

**REGULAR MEETING OF THE JEFFERSON UTILITIES COMMISSION, HELD NOVEMBER 9, 2020**

On call of the roll, commissioners present were: Adams, Brandel, Pieters, Ganser, Bristol and Neils. Absent was: Comm. Oppermann. Also present were: Utility Manager Adler, Office Manager Statz, City Attorney Rogers and Baxter & Woodman Representative Gary Vogel. The meeting began at 5:30 p.m.

**PUBLIC PARTICIPATION**

None

**MINUTES**

It was moved by Comm. Brandel and seconded by Comm. Bristol to approve the minutes from the October 12, 2020 meeting. Motion carried on a voice vote. Comm. Neils abstained.

**EXPENDITURES**

It was moved by Comm. Pieters and seconded by Comm. Ganser to approve the payment of October's bills totaling \$1,130,109.83. On call of the roll, motion carried. (Pieters – Aye, Brandel – Aye, Ganser – Aye, Bristol – Aye, Adams – Aye, Neils - Aye)

**DISCUSSION AND POSSIBLE ACTION – RISK AND RESILIENCE ASSESSMENT SERVICES FOR 2021-BAXTER AND WOODMAN-NOT TO EXCEED \$10,000 – GARY VOGEL PRESENTATION**

Utility Manager Adler introduced Baxter and Woodman Project Manager Gary Vogel. Utility Manager Adler explained there is a new requirement for water utilities to have a plan in place to assess possible risks to the utility. He was recommending the utility partner with Baxter and Woodman to assess those possible risks.

Baxter and Woodman Project Manager Gary Vogel stated the federal EPA is now requiring all municipal water utilities with populations over 3,300 people to assess water system risks such as financial risks, cyber risks and natural disasters and to then calculate a probability of each risk. The assessment looks at the resiliency of the system and must be completed by June of 2021. The assessment can be done two ways, by the utility itself or by a consultant. It is estimated to take about 120 hours of in-house personnel time to complete. Baxter and Woodman can complete the assessment in about 80-90 hours. Mr. Vogel stated it is difficult to perform the assessment one hour at a time. He stated it requires personnel to devote large chunks of their day to the project. Mr. Vogel stated if Baxter and Woodman were to complete the assessment, the utility would be able to use the assessment for capital planning purposes in the future.

Mr. Vogel stated that after the assessment is complete, the utility has until December 31, 2021 to submit an action plan to the DNR.

Mr. Vogel stated that in recent weeks, there was a water utility that suffered a cyber-attack which caused them to lose complete control of their system. The attacker would not release hold of the water system until a large ransom was paid. Mr. Vogel stated that 50% of the time spent on the assessment is on cyber security.

Comm. Pieters questioned if the assessment was completed once or on an annual basis.

Mr. Vogel stated it was not completed annually and updates could be done in house to keep the assessment current.

Comm. Neils questioned how long a utility has to implement their plan of action and also if the utility would be re-audited after the weaknesses were addressed.

Mr. Vogel stated the DNR will review the plan and give the utility a permit to operate. The timeline for completion will mostly likely come down to the severity of the items addressed in the plan of action.

Comm. Bristol stated the estimate seemed reasonable and felt even if staff performed the assessment in-house we would probably want an outside firm to review it anyway.

Utility Manager Adler stated that Baxter and Woodman also did the water study that was presented a few years ago.

Comm. Pieters asked if there were any other vendors that we should consider to perform the assessment.

Utility Manager Adler stated Baxter and Woodman was very familiar with our water system and has always been great to work with. For those reasons, he was recommending them for the job.

It was moved by Comm. Brandel and seconded by Comm. Bristol to approve a risk and resilience assessment in 2021 by Baxter and Woodman, not to exceed \$10,000. On call of the roll, motion carried. (Pieters – Aye, Brandel – Aye, Ganser – Aye, Bristol – Aye, Adams – Aye, Neils - Aye)

Mr. Vogel left the meeting.

