

UTILITIES SERVICE BOARD MEETING
5/6/2024

Utilities Service Board meetings are available at CATSTV.net.

CALL TO ORDER

Board President Parmenter 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: Megan Parmenter, Jim Sherman, Molly Stewart, Seth Debro, Jeff Ehman, Matt Flaherty, David Hittle

Board members absent: Kirk White, Amanda Burnham

Staff present: Matt Havey, James Hall Chris Wheeler, Dan Hudson, Hector Ortiz Sanchez, Jane Fleig, Holly McLauchlin, Daniel Frank

Guests present: Maya Stoffman, Antonia Bacigalupa Albaum, Aaron Pacheco

PETITIONS AND COMMUNICATIONS:

Stoffman, a sixth-grader from University Elementary School, discussed her exhibition project focused on the UN goal of clean water and sanitation. Stoffman highlighted the staggering statistics of child deaths due to diarrheal diseases caused by a lack of clean water, emphasizing its impact on health and development. Stoffman also noted how this issue hinders education and economic opportunities globally and discussed organizations like UNICEF and Concern that work on providing clean water infrastructure. Additionally, Stoffman suggested individual actions such as water conservation and implementing green infrastructure. Stoffman concluded by emphasizing the importance of education and distributing informational pamphlets as part of her own action to raise awareness about the issue.

Albaum and her husband Pacheco addressed an issue with the lateral on their property. They moved to their current residence two years ago and have been experiencing pipe problems since then, despite being assured by the previous owner that the pipes were replaced. Recent inspections revealed root balls intruding into their main line, with the lateral under the street still made of clay and roots infiltrating at almost all joints. Plumbers quoted \$52,000 for repairs, which is beyond their budget as graduate students. They argue that since other cities have policies where the utility is responsible for the pipe up to the property line, a community solution should be sought instead of individual repairs. They hope to bring attention to this issue and find a resolution before the 180-day limit for filing a claim expires in September. Parmenter questioned where specifically the root intrusion is taking place. Albaum advised that the roots are intruding into the line, under Kirkwood avenue on City property. Sherman questioned Assistant City Attorney - Wheeler if this matter is something that the USB has control over. Wheeler advised that there's no appeal currently regarding administrative decisions on the issue discussed. Wheeler noted that the city's rules distinguish between City and private citizen responsibilities regarding infrastructure, but acknowledged a broader concern about tree roots affecting both City and private infrastructure. Wheeler advised that there are meetings to

discuss this issue with relevant departments being planned in the near future. Wheeler noted that the current comment is not an appeal before the board, but rather a public comment. Wheeler advised that he is uncertain when he'll provide further updates but mentioned the potential for resolution for Albaum and Pacheco through the tort claim action. Sherman questioned if Wheeler was going to be discussing the issue with the Corporation Council. Wheeler confirmed that he would be discussing the larger issue of Bloomington wanting to be a 'Tree City', and the fact that those trees do infiltrate infrastructure, and who will bear the responsibility to pay for damages when that time comes. Sherman requested that Wheeler report back to the Board with the results of those discussions. Wheeler confirmed that he would. Ehman asked if this would be a part of City code that like the other parts that are applicable to CBU, the board would vote on that and approve it and then move it to City Council if there were ever to be any changes, as with Title 13 for stormwater or if this is somehow different. Wheeler acknowledged that if there was ever going to be a change in the language of an ordinance it would first come to the USB to review the language. Ehman noted that the USB should be involved and informed about the cost to homeowners and the implications of CBU taking on the responsibility of a portion of the pipes that were on City property and the estimated Operation and Maintenance cost that would be involved. Ehman added that if there is an opportunity for the USB to be more involved with the discussions, Wheeler should reach out to the Boardmembers through the President. Stewart noted that the clay sanitary sewer pipes are older and questioned if there was a replacement schedule in place, or are they simply repaired once they fail. CBU Assistant Director - Transmission & Distribution (T&D) - Hall advised that there is no current plan to replace laterals, because they are owned by the customers. Hall also noted that as CBU monitors and inspects clay sewer mains, a liner is installed rather than repairing them. Ehman added that some of these lining projects included laterals. Hall confirmed, adding that when it is done, it is typically done at varying lengths from 3 feet to 10 feet. Flaherty thanked the petitioners for attending and requested he also be included in the conversation that will be taking place with the City regarding the tree root infiltration issue. Parmenter questioned the tort claim process. Wheeler advised that a tort claim basically puts the City on notice that a potential lawsuit may be filed and provides the City with the opportunity to settle the claim prior to a lawsuit being filed. Generally through this process, if it is an instance where insurance would kick in, and legal counsel will determine what kind, if any settlement would occur. Flaherty questioned if what part of Title 10 includes the provision regarding this situation. Wheeler advised that he was uncertain specifically, but would need to look into that and could provide that information to the Board. Parmenter thanked the petitioners again for bringing this to the USB's attention and was uncertain on the timeline to address the issue, but will work to keep them informed. Stewart advised that the petitioners could keep up on the USB meeting videos and notes to keep abreast of the latest developments.

