

REGULAR MEETING OF THE WATER AND LIGHT COMMISSION

February 25, 2009

Draft

Commission President Allwardt called the Regular Meeting of the Water and Light Commission to order at 7:30 A.M., with Commissioners Joe Guidote, Don Merkes, and Carla Watson present on roll call. Also present were Carl Verhagen, Interim General Manager; Melanie Krause, Manager of Business Operations; Lonnie Pichler, Electric Distribution Supervisor; Dave Rodriguez, Customer and Utility Services Manager; Kristin Schalinski, Business Operations Accountant; Dick Sturm, Manager of Steam Production; Jerry Sturm, Water Plant Supervisor; John Teale, Technical Services Engineer; and the Press.

Item II. People from the Gallery to be heard on any topic of public concern to the Utility:

Mary Nebel, 713 First Street, asked about the services of the City Attorney provided to the Utility and outsourced legal expenses for previous years. She also stated she has difficulty understanding the steam plant financials with the lack of consistency and continuity contained in the financials. Ms. Nebel questioned whether the January net income would continue through the next 12 months, in addition to the possibility of selling the utility.

Joanne Roush, 409 Cleveland, commented on recommendations contained in the Moody's report, and lack of transparency in communication to the community.

Mary Ann Mulvey, 274 Misty Meadows Lane, spoke on the lack of communication with the Common Council when the decision was made to re-commission the Steam Plant, until there was a financial need. She also commented on the City's rating and the lack of financing for some services due to the debt of the Steam Plant.

Item III. Motion made by Comm. Watson, seconded by Comm. Guidote, was unanimous on roll call to approve the following:

- A. Minutes of the Regular Meeting of January 28, 2009.
- B. Minutes of the Special Meetings of Feb. 3, Feb. 9, and Feb. 16, 2009.
- C. Minutes of the Closed Sessions of Jan. 28 (Personnel), Feb. 3, Feb. 9 (GM Interview), and Feb. 16, 2009.
- D. Approve and warrant payments summarized by checks dated Feb. 12 - 25, 2009, which includes Net Payroll Voucher Checks, Void O & M Check #036852, and Operation and Maintenance Voucher Checks for a total of \$1,456,818.67, and Operation and Maintenance Vouchers and Rebates to be paid prior to the next Regular Meeting. Motion approved unanimously on roll call.
- E. Correspondence, as listed.
Copy of minutes from March 19, August 14-15, Sept. 25, Oct. 16, Nov. 14, and Dec. 10, 2008 WPPI Executive Committee meetings
Copy of memorandum dated January 27, 2009, to WPPI Energy Managers, from WPPI Energy CEO Roy Thilly, re: Developments
Copy of February 2009 Menasha Utilities Benefit Bulletin

Copy of letter dated February 13, to Menasha Utilities, from Lisa Weiner, UWFV Foundation, re: Thank You for Scholarship

Item IV. December and January Financial and Operations Statements – Manager of Business Operations Krause commented on the unaudited version of the financials statements. The audit went well and a report should be back in a few weeks.

On the December electric income statement, the sales were down about 2.5% for the year, and on the water income statement, the Town of Menasha took 16% more water from us than the previous three years. The steam sales revenues were down about 1.4% and the rest of the variance was due to the pricing budget of steam for sale opposed to actual charges under the steam contracts. Outside services for the month were large due to legal expenses from strategic planning, environmental services, steam contract negotiations, and the annual total includes PCI litigation. The net result for the Steam Utility shows the debt coverage for the revenue debt is 2.1, which meets the 1.2 required by the bond resolution. Telecommunications did end up negative for the year so there will be a need to put an additional loan on the books; this item will be discussed further later in the meeting.

On the January electric statement, the kilowatt hours are close to budget and the variance was related to power costs. The water income statement reflects that the Town of Menasha is still taking additional water. The steam variance is due to interim pricing until steam contracts can be negotiated. There were no MISO sales for the month because the market was not favorable, and there was less in coal expenses, auxiliary power, and chemicals to offset that revenue.

Manager of Steam Production Sturm reported the #3 boiler was brought on line Sunday to facilitate the testing of the back pressure turbine. There are a couple of work details that need to be completed while the boiler is on line, but it will probably be back off line by the weekend. If the MISO market does not develop, the current plan is to keep #3 off-line.

Mrs. Krause added ATC did make a contribution towards the fiber network and that is reflected on the cash flow and income statements.

After discussion, the Commission accepted the December and January Financial and Operations Statements as presented.

Item V. Claims Against The Utility – there were no claims discussed at this meeting.

Item VI. There were no Purchase Orders over \$10,000.00 issued since the last Commission.

Item VII. Unfinished Business, Update on General Manager Position – Comm. President Allwardt reported William Cook declined the offer extended for the General Manager position. The next steps will be discussed in the closed session following this meeting.

Workout Plan – Mrs. Krause stated the majority of staff time has been spent on item #1, Increase Net Revenue of the Steam Utility. The Steam Operations Superintendent position was awarded to Gregg Peterson, and he started his new responsibilities on February 16.

