doing a lot to try to maintain the existing structure and wall line. Hanson questioned if seismic monitoring will be put in place during the construction to monitor vibration and noise. Several tenants have expressed concerns regarding both, and if it becomes an issue, they will contact the landlord and not the City. Hanson is aware that this project needs to take place, and the purpose of voicing these concerns is not to block the project, but to ensure that there is a plan to address these issues as they arise. Burnham noted that she understands the concerns regarding noise and vibration, given the nature of Bloomington's limestone plates. Hanson added that the Von Lee was built in 1928 and is constructed of brick, so damage to the structure is a major concern. Board member Sherman noted that Hanson is experienced in projects of this nature and requested that if he has any suggestions or input that could help with the project to share them with either CBU Engineering or the Board. Hanson noted that the last project completed with a seismic survey was completed at North 10th street and the contractor places seismometers next to the building to monitor for potential issues. There is also a pre-survey done to monitor and note any existing cracks or issues prior to the start of the project.

Wheeler - Assistant City Attorney - noted on the matter of communications between CBU and the building owners that are impacted by the final phase of the Clear Creek Culvert Reconstruction project. Wheeler advised that several weeks ago, he provided letters to each of the owners of record for the properties regarding the fair market value price to be paid for the easements that will be used to complete this project. This is an invitation for each of the owners to reach out and discuss the matter, and to date, the only response received has been from the Bicycle Garage, through their attorney. Wheeler also noted that one of the tenants of the Von Lee is IU and City Legal has been in contact with them regarding potential impacts. As of this time, the owners of the Von Lee have not reached out to communicate with CBU. CBU is following the statutorily required rules and procedures for easement work such as this, and everything is proceeding accordingly.

CBU Municipal Separate Storm Sewer System (MS4) Education Specialist - Lindberg presented on the CBU Adopt-A-Drain program which focuses on improving overall water quality in the area, along with helping to mitigate flooding during major rain events. Sherman questioned if Lindberg expected more issues with the lack of leaf pickup in Bloomington this year. Lindberg was unaware of any specific issues so far, and noted it is a possible concern. Board member Parmenter noted that her National Honor Society students at Bloomington South have adopted all of the drains on the Bloomington South property and thanked Lindberg for helping spread awareness about this program.

## **MINUTES**

***Parmenter moved, and Debro seconded the motion to approve the minutes of the 11/6/2023 meeting. Motion carried, six ayes.***

## **CLAIMS**

Standard Claims Question

Parmenter questioned charges for Apple AirTags and the application they are being used for. CBU Assistant Director - Transmission & Distribution (T&D) - Hall advised that the tags are being used for a storage container used for hydrant meters that are rented to local contractors. After several boxes were stolen, T&D came up with this as a solution to ensure the boxes are returned.

***Parmenter moved, and Debro seconded the motion to approve the Standard Invoices:***

Vendor invoices included \$307,373.81 from the Water Fund, \$4,950.00 from the Water Construction Fund, \$102,417.89 from the Wastewater Fund, and \$45,978.76 from the Stormwater Fund.

***Motion carried, six ayes. Total claims approved: \$460,720.46.***

***Parmenter moved, and Debro seconded the motion to approve the Utility Bills:***

Invoices included \$121,176.86 from the Water Fund and \$82,725.03 from the Wastewater Fund.

***Motion carried, six ayes. Total claims approved: \$203,901.89.***

***Parmenter moved, and Debro seconded the motion to approve the Wire Transfers,***

***Fees, and Payroll for \$444,808.85. Motion carried, six ayes.***

***Parmenter moved, and Debro seconded the motion to approve the Customer***

***Refunds:*** Customer Refunds included \$1,352.24 from the Wastewater Fund.

***Motion carried, six ayes. Total refunds approved: \$1,352.24.***

## **CONSENT AGENDA**

Kelson presented the following item recommended by staff for approval:

- a.) BBC Pump and Equipment Company, Inc., \$4,589.00, Replacement of leaking coupler on high service pump #1

