

UTILITIES SERVICE BOARD MEETING

07/06/2020

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

Board Vice President Capler called the regular meeting of the Utilities Service Board to order at 5:00p.m. The meeting was held via Zoom and Facebook Live.

Board members present: Jim Sherman, Jason Banach, Amanda Burnham, Jean Capler, Megan Parmenter, and Jeff Ehman. Three board members were absent, Julie Roberts, and ex-officios Jim Sims and Terri Porter.

Staff present: Vic Kelson, Laura Pettit, Holly McLauchlin, LaTreana Harrington, Chris Wheeler, James Hall, Brad Schroeder, Brandon Prince, Tom Axsom, Phil Peden, Cindy Shaw, and Kelsey Thetonia.

MINUTES

Board member Sherman moved and Board member Burnham seconded the motion to approve the minutes of the June 22 meeting. Motion carried, 6 ayes.

CLAIMS

Sherman moved and Burnham seconded the motion to approve the standard claims as follows: Vendor invoices submitted included \$753,850.85 from the Water Utility, \$500.00 from the Water Sinking fund, \$4,900.00 from the Water Construction Fund, \$982,185.36 from the Wastewater Utility, and \$93,715.29 from the Stormwater Utility.

Total Claims approved: \$1,835,151.50. Motion carried, 6 ayes.

Sherman moved and Burnham seconded the motion to approve the utility claims as follows: Utility invoices submitted included \$63,894.64 from the Water Utility, and \$9,701.63 from the Wastewater Utility.

Total Claims approved: \$73,596.27. Motion carried, 6 ayes.

Sherman moved and Burnham seconded the motion to approve the wire transfers, fees, and payroll in the amount of \$513,870.92. Motion carried, 6 ayes.

Sherman moved and Burnham seconded the motion to approve the customer refunds as follows: Refunds submitted included \$212.49 from the Wastewater Utility.

Total Claims approved: \$212.49. Motion carried, 6 ayes.

CONSENT AGENDA

CBU Director Kelson presented the following items recommended by staff for approval:

- Commercial Service of Bloomington, \$3,250.00, Installation of Oasis water cooler at CBU Service Center
- Commercial Service of Bloomington, \$22,795.00, Replacement of corroded piping at Monroe WTP
- Arcadis U.S., Inc., \$24,174.00, Consulting services for CBU Emergency Response Plan

As no items were removed from the Consent Agenda by the Board, agreements approved. Total contracts approved: \$50,219.00.

REQUEST FOR APPROVAL OF AMENDMENT WITH RANCE FAWBUSH FOR CONSULTATION SERVICES

Assistant Director of Finance Pettit requested approval from the board for an amendment to an agreement with Rance Fawbush. A few months ago the board approved this contract with Rance Fawbush (a former CBU employee who had retired) to continue working with CBU to continue to help with AMI billing integration. There are about 2000 meters left in the city to replace and this contract extends Rance's time without a financial extension.

Sherman moved, Burnham seconded the motion to approve the Amendment to Agreement with Rance Fawbush. Motion carried, 6 ayes.

REQUEST FOR APPROVAL OF FIRST AMENDMENT TO AGREEMENT WITH DONOHUE & ASSOCIATES FOR BLUCHER POOLE WWTP UV DISINFECTION SYSTEM IMPROVEMENTS

Assistant Director of Engineering Schroeder requested approval from the board an amendment to an agreement with Donohue & Associates. CBU has a contract with Mitchell and Stark to install a new UV system and a new non-potable water system. Donohue is the engineer on this project. There was a delay in working on the non-potable system due to a rush to get the UV system completed first. The delay has kept the engineer on for a longer amount of time and with more items to track and close out. The amendment is for \$14,500.00 to the original \$188,000.00 contract.

Sherman moved, Burnham seconded the motion to approve the First Amendment to Agreement with Donohue & Associates. Motion carried, 6 ayes.

REQUEST FOR APPROVAL OF AGREEMENT WITH PAUL I. CRIPE, INC. FOR DESIGN PLANS FOR SITE DEVELOPMENT AT THE WINSTON THOMAS PROPERTY

Assistant Director of Engineering Schroeder requested approval for an agreement with Paul I. Cripe for design plans at the Winston Thomas Plant. There will be some evaluation to use the Winston Thomas property as a potential new site for a CBU service center. This will include a master plan to do a needs analysis, conceptual design, layout of the site, as well as a detailed cost estimate. The contract value is \$79,500.00 and will be accomplished by the end of the year.

