

**GREEN BAY METROPOLITAN SEWERAGE DISTRICT**  
**PROCEEDINGS OF THE COMMISSION**

Regular meeting of the Commission held March 27, 2013.

**PRESENT:** Commissioners Hasselblad, Mainz, Blumreich, Tumpach, and Hoffmann

**ALSO PRESENT:** T. Sigmund, P. McCarthy, P. Kaster, P. Wescott, B. Hafs, M. Pierner, B. Angoli, B. Brown, M. Diaz, M. Erschnig, B. Oldenburg, J. Kennedy, B. Bartel, J. Czypinski, M. Urbancic, T. Brown, T. Garrison, N. Qualls, J. Van Sistine, J. Nicks–Legal Counsel

Commission President Hasselblad called the meeting to order at 8:30 a.m.

- 1) **Convene in closed session under State Statute 19.85 (1) (g) for the purpose of conferring with legal counsel for the Commission who is rendering oral or written advice concerning strategy to be adopted by the Commission with respect to litigation in which it is or is likely to become involved:**
  - a) **Fox River Fiber Complaint with Public Service Commission**
  - b) **Duck Creek Golf Center claim**

**Motion #13-014**

It was moved by Mainz, seconded by Blumreich, and unanimously agreed to convene in closed session under State Statute 19.85 (1) (g) for the purpose of conferring with legal counsel for the Commission who is rendering oral or written advice concerning strategy to be adopted by the Commission with respect to litigation in which it is or is likely to become involved.

- 2) **Reconvene in open session.**

**Motion #13-015**

It was moved by Mainz, seconded by Blumreich, and unanimously agreed to reconvene in open session.

- 3) **Approval of minutes of Commission meetings held February 25 and March 12, 2013.**

**Motion #13-016**

It was moved by Blumreich, seconded by Hoffmann, and unanimously agreed to approve the February 25 and March 12, 2013 minutes as distributed.

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- 7) **Request Commission approval of two agreements with the Wisconsin Department of Transportation for interceptor relocation work for the Duck Creek Interceptor North Leg Modifications Project 12-036 and authorize the Executive Director to execute the agreements.**

M. Pierner requested Commission approval of two pending agreements with the Wisconsin Department of Transportation (WDOT) for sewer modification work in preparation of the Hwy 29 and County Trunk FF interchange. He reported NEW Water, the brand of the Green Bay Metropolitan Sewerage District, will be required to move 900 ft. of the Duck Creek Interceptor. The WDOT will reimburse NEW Water 100% of the cost of modifying interceptors located in private easements and 90% for interceptors located in road right-of-ways. He asked Commission approval to authorize the Executive Director to execute the final agreements.

**Motion #13-017**

It was moved by Mainz, seconded by Blumreich, and unanimously agreed to approve two agreements with the WDOT for interceptor relocation work for the Duck Creek Interceptor North Leg Modifications Project 12-036 and authorize the Executive Director to execute the agreements.

- 8) **Request Commission approval to enter into agreements with the Villages of Hobart and Howard for collector sewer work associated with the Duck Creek Interceptor North Leg Modifications Project 12-036 and authorize the Executive Director to execute the agreements.**

M. Pierner requested Commission approval for the Executive Director to execute agreements with the Villages of Hobart and Howard for modification and relocation of their collector sewers that are connected to the NEW Water interceptor. He stated NEW Water will bill the Villages of Hobart and Howard for the cost of the work once the project is complete and the Villages can seek reimbursement from the WDOT.

**Motion #13-018**

It was moved by Blumreich, seconded by Hoffmann, and unanimously agreed to enter into agreements with the Villages of Hobart and Howard for collector sewer work associated with the Duck Creek Interceptor North Leg Modifications Project 12-036 and authorize the Executive Director to execute the agreements.

