

GREEN BAY METROPOLITAN SEWERAGE DISTRICT
PROCEEDINGS OF THE COMMISSION

Regular meeting of the Commission held April 27, 2009.

PRESENT: Commissioners Alesch, Hasselblad, Zabel, and Scheberle

EXCUSED: Commissioner Meinz

ALSO PRESENT: T. Sigmund, P. McCarthy, P. Kaster, D. Busch, M. Pierner, W. Angoli, B. Vander Loop, J. Kennedy, J. Christ, D. Lefebvre, L. Evenson, M. Kersten, J. Czypinski, M. Erschnig, J. Van Sistine, J. Nicks–Legal Counsel; L. Schley–City of De Pere; T. Johnson–AECOM

Commission President Alesch 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 PCB sediment issues**
 - b) **Status report on Rockland appeal of De Pere annexation and Rockland/De Pere border negotiations**
 - c) **Fox River PCB insurance coverage issues**
 - d) **Air emissions discussion**
 - e) **Eco Fibre appeal of Special Order**

Motion #09-033

It was moved by Hasselblad, seconded by Zabel, 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.

Staff was excused prior to the discussion of the Eco Fibre appeal of Special Order.

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

Motion #09-034

It was moved by Hasselblad, seconded by Zabel, and unanimously agreed to reconvene in open session.

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T. Sigmund reported the project numbers listed in agenda items 13 and 14 are incorrect. The project number for both items should be 2008-07. The minutes will reflect the correct project numbers.

3) Decision on hearing on Special Order issued to Eco Fibre, Inc.

Commissioner Alesch stated that Eco Fibre Inc. filed an Objection to the Special Order issued by the GBMSD Commission and requested a hearing. The Commission conducted a contested case hearing on Eco Fibre's Objection to the Special Order on February 25 and March 4, 2009.

Commissioner Alesch asked the Commission if it was satisfied with the information presented at the hearing. The Commission replied yes. Commissioner Alesch asked if the Commissioners read the transcripts and briefs, and are prepared to make a decision. The Commissioners answered yes. Commissioner Alesch asked if any Commissioners would like to recuse themselves. The Commissioners responded no.

Commissioner Alesch stated that legal counsel provided the Commission with two draft Decisions; one affirming the Special Order and one rescinding the Special Order.

Commissioner Alesch asked for a motion to reaffirm the decision.

Motion #09-035

It was moved by Hasselblad, seconded by Zabel, and unanimously agreed to reaffirm the decision confirming the Special Order issued to Eco Fibre, Inc. (See Commission File #09-001)

4) Approval of minutes of Commission meeting held March 23, 2009.

Motion #09-036

It was moved by Scheberle, seconded by Zabel, and unanimously agreed to approve the March 23, 2009 minutes as distributed.

5) March financials.

P. Kaster reviewed the March financials. He reported operating revenues and expenses were under budget. He reported contracted services were over budget. He stated that staff would be putting together a formal process on reviewing expenditures on a quarterly basis. He then reviewed GBMSD's current investment portfolio.

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Commissioner Alesch asked staff to prepare a summary of GBMSD's annual average rate of return on its investments over the last five to ten years with a comparison to the annual rate of return of the Wisconsin retirement investment fund portfolio over the same period.

- 6) **Request Commission approval to contract with Carlson Dettmann Consulting to provide professional services in revising the current GBMSD performance management system in the amount of \$15,800.00.**

J. Christ requested Commission approval to modify GBMSD's current performance management system. She stated Carlson Dettmann Consulting (CDC) developed the system in 2000 and was implemented in 2001. Staff would like to revise the current system with specific or far reaching goals and to align it with our strategic investments, goals, and objectives. She stated CDC provides consulting services to other sewerage treatment facilities including Madison, Milwaukee, Racine, and Kenosha. She stated CDC has done a good job for GBMSD and she would like to continue working with CDC.

Commissioner Alesch asked if staff looked at any other firms. J. Christ replied no.

Commissioner Hasselblad asked if anything would be gained to move forward with a municipal consultant. J. Christ replied accounting firms do not have the knowledge.

Commissioner Scheberle asked if the current system needs to be revised now, and if so, could this be handled internally. J. Christ replied that she prefers the resources an outside firm can provide GBMSD.