Board member Ehman asked how Paul I. Cripe, Inc. was chosen. Schroeder answered that CBU went through a Request for Qualifications process where RFQs were sent to multiple vendors. The list of vendors was narrowed down to two, who were each brought in for presentations and interviews on-site. An evaluation was performed with a team of people and references were checked. City Legal Attorney Wheeler mentioned the RFQ process also included quotes.

Sherman asked if this new location will be a service center. Schroeder replied this will potentially move CBU out to the Winston Thomas property. Kelson also replied that this is a master planning exercise to look at the possibility of using the site in the future for all of CBU's activities. The CBU garage and service center are undersized, as well as the City of Bloomington Public Works Department. The overall concept will be that CBU may reside at the Winston Thomas property and Public Works and other departments will take over the current CBU service center. The site is also a Brownfield reclamation project.

Board member Banach mentioned this project will be a time to evaluate how office space is used and how much is needed due to the stay-at-home order. Kelson replied a potential move will help with storage of equipment, materials, and having a garage for doing repairs.

Burnham asked about the length of time CBU has been in the current service center building. Kelson answered the building was built in the early 2000s after the old building burned down. The current building is functionally identical to the building it replaced. The fire happened at Thanksgiving 2003 and the new building was not populated until 2006.

Ehman added that a site enhancement, rather than moving, could be an option in the master plan and to consider what it would take to build a suitable shelter for equipment.

Banach asked if the rate payers paid to construct the current service center. Kelson answered part of the construction was paid with insurance proceeds and the rest by the rate payers. Other movements of other city departments into the current facility will require some reimbursement from the City which should be done at market value.

Capler mentioned this planning process is a time to look at all options including not moving to a new location.

Sherman moved, Burnham seconded the motion to approve the agreement with Paul I. Cripe, Inc. Motion carried, 6 ayes.

REQUEST FOR APPROVAL OF CHANGE ORDER NO. 9 WITH CRIDER AND CRIDER, INC. FOR THE IU HOSPITAL OFF-SITE SANITARY SEWER PROJECT

CBU Engineer Peden presented to the board a change order to the agreement with Crider and Crider for the sanitary sewer project for IU Health. This is a change order related to the MOU with IU Health previously approved by the USB on March 30, 2020. There is an increase of \$252,063.24, and the contract time has been extended to October 31, 2020. It covers the cost of the lift-station generator and control room building. These will be constructed and will have power and water. This also includes IU Health's bar screen.

Ehman asked how often a lift station includes a bar screen. Peden answered a bar screen is not necessarily related to the lift station, but is a pretreatment requirement.

Ehman asked for an example of a lift station that has a bar screen in Bloomington. Kelson answered the reason for the bar screen is this lift station turns into a long force main sewer line. The force main and the entire pumping system is put at risk by rags, towels, diapers, and other things that might come out of the hospital. Peden also answered that there is not an example of a lift station with a bar screen in Bloomington, but the hospital in Bedford, IN has a bar screen in their system.

Sherman moved, Burnham seconded the motion to approve Change Order no. 9 with Crider and Crider. Motion carried, 6 ayes.

REQUEST FOR APPROVAL OF AGREEMENT WITH DENTONS, BINGHAM, GREENEBAUM, LLP. FOR LEGAL REPRESENTATION REGARDING DISPUTES WITH DUKE ENERGY

Kelson introduced to the board the agreement with Dentons, Bingham, and Greenebaum. This agreement is related to the Jordan tunnel project. Part of the project includes the need for relocation of other utilities such as Duke, ATT, and others over the course of the tunnel. In the past, all utilities who have had to relocate have paid for their own relocation. Duke is refusing to pay for their relocations and CBU is at an impasse with them.