### **DISCUSSION AND POSSIBLE ACTION – 5G CITY ORDINANCE**

Utility Manager Adler stated City Attorney Rogers and Boardman and Clark Attorney Anita Gallucci have been working on an ordinance for small cell towers in our community. He stated other communities have been approached by carriers, but Jefferson has not, yet. He stated the goal is to have everything in place before we are approached.

Utility Manager Adler stated a draft ordinance has been created and he was looking for a recommendation up to the Common Council for approval.

City Attorney Rogers stated the ordinance would be read in a way that would give the Common Council the ability to set the fee each year in the schedule of fees. He noted that the law specifies the amount of money a municipality can charge carriers for access to our infrastructure. City Attorney Rogers went on to say the proposed ordinance allows the municipality to refuse placement of the small cells if they are obstructive according to the language in the ordinance.

City Attorney Rogers questioned if we had an ordinance for 4G service.

Utility Manager Adler stated he did not believe the city had such an ordinance.

City Attorney Rogers stated he would like to see an ordinance for 4G similar to the one proposed for 5G.

Comm. Bristol questioned if carriers had to pay a rent to the utility for using our infrastructure.

City Attorney Rogers stated they did, but the amount was limited according to the federal law.

Utility Manager Adler stated typically we negotiate contracts with each carrier that stipulates the fees and placement of the devices. However, in this situation, the FCC in Washington D.C. has already set those fees.

It was moved by Comm. Pieters and seconded by Comm. Neils to recommend the 5G ordinance to the Common Council for adoption. On call of the roll, motion carried. (Pieters – Aye, Brandel – Aye, Ganser – Aye, Bristol – Aye, Adams – Aye, Neils - Aye)

### **DISCUSSION AND POSSIBLE ACTION – PURCHASE OF CLAIM AGAINST WINDSTREAM HOLDINGS, INC BY PRIMESHARES WORLD MARKET, LLC IN THE AMOUNT OF \$1,647.37**

Office Manager Statz stated she received an email from a company offering to settle our claim against Windstream for the unpaid July 2020 pole contacts invoice. She was looking for direction from the commission on whether to pursue the settlement or not. She explained Windstream is going through a bankruptcy and Jefferson Utilities has a claim against the company for the unpaid invoice.

City Attorney Rogers stated this was not uncommon for companies like this to settle debts for a percentage of what is owed. In return, the company will go after full payment of the debt through the bankruptcy claims process. He stated there are a lot of scammers in the industry so we would need to be careful. He would require certified funds from the agency and then we would assign our debt to them.

Comm. Pieters stated he would be in favor of getting \$1,600 now and taking the roughly \$200 loss.

Utility Manager Adler asked if there was a way we could check on the legitimacy of PrimeShare World Market.

City Attorney Rogers stated that is why he would require certified funds from the company before releasing our assignment of the debt.

Comm. Bristol questioned what would happen if they do not pay the next invoice we issue in January of 2021. He asked if we could remove their lines from our poles.

City Attorney Rogers stated we could not do that while they are in bankruptcy. He stated we would need to amend our claim after the next invoice is issued.

It was moved by Comm. Pieters and seconded by Comm. Brandel to pursue collection of the unpaid Windstream invoice through PrimeShares World Market for \$1,647.37. On call of the roll, motion carried. (Pieters – Aye, Brandel – Aye, Ganser – Aye, Bristol – Aye, Adams – Aye, Neils – Aye)

#### **DISCUSSION AND POSSIBLE ACTION – ADVERTISE FOR ELECTRIC LINE WORKER**

Utility Manager Adler stated the electric utility has had an open line worker position since early 2020. With the pandemic we have held off filling the position. He was now asking for authority to move forward with a hire. He stated we received 60 applications the first time we advertised and was hoping to get a great candidate with a new advertisement.

Comm. Brandel stated he was in favor of filling the position.

