

UTILITIES SERVICE BOARD MEETING

08/31/2020

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 5:00 p.m. The meeting was held via Zoom and Facebook Live.

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

Staff present: Vic Kelson, Laura Pettit, Holly McLauchlin, LaTreana Harrington, Chris Wheeler, Brad Schroeder, Brandon Prince, Michelle Waldon, and James Hall.

MINUTES

Board member Sherman moved and Board member Parmenter seconded the motion to approve the minutes of the August 17 meeting. Motion carried, 6 ayes.

CLAIMS

Sherman moved and Parmenter seconded the motion to approve the standard claims as follows: Vendor invoices submitted included \$224,525.47 from the Water Utility, \$244,998.63 from the Wastewater Utility, \$750.00 from the Wastewater Sinking Fund, and \$4,392.19 from the Stormwater Utility.

Total Claims approved: \$474,666.29. Motion carried, 6 ayes.

Sherman moved and Parmenter seconded the motion to approve the utility claims as follows: Utility invoices submitted included \$5,277.35 from the Water Utility, and \$23,146.62 from the Wastewater Utility.

Total Claims approved: \$28,423.97. Motion carried, 6 ayes.

Sherman moved and Parmenter seconded the motion to approve the wire transfers, fees, and payroll in the amount of \$360,590.63. Motion carried, 6 ayes.

Sherman moved and Parmenter seconded the motion to approve the customer refunds as follows: Refunds submitted included \$35.92 from the Water Utility, and \$486.05 from the Wastewater Utility. ***Total Claims approved: \$521.97. Motion carried, 6 ayes.***

CONSENT AGENDA

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

- Peacetree, Inc., \$6,731.36, Installation of fuel overfill alarm and replacement of cathode tube in the fuel tank at Dillman WWTP
- Indiana Door and Hardware, \$7,196.00, Installation of locking crash bar on customer service doors at the Service Center

As no items were removed from the Consent Agenda by the Board, agreements approved. Total contracts approved: \$13,927.36.

REQUEST FOR APPROVAL OF TICHENOR DEMOLITION

City Attorney Wheeler presented to the board a memorandum of understanding and right of way between the City of Bloomington Utilities and John and Marta Tichenor for the Tichenor's desire to demolish and remove a dilapidated structure from CBU-owned property that is adjacent to and contiguous with property they intend to purchase. Wheeler said this is a situation that dates back as far as 2008 with a house that was built on City of Bloomington property on Lake Lemon. The house is abandoned and severely dilapidated now. As far back as 2008, CBU had agreed that the owner of the house should demolish and remove it. That effort never transpired. Today someone else is buying the property or a property next door and this house is an obstruction to their view of the lake. The people who are purchasing this property are willing to demolish this structure that is on CBU property and solves the problem at no cost to the City. The Tichenors are willing to incur the expense to improve their property values and their sightline to the lake. The MOU says they will be allowed to come on to our property for the sole and only purpose of demolition and removing the structure, as well as a right of entry that grants them the legal right to enter upon the property for the demolishing of this structure. Two separate documents are being signed by the husband and wife who own this property that is a waiver and a release so that should anybody, in the effort to demolish this structure, get injured, it is not going to be a liability issue for the city. They are set to close on the property and if we had to wait until the next USB meeting, it could hinder their opportunity to get the property closed timely. Sherman asked why the property wasn't demolished in 2008.

Wheeler said he had a letter from his predecessor to the property owner advising that the City had decided that they would not do anything to share costs or take any action to take down the structure, and instructed the owner to take the structure down. Wheeler said he tried looking for some type of resolution passed by the board and could not find one. This may have been addressed once before but it would have been with other people. The reason why it was brought before the board tonight is because we are now dealing with John and Marta Tichenor when we were not dealing with them in the past. Wheeler said he did not know why the house was not taken down. CBU is a utility that works on water, wastewater, and stormwater and not stewards of property around the lake and the lake itself. It is removed from our sight and not our mind and it is easy for people to not pay attention to what is going on

Sherman asked if Wheeler might have been more activist if something like this arose today.

Wheeler said there is another instance of this happening on the other side of the lake and we are being more active and progressive about it now.

Parmenter said Wheeler mentioned the Tichenors approached us about this, and their reasoning is because it is encroaching on their view and asked if CBU happened to build a structure there one day, is there something that says we cannot build something there later.

Wheeler said the building is severely dilapidated and it has been vacant for a very long time to his knowledge. It is an abandoned property that has gone into great disrepair. If we had decided to build a utility structure on our property for whatever reason, that would be our right and there is not anything that would prevent us from putting that structure there.

Capler asked if the dilapidated structure is legally considered to be abandoned.

Wheeler answered it is, and it has been vacant for a very long time. He also said if you were looking at unsafe law this, by definition, is an abandoned structure.