Wheeler explained that there are projects that are located in the street, in the public right of way, such as paving or widening the street, and sidewalk work. These are all considered part of the natural road right-of-way. The United States Supreme Court has determined that ushering stormwater away from the road right-of-way so that the traveling public is safe is also a function of roadwork. In utilities and with relocation of utilities, when doing work and there is another utility that needs to relocate so that work can be completed, the rule of thumb is that the utility who needs to relocate pays for their own relocation if they are in the right-of-way. In this case, Duke would pay for the relocation of its utilities so that CBU can complete the project. If a utility has an easement, or is legally documented to be in the real estate where the work is being performed, the utility doing the work would be required to pay for the relocation. Other utilities, ATT and Vectren, are working with CBU to move their utilities so that work can be completed. Duke would like for CBU to reimburse them even though their utilities are located in the road right-of-way and our work is roadwork. CBU is a water and wastewater utility that is a city department who also does roadwork. Duke has offered to move their utility provided CBU pays money into an escrow or trustee account while we litigate the issue.

Sherman asked about the need to have an outside legal team represent CBU instead of City Legal and how much the relocation will cost.

Wheeler answered, a larger law firm shows Duke that we are serious about getting this resolved. The relocation will cost about \$270,000 for three location sites, one of which is fairly significant where Duke said they will have to move their utilities underground.

Sherman also asked the cost of the law firm. Wheeler said the contract is not-to-exceed \$20,000.

Kelson pointed out a consideration that Duke is not the only utility that needs to be relocated. ATT's relocation expenses exceed \$1 million on this project. They have not made a similar request, but if CBU pays for Duke's expenses, they may also ask and we may see these kinds of requests in future projects.

Board member Parmenter asked if there have been projects where CBU has moved for Duke or if Duke has relocated for any other projects

Wheeler responded he could not think of any time where CBU has been required to relocate utilities for a Duke project or if Duke has ever relocated for CBU. Also, CBU may not have been asked to pay for a relocation. Most recently, with the State of Indiana, we were expected to move our utilities while I-69 was being built.

Burnham asked if CBU or the City of Bloomington is responsible for the case against Duke. Wheeler said there is no distinction between the City of Bloomington and CBU, but there is a distinction between whether rate payers should pay vs. City tax money. With regard to whether the rate payers should pay, if a court told the City that we have to pay Duke, we would use the rate monies from stormwater to pay for this stormwater project as this is a Jordan River culvert project (a stormwater relocation).

Capler asked if the negotiation process is delaying the culvert project and, if there is a need to go to court, is there a chance to recoup any expenses we are incurring to do this negotiation. Wheeler said the negotiations have not pushed back the timeline. The large relocation at the north end of the project between the Trinity Episcopal church and the Snow Lion restaurant will not take place for another year or so. A project at the beginning of next year will require nominal pole support by Duke while we are working above the streets. If we have to litigate, then there will be some delay. If there are costs associated with attorney fees, we can ask for those costs to be reimbursed.

Sherman moved, Burnham seconded the motion to approve the agreement with Dentons, Bingham, and Greenebaum, LLP. Motion carried, 6 ayes.

OLD BUSINESS: None

NEW BUSINESS: None

SUBCOMMITTEE REPORTS: None

STAFF REPORTS:

Kelson reported Governor Holcomb as well as the Indiana Utility Regulatory Commission ordered an extension of the moratorium on utility disconnections through August 14, 2020. CBU customers will not be assessed late fees until September, which means they will not see a late fee on their bill until October. Service disconnections will be restarted in November.

APPROVAL OF 2020 RESIDENTIAL STORMWATER GRANT RECIPIENTS

CBU MS4 Coordinator Kelsey Thetonia presented the board with a list of recipients of the 2020 Residential Stormwater Grant. For 2020, we received 50 applications totaling over \$275,857.98 in requests for funds. This is double the number of applications and funding requests received in 2019. There were six internal review meetings with just CBU staff. This was recommended by last year's review committee that staff input is provided because there are several projects the staff members are familiar with or can help tell the story of the applicant. Recommendations to the RSG review committee were made based on the staff review. The RSG review committee had another 6 meetings and went through every project. The committee then made decisions to fund a variety of projects, many of them being in our underserved neighborhoods, as well as funding as many projects up to the \$70,000.00 allocated for this program. On July 1, 2020 there was a final meeting where the final decision was made. Sixteen projects were chosen totaling \$65,396.50. Last year 11 projects were chosen with a total of just over \$35,000.00. Of the 16 projects for 2020, 8 of them are located in lower income neighborhoods (according to census block analysis), for 56% of the total awarded funds for \$36,883.00.