**Consent Agenda approved as presented. \$4,859.00 approved.**

## **REQUEST FOR APPROVAL OF CHANGE ORDER NO.3 TO AGREEMENT WITH MITCHELL & STARK CONSTRUCTION COMPANY, INC. FOR DEWATERING PROJECT AT MONROE WATER TREATMENT PLANT**

CBU Capital Project Manager - Hudson presented the change order. Hudson advised that the change order does not increase the cost of the project, it simply extends the contract completion date to February 29, 2024. Burnham questioned why the project was not completed in October as previously planned. Hudson advised the delay was the result of supply chain issues for materials needed to complete the project, and also noted that another change order will occur for this project, but the cost has not been determined.

***Parmenter moved, and Debro seconded the motion to approve Change Order No.3 with Mitchell & Stark Construction Company, Inc. Motion carried, six ayes.***

## **REQUEST APPROVAL OF AMENDMENT NO.2 WITH DONOHUE AND ASSOCIATES, INC FOR MONROE WATER TREATMENT PLANT CHEMICAL FEED LINE REPLACEMENT PROJECT**

Hudson presented the amendment and advised that it includes the installation of an overhead bridge option that was added to the project. The original design called for it to be installed underground, but the decision was made to put it above ground because of the chemicals involved. The amendment also includes some of the construction management cost, but not all.

***Parmenter moved, and Debro seconded the motion to approve Amendment No.2 with Donohue and Associates, Inc. Motion carried, six ayes.***

## **REQUEST APPROVAL OF AMENDMENT NO.2 TO AGREEMENT WITH SSW ENTERPRISES, LLC FOR OFFICE CLEANING SERVICES**

CBU Finance Manager - Waldon presented the amendment and advised that this will extend the service agreement with SSW Enterprises, LLC for an additional year. White questioned if these types of contracts get bid out, or if there is some type of benefit to multi-year agreements. Waldon advised that most agreements of this kind include language that allows for the extension of the agreement if CBU is satisfied with the service that has been provided, and CBU

has opted to extend the contract in this case. Wheeler noted that the original contract was supposed to expire in February 2024, this amendment will extend it to February 2025, and at that point it will be put out for bid again.

**REQUEST APPROVAL OF 2022 INTERDEPARTMENTAL AGREEMENT BETWEEN THE CITY OF BLOOMINGTON CIVIL CITY AND THE CITY OF BLOOMINGTON UTILITIES DEPARTMENT**

Waldon presented the 2022 Interdepartmental Agreement. Parmenter noted that CBU Director - Kelson and CBU Assistant Director - Finance Havey had mentioned during the prior meeting that there were some questions regarding the 2022 numbers that they need to get answers on, and questioned if Waldon had been provided with that information. Waldon advised that the numbers that were in question had been figured off of budgeted numbers, and at the end of the year, those numbers will be adjusted to the actual cost associated with services provided to CBU by the City. Burnham questioned the charges for Engineering that are present on the 2022 agreement, but not on any of the prior agreements. Hall noted that Engineering was previously housed under Planning but is now its own department. Burnham noted that the chart provided by CBU still lacks the 'in lieu of taxes' line item so the totals on the spreadsheet and on the agreement do not match. Hall noted that neither he nor Waldon had the answers to the Board's questions. Burnham suggested tabling the issue to the following meeting.

***Parmenter motioned to table the 2022 Interdepartmental Agreement until the following meeting, and Burnham seconded. Motion carried, six ayes.***

**REQUEST APPROVAL OF AMENDMENT NO.1 TO AGREEMENT WITH ETICA GROUP, INC. FOR DRAINAGE IMPROVEMENTS: DUNN ST TO INDIANA AVE.**

CBU Utilities Engineer - Fleig presented the amendment. Fleig advised that Etica Group, Inc. is being asked to get an individual permit from both IDEM and the Army Corps of Engineers, rather than a general permit that has been enough for all the previous work done on the culvert project. Fleig explained this has to do with the enclosure of the system and potential historic factors. This amendment will provide funds for a consultant with knowledge in acquiring the necessary permitting from IDEM and the Corps of Engineers.

