

**UTILITY ADVISORY BOARD
MEETING
MONDAY, September 27, 2010**

MEMBERS PRESENT: John Dauster, Chairman
Howard Bennett, Steve Fabian,
Thomas Kessler, Terry Miller,
Joe Sabatino

OTHERS PRESENT: Tom Jackson, Utilities Director
Steve Leonard, Senior Project Manager

CALL TO ORDER/ANNOUNCEMENTS

- A. Roll Call
- B. Next Scheduled Meeting - October 25, 2010

APPROVAL OF MINUTES

- A. Regular Meeting - August 23, 2010
 - Mr. Fabian MOVED, Mr. Sabatino SECONDED approval. MOTION CARRIED UNANIMOUSLY.

STATUS REPORT

- A. Utility Operational Data
 - Mr. Jackson reported according to the United States Geological Survey (USGS), the reservoir was 5.39 feet mean sea level (msl), which equated to approximately 267.19 million gallons per day (mgd) of flow over the spillway, adding Total Dissolved Solids (TDS) were 279 parts per million (ppm) and chlorides were 92 ppm as a consequence of recent heavy rainfalls. He reported 92 million gallons (mg) had been stored in the Aquifer Storage and Recovery (ASR) wells, noting same was approximately one half of the storage volume for the year. He explained a tropical system would be moving through the area later in the week and creating rainy conditions.
 - Mr. Bennett inquired how many times the City could exceed the TDS variance without a penalty.
 - Mr. Jackson replied the City would pay a fine each time.
 - Mr. Bennett inquired how many times the standard had been exceeded.
 - Mr. Jackson replied it would be exceeded approximately 15 days for 9 out of 12 months, explaining concurrent violations would be considered one occurrence. He displayed the Utility Operational Data for June 2010, as delineated in the agenda materials, briefly reviewing the monthly totals, reporting that 37.78 mg had been injected into the ASR wells.
 - Mr. Fabian inquired if the high waste water flow was due to infiltration.

- Mr. Jackson replied in the negative, explaining there had been an above average return from the pond due to filter testing. He then displayed a graph of Shell Creek Reservoir Levels, as delineated in the agenda materials, briefly reviewing same, noting current levels were well above the 40-year average.
 - Mr. Dauster inquired as to staff's opinion on the spillway project.
 - Mr. Jackson replied it had been a fantastic project, adding there were a few punch list items such as reinstalling the fencing and putting down sod. He stated the spillway was stronger and more massive, adding it would last longer than the one constructed in 1964.
- B. Capital Project Data Sheet - Priority Efforts
- Mr. Dauster inquired as to the Aqui Esta project status.
 - Mr. Leonard replied his understanding was that the grades did not meet Florida Department of Transportation (FDOT) standards; however, the engineer of record was working on a resolution, adding the contractor had stopped some of the work until a resolution could be identified.
 - Mr. Bennett opined the Burnt Store widening project would not be completed in 2010 as indicated.
 - Mr. Leonard explained those dates had been copied from the County's website, adding same would be revised.
 - Mr. Dauster inquired whether City and County staff worked cooperatively on projects, adding it seemed as though City staff obtained much information from the County's website.
 - Mr. Leonard replied City staff attended project meetings; however, when staff asked questions, information was not always forthcoming.
 - Mr. Jackson interjected City staff had attended bi-weekly progress meetings regarding the Aqui Esta and Burnt Store Road projects for the past three months, adding many times when asked for information about when the Aqui Esta project would begin, the County referred staff to their website for timeframes; however, City staff coordinated well with the County.
- C. City Council Action on Utilities Agenda Status
- Mr. Jackson reported the City Manager, City Attorney and he met with the Department of Environmental Protection (DEP) regarding the TDS variance on September 21, 2010, adding the City Attorney was waiting for the Office of the General Counsel to issue a ruling on whether the extension would be in the form of a variance or an exemption. He stated City Council preferred an exemption since the timeframes were less rigid, advising only one exemption had been granted in the State of Florida. He stated DEP

staff in the Fort Myers office were not comfortable granting an exemption due to their lack of experience with same, adding they were concerned about the flexible timeframe. He stated he had submitted a draft variance to the City Attorney several weeks ago, advising the exemption was a similar application, and he hoped to have a draft ready for the City Attorney's review in the near future.