Commissioner Hasselblad suggested a firm such as Towers – Perrin, who has done work for Integrys. She also suggested possibly bringing in a national firm. Staff will consider those firms for a more comprehensive review of our program.

Commissioner Scheberle asked to get a sense from staff as to where the concerns are with the current system.

Commissioner Zabel stated that this should be a vehicle for employees to improve themselves personally and the organization rather than just a way to earn more money.

Motion #09-037

It was moved by Hasselblad, seconded by Zabel, with Alesch voting nay, and agreed to contract with Carlson Dettmann Consulting to provide professional services in revising the current GBMSD performance management system in the amount of \$15,800.00.

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7) Discussion of financial strategic planning.

P. Kaster gave an overview of the financial strategic planning process.

8) Request Commission approval of Change Order No. 3 for the Ninth Street Interceptor Rehabilitation Project 2008-02 in the amount of \$12,654.83.

M. Pierner reported Change Order No. 3 is to adjust the contract cost to match final field measurements of work completed on this project.

Motion #09-038

It was moved by Hasselblad, seconded by Zabel, and unanimously agreed to approve Change Order No. 3 for the Ninth Street Interceptor Rehabilitation Project 2008-02 in the amount of \$12,654.83.

9) Request Commission approval to authorize the Executive Director to execute an Agreement for Mill Waste Force Main with the City of De Pere and Fox River Fiber Company, LLC in the amount of \$1,703,308.00.

P. Kaster reported that staff is working with the City of De Pere and Fox River Fiber on finalizing the Mill Waste Force Main Agreement. He requested Commission approval to authorize the Executive Director to execute the final agreement.

Motion #09-039

It was moved by Hasselblad, seconded by Zabel, and unanimously agreed to authorize the Executive Director to execute the final negotiations on an Agreement for the Mill Waste Force Main with the City of De Pere and Fox River Fiber subject to signing of the Agreement by Commission President Alesch and Secretary Hasselblad.

10) Request Commission approval to award the construction contract for the Mill Waste Conveyance Force Main Project 2008-012 to MP Nexlevel, LLC in the amount of \$1,389,133.10 and a 5% contingency for a total project amount of \$1,458,590.10.

M. Pierner reported the construction of a mill waste force main would convey the waste from Fox River Fiber directly to the De Pere Facility and remove it from the interceptors to which it has caused severe damage. He stated bids were opened on April 9 and staff concurs with the engineer's recommendation to award the contract to the low bidder, MP Nexlevel, LLC in the amount of \$1,389,133.10.

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M. Pierner stated that MP Nexlevel appears to be a relatively large company with experience in telephone and fiber optic cable installations, and specializes in horizontal directional drilling. He stated MP Nexlevel is currently constructing a fiber optic data highway for Brown County.

Motion #09-040

It was moved by Zabel, seconded by Scheberle, and unanimously agreed to award the construction contract for the Mill Waste Conveyance Force Main Project 2008-012 to MP Nexlevel, LLC in the amount of \$1,389,133.10 and a 5% contingency for a total project amount of \$1,458,590.10.

- 11) Request Commission approval for AECOM to provide engineering services during construction for the Mill Waste Conveyance Force Main Project 2008-012 in the amount of \$233,175.00 and a 5% contingency for a total project amount of \$244,834.00.**

M. Pierner requested Commission approval to reduce the amount for engineering services during construction to \$182,188.00 with a 5% contingency under the Executive Director's authority for a total amount of \$191,297.00. He reported the reason for the decrease is Fox River Fiber will be constructing the lift station work and no services are required from AECOM. AECOM will provide construction related services, including field inspections, shop drawing review, create reproducible record drawings, and provide a GPS survey of the force main.

Motion #09-041

It was moved by Hasselblad, seconded by Zabel, and unanimously agreed to authorize AECOM to provide engineering services during construction for the Mill Waste Conveyance Force Main Project 2008-012 in the amount of \$182,188.00 and a 5% contingency for a total project amount of \$191,297.00.

- 12) Request Commission approval to authorize an application to the Board of Commissioners of Public Lands for a loan to finance the construction of a force main to accommodate mill waste in the amount of \$1,703,308.00.**

P. Kaster requested Commission approval of a resolution authorizing the borrowing of \$1,703,308.00 from the Trust Funds of the State of Wisconsin. The terms of the loan are 3.50% interest for five years.