***Parmenter moved, and Debro seconded the motion to approve Amendment No.1 with Etica Group, Inc. Motion carried, six ayes.***

Fleig noted that the amendment documents should have included an extension to the contract expiration date. Wheeler requested the Board condition approval based on approval of the adjusted agreement by the Controller and Mayor's Office. Burnham reopened the discussion of the Approval of Amendment No.1 with Etica Group, Inc. and requested to amend the motion to approve to include the extension of the contract date to 12/31/2024.

***Parmenter moved, and Debro seconded the motion to approve Amendment No.1 with Etica Group, Inc. pending corrections to the contract expiration date to 12/31/2024 and approval from the Controller and Mayor. Motion carried, six ayes.***

**REQUEST APPROVAL OF AMENDMENT WITH MILESTONE CONTRACTORS, LP FOR THE CLEAR CREEK CULVERT RECONSTRUCTION, DUNN ST TO INDIANA AVE.**

CBU Utilities Engineer - Fleig presented the agreement and noted that she requested O’Heran and Hanson address the Board with their concerns and questions earlier in the meeting because there is not a time for public comment after each item, so they wouldn’t have been able to make comments until after the Board had voted on the issue. Fleig advised that she has discussed the project with the property manager a number of times over a span of about two years. The culvert wall is 28” off the back of the building and the only way to increase space behind the building is to move further into the IU parking lot that is north of the Von Lee building and IU does not wish to allow that. The conduit for IU electrical services have already been installed and are in use so that the old infrastructure can be removed. Fleig advised that O’Heran had sent an email November 10th, but Fleig was out of the state dealing with family issues and was unable to respond as quickly as she would have liked. Fleig will meet with O’Heran and IU to help discuss potential solutions for the concerns raised earlier in the meeting. Fleig suggested that the only solution to ADA compliance with people working in the upper floors of the Von Lee would be to implement ‘work from home’. Fleig advised that CBU had not spoken with the restaurant owners, as that is not CBU’s purview. Fleig has also reached out to the building owner and has not yet received a response. Fleig has spoken with IU regarding the trash pickup concerns and rather than moving the trash to Kirkwood, they are exploring the option of moving it to the parking lot east of the Von Lee Building. Fleig noted that the contractor does have insurance, though she is uncertain of the amount. Regarding seismic concerns, Fleig noted that Milestone deployed sensors during the previous stage of the project near the Trinity Church because of similar concerns and throughout the project there were never any issues. CBU is also planning to leave the existing south wall of the box culvert in place throughout the project to help prevent possible disturbance of the Von Lee foundation. White questioned if CBU was anticipating any blasting with this project, or if the work would consist of only jack hammering. Fleig advised that only jack hammering is planned at this time. White questioned if CBU had done assessment of the stone in the work area. Fleig advised that borings have been completed adjacent to the culvert and they have shown rock, but none of the ‘blue rock’ that tends to be hard and problematic to remove. White questioned if phasing of the project had been considered where only half of the work area was disturbed at any given time to allow access to the rear of the building in some fashion throughout the project. Fleig advised that the project is phased, and the section that includes the Von Lee Building also includes the Bike Garage and that section is long and straight, and should only take a few months. Once that section is completed the area behind both buildings will be reopened and work will continue to the east. White noted that the use of the second and third floor by IU has changed since the start of planning for this project, so the use might have lessened for those floors. White emphasized the minimizing the disruptions and the expectation of additional cost related to the project down the road, but also noted the importance of keeping to the timeline for completion of the project. Fleig noted that she is trying to set up a meeting with the property manager, Director

Kelson, Brock Ridgeway, and City Legal, but the timing is making that difficult. Sherman questioned how Milestone would enter into the communication, and if they would be involved in the discussions. Fleig advised that they are up to speed on communications so far and were good at keeping communication open during the last section of the project. Parmenter requested that the contractor be sure to include the property owner in open lines of communication throughout the project. Burnham noted that this project will likely receive a lot of negative criticism, but emphasized the importance of its completion. Burnham noted that CBU should include all parties that need to be involved, include all expert's in the area, and keep communication open. White noted that the alternative is to not do the project and for Bloomington to continue to have flooding issues in the downtown area, which is not an option.