- Mr. Dauster inquired if DEP would require the City to complete the engineering regardless of the circumstances, recalling members had previously discussed that over a period of time there could be a change in methodology and engineering.
- Mr. Jackson responded even if the project would be delayed 10 years, he would recommend obtaining the ground water permit as it was a 30 year permit; however, DEP had indicated they preferred nothing longer than 4 years, adding with the delays the City had experienced, they would still be behind with a 3 year extension; therefore, it was necessary to move forward. He stated getting the permit and doing the final design were separate processes, adding if the City was granted a 10 year extension, he would wait and do the final design later as that process would take about 18 months. He then stated he was in the process of reviewing the engineering estimates, adding he was waiting for return phone calls from several utility directors that had done similar projects.
- Mr. Sabatino opined it was necessary to contact the DEP officials in Tallahassee and Representative Paige Kreegel's office to request they give better direction to DEP's regional staff in Fort Myers so the issue could move forward, asserting the Fort Myers staff were trying to shift the direction more than they should.
- Mr. Jackson agreed that might be the next step, recalling City staff had specifically discussed an exemption with Representative Kreegel, and the City had a legal right to apply for the exemption. He advised DEP had an obligation to review the exemption request and issue a ruling.
- Mr. Sabatino suggested the Utility Advisory Board (UAB) recommend moving forward with an application for exemption.
- Mr. Jackson stated after the City Attorney was done fact gathering, he would summarize the statements made during the meeting with Representative Kreegel and outline the direction the City intended to take, adding if the DEP District office indicated that was not acceptable, that would be justification for contacting the officials in Tallahassee.
- Mr. Bennett commented DEP's response about not having any experience with exemptions was unacceptable.
- Mr. Jackson agreed, adding according to the requirements laid out in the Florida Statutes and the Administrative Code rule, an extension was an easier process for both

the applicant and the agency.

- Mr. Kessler reiterated it was necessary for City Council to bring the political forces back to bear in order not to lose the leverage the City had gained when Representative Kreegel was in the room.
- Mr. Jackson stated he would share that with the City Manager.
- Mr. Sabatino MOVED, Mr. Kessler SECONDED recommending City Council submit a request to the DEP South District office for an exemption, rather than a variance, to the TDS standards.
- Ms. Miller inquired if there was any negative aspect to an exemption.
- Mr. Jackson replied in the negative.
- Ms. Miller inquired whether it could be extended.
- Mr. Jackson replied he believed the City could apply for a new exemption; however, he would review the rule and advise members if that was not the case.
- MOTION CARRIED UNANIMOUSLY.
- Ms. Miller recalled staff indicated DEP had questioned the City's engineering costs, asking if they had provided alternative figures.
- Mr. Jackson replied they had suggested a figure of approximately \$9 million, adding according to the engineer, that was not sufficient for what the City required. He stated a more accurate figure was closer to \$25 million; however, the actual estimate was \$28 million, noting the 2006 planning study by Carollo Engineers listed a cost of \$36 million. He stated recent bids for major projects were coming in at 50% to 60% of the engineer's estimates. He stated the City was looking at comparable facilities, concluding he had 219 documented pages explaining the \$28 million cost estimate.
- Mr. Fabian inquired if a contingency would be included with the engineering estimate.
- Mr. Jackson replied a 30% contingency was included.

D. Utility Fund Balance

- Ms. Kristin Simeone drew members' attention to the financial statements for period ending August 31, 2010, as delineated in the agenda packet, briefly reviewing same, noting revenues were slightly over the original budget and expenses were 83.3% with 91.7% of the year completed. She stated debt service and the transfer to utility construction had been completed for the remainder of the year.
- Mr. Kessler questioned the difference in the 2010 operating reserves budget and the 2010 operating reserves projection.
- Ms. Simeone replied the year had finished better than projected, explaining the beginning figure included carryover amounts for projects that were not completed.
- Mr. Kessler stated the revised estimate for the total capital budget was approximately

\$12 million less than the original estimate, confirming capital costs would likely come in at less than the estimated figure again this year. He commented operating reserves were \$5.8 million and would likely be substantially higher next year, opining that was a result of very good fiscal management.