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Motion #09-042

It was moved by Hasselblad, seconded by Zabel, and unanimously agreed to authorize an application to the Board of Commissioners of Public Lands for a loan to finance the construction of a force main to accommodate mill waste in the amount of \$1,703,308.00. (Resolution #09-003 and Form of Record are on file at the GBMSD offices.)

Commissioner Alesch read the Form of Record.

- 13) **Request Commission approval to award the construction project contracts A, B, and C including contingencies for the Wastewater Conveyance from Southern Service Area Project 2008-07:**
- a) **Contract A to The Selmer Company with the “Buy American” provision in the amount of \$783,900.00 and 5% contingency for a total project amount of \$823,095.00.**
 - b) **Contract B to PTS Contractors with the “Buy American” provision in the amount of \$8,142,536.50 and a 5% contingency for a total project amount of \$8,549,663.30.**
 - c) **Contract C to Gabe’s Construction Company, Inc. with the “Buy American” provision in the amount of \$832,930.00 and a 5% contingency for a total project amount of \$874,576.50.**

M. Pierner requested Commission approval to award Contracts A, B, and C for the wastewater conveyance from the De Pere Facility to the Green Bay Facility. Contract A will construct a chemical feed building approximately midway between the treatment facilities to allow for chemical addition to the conveyance pipes to control the potential of corrosion and odor generation. Contract B will include installation of a 20-inch wastewater conveyance pipe able to divert up to 3.6 MGD of raw wastewater from the De Pere Facility and installation of dual 10-inch force mains to convey waste activated sludge and/or mill waste from the De Pere Facility to the Green Bay Facility for final processing. This will allow shut down of solids processing at De Pere and further provide the ability to transfer BOD loadings to our Green Bay Facility. Contract C will install the dual 10-inch by direction drilling under the Fox River and into the Green Bay Facility. Contracts B and C will include a fiber optic link between the two GBMSD plants, which will allow us to have our fiber optic communication link looped to provide for emergency backup.

Funding is being requested through the Wisconsin Clean Water Fund Program, and staff is also seeking Federal stimulus dollars. Staff has included provisions in the contracts to comply with Federal requirements regarding “Buy American” to satisfy the stimulus program requirement.

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M. Pierner reported two easements are still outstanding. He stated Georgia-Pacific representatives have given verbal concurrence to granting an easement and discussions continue with Green Bay Packaging regarding an easement. He reported that condemnation efforts are also underway, if needed.

M. Pierner reported the Wisconsin Department of Natural Resources has approved the project plans for all three contracts.

Motion #09-043

It was moved by Scheberle, seconded by Zabel, and unanimously agreed to award Contract A to The Selmer Company with the "Buy American" provision in the amount of \$783,900.00 and 5% contingency for a total project amount of \$823,095.00, Contract B to PTS Contractors with the "Buy American" provision in the amount of \$8,142,536.50 and a 5% contingency for a total project amount of \$8,549,663.30, and Contract C to Gabe's Construction Company, Inc. with the "Buy American" provision in the amount of \$832,930.00 and a 5% contingency for a total project amount of \$874,576.50 for the Wastewater Conveyance from Southern Service Area Project 2008-07.

- 14) Request Commission approval for AECOM to provide engineering services during construction for the Wastewater Conveyance from Southern Service Area Project 2008-07 in the amount of \$714,199.00 and a 5% contingency for a total project amount of \$749,909.00.**

M. Pierner requested Commission approval for AECOM to provide construction related services, which includes full time inspection of the construction activities as required. Staff has reviewed the service proposal and finds it to be reasonable. The engineering services amount calculates to 8% of the project construction costs. He stated that if the project cannot be completed in 2009, AECOM has agreed to hold the wage rate to 2009.

Motion #09-044

It was moved by Zabel, seconded by Hasselblad, and unanimously agreed to authorize AECOM to provide engineering services during construction for the Wastewater Conveyance from Southern Service Area Project 2008-07 in the amount of \$714,199.00 and a 5% contingency for a total project amount of \$749,909.00.