***Parmenter moved, and Debros seconded the motion to approve the Agreement with Milestone Construction, LP. Motion carried, six ayes.***

#### **REQUEST APPROVAL OF AGREEMENT WITH 2ND NATURE SOFTWARE, INC. FOR STREET SWEEPING RESEARCH AND DEVELOPMENT PLAN**

CBU Assistant Director - Environmental - Zaiger presented the agreement. Zaiger advised that this plan will provide turn-by-turn routing for the CBU street sweeping program, along with further processes for how to improve the route as the program continues. White noted that this is a shifting of expenses from Public Works to CBU and this is the start of expenses, and questioned where the revenue is to offset the cost. White questioned if this was budgeted for in the previous year. Zaiger advised that \$250,000.00 was budgeted for the planning phase of the street sweeping program. White questioned if CBU had budgeted for the whole street sweeping operation. Zaiger noted that in addition to the \$250,000.00 for planning, funds were allocated for the purchase of a street sweeper and labor to operate it. Zaiger advised there will be a large expense up front to get the program going, and diminishing cost as the program moves forward. White questioned if CBU had considered a Stormwater Rate increase to cover the expenses of the program, because if that has not been considered, how will CBU be able to pay for the other improvements to stormwater infrastructure. White also noted that this was formerly a Civil City service that was paid for out of the General Fund, but is now being shifted to CBU ratepayers. Sherman noted that taxpayers will not see a decrease in property taxes, and will also experience a rate increase from CBU. White noted that street sweeping is important for the maintenance of storm drains, but this is a policy shift that CBU needs to be mindful of and ensure this program doesn't compromise the ability to make other MS4 improvements when needed. Zaiger noted that she was uncertain about each year's line item in the budget, but during the previous rate case, this program was accounted for. Zaiger also noted that the reduction of particulates that enter storm drains has a major impact on helping to reduce flooding. Sherman noted that the City had been providing this service, and questioned why CBU should pay for routing information that could be provided by the City. Zaiger advised that the routing provided by this agreement is focused specifically on improving stormwater quality, where the City's past use was focused on cleaning up after car crashes, construction work, and events. Zaiger added that this agreement will also provide for logistical planning that considers not interfering with Sanitation, minimizing left turns, and not interfering with buses. It will also analyze land use and help determine what areas need to be swept the most to have a positive

impact on the MS4. White questioned if this will provide a software program that CBU will have continued use of once the agreement is complete. Zaiger advised that CBU currently has software that will be able to integrate and analyze the data with existing software. White noted that this will allow CBU to update the program using the data gained overtime. Zaiger confirmed and noted that this will help CBU collect data and update the routes as needed. Sherman requested that the USB receive a report once the study is completed. Zaiger confirmed. Parmenter noted that the contract expires in 2025, and questioned if after the completion of the agreement, CBU will still have access to the software in case route tweaking is required. Zaiger confirmed. Parmenter questioned how the company managing logistics for this agreement will know what the existing Sanitation routes are. Zaiger advised that it will be the contractor's responsibility to collect that data. Sherman noted that in other cities that perform street sweeping, they place signage that informs citizens that they'll need to leave certain areas clear at certain times, and questioned if that will be a part of this program. Zaiger noted that part of the study will be to determine if there are areas that would benefit from those kinds of restrictions. Parmenter questioned how the company will be able to determine what areas need the most attention if they are completing the survey in the spring after the fall leaves have already gone away. Zaiger advised that they will analyze mapping data with specific layers that will look at canopy data throughout the city. Burnham questioned what CBU is currently doing regarding street sweeping. Zaiger advised that CBU will begin sweeping in March of 2024. Burnham questioned if CBU is taking over all street sweeping or a portion. Zaiger advised that Public Works will continue cleaning of asphalt milling, accident cleanup and event cleanup. Burnham questioned if the portion that CBU is taking over is purely a preventative role. Zaiger confirmed and stated that 2ndNature will provide target zones at the beginning of this process for CBU to focus on and over time, as data is collected, will create specific routes to ensure that CBU targets the most problematic areas. Burnham questioned if CBU really needs this service. Zaiger noted that the the service provided with this agreement will help reduce particulate that enters the MS4 and help prevent BMPs, detention ponds, and retention ponds from sedimenting in which reduces capacity and increases the chance of flooding. Burnham questioned if CBU needs this service now, given that it is only just beginning to provide this service, or would it make more sense for CBU to try this on its own and see what data can be collected and learned from internally, and if this service is still under the purview of CBU in several years, then consider something like this to improve and grow on the lessons that have been learned. Zaiger noted that the benefit to doing this now would be that CBU will establish this program in a purposeful and thoughtful way. Also, CBU doesn't have the time or capacity for the type of data collected by this agreement. If CBU is going to take on this service for the goal of improving stormwater quality, then it is important to have this program from the beginning to prevent wasted effort and resources. Hall noted that T&D will be operating the street sweeper and having the route dictated to them will prevent the operator from falling into a routine that may not be as impactful as possible. It will also mitigate the squeaky wheel syndrome, where customers repeatedly complain and the sweeper is only getting sent to the same area, while other areas with sediment issues are not getting the attention they need.