- Ms. Simeone stated there were some savings on the capital side as a result of some projects being delayed, which subsequently delayed the need for financing.
- Mr. Dauster questioned why the water and waste water treatment expenses were higher than projected.
- Ms. Simeone replied those were expenses carried over from the previous year. She then drew members' attention to the negative balances for "PRTS Water Inside" and "Wastewater PRTS Inside", noting same were due to a timing issue and would be made up in the next month.

BUSINESS ITEMS

- None.

DISCUSSION ITEMS

A. Charlotte Park Phase 1 – Costs

- Mr. Jackson stated the costs for the project had been included in the packet as requested by the Board, reporting the final cost was \$42 per linear foot. He pointed out the contractor cost estimate for phase 2 was approximately \$58 per linear foot, noting staff was preparing to move forward with phase 2, which was a much larger project. He stated the timing was being driven by Charlotte County's desire to improve the roads in the Charlotte Park area, explaining it made more sense to put the utilities in before that roadwork was done. He stated phase 2 had been designed and the first portion had been permitted, adding due to staff reductions, it was necessary to plan appropriately to do the project in a cost effective manner. He opined phase 2 could be broken down into 2 phases to avoid problems with repetitive starting and stopping.
- Mr. Dauster inquired if the City was responsible for making the connection to the homeowner.
- Mr. Jackson replied in the negative.
- Mr. Dauster inquired as to the County's timeframe for completing the roadwork.
- Mr. Jackson replied the County did not have funds to complete the roads.
- Mr. Dauster inquired if it made sense to delay phase 2.
- Mr. Jackson replied it would likely be cheaper to complete the work now rather than waiting due to the cost of materials and associated work to be done, acknowledging the deadline might be more flexible for completing the utility work prior to the roadwork.
- Mr. Fabian asserted the \$42 per linear foot was not a true cost, asserting it was

necessary to include the direct labor costs as well as the overhead that the department was charged by the City for administrative fees.

- Mr. Jackson agreed to research same, acknowledging some of those overhead charges might not be included.

B. Cul-de-sac Policy Discussion

- Mr. Jackson recalled when the former Assistant City Manager had requested input from employees on cost saving ideas in order to help balance the budget, someone asked why the City was paying for water for residents to put plantings in the cul-de-sacs. He drew members' attention to the Public Works cul-de-sac policy included in the agenda materials, advising plantings in the cul-de-sac were contrary to certain industry standards; for example, plants should not be planted on top of sewer lines since sewer lines broke on occasion. He stated the City had paid to replace some very expensive palm trees after a line break in one of the landscaped areas of a cul-de-sac. He then stated Public Works had been paying for the watering in the cul-de-sacs; therefore, it was suggested that the spigots be removed to eliminate that cost, adding after the Utility Department had pulled out the meters and the pipelines in those areas, the residents became upset because they had become accustomed to the lushly landscaped cul-de-sacs. He displayed several photographs of cul-de-sacs that had been elaborately landscaped, noting in one planting there was a garden hose that looped around the plantings which might be a soaker hose. He said now that Public Works was no longer paying for the water, the City was giving away the water for free. He stated this was also a possible cross connection hazard as there were no backflow preventers, noting all 26 cul-de-sacs would need backflow preventers at a cost of approximately \$200 each. He acknowledged residents took pride in the cul-de-sacs; however, there was a cost associated with it, requesting recommendations from the Board.
- Mr. Sabatino stated Burnt Store Isles had 52 cul-de-sacs, asserting as far as residents were concerned, those cul-de-sacs were public property. He opined the cul-de-sacs were an amenity that residents had gotten used to, suggesting contacting the homeowners associations advising them of the problems and the cost associated with it. He stated the maintenance provided by the City was minimal and included fertilizer twice per year and mulch when it was requested, adding some of the cul-de-sacs were no longer being cared for and had deteriorated and been abandoned. He commented the Land Development Regulations mandated residents to maintain a lush landscape. He opined if the residents were involved in the discussion, there would be less resistance to recommendations for change.
- Mr. Bennett opined there was no difference between the cul-de-sacs and the plantings in

