

Sanitary District No. 4
Regular Meeting - December 20, 2004

The Regular Meeting of Sanitary District No. 4 – Town of Brookfield was held Monday, December 20, 2004, 4:00 p.m., in the Meeting Room of the Pump Station No. 3 facility, 150 South Barker Road, in the Town of Brookfield. Present at the meeting were: President Thomas Cole; Commissioners Frank Dombrowski and Alan Kopp; Superintendent Terry Heidmann; Attorney Mike Schober; and Deputy Secretary Sharon Bloom to record the minutes. Don Kitten from the Brookfield Creeks Apartments came before the Commission at 6:30 p.m. to discuss the Brookfield Creeks agenda item.

MEETING NOTICE VERIFICATION

On December 16, 2004 notice of this meeting was faxed to the following newspapers: CNI Newspapers – Brookfield, The Milwaukee Journal Sentinel and the Waukesha Freeman. The Notice was posted by Sanitary District personnel on December 17, 2004 at the following locations: Sanitary District No. 4 Meeting Room; Mayrose Boulevard; Springdale & Davidson Roads; the Town Hall; Wisconsin Avenue; Catherine Court and Marx Park.

REVIEW POLICIES AND PROCEDURES AND TAKE NECESSARY ACTION

The commissioners and Attorney Schober made some changes to the Sanitary District's Section No. 200 - Employment. Commissioner Dombrowski made a **MOTION** to approve Section No. 200 - Employment, subject to incorporating the agreed-upon changes. The motion was seconded by Commissioner Kopp, voted on and passed unanimously.

DISCUSSION AND NECESSARY ACTION RE: WATER USAGE NOT BEING METERED AT BROOKFIELD CREEKS APARTMENTS

Commissioner Dombrowski made a **MOTION** to move this agenda item and address it immediately in order to accommodate Mr. Kitten. The motion was seconded by Commissioner Kopp, voted on and passed unanimously.

Mr. Heidmann explained that the water meters that were installed in the seven Brookfield Creeks apartment buildings are located under the staircases, which is not the best place for accessibility. After the meters were installed, water softeners were installed; and, according to Building Inspector Gary Lake, permits were not pulled to do the work. Because the softeners are installed before the water meters, and (according to the contractor who installed the softeners) use from 200 to 250 gallons of water each time they backwash, approximately 125,000 to 242,000 gallons of water are being used annually without being metered. Mr. Heidmann said that, although he initially thought that the backwash water should be metered, he now thinks it would not be a feasible option. President Cole asked if a meter could be placed on the softener, but Mr. Heidmann explained that, because of the salt solution in the backwash, the meter would get torn up. He said they would need two meters - one on either side. However, his recommendation would be to not use any meter, but to bill quarterly using the higher estimated usage number. His only concern is that, if a softener were to go bad, the District could lose out. Mr. Kitten assured the Commission that, if a softener were to go bad, they would know about it right away.

The commissioners agreed that it would be acceptable to not use meters to measure the water usage from the backwash, but to bill for the usage using the estimated high number to calculate the sewer and water bills. The billing would be placed on the same accounts that are currently being billed for the common area water usage. Attorney Schober said that this agreed-upon

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arrangement should be drafted into a formal recordable agreement between the District and the owner, which would apply to all subsequent owners. Mr. Kitten agreed to provide Mr. Schober with the necessary legal descriptions and the current owners' names. Mrs. Bloom said that she would provide a copy of the original Brookfield Creeks development agreement and supplement agreement to Mr. Schober and Mr. Kitten.

Commissioner Dombrowski made a **MOTION** to authorize Attorney Schober to draft the appropriate type of agreement (supplemental agreement, amendment to the original development agreement, or a totally separate agreement) to incorporate the agreed-upon arrangement whereby each apartment building in Brookfield Creeks will be billed an estimated amount each quarter for the backwash water that is being used by each of the water softeners. The motion was seconded by Commissioner Kopp, voted on and passed unanimously.

AUDIENCE PARTICIPATION

There was no one in the audience.

APPROVE MINUTES OF DECEMBER 6, 2004 REGULAR MEETING

Commissioner Dombrowski stated that the minutes of the December 6, 2004 Regular Meeting should have had some mention about placing an item on the December 20th agenda to discuss the 2005 budget. Commissioner Dombrowski made a **MOTION** to defer approval of the December 6, 2004 minutes to the next meeting in order to check the audio tape, seconded by Commissioner Kopp, voted on and passed unanimously.