- 15) Request Commission approval of Task Order No. 2009-009 for Donohue & Associates to provide engineering services on the Ferric Chloride Feed System Evaluation Project in the amount of \$22,690.**

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W. Angoli reported this project would update GBMSD's existing ferric chloride system and evaluate alternative ferric chloride feed locations. He stated the two feed systems located in the tunnels are over 30 years old. He stated the upgrade would offer payback in chemical costs and labor at the Green Bay Facility within two to three years by allowing remote control capability from the solids control room.

Motion #09-045

It was moved by Hasselblad, seconded by Zabel, and unanimously agreed to approve Task Order No. 2009-009 for Donohue & Associates to provide engineering services on the Ferric Chloride Feed System Evaluation Project in the amount of \$22,690.

- 16) Request Commission approval to award contract 2009-01 De Pere and Green Bay Facility Upgrades Project to The Selmer Company in the amount of \$14,198,000 and a 5% contingency for a total project amount of \$14,907,900.**

W. Angoli reported bids were opened in February and the Commission tabled this item last month. He stated the Facility Upgrades Project would bring wastewater and waste activated sludge from the mills to the Green Bay Facility.

Commissioner Alesch asked if staff has considered and reviewed everything. W. Angoli replied that staff feels comfortable that everything has been accounted for. Commissioner Alesch voiced his concern on the unknown conditions of the pipes and any serious problems that could arise. Commissioner Alesch asked staff if the pipe under the De Pere Facility has deteriorated. M. Kersten replied the infrastructure underground is ductile iron and should be in good shape.

T. Sigmund stated this project was bid prior to the "Buy American" provision so staff has asked the contractor to provide a list of the elements that are not "Buy American." In talking with the EPA and DNR, GBMSD can correct the project with a change order to include "Buy American."

Motion #09-046

It was moved by Zabel, seconded by Hasselblad, and unanimously agreed to award contract 2009-01 De Pere and Green Bay Facility Upgrades Project to The Selmer Company in the amount of \$14,198,000 and a 5% contingency for a total project amount of \$14,907,900.

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- 17) **Request Commission approval for CH2M Hill to provide engineering services during construction for the De Pere and Green Bay Facility Upgrades Project in the amount of \$1,800,000 and a 5% contingency for a total project amount of \$1,890,000.**

W. Angoli stated CH2M Hill would provide assistance with construction management site inspections, shop drawing review, writing of plant operations and maintenance manuals, and functional acceptance testing.

Motion #09-047

It was moved by Hasselblad, seconded by Zabel, and unanimously agreed to authorize CH2M Hill to provide engineering services during construction for the De Pere and Green Bay Facility Upgrades Project in the amount of \$1,800,000 and a 5% contingency for a total project amount of \$1,890,000.

- 18) **Adopt Reimbursement Resolution for the De Pere and Green Bay Facility Upgrades Project.**

Motion #09-048

It was moved by Hasselblad, seconded by Zabel, and unanimously agreed to adopt the Reimbursement Resolution for the De Pere and Green Bay Facility Upgrades Project.

Resolution #09-004

WHEREAS, the Green Bay Metropolitan Sewerage District, Brown County, Wisconsin (the "Issuer") plans to undertake the De Pere and Green Bay Facility Upgrades Project (the "Project");

WHEREAS, the Issuer expects to finance the Project on a long-term basis by issuing tax-exempt bonds or promissory notes (collectively, the "Bonds");

WHEREAS, because the Bonds will not be issued prior to commencement of the Project, the Issuer must provide interim financing to cover costs of the Project incurred prior to receipt of the proceeds of the Bonds; and

WHEREAS, the Commission (the "Governing Body") of the Issuer deems it to be necessary, desirable, and in the best interests of the Issuer to advance moneys from its funds on hand on an interim basis to pay the costs of the Project until the Bonds are issued.

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NOW, THEREFORE, BE IT RESOLVED by the Governing Body of the Issuer that:

Section 1. Expenditure of Funds. The Issuer shall make expenditures as needed from its funds on hand to pay the costs of the Project until proceeds of the Bond become available.

Section 2. Declaration of Official Intent. The Issuer hereby officially declares its intent under Treas. Reg. Section 1.150-2 to reimburse said expenditures with proceeds of the Bonds, the principal amount of which is not reasonably expected to exceed \$16,000,000.

