

UTILITIES SERVICE BOARD MEETING
7/29/2024

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, Kirk White, Amanda Burnham, Jim Sherman, Seth Debro, Jeff Ehman, Matt Flaherty, David Hittle

Board members absent: Molly Stewart

Staff present: Matt Havey, Kat Zaiger, Mark Menefee, Nolan Hendon, Chris Wheeler, Dan Hudson, Phil Peden, Kenny Johnson, Steve Stanford, Jessica McClellan, Caden Swanson, Matt Dabertin, Isabel Quiroz Michel, Daniel Frank

Guests present: Lily Franklin, Michael Carmin, Rajesh Patel

PETITIONS AND COMMUNICATIONS: None

APPEAL OF CUSTOMER'S UTILITY BILL (WATER AND WASTEWATER CHARGES)

Franklin advised that she and her roommates moved out of her apartment at 420 North Fess on May 11th around noon, which she had leased through Elkin. After she left, water started gushing from somewhere in the apartment until Memorial Day. Despite Elkin personnel being present in the apartment to fix other issues, including changing the toilet seat, they neither heard nor reported any water running. As a result, the cause of the water issue remains unknown. Lily and her former roommates, who are no longer living in the apartment, are being blamed for the excessive water usage. Elkin claims ignorance about the situation, leaving Lily and her roommates uncertain about what to do and feeling it is unfair to be charged for a water bill over which they have no control. Franklin's mother explained that she and her daughter filed a petition regarding the issue. They are uncertain about where the water went or how the issue occurred. Although a valve was changed on a toilet, there was no indication of a problem when Franklin and her roommates left the apartment. Franklin's mother advised that Elkin's had provided a work order that showed something was fixed in the apartment, and she hoped it might allow an adjustment of the bill. Assistant City Attorney - Wheeler explained the process for adjusting water bills when there are disputes. Wheeler advised that CBU follows the regulations set by the Indiana Utility Regulatory Commission (IURC). CBU procedures for reviewing and adjusting water bills are similar to the IURC's rules. The process involves checking for meter errors. Wheeler advised that Assistant Superintendent - Meter Services - Johnson inspected the meter in question to ensure it was functioning correctly. Johnson explained the procedure for investigating claims that a meter ran without water passing through it. He described removing the meter, bringing it to the shop, and conducting various tests, including air gapping 100 gallons through it and performing start-stop tests over a few hours. They also ran the American

Water Works Association (AWWA) test on the meter. Johnson states that they could not replicate the reported issue, and the accuracy of the meter is documented in the provided packet. Wheeler explained that adjustments to water bills can be made only if there is a meter error, as stated in section 6 of CBU Rules and Regulations. If the meter has inaccurately overcharged or undercharged, CBU can adjust the bill accordingly. CBU can also credit accounts in the case of billing errors, but there is no evidence of such errors in this case. The meter was found to be operating correctly, leaving no room for adjustment from the water perspective. Wheeler clarified that any relief based on fixing a problem relates to the wastewater side, where adjustments can be made if a leak before water has entered the sewer system is proven and documented. Wheeler noted that there was no indication that this happened in this case. Wheeler noted that a toilet valve was replaced, possibly indicating a problem, but added that disputes between the tenant and landlord are outside of CBU's interest or control. Wheeler recommended denying the request for any adjustment. Sherman questioned if Staff had ruled out an accounting issue. Wheeler confirmed. Sherman questioned when the tenant left the apartment. Franklin stated that she and all roommates were out of the apartment on May 11th at around 12:00 p.m. Sherman questioned when the jump in usage started. Franklin advised that the leak began after that time and continued until Memorial Day at 5:00 a.m. Sherman questioned when they discovered the usage. Franklin advised they learned of the leak when they received the bill. Sherman questioned if either the customer or Elkins had received any type of notification about the usage, referencing the usage alerts that customers can sign up to receive. Franklin advised that they didn't receive any notifications because they did not sign up for the service until after the incident. Johnson noted that CBU only distributes door hanger notifications as a courtesy when there is staff time and availability to do so. Burnham noted that all of her rental properties are set up to receive notifications in the case of a leak to prevent this kind issue. Burnham suggested speaking with the property owner to see if something could be worked out with them regarding the charges given all the factors. Franklin noted that she didn't know the leak alert service existed until after the incident and noted that she now monitors the usage regularly and that is how she was able to see ongoing sporadic usage in the apartment. White clarified that the customer is still seeing usage in the apartment. Franklin confirmed, and noted that it is 10 to 40 gallons of usage on random days. Franklin noted the penalty charges accrued on the account and stated that it was her understanding that no penalties would be assessed during the appeals process. Wheeler advised that any penalty should be waived. Assistant Director - Finance - Havey advised that the fee would be waived.