***Parmenter moved, and Debro seconded the motion to approve the agreement with 2nd Nature Software, Inc. Motion carried, six ayes.***



## **REQUEST FOR APPROVAL OF AMENDMENT NO.1 WITH SNEDEGAR CONSTRUCTION**

Hall presented the amendment with Snedegar Construction to an on-call contract. Hall advised that the contracted rates for boring through rock are double the rates for boring through soil, so CBU exceeded the on-call budget.

***Parmenter moved, and Debroy seconded the motion to approve Amendment No.1 with Snedegar Construction, Inc. Motion carried, six ayes.***

### **OLD BUSINESS:**

CBU MS4 Coordinator - Carter provided a Title 13 follow-up. Carter noted that CBU has been working with Clark Dietz, Inc. for consulting work on the design manual, and advised that a rough draft should be available for review in several weeks. CBU requested that Clark Dietz, Inc. research green infrastructure percentages. Part of Title 13 requires a certain percentage of post-construction BMPs to be green infrastructure, and CBU received questions regarding this requirement. Clark Dietz, Inc. recommended that 50% of water quality volume be treated using green infrastructure. Clark Dietz, Inc. also analyzed the percentage of developments in Bloomington that would be required to pay the proposed "in lieu fee" if they could not meet this proposed requirement and determined that only developments with 93% impervious surface would be required to pay the fee. Carter noted that based on her experience with City of Bloomington Planning, that would apply to only some developments downtown. No other developments would meet that criteria because no other zoning district allows that much impervious surface. The developments that did meet the 93% level would still have the option to install a green roof to help meet the requirement. Clark Dietz, Inc. also provided a financial impact statement comparing the maintenance cost of gray versus green stormwater infrastructure and determined that green infrastructure maintenance costs are 20%-50% lower than their gray counterparts and that green infrastructure can have a positive impact on existing gray infrastructure by providing filtration of sediment. As CBU continues to work with other departments, the recommended 50% of water quality volume number has been shared to allow Engineering to see how this requirement will affect future civil projects.

**NEW BUSINESS:** None

### **SUBCOMMITTEE REPORTS:**

Burnham noted that there will be an Administrative Subcommittee added to December 4th at 4:15pm. This is in addition to the Property & Planning Subcommittee that is already scheduled for 4:30pm. Burnham also noted that the last two meetings of the year will be Monday, December 4th and Thursday, December 14th for the Claims Only meeting.

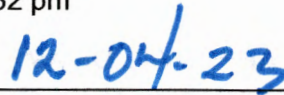
**STAFF REPORTS:** None

**PETITIONS AND COMMUNICATIONS:** None

**ADJOURNMENT:** Burnham adjourned the meeting at 6:32 pm



Amanda Burnham, President



Date