NEENAH-MENASHA SEWERAGE COMMISSION

Regular Meeting

Tuesday November 13, 2012

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

Present: Commissioners Raymond Zielinski, Tim Hamblin, Mike Sambs, Gordon Falck, Dale Youngquist; Manager Randall Much, Accountant Roger Voigt.

Also Present: Tom Kispert, Amy Vaclavik (McMAHON); Rob Franck (MCO).

Excused: Commissioners Kathy Bauer, Jim Gunz.

Commissioner Falck questioned if the proper tense was used in the October 23 minutes; page 2, first sentence under Budget, Finance, Personnel. It was agreed the incorrect wording was used; the words "will be" should be changed to "were". After discussion, motion by Commissioner Zielinski, second by Commissioner Sambs to approve the minutes from the October 9, 2012 meeting and the minutes from the October 23, 2012 meeting as corrected. Motion carried unanimously.

Correspondence

There was no correspondence to be discussed.

Old Business

President Youngquist deferred discussing the old business topic until later in the meeting.

New Business

Operations, Engineering, Planning

Tom Kispert presented a slide show of construction activities that have occurred since the October 23, 2012 meeting; after the slide show, Tom discussed a memo distributed of plant updates.

Attorney John Thiel entered the meeting (8:22 am).

Tom further discussed and explained the unsuitable soils conditions found where the gas handling building is to be placed; Tom discussed the various recommendations to resolve the issue. The prices obtained in the options to resolve the issue were based on worst case conditions. After discussions, motion by Commissioner Falck, second by Commissioner Hamblin to approve a time and expense change order not to exceed $155,000 to resolve the unsuitable soils conditions. Motion carried unanimously.

Tom Kispert discussed the EPA Air Permitting. The permit has been received; Tom further discussed metering of biogas and natural gas required under the permit. Two natural gas meters

will need to be purchased and installed. The change order will be presented at the next Commission meeting.

Tom Kispert discussed the equipment pay requests. Tom also distributed and explained a contract summary log to track the construction and equipment payment progress.

Amy Vaclavik updated the Commission on the Clean Water Fund activity. A meeting was held with DNR staff; Menasha will need to increase their sewer rates and they anticipate having the rates approved in December. Menasha staff is working with the State to get approved rates. The Town of Neenah S.D. 2 will also need a rate increase if they continue with revenue bonds from the Clean Water Fund. The tentative closing on the Clean Water Fund is in February.

Motion by Commissioner Falck, second by Commissioner Sambs to approve the construction project and equipment procurement pay requests presented. Motion carried unanimously. Items approved for payment are: Contract 910101-2 with August Winter & Sons, $439,280.00; Contract C with LAI Ltd, $43,602.30; Contract D with LAI Ltd, $16,622.20; Contract F with JWC Environmental, $27,052.50; Contract G with Energenecs Inc., $102,606.00; and Contract P with Cummins NPower LLC, $37,558.05.

Tom Kispert discussed change order #1 with August Winter & Sons to provide one grease-filled final clarifier drive and four oil-filled primary clarifier drives for a deduct of $77,970.00. Motion made by Commissioner Falck, second by Commissioner Hamblin to approve change order #1 with August Winter & Sons for a deduct of $77,970.00. Motion carried unanimously.

Manager Much discussed the Agreement to Terminate Power Purchase Agreement with WPPI. This relates to the methane gas engine that was removed earlier this year. Motion by Commissioner Hamblin, second by Commissioner Falck to approve the Agreement to Terminate Power Purchase Agreement with WPPI. Motion carried unanimously.

Old Business

Attorney Thiel discussed his review and letter sent to the Town of Neenah S.D. 2 attorney regarding the Commission not approving prepayment towards this project. The Commission has the discretion on the prepayment to allow or not allow with justification. No response has been received from the S.D. 2 attorney. The Commission discussed allowing S.D. 2 to prepay the project costs and under what conditions.

Commissioner Gunz entered the meeting (9:30 am).

Commissioner Gunz reported discussing via email with Attorney John St. Peter (S.D. 2 attorney) this past month on this subject. Commission President Youngquist authorized sending a letter to S.D. 2 allowing a prepayment on the project cost with the conditions discussed. The conditions for prepayment are to include: payment of the estimated portion of S.D. 2, the S.D. 2 portion of the Sonoco cost, the Sonoco portion to be refunded at the end of the 20 years providing Sonoco pays over the entire 20 year period, no refund if S.D. 2 overpays, S.D. 2 would be responsible to pay additional if the prepayment does not cover the actual costs that S.D. 2 would have paid, S.D. 2 attorney to draft the agreement, S.D. 2 to reimburse NMSC for the NMSC attorney to

review the agreement, S.D. 2 to pay for costs to set up and monitor the tracking of the actual usage - $2,000 set up fee and $40 per month to monitor, and to complete the agreement by the November 27 NMSC meeting. S.D. 2's meeting is tonight and the prepayment subject is on the agenda. Manager Much and Accountant Voigt will attend to discuss with S.D. 2 Commissioners.

Budget, Finance, Personnel

Motion by Commissioner Gunz, second by Commissioner Zielinski to approve NMSC Resolution 2012-3, a Resolution Authorizing the Borrowing of $10,000,000 and Providing for the Issuance and Sale of Sewerage System Revenue Bond Anticipation Notes, Series 2012A Therefor. By roll call vote taken, motion carried unanimously, by Commissioners Zielinski, Falck, Gunz, Sambs, Hamblin.

Motion by Commissioner Falck, second by Commissioner Hamblin to approve NMSC Resolution 2012-4, a Resolution Authorizing the Borrowing of $1,000,000 and Providing for the Issuance and Sale of Taxable Sewerage System Revenue Bond Anticipation Notes, Series 2012B Therefor. By roll call vote taken, motion carried unanimously, by Commissioners Zielinski, Falck, Gunz, Sambs, Hamblin.

Motion by Commissioner Zielinski, second by Commissioner Sambs to approve Operating and Payroll Vouchers #133273 thru #133324 in the amount of $376,845.92 and Construction Fund Vouchers #141 thru #142 in the amount of $64,389.00 for the month of October. Motion carried unanimously.

Accountant Voigt discussed the Snow Plowing and Removal Contract. After discussion, motion by Commissioner Sambs, second by Commissioner Falck to approve the Snow Plowing and Removal Contract for the 2012-2013 contract period. Motion carried unanimously.

Motion made by Commissioner Falck, second by Commissioner Hamblin 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. 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 and hauling and spreading proposals for which bargaining reasons and developing acquisition strategy require a closed session to protect the public investment and spending of public funds. Also 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. By roll call vote taken, motion carried unanimously, by Commissioners Zielinski, Falck, Gunz, Sambs, Hamblin, Youngquist.

Meeting convened into Closed Session at 9:52 am.

Motion made by Commissioner Gunz, second by Commissioner Zielinski to adjourn the Closed Session. By roll call vote taken, motion carried unanimously, by Commissioners Zielinski, Falck, Gunz, Sambs, Hamblin Youngquist. Meeting convened into Open Session at 10:12 am.

Motion made by Commissioner Gunz, second by Commissioner Zielinski to approve the sludge hauling and disposal agreement. Motion carried unanimously.

Motion made by Commissioner Gunz, seconded by Commissioner Falck to adjourn the meeting. Motion carried unanimously. Meeting adjourned at 10:13 a.m.

President

Secretary

THE NEXT REGULAR MEETING IS SCHEDULED FOR TUESDAY NOVEMBER 27th, 2012.