Mr. Sturm gave an update on the status of the heat recovery project, and performance testing done yesterday by Dresser Rand. Final analysis and calculations from the performance test are being completed in Wellsville. The performance testing went satisfactory; governor and steam map adjustments will be made at a later date when the Dresser Rand field engineer is available.

Comm. Merkes asked about warranty issues, and if a third party testing should be completed. Mr. Sturm stated a third party testing could be done, but did not see a benefit from the extra expense. The warranty issues would be discussed after the analysis of the performance testing is complete, and after warranty work that Dresser Rand is currently undertaking has been completed.

Storm Water Update – Mayor Merkes gave an update on work being completed by the Community Development Department. Billing records have just been received from WE Energies and they are being integrated with Menasha Utilities records. Information from Martenson and Eisele was received yesterday to be coordinated into the database. The database should be sent to the Utility by the first week of March.

Manager of Customer and Utility Services Rodriguez stated they are just finishing up internally with entering information and tables.

Update on Electric Rate Cases – Mrs. Krause stated there is nothing new to report. The Public Service Commission is not moving on the PCAC roll-in.

2009 Chemical Budget – Mrs. Krause reviewed the four year comparison included in the packet of water production and chemical costs. Similar information from area communities has also been requested. The PSC is willing to have a discussion regarding this information.

Third Street Water Main Project & Financing Recommendation – Electric and Water Distribution Supervisor Pichler reviewed the bid opening held last week. Low bidder for the project was DeGroot, Inc. of Green Bay, at \$598,292.47. The bids were higher than the engineering estimate due to cost of materials, and a 300 ft. portion of DePere Street that was added by the Department of Transportation.

The motion by Comm. Merkes, seconded by Comm. Watson, was unanimously approved on roll call to recommend the Board of Public Works approve award of the Third Street Water Main Project contract to DeGroot, Inc. and to approve financing for the project through the Safe Drinking Water Loan Program, and to recommend the Common Council also approve award of this contract to DeGroot, Inc., of Green Bay, in the amount of \$598,292.47 and approve financing for the project.

Item VIII. New Business, Appleton Street Water Main Replacement – Interim General Manager Verhagen reported the City of Menasha is scheduled to reconstruct Appleton Street, which would be an opportunity to replace a water main that is 100 years old. Records indicate there have not been a significant amount of main breaks in that pipe. It is a major water flow for the river crossing, but the history doesn't suggest doing anything with it. The opportunity for

financing through the Safe Drinking Water Fund is available if this main replacement could be connected with the Third Street project under the application. The application for funding refers to Third Street and not adjoining streets, so it is not likely to get funding from the SDWF. If the City is going to proceed with the Appleton Street project, it is his recommendation not to replace the water main at this time as the water budget does not have enough operating income to support it.

Electric Depreciation Fund Loan to TELCO – Mrs. Krause reviewed the information included in the packet to support the projects as well as the debt short-fall from last year. An additional loan of \$53, 289 is being requested. A request was made by the Commission to evaluate the TELCO rates and look at a comparison of others for the next meeting.

The motion by Comm. Merkes, seconded by Comm. Watson, was unanimously approved on roll call to authorize the additional loan from the Electric Depreciation Fund to TELCO.

Item IX. There were no Project Reports for this meeting.

Item X. Staff Reports, Interim General Manager – Mr. Verhagen reported a significant amount of his time has been spent with customers and contract negotiations, and to move the steam customers into a situation to develop sustainable rates for the steam utility.

Comm. Guidote asked about recruiting other steam customers. Mr. Verhagen stated a meeting had been held with another potential customer. They have environmental concerns that need to be addressed in addition to steam pricing. If opportunities overlap for both parties, they would be interesting in discussing those.

Electric and Water Distribution/Safety Report – Mr. Pichler gave an update on development of a new addition to Woodland Hills.

Mayor Merkes reported there is an ordinance coming through that would regulate utility boxes and negate the visual impact of some of the larger boxes.

Mr. Pichler added there are currently seven customers with frozen water services.

Steam Utility – there were no additional questions to the report presented.

Water Plant – Water Plant Supervisor Sturm reported annual maintenance is being done. Water usage has decreased for January compared to last January, which adds to the difficulty of meeting the budget. He added there has not been any communication from the DNR on the UV evaluation/certification.

Telecommunications & Substations – Technical Services Engineer Teale reported on a discussion with the Town of Menasha regarding a joint project to install fiber across the train trestle. There is also potential for another fiber customer downtown.

Business Operations – there were no additional questions to the report presented.

Customer and Utility Services – Mr. Rodriguez reported training has been held on the new credit card payment system, and it will probably be implemented next week. He will also be attending a workshop in March regarding the Tax Return Intercept Program (TRIP). This voluntary program would give utilities the ability to collect unpaid utility bills through the customer's State tax return refunds. Manitowoc is currently using this program with very good results.