- 9) **Request Commission approval to conditionally award the construction contract for the Duck Creek Interceptor North Leg Modifications Project 12-036 to Advance Construction, Inc. subject to required approvals and permits being granted by the Wisconsin Department of Natural Resources, Wisconsin Department of Transportation, and U.S. Corps of Engineers.**

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M. Pierner reported bids for the relocation work were opened on March 6, 2013. He stated four bids were received. Staff recommends conditional award to Advance Contractors, Inc. in the amount of \$581,373.40 and a 10% construction contingency for a total amount of \$639,510.74. He stated the award is conditional because the WDOT needs to get concurrence from the Environmental Protection Agency on tribal land before the project can proceed. He stated a bid hold period has been extended to 120 days to provide time to obtain the necessary approvals.

#### Motion #13-019

It was moved by Hoffmann, seconded by Mainz, and unanimously agreed to conditionally award the construction contract for the Duck Creek Interceptor North Leg Modifications Project 12-036 to Advance Construction, Inc. in the amount of \$581,373.40 and a 10% contingency under the authority of the Executive Director for a total amount of \$639,510.74 subject to required approvals and permits being granted by the Wisconsin Department of Natural Resources (WDNR), WDOT, and U.S. Corps of Engineers.

- 10) **Request Commission approval for Robert E. Lee & Associates, Inc. to provide engineering services during construction for the Duck Creek Interceptor North Leg Modifications Project 12-036.**

M. Pierner requested Commission approval for Robert E. Lee & Associates, Inc. to provide engineering services during construction in the amount of \$58,800, which is 10% of the project cost. He stated a 5% contingency is also recommended for a total amount of \$61,740. He stated Robert E. Lee & Associates, Inc. designed this project and has performed satisfactory work so staff would like to retain Robert E. Lee & Associates, Inc. for this project.

#### Motion #13-020

It was moved by Blumreich, seconded by Mainz, and unanimously agreed to approve Robert E. Lee & Associates, Inc. to provide engineering services during construction for the Duck Creek Interceptor North Leg Modifications Project 12-036 in the amount of \$58,800 and a 5% contingency under the authority of the Executive Director for a total amount of \$61,740.

- 4) **January and February financials.**

M. Diaz reported total operating revenues for the month of January were favorable to budget by \$190,000 due to unseasonably warmer weather in January and periods of rain resulting in melting periods. She reported total operating expenses for the month of January were favorable to budget by \$161,000 primarily from contracted services, chemicals, and power. The net income for January was \$338,000 due to operating income, total operating revenues less total operating expenses.

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M. Diaz reported total operating revenues for the month of February were slightly unfavorable to budget. Year to date total operating revenues were favorable to budget by \$187,000 because of warmer weather than anticipated, melting periods, and other revenues. Total operating expenses for February were favorable to budget by \$380,000 due primarily from maintenance plant, contracted services, salaries and benefits, and power. Year to date total operating expenses were favorable to budget by \$541,000 due to contracted services, chemicals, maintenance plant, power, and natural gas and fuel oil. The net income for February was \$113,000.

- 5) **Resolution Authorizing the Issuance and Sale of up to \$3,133,312 General Obligation Sewerage System Promissory Notes, Series 2013A and Providing for Other Details and Covenants with Respect Thereto.**

M. Diaz stated this is a Clean Water Fund Loan (CWFL) application for the lab remodeling; heating, ventilation, and air conditioning upgrades; and the Americans with Disabilities Act restrooms and door revisions. The Commission approved the project on August 22, 2012. She requested Commission approval of the General Obligation Sewerage System Promissory Notes in the amount of \$3,133,312. The notes will be issued at the subsidized interest rate of 2.65% for 20 years limitation. The closing is scheduled for April 10, 2013.

Commissioner Blumreich asked if staff has calculated the difference between the notes and what the market is. T Sigmund replied under the budget biennium, it is 25% of market. Commissioner Blumreich asked staff to keep a pulse on the market. His concern is the CWFLs are not refundable.

**Motion #13-021**

It was moved by Blumreich, seconded by Hoffmann, and unanimously agreed to approve the Resolution Authorizing the Issuance and Sale of up to \$3,133,312 General Obligation Sewerage System Promissory Notes, Series 2013A and Providing for Other Details and Covenants with Respect Thereto. (Resolution #13-004 is on file at the NEW Water offices.)

