

# NEENAH-MENASHA SEWERAGE COMMISSION

## Regular Meeting

Tuesday April 24, 2012

Meeting was called to order by Commission President Youngquist at 8:00 a.m.

**Present:** Commissioners Tim Hamblin, Gordon Falck, Raymond Zielinski, Jim Gunz, Mike Sams, Kathy Bauer, Dale Youngquist; Manager Randall Much, Attorney John Thiel, Accountant Roger Voigt.

**Also Present:** Tom Kispert, Chad Olsen, Amy Vaclavik (McMAHON); Colleen Miller (Town of Greenville resident); Mike King (Post Crescent); Rob Franck, Paul Much (MCO).

Commissioners discussed the minutes from the Regular Meeting and Closed Session of March 27, 2012. After discussion, motion made by Commissioner Gunz, seconded by Commissioner Zielinski to approve the minutes of the Regular Meeting and Closed Session of March 27, 2012. Motion carried unanimously.

## Correspondence

The following correspondence was discussed:

- A. March 28, 2012 letter from Roger Voigt, NMSC to Michael Easker, City of Neenah.  
RE: Refund of prior year overcharges from Menasha Utilities.

Amy Vaclavik (McMahon) discussed her memo to the Commission regarding the Clean Water Fund (CWF) in response to questions raised at the March Commission meeting. The CWF started out as a grant program in the 1980's and developed into a revolving loan program. There are financial assistance and bond documents that are signed; special bond counsel is required by the State to review the documents. Commissioner Gunz questioned if the Bonds issued by the communities are marketable securities; they are not. The interest rate is the same regardless if Revenue or General Obligation Bonds are issued by the community. Draft Agency Agreements have gone out to the communities; the communities need to pass this resolution and approve the Financial Assistance Agreement. The next step is to have bond counsel review the documents.

## Budget, Finance, Personnel

Accountant Voigt presented the financial statements for the month of March 2012. The outstanding invoice from U.S. Paper Mills was questioned; they have been contacted and will be issuing payment for the invoices that were missed. After discussion, motion made by Commissioner Zielinski, seconded by Commissioner Falck to approve the Financial Statements for the month of March. Motion carried unanimously.

Accountant Voigt presented the Accountant's Report and Cash Flow Projection for the month of March. The interest rates have not changed; MCO generated \$4,560 in income to the Commission in March. The cash flow projection has been updated based on current known information. After discussion, motion made by Commissioner Zielinski, seconded by

Commissioner Falck to accept the Accountant's Report and cash flow projection for March. Motion carried unanimously.

Motion made by Commissioner Falck, seconded by Commissioner Gunz to approve operating and payroll fund vouchers #132878 through #132926 in the amount of \$254,621.01 for the month of March 2012 and Construction Fund Vouchers #116 through #120 in the amount of \$53,317.34 for the month of March 2012. Motion carried unanimously.

Attorney Thiel discussed Davis & Kuelthau invoices that were withheld from payment. Attorney Thiel explained his review of these invoices and recommends payment of invoices #341980, #342911, #344540, #344948, and #346667. Attorney Thiel needs to discuss one additional invoice with the Menasha and Neenah attorneys before he recommends payment. After discussion, motion made by Commissioner Gunz, seconded by Commissioner Falck to approve for payment Davis & Kuelthau invoices #341980, #342911, #344540, #344948, and #346667. Motion carried unanimously.

Accountant Voigt presented MCO Invoices #16366, #16418 and #16413 in the amounts of \$118,845.45, \$648.05, and \$268.55. After discussion, motion made by Commissioner Hamblin, seconded by Commissioner Bauer to approve for payment MCO Invoices #16366, #16418 and #16413 and to pay the invoices after May 1, 2012. Motion carried unanimously.

Accountant Voigt presented for payment McMAHON invoices #48987 - \$12,280.00; #48986 - \$79,120.00; #48985 - \$2,108.00; #49191 - \$2,499.91; #49192 - \$819.65, and #49190 - \$3,176.25. After discussion, motion made by Commissioner Zielinski seconded by Commissioner Sambas to approve for payment invoices #48987, #48986, #48985, #49191, #49192, and #49190. Motion carried unanimously.

Accountant Voigt presented the Certificate for Payment received for Contract R – Sludge Spiral Heat Exchangers. This request represents the 5% owed on the equipment procurement item for submittal of the shop drawings. Contract R is with Alfa Laval, Inc. After discussion, motion made by Commissioner Gunz, seconded by Commissioner Bauer to approve for payment the Certificate for Payment received from Alfa Laval, Inc. for Contract R. Motion carried unanimously.