Sherman moved, Parmenter seconded the motion to approve the request for approval of the Tichenor demolition. Motion carried, 6 ayes.

OLD BUSINESS: None

NEW BUSINESS: None

SUBCOMMITTEE REPORTS: None

STAFF REPORTS:

Kelson reported to the board that CBU presented the budget to the Council on August 20, 2020. The presentation went well and passed recommendations 8 to 0. One Council Member did not vote. CBU will continue to finalize numbers and move on to the next phase of the budget process.

Kelson also said CBU continues sampling at the wastewater treatment plants for SARS-CoV-2. We are starting to get some results but so far we have had non-detects, or very close to non-detects in the early samples. The Assistant Director of Environmental Hall has been leading the sampling.

The testing procedure uses RNA to detect the virus, not the live virus. Even if the active live virus is destroyed, RNA is still available for testing and we can see that portion. CBU has eight total sampling sites. CBU is collecting water from six manholes throughout the collection system and testing the influent water at each of our WWTP.

Studies have shown that it is highly unlikely that the virus would be live and able to transmit by the time a CBU employee came into contact with the virus in the collection system or at the WWTPs.

PETITIONS AND COMMUNICATIONS:

Board member Banach thanked CBU staff for their swift action on a recent water main break.

Ex-officio Sims mentioned he was happy to hear about the great response from CBU about the main break and as we move forward, we will have a lot more conversation about infrastructure and pipes and breaks. Sims also gave kudos to Kelson and staff for a wonderful budget presentation. He had hopes it would be passed in the next month or so.

A member of the public submitted a question during the live Facebook feed: Why isn't CBU taking care of the building at Lake Lemon that is on CBU property as opposed to the citizens taking care of the building?

Wheeler answered the building was constructed illegally, it was not a CBU building, and it was built there without permission. It was also determined to be a trespass. The city had asked the previous owner who put the building there to have it removed. Wheeler said he did not know the history that happened between getting them to remove their encroachment and now, but now we are fortunate that someone else is willing to remove that building that was originally put there through a trespass and an encroachment.

Capler stated that it was her understanding that the building itself is not necessarily a detriment to CBU and its functions, and it is not in the way of anything that we would have a motivation to tear it down. It is just taking up space on our property, so we do not have any motivation to do anything about it currently.

Wheeler agreed. He said he thought it would be a misuse of the ratepayers funds they are paying into utilities to correct someone else's transgressions.

Banach said that some time ago, and maybe not part of this administration, the Property and Planning subcommittee looked at this and saw that there are lots of these encroachments around Lake Lemon. He was not sure if there was ever any follow up on that between administrations but said this issue might be something that can be revisited. He mentioned, to Chris' point, these structures have been illegally constructed on CBU property. Either we should make them go away or we should collect a fee for them to encroach. Banach said he would entertain looking into this in the future if the administration wants to do so.

Wheeler also said, when someone buys property that is next to a waterway, generally the laws of real estate would have them owning right up to and oftentimes into the waterway. So if someone bought property next to a river, generally speaking, they own up to the middle of that river or creek. They do not own to the edge, but they own to the middle. When someone buys next to a lake, generally speaking, they own up to the edge of the water sometimes actually out into the water, depending on the type of waterway. In this situation, it is a man-made lake. Lake Lemon was created for the retention of water in the case if the city needed to use water. The lake was constructed on a metes and bounds legal description that defines the property that the city owns and within the property that the city owns sits a lake. When people buy property around this lake, they only own up to the edge of CBU's property line, not down to the water's edge. Some people think they understand riparian rights and mistakenly build things up to the water's edge-which happens to be our property. It is understandable how these things

happen. We are a utility that does not have a presence at Lake Lemon right now. We do not police that area and these things happen without our knowledge often, in fact, always. We end up having to deal with these buildings after they have been constructed.

Sherman asked if building a walkway from someone's house to where they can tie a boat up next to it is encroachment.

Wheeler answered that building a walkway onto our property to get to the lake is an encroachment and walking across our property to get to the lake is trespass. Citizens are supposed to use the access points where they can put their boats in, but some treat it like it is a man-made lake and that they own up to the water's edge. There are a lot of these around the lake and it is a good argument as to why utilities should not be in the business of being lake managers.

Banach reiterated that he would entertain the Property and Planning subcommittee looking at this, because not only is this an issue of fairness in riparian rights, it is also likely a liability issue for the utility. If someone is going to build a walkway we could approve the plan and have them pay a fee. That person would then sign a waiver. We should get some kind of management protocol in place to address this in a uniform manner around the lake. The Monroe County GIS allows you to look at how the property line of what the city owns goes near the houses. He agreed with Wheeler in that he could see where that mistake is made, but it is the property owner's responsibility to figure that out before building anything.

ADJOURNMENT: Capler moved to adjourn; the meeting was adjourned at 5:29 pm

Julie Roberts, President

DATE