MINUTES

Board member Sherman moved, and Board member Debro seconded the motion to approve the minutes of the 4/22/2024 meeting. Motion carried, five ayes

REQUEST APPROVAL FOR RESOLUTION 2024-12 APPROVAL OF APPOINTMENT OF UTILITIES DIRECTOR

Parmenter presented the resolution to approve Katherine Zaiger as the Interim Director of the City of Bloomington Utilities.

Sherman moved, and Debroy seconded the motion to table Resolution 2024-12. Motion carried, five ayes.

CLAIMS

Standard Invoice Questions

Ehman questioned the transaction on page four for Indiana Water Environmental Association (IWEA) for Collection System Exams being billed to the Water account given that things to do with collections are typically a Wastewater expense. Along with this was a transaction for Milestone for 'Asphalt - Sewer' that was billed to Water. Parmenter questioned two matching transactions with Grainger with the same transaction description and amount of \$199.85. Havey offered to investigate each that was discussed.

Sherman moved, and Debroy seconded the motion to approve the Standard Invoices:

Vendor invoices included \$154,097.72 from the Water Fund, \$11,563.50 from the Water Construction Fund, \$395,020.07 from the Wastewater Fund, \$67,614.53 from the Stormwater Fund.

Motion carried, five ayes. Total claims approved: \$628,295.82.

Sherman moved, and Debroy seconded the motion to approve the Utility Bills:

Invoices included \$12,481.52 from the Water Fund and \$20,908.45 from the Wastewater Fund.

Motion carried, five ayes. Total claims approved: \$33,389.97.

Sherman moved, and Debroy seconded the motion to approve the Wire Transfers, Fees, and Payroll for \$560,227.41. Motion carried, five ayes.

Sherman moved, and Debroy seconded the motion to approve the Customer

Refunds: Customer Refunds included \$694.13 from the Water Fund, \$1,951.04 from the Wastewater Fund, and \$4,102.00 from the Stormwater Fund

Motion carried, five ayes. Total refunds approved: \$6,747.17.

CONSENT AGENDA

CBU Assistant Director - Finance - Havey presented the following items recommended by staff for approval:

- a. Layne Christensen Company, \$25,000.00, On-call Services for pump repair and plumbing services
- b. Control Freaks Consulting, LLC., \$25,000.00, On-call Scada control; instrumentation service and repair
- c. Atlas Technical Consulting, LLC., \$5,506.31, Statistical analysis of Dillman groundwater

Consent agenda items A. and B. were approved as presented. Item C. was pulled for further discussion. Total approved: \$50,000.00

REQUEST APPROVAL FOR AGREEMENT FOR SERVICES WITH ATLAS TECHNICAL CONSULTING, LLC FOR STATISTICAL ANALYSIS OF DILLMAN GROUNDWATER

Wheeler presented the agreement and advised that the vendor forms that CBU had on file needed to be updated before the Controller would approve the agreement.

Sherman moved, and Debro seconded the motion to approve the contract with Atlas Technical Consulting, LLC pending Controller's Office approval. Motion carried, five ayes.