### **Operations, Engineering, Planning**

Manager Much reported the facility is operating well. The methane engine was running well; when it is shut down there are problems when restarting it to sync with the switchgear. The company providing repairs on the unit provided a tip to help it sync. They also indicated the engine is nearing its end of life cycle. Manager Much reported receiving a contact from Mark Radtke (City of Menasha) with questions on the metering station and how samples are collected. Manager Much reported he attended a TMDL meeting in the Rock River Basin; this area has an approved TMDL in the State. Additional information on the State program and trading was obtained. Commissioners questioned the Administrative Rules and Statutes regarding the TMDL. Attorney Gunz indicated he doesn't feel we should be in the lead dealing with phosphorus until rules are finalized. The NMSC discharge permit is 2 ½ years expired; this is

mainly due to staff shortages. After discussion, motion by Commissioner Gunz, seconded by Commissioner Zielinski to accept the Operating Report for March. Motion carried unanimously.

Manager Much presented and discussed the Sewer Extension Request received for the Papermaker Ridge subdivision located in the Waverly Sanitary District, Town of Harrison. After discussion, motion made by Commissioner Gunz, seconded by Commissioner Bauer to approve the Sewer Extension Request for the Papermaker Ridge subdivision located in the Waverly Sanitary District, Town of Harrison. Motion carried unanimously.

Tom Kispert updated the Commission on the facilities upgrade project. The facilities design is continuing. Several shop drawings for the equipment procurement still need to be submitted. Tom reported on project painting; a painting contractor was brought in to review and provide a guide on how to proceed with a scope for the painting. One primary clarifier will be drawn down and inspected for its condition. Tom is proposing to complete the design and submit in June to the DNR for approval. The current project calendar is to have the plans submitted on June 1, advertise and have a bid opening date on June 28 and to execute contracts in August.

Tom Kispert updated the Commission on the System Controls/SCADA. They are looking at adding new LED lighthoods. They have also looked at the current genset switchgear; the switchgear is no longer supported.

Tom Kispert reported on the GIS/Work Order System. Functional updates are being installed; the GIS database is being built.

Tom Kispert presented for signature change order #1 for Contract F – Fine Screen/washer/compactor system in the amount of \$47,970.00. This change order was approved at the March meeting.

### **Old Business**

Attorney Thiel provided an update on the Fox River litigation. On April 10, 2012 Judge Griesbach reversed his July 5, 2011 decision regarding Appleton Papers (API) in which he had denied API's request to be dismissed from the litigation. He now dismissed API on the ground that API is not liable under CERCLA; however API is still liable to NCR under a contract it has with NCR. In the Whiting case Attorney Thiel expects API to likewise petition the court to be dismissed on the same grounds that API is not liable under CERCLA and that the court will grant such a motion to dismiss for API. On April 12, 2012 there was an injunction hearing brought by the USA against NCR and the court ruled that NCR must begin dredging again. The NMSC and Menasha Corporation had prevailed on a Freedom Of Information Act case against the USA and the USA has appealed the Court's decision that requires the USA to produce papers needed by the NMSC lawyers for litigation.

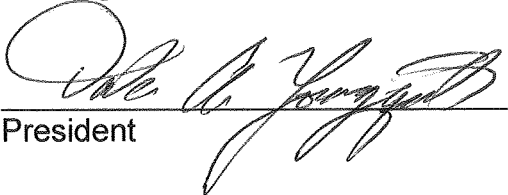
Biosolids. Chad Olsen provided an update on achieving Class A biosolids. He met with Fred Hageman with the DNR; they went to Sturgeon Bay on April 9 to review their operation. Chad received favorable feedback; Fred indicated he would send a letter. Chad further reported we would need to perform more testing for the Class A rating.


Motion made by Commissioner Zielinski, seconded by Commissioner Bauer to convene into closed session pursuant to Wis. Stats. § 19.85(1)(e) to discuss strategy concerning the Contracted Industrial User as it affects the financing of the Sewer Plant Project, and pursuant to Wis. Stats. § 19.85(1)(g) to confer and review oral legal advice by legal counsel to the Commission as to potential litigation with Insurance Carriers as it relates to the lawsuit(s) commonly referred to as the Fox River litigation. Also, pursuant to Wis. Stats. § 19.85(1)(e) to discuss identified real estate options for placement of a building to be used by the Commission for which bargaining reasons and developing acquisition strategy require a closed session to protect the public investment and spending of public funds. By roll call vote taken, motion carried unanimously, by Commissioners Zielinski, Gunz, Bauer, Falck, Hamblin, Sambas, Youngquist.

Meeting convened into closed session at 9:44 am.

After discussions, motion made by Commissioner Zielinski, seconded by Commissioner Falck to adjourn the closed session and return in regular open session. By roll call vote taken, motion carried unanimously by Commissioners Zielinski, Gunz, Bauer, Falck, Hamblin, Sambas, Youngquist. The Commission returned to Regular open session at 10:33 am.

Motion made by Commissioner Gunz, seconded by Commissioner Zielinski to adjourn the meeting. Motion carried unanimously. Meeting adjourned at 10:35 a.m.

  
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President

  
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Secretary

**THE NEXT REGULAR MEETING IS SCHEDULED FOR TUESDAY May 22<sup>nd</sup>, 2012.**