- 6) **Request Commission approval to reclassify the Instrumentation Technician position to an Electrical & Instrumentation Technician position and modify the organizational chart.**

M. Erschnig requested to change NEW Water's last Instrumentation Technician position to an Electrical and Instrumentation Technician position. He stated the Commission encouraged staff in 1998 to move forward in this process. He reported that having the Electrical & Instrumentation Technicians trained in both trades gives NEW Water more flexibility and will require only one person on call to handle electrical and instrumentation issues.

Commissioner Tumpach asked if there would be a budget impact. T. Sigmund replied staff budgeted for this because the employee was in the program.

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Motion #13-022

It was moved by Mainz, seconded by Hoffmann, and unanimously agreed to reclassify the Instrumentation Technician position to an Electrical & Instrumentation Technician position and modify the organizational chart. (See Commission File #13-001)

- 11) **Request Commission approval to increase the contingency amount for the West Tower Drive Interceptor Relocation Project 10-621 and authorize transfer of funds from the Interceptor Cost Recovery Reserve.**

M. Pierner reported construction difficulties related to poor soils and obstructions were encountered on the Hwy 41 project. He stated while pipe jacking a 60-inch sewer pipe under Hwy 41 near Velp Avenue water and sand entered into the face of the boring operation causing the south bound lanes of the highway roadbed to settle. The pipe jacking operation had to cease to avoid jeopardizing highway safety. An attempt was made to pound an 84-inch casing pipe under the highway to intercept the existing pipe jacking operation to recover the mining machine and complete the pipe installation. As the casing pipe was advanced it encountered an obstruction under Beaver Dam Creek that required exaction to remove. The casing pipe then advanced some 80 ft. when it again was stopped by what was believed to be an obstruction located under the north bound lanes of Hwy 41 causing work to cease again. In order to recover the mining machine and complete the sewer pipe installation, it was necessary to close a portion of the highway last weekend and work around the clock to excavate, recover the mining machine, install the sewer pipe, backfill, rebuild the roadbed, and open the highway for Monday morning traffic. He reported the obstruction turned out to be a soil adhesion that stopped the casing pipe from advancing.

M. Pierner stated the additional work is projected to increase the project cost by approximately \$1,250,000. Staff is requesting to increase the initial contingency by \$1,000,000 to cover the additional work and other anticipated change order work required on the project, and authorize the Executive Director to execute the change orders. He stated in 2012 the Commission approved contract award at \$6,678,202.50 with a contingency amount of \$667,820.50. With today's request the revised total authorized amount will be \$8,346,023.00. The WDOT has indicated that the change order work will be eligible for 90% reimbursement.

Motion #13-023

It was moved by Mainz, seconded by Hoffmann, and unanimously agreed to increase the contingency amount for the West Tower Drive Interceptor Relocation Project 10-621 by \$1,000,000 for a total authorized project amount of \$8,346,023 and authorize transfer of funds from the Interceptor Cost Recovery Reserve. The total authorized contingency amount is \$1,667,820.50.

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- 12) **Request Commission approval to select Black & Veatch to provide consulting services for the Value Engineering Study for the Resource Recovery and Electrical Energy Design Project.**

B. Angoli stated the objective of a Value Engineering Study is to provide an independent review of a project that identifies specific opportunities to enhance the performance of new systems, reduce life cycle costs, and increase value. The study will also provide validation of design decisions or offer viable alternatives. Staff recommends the Commission award the Value Engineering Study for the R2E2 Design Project to Black & Veatch in the amount of \$105,000.

Commissioner Mainz asked if Black & Veatch provided specific names of the individuals providing the consulting services. B. Angoli replied yes, and provided the list of names.