REQUEST APPROVAL FOR CHANGE ORDER NO.1 TO CONTRACT FOR DILLMAN WWTP PHASE II: ELECTRICAL UPGRADES & BAR SCREEN REPLACEMENT

Capital Projects Manager - Hudson presented the change order, noting that during the inspection of the electrical conduits, Thieneman determined that they would be unwilling to install the new cable in the existing conduit. The addition of this will increase the project cost by \$666,451.30 dollars, for a new 'not to exceed' amount of \$4,159,451.30. Sherman questioned if it would be better to put the project out for bid. Hudson advised that this option was considered, but CBU was concerned that the process would delay the project, and thus far CBU has been happy with the performance of the contractor. Sherman questioned if the price seemed reasonable. Hudson confirmed that he had spoken with the consulting engineer on the project and they confirmed the cost per linear foot was comparable to previous work that had been done at the plant. Ehman noted that Hudson had said the contractor would not use the existing conduit and ask for specifics. Hudson advised that the original conduits are rigid aluminum that was installed 50 years ago and rather than threading the conduit properly, they had simply duct taped the pieces together and poured concrete on them. Over the years the connections have moved and there is a danger of damaging the insulation of the wiring during installation, and the contractor would not warranty the work if the original conduit was used.

Sherman moved, and Debro seconded the motion to approve Change Order No.1 with Thieneman Construction, Inc. Motion carried, five ayes.

REQUEST APPROVAL FOR RESOLUTION 2024-13 TO SELL A TRACT OF LAND PURSUANT TO I.C. §36-1-11-5

Wheeler presented the resolution, noting that a house was built in the 1970's that was constructed on top of the property line between private property and CBU maintained property. There are several precedents for handling a situation similar to this that were determined to not be the best course during conversation with City legal, including the option of an Encroachment Agreement, or disposal of the property as Surplus Property. Wheeler advised that neither option seemed appropriate in this case. The only fitting solution would be litigation to sue the property owner and the demolition of the home, but few courts would be interested in pursuing that resolution and would instead look to some kind of sale. CBU has no interest in owning the home, so the most appropriate solution is to sell the property to the homeowner since no one

else would benefit from the purchase of this property. CBU has appraised the property and will publicly notice the intent to sell to the abutting landowner. The property is landlocked and has an encroaching property on it, so the appraised value was \$5,000.00 along with an appraisal cost of \$800.00 dollars. CBU is requesting to sell the parcel for a total cost of \$5,800.00 to the homeowner. CBU will first have to get approval from the Lake Lemon Conservancy (LLC) since they hold the lease and have the right of first refusal. Wheeler advised that the Board liaison for the LLC has expressed no interest in contesting the sale. After the LLC votes and approves, CBU will post public notice of the sale and after 14 days CBU will be able to negotiate the sale. Flaherty contested that the appraisal method used is not sound and questioned if an alternative method that looked at fair market value for a similar parcel and then used a prorated amount based on square footage. Flaherty acknowledged that yes, the parcel is landlocked, but that is only a product of the prior error in the placement of the home, so it doesn't reflect the increase in fair market value to the home. While this is not necessarily a bad outcome for CBU, Flaherty questioned if other methods for determining land value should be explored. Wheeler noted that no other methods had been explored, because the similar instances that were looked at did not go through an appraisal process. Wheeler acknowledged that the appraiser had a difficult time locating a comparable piece of property situated near Lake Lemon with this type of encroachment on it. Wheeler also added it might be helpful to note that the current homeowners were not the ones to build the home, they purchased the property and were unaware of the encroachment. Wheeler agreed that there are likely alternative methods to arrive at a fair value for the property and is open to exploring those options if the Board would like. Flaherty noted that this situation bears a similarity to a council issue regarding vacating alleys, and in those instances he is highly averse to the practice because the City has often regretted the decision. Wheeler contested that he would side with Flaherty regarding the practice of vacating alleys as those properties are sitting waiting to be used. Flaherty questioned if an encroachment agreement would be possible in this case so that, if in the future, the home were to be removed then CBU could redirect future development back to the existing property lines. Wheeler confirmed, noting that with an encroachment agreement, CBU would maintain ownership of the property, but it would depress the home's value. The current occupants have applied with the County to do an interior renovation to the home, but are being denied because of the encroachment issue. Wheeler advised that there is a possibility that an encroachment agreement may still limit the homeowner's ability to make those improvements to the property. It would also make it difficult for the homeowner's to sell the property because any improvements the future owners might want to make would all need to be approved by CBU. Wheeler added that this solution seemed like a satisfactory resolution because it would give the homeowners back the full value of the property and allow CBU to be free of this issue. Sherman questioned how big the piece of land was. Wheeler advised the purchase area is .12 acres. Sherman noted that even in the expensive parts of Bloomington the price doesn't seem out of line, though perhaps on the low side. Wheeler noted that there was an assessed value for the property that was owned by the homeowners, but now assessed value for the portion that is being encroached upon, so coming up with a value for the property has been difficult for the appraiser. Stewart questioned if the appraisal included the half of the house or just the land. Wheeler was uncertain if that improvement was included, though it is unlikely. Wheeler noted that the Lake Lemon Conservancy does not meet again until after the following USB meeting, and offered to