Board member Burnham moved, and Board Vice President Debro seconded the motion to deny the Appeal and waive any delinquent charges to the account. Motion carried, six ayes

APPEAL OF DENIAL OF SEWER EXTENSION

Attorney - Paganelli Law Group - Carmin introduced himself as the petitioner and stated that he might defer to his client Mr. Rajesh Patel for some questions. Carmin noted that Patel owns property at the intersection of Airport Road and West 45, which he acquired. The property includes storage barns and is currently under split zoning. Carmin noted that Patel seeks to rezone the property to a consistent single zone, in line with the county's comprehensive use

plan, which designates it for commercial use. His development plan includes a convenience store and filling station, along with the reuse of existing buildings for commercial purposes. The petition for sewer extension, denied previously, is being appealed in light of the comprehensive plan's support for commercial use. The extension requires approximately 2,000 feet of sewer line to reach the property. Patel expressed his appreciation for the encouragement of the commercial project and the potential for annexation. Sherman questioned on what grounds Carmin was appealing the denial. Carmin noted that the property in question will be developed regardless of the decision on sewer versus septic. While developing on septic is possible, it differs significantly from using a sewer system. The county supports the rezoning, and the intended uses will be permitted. If forced to use septic, the property will never switch to sewer, even though long-term responsible development suggests it should be on sewer. Carmin pointed out that the current policy affects not only this property but others, leading to development on septic systems that will eventually need sewer connections. He argued that for public health reasons, the property should be connected to the sewer system now rather than later. Wheeler advised that under CBU's current regulations, the utility service board has authorized the director of utilities to decide on such extensions. Extensions are generally only granted if the property owners have submitted a valid petition for voluntary annexation, in compliance with Indiana Code section 36-4-3-5.1. However, this property does not qualify for voluntary annexation as it is not contiguous with the city's corporate boundaries. Although there are rare exceptions to this rule, these are limited to situations where "will serve" letters were issued before policy changes. Wheeler concluded that the current request for sewer service extension is common and does not meet the criteria for the rare exceptions, and thus should not be granted as it would undermine the established policy. Carmin added that according to Rule 242, sanitary sewer service will not be extended to parcels outside the municipal boundaries unless the owners have submitted a valid petition for voluntary annexation in compliance with Indiana Code. The property in question is not eligible for voluntary annexation, rendering such a petition a hollow gesture. However, in rare circumstances, the director may grant a sewer service extension in exchange for a signed waiver of the right to remonstrate, considering several factors. These factors include the capacity to accept additional sewage, the planned use of the parcels (industrial, commercial, or residential), and whether the owner is a governmental agency. For residential uses, additional considerations are required, though not applicable in this case. Carmin noted that while extensions require developer-funded infrastructure, approval by city engineers, and dedication to the city, these costs do not fall on CBU. The area in question is targeted for commercial growth, aligning with the City's long-term plans, despite recent jurisdictional changes. Carmin argued that the city council's existing annexation and fiscal plans indicate a commitment to extending sewer services to this area, emphasizing that the current request aligns with those plans and should be considered appropriate. Parmenter questioned if CBU would incur any expenses for providing the sewer connection to this property. Wheeler advised that it was too early to determine if there would be any cost to CBU because that negotiation between CBU and the developer usually takes place later in a project. Ex Officio Flaherty questioned the policy rationale. Wheeler advised that the policy changed in August of 2022. Flaherty noted that since the comprehensive plan was adopted, over the last number of years there's been changes in state law and attempts to invalidate contracts and questioned how this guides the overall policy basis for how the director has been making decisions