**Motion #13-024**

It was moved by Blumreich, seconded by Mainz, and unanimously agreed to select Black & Veatch to provide consulting services for the Value Engineering Study for the R2E2 Design Project in the amount of \$105,000 and a 5% contingency under the authority of the Executive Director for a total amount of \$110,000.

- 13) **Sewer plan approvals:**

- a) **Village of Bellevue Project 2013-2009; GBMSD Request 2013-07**

M. Pierner reported the Village of Bellevue is requesting 2,400 ft. of sewer to serve a new Cosco store and some commercial development.

- b) **City of Green Bay – Lambeau Field Modifications; GBMSD Request 2013-08**

M. Pierner reported the City of Green Bay is requesting to modify some existing sewers serving Lambeau Field.

M. Pierner requested Commission approval of the above sewer plans subject to favorable review by Brown County Planning (BCP) and final approval by the WDNR.

**Motion #13-025**

It was moved by Mainz, seconded by Hoffmann, and unanimously agreed to approve the Village of Bellevue Project 2013-2009 and the City of Green Bay – Lambeau Field Modifications sewer plans subject to favorable review by BCP and final approval by the WDNR.

- 14) **Potential land lease agreement.**

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P. Kaster reported there is renewed interest in leasing NEW Water property located south of the Green Bay Facility. He stated Clean Energy is interested in leasing approximately two acres of land for a liquefied natural gas fueling facility and U.S. Ventures is interested in a compressed natural gas facility. Staff is working with legal counsel on drafting a ground lease agreement. Staff plans to come back to the Commission in April for approval for the Executive Director to execute the land lease agreement.

Commissioner Mainz asked if staff is aware of any safety or security issues. P. Kaster replied that staff does not anticipate any problems.

Commissioner Blumreich asked legal counsel to verify the indemnification language.

#### 15) Review of letter from Advance.

The Commission received a letter from Mr. Fred Monique from the Green Bay Area Chamber of Commerce written on behalf of the Significant Industrial Users (SIUs) Group. The letter was brought before the Public Policy Council of Advance. The Council did not endorse the letter and asked the group to redraft the letter. The letter addressed concerns about NEW Water's rates, cost management processes, and large industrial dischargers that may pursue on-site treatment due to the R2E2 Project and how that will affect other users. The letter requested the Commission reconsider the approved 2013 budget for potential reductions and to closely monitor engineering of the R2E2 Project.

T. Sigmund provided his thoughts to the Public Policy Council on the stricter environmental regulations requiring the R2E2 Project; the budget impact of the R2E2 Project for 2013 – 2016; NEW Water's efforts in keeping customers involved and informed by creating a Stakeholder Advisory Group (SAG) to provide input; and public meetings and workshops held. He stated previous projects received federal and state grants. NEW Water sent a letter to Governor Walker asking him to restore the Clean Water Fund Program present value subsidy limit to the 2009 – 2013 budget level and the subsidized loan interest rate level be returned to 55% of the market rate. Governor Walker chose not to include it. He stated letters were also sent to Representatives and Senators asking for their support in restoring the Clean Water Fund Program subsidy rate and informing them of the potential cost impact of the state's phosphorus rules and implementation of the new sanitary sewer overflow rule. T. Sigmund will provide written comments.

The Commission expressed its surprise that no one from Advance or the SIUs Group is here today.

Commissioner Mainz stated that staff should be extremely proactive in asking for grants as earmarks. He suggested staff meet directly with Representatives and Senators. He also asked staff to get a module standpoint from the R2E2 Project design engineer on what NEW Water can do.

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Commissioner Tumpach voiced his concern about excess capacity and asked how NEW Water plans for that. T. Sigmund replied scenario planning is done with the largest dischargers of solids and BOD.

**16) Rate methodology update.**

P. Kaster reported Red Oak Consulting and SAG have analyzed over 45 rate methodologies. On February 28 Red Oak presented the final four rate alternatives to the Commission and SAG. Two public information meetings were held and notifications of these meetings were sent to all municipal and mill customers and SIUs as well as publishing the meeting information in the newspaper. He stated 17 people attended the morning meeting and five people attended the evening meeting. A rate methodology workshop will be held on April 25 and staff plans to recommend a rate methodology alternative to the Commission at the May Commission meeting.