Energy Services Representative/Key Accounts – there were no additional questions to the report presented.

Item XI. People from the Gallery to be heard on any items discussed at this Meeting:

Mary Nebel, 713 First Street, spoke regarding claims against the Utility, the Materials Event Notice, and the lack of transparency in communications.

Joanne Roush, 409 Cleveland Street, spoke about the lack of a clear cost to produce steam and for operations, and the volatility of the MISO market. She asked if the Utility was insured for losses in the event of potential litigation, and the inability to fulfill steam contracts. She also spoke on the potential steam customer and some of the environmental issues. Ms. Roush asked what parties are benefiting from the artificially suppressed, basically subsidized through borrowing, telecommunications rates.

Comm. Guidote asked for permission to address the gallery. He thanked the gallery for their diligence and appreciates their concern. With regard to the issue of transparency, there have been a lot of closed sessions. It means the problems are being worked on, and the reason for the closed sessions is the Commission and staff are strategizing and trying to create our negotiation posture moving forward. It is difficult to do that in open session because we lose our negotiation edge. Because these items need to be done in closed session, they don't look very transparent. He stated some of the top legal talent and investment banking talent who have been through similar situations. We are facing extraordinary challenges with the steam utility and a lot of concerns being stated by the gallery are the same concerns of the Commission and staff. Principally, there are five items being worked on that are vital to the viability of the steam plant. 1) Steam contract renegotiation – in order to maintain a viable plant we need contracts that are going to be fair to both sides. 2) If another customer can be recruited, it would certainly help the financial picture but we can't recruit them based on old contract language. To a certain extent we have to get the emissions issues figured out, and to get the other contracts figured out before another customer could be added. 3) We are dealing with the DNR on the Notice of Violation, and we are dealing with an environmental lawyer who is representing us on that issue. This issue is currently in negotiations, thus the reason for closed sessions. We are also in negotiations with two current customers, and those claims get back into the contract terms and the fairness of those contracts. A lot of our closed sessions have been dealing with trying to figure out how to get a better deal for the City without driving our customers away. It is a pretty fine balance, but we are trying to address it. 4) That all leads to a financial workout, and we have a September date to deal with; we are very aware of it, but a lot of pieces have to fall into place before we get a comprehensive plan on the financial workout. This is where our investment bankers come into play. They are working with a team of lawyers and Carol Wirth to put together something that

works. Certain things have to fall in place before we can formulate a clear path. 5) The last thing is the general manager search. As Comm. Allwardt stated we've had a minor set-back but we are going to proceed ahead. We are working on the issues being discussed, and we are concerned about the same things the gallery has stated. Given the fact the gallery doesn't have the ability to participate in the closed sessions, the frustration is understandable.

Ms. Nebel asked about information on legal fees. Comm. Guidote stated he did not have that information for year end, but it was not cheap. Given the fact that we're dealing with difficult circumstances we need to have good people on board. In terms of communication with the Council, there was a joint meeting last week, and there is a fair amount of transparency between the Commission and Common Council. The Council is fully aware of everything that the Commission knows at this point, and because of that, the level of the City's commitment is high in terms of getting a workout. There are a lot of issues, and it is his opinion that we have a good team put together to address these issues one by one. As things clear up one by one, we'll have a clearer path forward.

Ms. Roush thanked Comm. Guidote for his comments, and stated her concern is that the issues are complex and she questioned whether the Commission is satisfied with the path being taken. There are no finances to correct the big problems. This is not a local problem for Menasha, especially given the economic times. The coal fired plant is a problem from the perspective of the environmental community, and the regulators. What control systems and other measures are available and how closely is that being looked at? Ms. Roush also commented on the MISO market and on analysts to predict that market. It has been her concern for a long time that there is not the capacity to solve these problems on our own, and she asked about the qualifications of the people working on these issues.

Item XII. The motion by Comm. Guidote, seconded by Comm. Merkes, was unanimously approved on roll call at 9:15 a.m. to convene into Closed Session pursuant to Section 19.85 (1) (g) of the Wisconsin Statutes for the purpose of conferring with legal counsel for the governmental body who is rendering oral or written advice concerning strategy to be adopted by the body with respect to litigation in which it is or is likely to become involved. RE: Potential Litigation and Steam Customer Contracts

And pursuant to Section 19.85 (1) (f) of the Wisconsin Statutes for the purpose of considering financial, medical, social or personal histories or disciplinary data of specific persons, preliminary consideration of specific personnel problems or the investigation of charges against specific persons except where par. (b) applies which, if discussed in public would be likely to have a substantial adverse effect upon the reputation of any person referred to in such histories or data, or involved in such problems or investigations. RE: Personnel

By: MARK L. ALLWARDT
President

CARLA R. WATSON
Secretary

NOTE: THESE MINUTES ARE NOT TO BE CONSIDERED OFFICIAL UNTIL ACTED UPON AT THE NEXT REGULAR MEETING, THEREFORE, ARE SUBJECT TO REVISION.