NEENAH-MENASHA SEWERAGE COMMISSION

Special Meeting

Friday November 11, 2011 – 8:00 a.m.

Meeting was called to order by Commission Vice-President Raymond Zielinski at 8:00 a.m.

Present: Commissioners Dale Youngquist, Kathy Bauer, Raymond Zielinski, Gordon Falck, Mike Sambs; Manager Randall Much; Attorney John Thiel; Accountant Roger Voigt.

Excused: Commissioners Tim Hamblin, Jim Gunz.

Also Present: Tom Kispert (McMAHON); Mayor Don Merkes, Tom Stoffel (Menasha).

Attorney John Thiel addressed the Commission to draw their attention to the amended notice for the meeting and report a twenty-four hour notice was provided. Attorney John Thiel requested Accountant Voigt to announce the meeting postings.

Accountant Voigt reported that on Thursday November 10, 2011 the agenda was posted in the lobby of the NMSC at approximately 7:25 a.m.; the agenda was delivered via facsimile to the City of Menasha, City of Neenah, Town of Menasha, Town of Neenah, and Waverly Sanitary District at approximately 7:30 a.m.; a copy of the agenda was hand delivered and taped to the front door of the Menasha Public Library at approximately 7:40 a.m. and hand delivered and taped to the front door of the Neenah Public Library at approximately 7:50 a.m.

Correspondence

The following correspondence was discussed:

A. October 27, 2011 letter from Thomas Mugan, DNR to William Zelinski, NMSC President.
RE: Conditional Approval of Equipment Procurement for WWTF Modifications.

B. November 3, 2011 letter from Mayor George Scherck, Neenah to Jim Gunz.
RE: Appointment of Jim Gunz to NMSC Commission.

Operations, Engineering, Planning

Tom Kispert (McMahon) addressed the Commission to explain the groundwork in the discussion that will follow in presenting the information on the bids received for the Equipment Procurement Contracts. Tom reported the bid process had specific required Disadvantaged Business Enterprises (DBE) forms. Some companies met the requirement fully, some followed some of the requirements, and some followed none of the requirements. Prior to this meeting, this was discussed with the Commission legal counsel. Tom further addressed the Good Faith Form, discussions with the DNR, potential 8 percent penalty if no good faith effort and the Comparative Evaluation Form used to evaluate the equipment.

Tom Kispert referred the Commissioners to his November 9 letter discussing the individual contracts and recommendations. Tom proceeded to review each individual contract and the recommendation for each contract. Contracts J and K are alternate bids and the Commission need only approve Contract J or Contract K. On Contract N, Commissioner Dale Youngquist questioned what Alternate Bid 1 and Alternate Bid 2 entailed. This was further discussed.

Neenah Mayor George Scherck and Neenah Attorney Jim Godlewski entered the meeting.

After discussions of the Contract recommendations were complete, Commissioner Dale Youngquist questioned further the opinion letter from Attorney John Thiel. Attorney Thiel discussed this further. If the DBE is not submitted, it has a material impact in the funding from the DNR. After discussion was complete, motion made by Commissioner Dale Youngquist, seconded by Commissioner Kathy Bauer to accept the recommendations of the McMahon letter of November 9, 2011 and to have McMahon follow through on the good faith effort. A roll call vote was taken; voting aye: Commissioners Dale Youngquist, Kathy Bauer, Gordon Falck, Mike Sambs. Nay: none. Motion carried unanimously on roll call vote.

Motion made by Commissioner Gordon Falck, seconded by Commissioner Dale Youngquist to convene into Closed Session pursuant to Wis. Stats. § 19.85(1)(g) to confer and review written and/or oral legal advice by legal counsel to the Commission as to litigation strategy and status of matters concerning the lawsuit(s) commonly referred to as the Fox River litigation and the results of an November 4, 2011 federal court ordered mediation session in Milwaukee and discuss settlement options. A roll call vote was taken; voting aye: Commissioners Dale Youngquist, Kathy Bauer, Gordon Falck, Mike Sambs. Nay: none. Motion carried unanimously on roll call vote.

Meeting convened into Closed Session at 8:40 a.m.

After discussion, motion made by Commissioner Dale Youngquist, seconded by Commissioner Mike Sambs to adjourn the closed session and return in regular open session. Motion carried unanimously by Commissioners Dale Youngquist, Kathy Bauer, Gordon Falck, Mike Sambs. The Commission returned to Regular open session at 9:28 a.m.

Motion made by Commissioner Dale Youngquist, seconded by Commissioner Mike Sambs to adjourn the meeting. Motion carried unanimously. Meeting adjourned at 9:28 a.m.

Raymond C Zielinski
Vice-President

Katherine Bauer
Secretary