The 2020 Review Committee recommends the following projects be chosen for funding:

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| 1. | 2409 S Rogers St. | \$5,249.00 | Rain Garden |
| 2. | 2515 S Bryan St. | \$3,134.00 | Rain Garden |
| 3. | 919 N Orris Dr. | \$3,250.00 | Bioswale |
| 4. | 815 S Rose Ave. | \$3,500.00 | Rain Garden |
| 5. | 907 S Manor Rd. | \$3,265.50 | Rain Garden |
| 6. | 1009 N Woodburn Ave. | \$5,000.00 | Rain Garden |
| 7. | 1700 S Clifton Ave. | \$6,680.00 | Bioswale |
| 8. | 830 W 4th St. | \$4,397.00 | Dry Creek Bed and Rain Garden |
| 9. | 1529 W 8th St. | \$5,898.00 | Ditch Stabilization |
| 10. | 3300 N Browncliff Ln. | \$1,200.00 | Erosion Control |
| 11. | 2114 S Locust Ct. | \$4,693.00 | Drainage Project and Rain Garden |
| 12. | 3635 S Bainbridge Dr. | \$2,250.00 | Drainage Project |
| 13. | 2524 S Rogers St. | \$5,420.00 | Rain Garden |
| 14. | 918 W 13th St. | \$4,535.00 | Drainage Project |
| 15. | 1336 E Southdowns Dr. | \$4,125.00 | Drainage Project |
| 16. | 610 S High St. | \$2,800.00 | Dry Creek Bed |

Banach asked what kind of internal controls are in place to monitor the progress of the work, and how does the funding happen. He also asked if CBU directly pays contractors. Thetonia answered, the first control is the grant agreement process. Last year we worked with City Attorney Chris Wheeler to draft a grant agreement. It was a

two page document outlining what is expected of the project. The proposal is included, and it is an agreement that says each party understands what is going to happen for a specific amount of money. As far as managing the process of the projects, Thetonia has had some requests for on-site visits from homeowners. Thetonia was careful in not giving any type of direction. The project is to serve the purpose it was designed for. For example, if a project is a rain garden are the right amount of species being planted, is it the correct size, etc. Thetonia said she performed at least one site visit for each project depending on the complexity. Towards the end, the homeowner would send a picture of what it looked like. The homeowner can either pay their contractor and the grant would reimburse the homeowner, or CBU will receive an invoice from the contractor and directly pay the contractor. This helps the homeowners who would not normally be able to pay for this sort of project. It is not too much trouble to process either one as long as the proper documentation shows that it was paid for or we are receiving a bill from the contractor. Both types of payments go through the same process, with them being entered in the claims for USB approval. Payments are not processed until the project has been inspected and ensured that it is actually installed. Within the grant agreement is also a five-year maintenance contract. Currently, there is not a schedule to go out to enforce it, but there will be in the future.

Thetonia confirmed Banach's question of verifiable receipts from contractors, no matter the type of reimbursement, and the inspection of the projects upon completion.

Burnham asked for confirmation that projects have to be completed with a contractor and not a homeowner who wants to do it on their own. CBU Assistant Director of Environmental Hall answered that a homeowner can work their project without a contractor. They have to submit a plan and Thetonia performs an inspection upon completion. There is a list of items that will not be reimbursed when a homeowner does their own work. For example, the grant will pay for tool rentals but not tool purchases.

Thetonia added, cost estimates are used to determine the amount of funding. This year the total amount of funding was not rewarded in the event there may be some discrepancies or extra funding needed to help with some of the changes as the projects develop. More outreach was done to help people come up with projects on their own and get them the resources they need to make decisions. We received a list of contractors from HAND, contractors from previous grants projects, and others who have reached out to us to say they would like to be available to help.

Ehman mentioned in this year's review, there are some projects that will solve some health-based problems in some socioeconomically challenged areas. Three of those projects reached the highest level of review.

Sherman moved, Burnham seconded the motion to approve the Recommendation of the 2020 Residential Storm Grants recipients. Motion carried, 6 ayes.

PETITIONS AND COMMUNICATIONS: None

ADJOURNMENT: Capler moved to adjourn; the meeting was adjourned at 5:58p.m.

Julie Roberts, President

DATE