DISCUSSION AND NECESSARY ACTION RE: EAGLES NEST CONDOMINIUMS PROJECT

Commissioner Dombrowski made a **MOTION** to place this item under Deferrals/Tabled Items on the next agenda, seconded by Commissioner Kopp, voted on and passed unanimously.

DISCUSSION AND NECESSARY ACTION RE: TOLDT WOODS EASEMENT

Commissioner Dombrowski made a **MOTION** to place this item under Deferrals/Tabled Items on the next agenda, seconded by Commissioner Kopp, voted on and passed unanimously.

DISCUSSION AND NECESSARY ACTION RE: PRIVATE FIRE PROTECTION - 17780 WEST BLUEMOUND ROAD

This matter is still not resolved. Commissioner Dombrowski made a **MOTION** to place this item under Deferrals/Tabled Items on the next agenda, seconded by Commissioner Kopp, voted on and passed unanimously.

DISCUSSION AND NECESSARY ACTION RE: PUBLIC/PRIVATE OWNERSHIP OF WATER MAINS AND SEWER MAINS/LATERALS

At the request of President Cole, Mrs. Bloom researched how the surrounding communities handle the ownership of water and sewer mains and laterals, specifically, what portion the community owns and what portion is owned by the property owner. She presented the results of her research, which included the City and Village of Pewaukee; Cities of New Berlin, Brookfield, Greenfield and Oconomowoc and Villages of Menomonee Falls and Sussex. With regard to the sanitary sewer, it was unanimous that the community holds the property owner

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responsible for the entire lateral from the main to the building. For the water, although somewhat ambiguous with regard to the curb stop box, it was unanimous that the property owner is responsible for only the portion of the lateral that is located on private property, not the area that is in the public right of way.

Attorney Schober stated that, with regard to the sanitary sewer, it is a policy decision that the commissioners will have to make. His letter, dated December 12, 2004, to the commissioners stated that he could find no case in the State of Wisconsin on this issue. He (and his staff) found two cases elsewhere in the United States, copies of which he included with his letter. In both cases, the community holds the property owner responsible for the lateral from the building to the sewer main. Attorney Schober said that he would be concerned about placing the responsibility of the entire lateral on the property owner if there are factors beyond the property owner's control such as poor workmanship with the installation of the lateral (located in the public right of way area) by the community's contractor. Mr. Schober said that the District is not bound by the City of Brookfield's sewer use ordinance to have the same policy and that the commissioners have the legal authority to do what they want to do.

Commissioner Dombrowski stated that his opinion would be to absolve the property owner from maintaining the portion of the lateral located in the public right of way area. President Cole said that, if it was determined the property owner, or the property owner's contractor, caused damages to the lateral in the right of way area, the District could make the property owner pay for the repair. Commissioner Dombrowski made a **MOTION** to table this item until the District has a final version of the City of Brookfield's sewer use ordinance. The motion was seconded by Commissioner Kopp, voted on and passed unanimously.

DISCUSS AND TAKE NECESSARY ACTION RE: WHETHER OR NOT TO MAKE ANY CHANGES IN THE SANITARY DISTRICT'S CURRENT INSURANCE COVERAGE

At the Commission's request, Mrs. Bloom made an inquiry with the District's insurance agent, Rob Krohlow, regarding Attorney Schober's letter to the Town of Brookfield, which stated "In lieu of the use of the Knox box, the Sanitary District agrees to release the Town of Brookfield Fire Department from any and all liability for damage to Sanitary District property resulting from the inaccessibility to Sanitary District property in the case of a fire or other emergency." Mr. Krohlow said that, under those circumstances, he didn't think the losses would be covered regardless of the amount of coverage the District had. He said that the approach agreed upon by the Commission at the December 6th Regular Meeting, to allow that a key be given to the Fire Department, was a much better way to handle the situation.

Commissioner Dombrowski made a **MOTION** to make no changes to the District's current insurance coverage in the year 2005, seconded by Commissioner Kopp, voted on and passed unanimously.

DEFERRALS/TABLED ITEMS FOR DISCUSSION AND NECESSARY ACTION

Sewer/Water services north of Capitol Drive

No action taken.