Section 3. Unavailability of Long-Term Funds. No funds for payment of the Project from sources other than the Bonds are, or are reasonably expected to be, reserved, allocated on a long-term basis, or otherwise set aside by the Issuer pursuant to its budget or financial policies.

Section 4. Public Availability of Official Intent Resolution. This Resolution shall be made available for public inspection at the office of the Issuer's Secretary within 30 days after its approval in compliance with applicable State law governing the availability of records of official acts including Subchapter II of Chapter 19, and shall remain available for public inspection until the Bonds are issued.

Section 5. Effective Date. This Resolution shall be effective upon its adoption and approval.

19) Sewer plan approvals:

M. Pierner requested Commission approval of the following sewer plans subject to favorable review by Brown County Planning and the WDNR.

a) Village of Bellevue 09-01; GBMSD Request 2009-09

The Village of Bellevue is requesting 1,471 ft. of 8-inch sewer to serve planned residential lands.

b) City of De Pere 09-04; GBMSD Request 2009-10

The City of De Pere is requesting replacement of 617 ft. of 8-inch sewer.

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Motion #09-049

It was moved by Zabel, seconded by Hasselblad, and unanimously agreed to approve the Village of Bellevue 09-01 and City of De Pere 09-04 sewer plans subject to favorable review by Brown County Planning and final approval by the WDNR.

20) Update of projects:

a) Consolidation Projects – General

P. McCarthy reported that GBMSD and Fox River Fiber are coordinating experimentation with different chemicals and dosage levels to maintain sulfide suppression in the Ninth Street/Ashwaubenon Creek Interceptor system. He stated monitoring and mitigation will be ongoing activities throughout the summer as conditions change in the sewers.

P. McCarthy reported a draft proposal for a three-phased work scope for inspecting the De Pere siphon was received from Jason Consultants. He stated the scope includes establishing the alignment and grade of the two pipes and a condition assessment.

b) Consolidation Projects – Conveyance facilities design and construction phases

M. Pierner reported the draft of the partnership agreement for the fiber optic communication link between Brown County, City of Green Bay, and GBMSD is in the final review stage. Additional archaeological work was performed to determine if the planned pipeline would impact burial and shipwreck sites. GBMSD has received verbal communication that the State Historical Department plans to give its approval so we can move forward.

c) RAS/WAS System Improvements Project

W. Angoli reported the RAS/WAS System Improvements Project is on schedule.

d) Environmental Programs update

J. Kennedy summarized the Environmental Programs for 2008.

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e) Amalgam separator rebate program update

J. Kennedy reported the amalgam separator rebate program ended December 31, 2008, and final reimbursements have been issued. He stated in GBMSD's service area, 52 out of 68 dentists received the rebate, and 5 dentists did not respond.

21) Operation report:

a) Effluent quality for March

D. Lefebvre reported both facilities have met effluent compliance for March.

b) Air quality for March

D. Lefebvre reported incinerator emissions reports for both facilities were included in the Commission packet.

22) Legal Counsel report:

a) None

23) Executive Director's report:

a) May Commission meeting

The next regular meeting is scheduled for May 18 at 8:30 a.m. The June meeting will be held on July 7, and the July meeting is scheduled for July 27.

b) Employee Benefits Statement

An example of the Employee Benefits Statement was included in the Commission packet.

c) Customer luncheon

Thirty-three municipal and industrial customers attended a customer luncheon on April 9.

d) Budget proposal on Clean Water Fund interest rate subsidy

The Governor was proposing a subsidized interest rate of 70% of market rates for loans obtained from the Clean Water Fund. GBMSD sent letters to Senator Hansen and Representative Montgomery on the Joint Committee on Finance requesting the Committee retain the current rate of 55% of the market interest rate. The Joint Finance Committee voted 14 – 1 to increase the subsidized rate to 60% of market in the next biennium. Staff will monitor this as the budget is finalized.

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e) Economic stimulus funding

Staff is following the status of grant funds allocated to Wisconsin from the American Recovery and Reinvestment Act of 2009.

There being no further business to come before the Commission, the meeting adjourned at 11:13 a.m.

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Secretary