**17) 2012 significant noncompliance summary and pretreatment update.**

B. Oldenburg reported there were eight instances covering seven facilities in significant noncompliance for 2012. He stated the facilities are either back in compliance or working towards compliance. He stated the facilities in noncompliance will be published in the local newspaper. Three SIUs received a notice of noncompliance in the second half of 2012.

**18) 2012 Industrial Achievement Awards.**

B. Oldenburg stated last year NEW Water implemented the Industrial Achievement Awards. He reported 23 SIUs will receive the 2012 Silver Award and three SIUs will receive the 2012 Silver Zero Discharger Award. The SIUs will receive a letter, award, and their names will be published in newspaper.

**19) Update of projects:**

**a) Resource Recovery and Electrical Energy (R2E2)**

B. Angoli reported staff and the consultant have been finalizing the Basis of Design Report documents for the Value Engineering Study for the R2E2 Project.

**b) West Tower Drive Interceptor Relocation**

M. Pierner reported the interceptor sewer segment north of Velp Avenue along the railroad tracks has been successfully connected and flow is now going through the pipe.

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**c) HVAC & Lab Upgrades**

B. Brown reported the HVAC & Lab Upgrades Project is nearly complete. He stated remaining work includes: installing chiller piping on the roof, training key employees on the HVAC equipment, resolving punch list items, and completing the required paperwork.

**d) Air permit issues update**

J. Kennedy reported last month NEW Water received a letter of noncompliance for exceedances of the water evaporation limit. He stated NEW Water responded in a letter to the DNR explaining the history that led to the use of the 8,800 lb/hr parameter as a threshold. The DNR issued a close-out letter to NEW Water two days later. NEW Water is in discussions with the DNR regarding its permit regression equation for carbon monoxide.

**20) Operation report:**

- a) Effluent quality for February**
- b) Air quality for February**

P. Wescott reported both facilities were in full compliance with effluent and air quality limits for February.

**21) Executive Director's report:**

- a) April Commission meeting**

The April Commission meeting will be held April 25 beginning at 8:00 a.m. Rate methodology will be part of the meeting and the audit report will be postponed until May.

- b) Bill Hafs appointed to Great Lakes Advisory Board**

Bill Hafs was appointed to the Great Lakes Advisory Board and is the only representative from a clean water utility on the board.

B. Hafs stated that this is an opportunity for him to represent NEW Water and give the perspective of a wastewater treatment facility.

The Commission congratulated Mr. Hafs.

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**c) Customer prepayment of interceptor cost recovery charge**

Three municipal customers have asked about prepaying the Interceptor Cost Recovery loans they have with NEW Water. These loans were made between NEW Water and the municipal customer to finance construction of interceptors to serve their customers. The cumulative amount of principal remaining on those three loans is almost \$5,800,000. The interest rates on the loans range from 2.4% to 4.4%. The remaining years of the loans vary between 4 to 18 years. NEW Water's ordinance allows customers to pay off their loans, but NEW Water is not allowed to prepay its loans.

**d) NEW Water comments on TMDL Implementation Document**

The DNR published a draft guidance document for Total Maximum Daily Load Implementation seeking comments from stakeholders. NEW Water provided its comments to the DNR on March 22 and a copy of the letter was provided to the Commission via email.

Commissioner Mainz stated that he would like to get a unanimous vote on approving the 2014 budget. He stated the Commission needs information in advance on health care costs, wages, and the amount of money NEW Water spends versus what's in the budget. He specifically wants salary and health care information from the City of Green Bay, Villages of Allouez and Ashwaubenon, and Brown County.

T. Sigmund stated NEW Water has hired a consultant to gather information from 40 private/public entities on health care costs. Staff will schedule a special meeting in early June on benefits.

There being no further business to come before the Commission, the meeting adjourned at 10:31 a.m.

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Secretary