Monthly financial statements

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No action taken.

DISCUSS APPOINTMENT OF SANITARY DISTRICT'S OFFICIAL NEWSPAPER FOR PUBLICATION OF ITS NOTICES; TAKE NECESSARY ACTION

Mrs. Bloom said that she spoke to the person at the (Milwaukee) Journal Sentinel and to Jane Carlson, the Town Clerk, to inquire if the Sanitary District could piggyback onto the Town's contract with the Journal Sentinel in order to obtain the same favorable per-line rate for the publications of its legal notices. Both agreed to that arrangement. According to Mrs. Carlson, the Town's administrator, Rick Czopp, also saw no problem with the arrangement.

Commissioner Dombrowski made a **MOTION** to appoint the Milwaukee Journal Sentinel as the Sanitary District's official newspaper for the publication of its legal notices, seconded by Commissioner Kopp, voted on and passed unanimously.

DISCUSS AND TAKE NECESSARY ACTION RE: APPOINTMENT OF SANITARY DISTRICT'S BANKING FACILITY

Mrs. Bloom was directed to obtain bids from the three banks that are closest in vicinity to the District, specifically relating to the commercial banking fees, so the commissioners can make a decision on the appointment of its banking facility.

ANY NECESSARY ACTION AND FINAL APPROVAL OF COMPUTER SERVICES CONTRACT - ASAP VIRTUAL NETWORKS, INC.

After this item was placed on the agenda, it was discovered that the Commission took final action at the Sanitary District's July 14, 2004 Regular Meeting when it approved the purchase of the 50-hour package of support at an hourly rate of \$110. At that time, however, the expense was not in the District's budget. In a letter dated July 15, 2004, Michael Majewski, ASAP Virtual Networks, agreed to hold that price until January 15, 2005. The \$5,500 will now be paid to ASAP.

DISCUSSION AND APPROVAL OF ENGAGEMENT LETTER FOR AUDIT SERVICES FOR THE YEAR ENDED 12/31/04

The District has not yet received from Virchow Krause the Engagement Letter for audit services for the year ended December 31, 2004. Commissioner Dombrowski made a **MOTION** to place this item under Deferrals/Tabled Items on the next agenda, seconded by Commissioner Kopp, voted on and passed unanimously.

CORRESPONDENCE

1. Copy of letter, dated 12/13/04, to Honorable Mark S. Gempeler, Waukesha County Courthouse, from Attorney Schober, re: SD#4 v. Visvardis - request for dismissal of case because compliance has been reached - **Noted**
2. Letter, dated 12/6/04, from Public Service Commission of Wisconsin, re: full scale implementation of electronic regulatory filing in 2005 - **Noted**
3. Copy of letter, dated 12/15/04, to Dave Werner, Fabri-Tech, Inc., from Rick Wenzel, FRWPCC, re: sampling results obtained on sampling conducted at Fabri-Tech Outfall 01 on 11/18-19, 2004 - **Noted**

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4. Town of Brookfield Meeting Notice, dated 12/17/04, for Town Board Meeting to be held 12/21/04 - **Noted**
5. Minutes of 12/7/04 Town Board Meeting of the Town of Brookfield - **Noted**
6. Letter, dated 12/20/04, from Terry Tavera, Ruekert & Mielke, Inc., re: Sam's Club easement exhibit and legal description - copy given to Attorney Schober for preparation of easement agreement - **Noted**

PAY BILLS

Commissioner Dombrowski made a **MOTION** to approve payment of the presented vouchers in the amount of \$22,287.78. The motion was seconded by Commissioner Kopp, voted on and passed unanimously. That amount included the following payments:

\$ 1,310.50	Wisconsin Deferred Comp Program - contributions for period ending 12/18/04
\$ 2,801.82	Humana, Inc. - health insurance premiums for January 2005
\$ 6,304.11	Ruekert & Mielke, Inc. - engineering fees
\$ 1,023.65	SBC Ameritech - monthly telephone service
\$ 1,781.38	We Energies - monthly electric service

There being no further business, Commissioner Dombrowski made a **MOTION** to adjourn the meeting, seconded by Commissioner Kopp, voted on and passed unanimously. President Cole closed the meeting at 8:10 p.m.

Respectfully submitted,

Sharon K. Bloom
Deputy Secretary