table the matter until the next meeting to explore other options that the Board might find more appropriate. Ehman noted that to consider this property landlocked and with limited value grossly undervalued lakefront property with nothing between it and the lake except CBU property. Wheeler added that it doesn't possess riparian rights because it doesn't reach the shoreline. Ehman noted that when reviewing the area and then seeing the price he was shocked by the low valuation and as other Board members have noted, it seems as though CBU is undervaluing the property as a result of the approach. Parmenter agreed with other member's assessments that the value reached through the appraisal seems low given the location and amount of land. In the interest of being fair to not only the homeowners, but also CBU ratepayers, Parmenter suggested exploring other appraisal methods. Flaherty questioned if any other utilities outside of Bloomington were polled to see if they had dealt with similar situations. Wheeler noted that he would be happy to reach out to his colleagues to see if anyone had any other experiences or suggestions. Flaherty noted that the question trying to be answered is, what is the fair market value of a .36 acre lot on Lake Lemon. Once determined, simply take a third of that value and that would seem to be a fairer price. Wheeler noted that the assessed value of the property that the home is on was \$200,000.00 dollars without the house. Sherman questioned if that was broken down by Land and Structure? Wheeler was uncertain. Sherman noted even with alternative methods, what would be the likely increase in value, and is that increase worth the extra effort. Parmenter noted that a \$200,000.00 appraisal for just the land would not be surprising, so the effort of due diligence to ensure a fair market value is necessary. Ehman noted that this does affect the ratepayer, since this is a CBU property and questioned if that is correct. Wheeler confirmed that the lake was built as a water source for Bloomington and historically the utility has been in charge of managing the property, but noted that he is uncertain who would receive the funds from the transaction. Ehman noted that with the assumption that CBU will receive the funds, then this decision does affect ratepayers, even if in a miniscule amount. Wheeler noted that he will look at getting another appraisal of the property, along with determining where the funds will go if the property is sold. Wheeler advised that if CBU will not receive the funds from the sale, he would recommend doing an encroachment agreement and leave it at that. Stewart advised that the sales disclosure for the property purchased the home and property for \$800,000.00. The land, separate from the property is around \$270,000.00.

Sherman moved, and Debro seconded the motion to table Resolution 2024-13. Motion carried, five ayes.

REQUEST APPROVAL FOR AGREEMENT FOR SERVICES WITH BRIGHTVIEW LANDSCAPES, LLC

Havey presented the agreement and noted that the contract will cover mowing services for the CBU Service Center, three plants, and the lift and booster stations.

Ehman moved, and Burnham seconded the motion to approve agreement with Brightview Landscapes, LLC. Motion carried, five ayes.

OLD BUSINESS: None

NEW BUSINESS: None

SUBCOMMITTEE REPORTS: None

STAFF REPORTS: None

PETITIONS AND COMMUNICATIONS: CBU Communications Manager - McLauchlin presented a public comment submitted via Zoom from Brian with Green Dragon Mowing. Brian noted that the contract awarded to Brightview matched the price from the previous year's contract with Green Dragon Mowing, but the scope of work for this year included 10 additional properties.

ADJOURNMENT: Parmenter adjourned the meeting at 6:02 pm

Megan Parmenter
Megan Parmenter, President

5/20/24
Date