regarding sewer connections. Wheeler noted that the current use of discretion in granting sewer service extensions is limited due to ongoing litigation. The uncertainty surrounding the validity and benefit of waivers received by the city is a significant factor, as these issues are still being litigated on appeal. Additionally, the broader annexation litigation contributes to the uncertainty regarding the City's legal standing. Because of these ongoing legal challenges, the policy was written to restrict the director's discretion in approving sewer service connections. This policy, developed in anticipation of increasing litigation in 2022, has effectively constrained the director's ability to make discretionary decisions moving forward. Sherman questioned if CBU would have to grant similar extension requests if the USB did not uphold the denial of service. Wheeler confirmed and urged consistency in dealing with customers who request connections to sewer service. Sherman noted that CBU would need to change the rules again or adhere to current policy. White noted general support for providing sanitary sewer service to closely contiguous areas, and emphasized public health over legal complications. White noted the public health risks of adding another septic system to a commercial site when the city has the capacity to provide sewer services, which is preferable to relying on septic systems prone to maintenance issues and failures. White also noted that the USB is uncertain about the current City administration's stance on this matter. Parmenter noted that this situation highlights why she opposed the creation of this rule noting that CBU is a cost of service entity and should provide the service if it has the capacity. Sherman noted that if the appeal is granted, the Rules and Regulations would need to be amended. Ehman noted that he agreed with White regarding preference for sewer connections from a public health standpoint, but added that this case involves nearly a ½ mile extension to existing infrastructure, and would set a precedent for such extensions. The impact to the Dillman plant is not something he could estimate and could not assume that CBU would have the capacity to open up such a larger area to connection. Ehman added that the policy discussion is something that the USB needs to consider regarding similar requests. Burnham questioned if the appeal were granted, would the addition create an 'island' of service. Ehman also questioned if by creating that island, would it not be difficult to deny service to anyone who requested it along the corridor in which the line was installed. Wheeler noted that he was uncertain of the infrastructure map in the area. Wheeler also noted that each request for connection of service that CBU receives is currently being passed along to the City's Corporation Council for review and input before the director's choice, and the policy has been put in place to make a limit on the rare instance to situation where an old Will Serve letter exist, and that is not the case. Peden noted that the nearest connection would be near the fairground, or near Grandview Elementary, and there are several homes in the area without sewer service. Flaherty expressed concerns about the broader implications of extending sewer services beyond immediate practical issues. The main worry is that setting a precedent by approving such extensions could make it harder to deny similar requests in the future. From a policy and fiscal perspective, making exceptions for utility services can weaken the overall case for annexation, which is important for the city's long-term fiscal health. Flaherty emphasized that utilities are just one part of a larger strategy, and undermining this aspect could discourage voluntary annexation. Carmin noted that the concern of overloading the Dillman wastewater treatment plant should have been addressed prior to proposing the annexation ordinance, as the council had already indicated the feasibility of handling this issue. Carmin also noted the legal

concept of a "commitment concerning the use of development of real estate," which involves recording a document that outlines specific actions to be taken with the land, ensuring these commitments are visible in the property's title history. Carmin suggested making the approval of the sewer service extension conditional upon recording a commitment that mandates the property owner to file a petition for voluntary annexation once the property becomes eligible. Although this might currently seem like a hollow gesture due to the lack of contiguity, it would ensure that future owners are obligated to pursue annexation when possible, thereby addressing concerns about incremental annexation and reinforcing the city's long-term planning objectives.

Sherman moved, and Ehman seconded the motion to deny the Request fo Sewer Extension. Motion carried, five ayes, one nay.

MINUTES

Board member Sherman moved, and Board Vice President Debro seconded the motion to approve the minutes of the 7/15/2024. Motion carried, six ayes

CLAIMS

Standard Invoice Questions

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

Vendor invoices included \$600,416.95 from the Water Fund, \$254,029.61 from the Water Construction Fund, \$755,219.87 from the Wastewater Fund, \$22,568.83 from the Stormwater Fund.

Motion carried, six ayes. Total claims approved: \$1,632,235.26.

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

Invoices included \$2,693.95 from the Water Fund and \$51,574.41 from the Wastewater Fund.

Motion carried, six ayes. Total claims approved: \$54,268.36.

Debro moved, and White seconded the motion to approve the Wire Transfers, Fees, and Payroll for \$461,067.44. Motion carried, six ayes.

Debro moved, and White seconded the motion to approve the Customer

Refunds: Customer Refunds included \$214.52 from the Water Fund, \$4,982.73 from the Wastewater Fund

Motion carried, six ayes. Total refunds approved: \$4,982.73.

CONSENT AGENDA

CBU Interim Director - Zaiger presented the following items recommended by staff for approval:

- a. Affordable Fence, Inc., \$1,380.00, Replace sensor on fence to open gate once the vehicle approaches
- b. Viola WTS Analytical Instruments, Inc., \$6,911.00, Calibration and maintenance of equipment at Monroe Plant

- c. Stites Scale Co. Inc., \$3,190.00, Service and calibration of balances at Blucher, Dillman, and Monroe Plants

Consent agenda was approved as presented. Total approved: \$11,481.00

REQUEST APPROVAL OF AGREEMENT FOR SERVICES WITH MACALLISTER CO., INC.

CBU Hazardous Materials Coordinator - Quiroz presented the agreement. Quiroz noted that this agreement is for regular inspections of emergency generators. Ehman questioned how this agreement differs from the previous agreement with MacAllister that was approved at the prior meeting. Quiroz advised that this is an agreement for regular maintenance as opposed to an on-call contract for repair, and the type of inspections included in this agreement are required from a compliance perspective. Ehman questioned if this agreement covers all of CBU's generators. Quiroz confirmed that it will cover 15 generators total located at lift stations, booster stations, and plants.

Sherman moved, and Debro seconded the motion to approve the agreement with MacAllister Machinery Co., Inc. Motion carried, six ayes.