the median on US41, asserting there were crews watering and working on the median plantings on a constant basis, and that should also be done for the cul-de-sacs.

- Mr. Sabatino stated the homeowners association was going to underwrite the cost of the work to redo the main entranceways on Monaco and Madrid next year, adding the City would not be providing manpower for that work as they had done in the past because they could not afford to do so. He stated the homeowners association might have to absorb the cost for the initial manpower; however, future maintenance would need to be taken care of by the City since it was City property.
- Mr. Jackson acknowledged these types of plantings were an asset to the City; however, his job was to keep utility costs as low as possible, adding he recommended against the Utility having to pay for the cost of watering.
- Mr. Fabian stated some of the cul-de-sacs were too elaborate, adding residents needed to decide what to plant based on how much plantings they would be willing and able to care for.
- Mr. Jackson stated on at least one occasion, one of the garden hoses had been used for a neighborhood carwash.
- Mr. Dauster questioned if the cul-de-sacs could be watered at any time or only twice per week.
- Mr. Jackson replied it was a spigot so they could water whenever they wanted to.
- Mr. Dauster inquired what maintenance the City was providing.
- Mr. Jackson replied the policy he distributed spelled out what maintenance was provided.
- Mr. Sabatino interjected after the initial planting, the City was providing fertilizer, mulch and spraying for weeds twice each year, adding residents supplied the manpower. He stated he would mention this situation at the next Burnt Store Isles Homeowners Association Board meeting.
- Mr. Jackson requested he be informed of any comments made at the meeting.
- Mr. Kessler reiterated the homeowners associations should be contacted for input, inquiring if they should be invited to the next UAB meeting.
- Mr. Dauster opined it would be easier if a City staff member attended the association's board meetings to explain the situation and obtain a recommendation.
- Mr. Bennett stated this was a City issue and the City already had an established policy, adding citizens were not typically asked for their opinion prior to a policy change. He suggested focusing on the list of cul-de-sacs provided and speaking with the residents involved in those instances, adding any resulting recommended changes could be shared with all the homeowners associations. He stated as a follow up, a City staff

member could attend one of the association meetings. He clarified the UAB should provide residents with some guidance, adding rather than telling the City what they wanted, the City needed to let them know what it was willing to do. He stated he felt the policy provided was a good start.

- Mr. Sabatino stated the City already followed that policy; however, Mr. Jackson wanted to alter same.
- Mr. Jackson countered that was not the Utility Department's policy, adding since Public Works was no longer paying for the water or the backflow preventers, he simply wanted to know if the UAB wanted the utility to pay for same. He stated he would take the Board's suggestions under consideration, confirming this item was just for discussion and he was not looking for a formal recommendation at this time.
- Mr. Bennett suggested including a list of things that were unacceptable, such as using the hoses for carwashes.
- Mr. Fabian stated Public Works had paid for the water in the past; therefore, there must have been a policy established for same, questioning if Public Works had arbitrarily decided they were not going to pay for the water any more or whether the City Manager or City Council had approved that policy change. He inquired who paid for the water for the median on US41.
- Mr. Jackson replied that was well water; however, Public Works paid for the electricity to run the wells.

OTHER BUSINESS

- None.

PUBLIC COMMENTS

- None.

MEMBER COMMENTS

- Mr. Fabian questioned if the strategic plan had been approved.
- Mr. Jackson replied it would be reviewed at the next City Council meeting.

ADJOURNMENT

- Meeting Adjourned: 10:12 a.m.

John Dauster, Chairman

Karen Smith, Recording Secretary