REQUEST APPROVAL OF AGREEMENT FOR SERVICES WITH MILESTONE CONTRACTORS, L.P.

Zaiger presented the agreement and noted that the agreement is for paving services related to work being completed at Smith and Third St. CBU is asking Milestone to complete the work because they are already planning to do work in the area and having them include this section will cut costs on the project. Parmenter questioned if the work in this area was unexpected. Zaiger noted that she believed this was a planned project and was unaware of any lengthy delays for CBU. Assistant Director - Engineering - Peden noted that there were some storm structures in the path of the water main relocation and there were some field adjustments that were made.

Sherman moved, and Debro seconded the motion to approve the agreement with Milestone Contractors, L.P. Motion carried, six ayes.

OLD BUSINESS:

Zaiger advised that the USB will receive the latest draft of the 2025 Budget via email, and that it has been updated to address some of the comments from the recent Finance Subcommittee. Zaiger advised that CBU is not currently seeking approval because staff is still awaiting the final template for the memo and plans to bring the budget back to the USB at the next meeting on August 12th. Ehman questioned the revenue projects at the top of page 7, specifically how the projected revenue would be lower for Sewer and Stormwater from the 2023 actual. Havey advised that Staff took a multi-year average of three years and made a conservative estimate based on those projections. Ehman noted the upward trend in the three years of actual data, and questioned why CBU would expect a decrease. Havey advised that the estimate was conservative to ensure that CBU does not commit funds that will not be available. Ehman noted that the estimate is not realistic given what CBU should expect to see based on the available

data and questioned if this is the approach CBU should take. Havey noted that he does not want to over commit the budget and have divisions plan work based on funds that may not be there, adding that a surplus at the end of the year is better than a deficit. Ehman acknowledged the approach and questioned if this had been the practice for the past several years. Havey advised that he had only been involved in the past couple years and was uncertain how it was done prior to that, but based on his professional experience and training, this approach makes the most sense. Sherman questioned if the VISA charges for customers who pay for their trash services by credit card that were discussed at the previous meeting will be included in the budget. Havey confirmed that CBU covering those expenses will be included in the 2025 budget, and noted that CBU is exploring options. Ehman noted that those costs that CBU is currently absorbing could be paid for by the City using the Interdepartmental Agreement. Sherman noted that a 3% fee for the use of a credit card was also discussed. Burnham questioned if the division heads are involved in the Budget process. Havey advised that in the past it was more of a top down approach, but this year it was more of a hybrid that started with top down and then incorporated feedback from each of the Assistant Directors. Burnham encouraged that approach in order to encourage ownership of the budget. Parmenter questioned if the final draft will be available at the next meeting. Zaiger confirmed and advised that a full presentation will be given at the next meeting. Parmenter questioned if there was a timeline for a response from the City regarding the VISA fees that were discussed earlier. Parmenter added that the USB's intent was to have the card fees be the customer's responsibility starting January 1st, and in her opinion it should be CBU's decision to make. Havey advised that he will present it that way in his discussions with the City. Parmenter noted that CBU's expenses for these charges are likely more significant given that ratepayers are paying a monthly bill, leading to \$360,000.00 in fees. Burnham questioned if the fee applied to payments made by phone, or online, and if CBU is paying for this fee. Havey confirmed that so long as the payment is done using a card, there is a fee that CBU is currently absorbing. Burnham questioned if not taking a card would be an option. Havey advised that CBU processes a lot of credit card payments, so that is not a good option. Burnham acknowledged and clarified that she agrees, it is not a good option. Ehman again suggested that CBU request that the expenses for credit card payments related to trash pick-up be determined and paid for through the Interdepartmental Agreement. Havey advised that he will make the request. Zaiger advised that CBU is currently exploring an option where the fee is removed and paid for by the customer before CBU has received any funds which will simplify the process.

NEW BUSINESS:

White provided an update on the Wastewater scan for the Dillman plant, noting a significant increase in COVID-19 levels over the past few weeks. The current measurement is 1,238 parts per million, which is the highest since the week after Thanksgiving. This indicates a substantial COVID-19 infection rate in the community. For comparison, the national average for wastewater COVID-19 levels is around 600 parts per million, making the local rate more than double the national average. White emphasized the importance of practicing good public health standards due to the high levels of COVID-19 in Monroe County, as detected by the Dillman plant.

SUBCOMMITTEE REPORTS: None


STAFF REPORTS: Zaiger welcomed the following new staff members:

Kasie Chapell - Water Conservation Outreach Intern

Steven Stanford - Pretreatment Program Coordinator

PETITIONS AND COMMUNICATIONS: None

ADJOURNMENT: Parmenter adjourned the meeting at 6:15 pm


Megan Parmenter, President

8 / 12 / 24
Date