Comm. Pieters stated that he was also in favor of filling the position as it was budgeted for.

It was moved by Comm. Bristol and seconded by Comm. Neils to approve the advertisement for an electric line worker. On call of the roll, motion carried. (Pieters – Aye, Brandel – Aye, Ganser – Aye, Bristol – Aye, Adams – Aye, Neils - Aye)

#### **DISCUSSION AND POSSIBLE ACTION – ABSORBING ONLINE AND PHONE PROCESSING FEES IN 2021**

Office Manager Statz explained the Public Service Commission (PSC) has allowed utilities to absorb online and over the phone processing fees during the pandemic without having to go in for a rate case. She stated this will expire on December 31, 2020. After that time, the utility will not be able to recover the costs in future rates. She stated it is estimated to cost the utility about \$20,000 per year. In our next rate case, we could petition to absorb those costs moving forward, but it would not be retroactive. She stated she would not normally recommend to the commission that we take a financial loss like this, but with the pandemic getting worse and the savings of staff time processing these payments manually, she was asking to continue to absorb these fees on behalf of our customers.

Comm. Pieters stated he was not in favor of continuing to cover the fees without recovery in our rates.

Comm. Neils stated she was not in favor of continuing to absorb the fees since customers can place their payments in the mail or the drop box. She stated she did not accept credit cards at her business because of the large fees. She would have to raise her rates to offset those costs.

Comm. Bristol stated he felt it was appropriate to follow the PSC's guidelines of allowing the absorption of fees to expire on December 31, 2020. He went on to say that a discussion about payment efficiencies should be had separately from this agenda item.

Office Manager Statz stated she recognized the cost to the utility, but also felt there was value in meeting the needs of our customers. She was concerned about the negative feedback we could receive from customers about no longer covering these costs. She went on to explain that online payments are applied to accounts in a matter of a few clicks on the computer. Mail payments need to be collected, opened, sorted, applied and balanced. She felt this was valuable to staff time.

Comm. Brandel stated it may be ideal for customers to pay electronically, but he was not in favor of continuing to absorb the fees if we cannot get those dollars back in our rates.

It was moved by Comm. Pieters and seconded by Comm. Neils to discontinue absorbing the online and over the phone processing fees on behalf of customers effective January 1, 2021. On call of the roll, motion carried. (Pieters – Aye, Brandel – Aye, Ganser – Aye, Bristol – Aye, Adams – Aye, Neils - Aye)

#### **DISCUSSION AND UPDATE MAYOR OPPERMANN – UTILITY RE-ORGANIZATION**

City Attorney Rogers stated the Common Council is looking at reorganizing the water, electric and sewer departments. He stated they would like to combine water and sewer into one department. Employees in those departments would be cross trained.

Comm. Brandel stated the pandemic has pushed this idea further to the fore front, in addition to staffing issues. He explained if the departments were combined it would double the staff available to each utility. He stated he wasn't sure why the two departments weren't combined already, other than it has been that way for 100 years.

Comm. Pieters stated some of the commission members may have had the advantage of attending meetings about this prior to now, but he was new to the commission and this was new to him. He stated he would like to have more discussion about the business advantages of doing this before moving forward. He wanted to see hard numbers showing cost savings. He stated there must have been some logic to why the electric and water departments were placed together and he didn't want to rush into undoing that. He stated he was not in favor of this move without more information.

Comm. Brandel stated there was no rush on this and agreed more information should be gathered.

City Attorney Rogers stated the change was scheduled to take place soon. He explained there would be a resolution on the next Common Council agenda and an ordinance change is proposed in December. He stated maybe another joint meeting should be held between the Common Council and the Utilities Commission.

Comm. Adams agreed more information was needed before moving forward.

Office Manager Statz questioned if a meeting would be held with staff to discuss how this would work financially. She stated the electric and water utility are very tied together financially and she was concerned about how they would be split up. She stated there is a lot of cost sharing between the two utilities, right down to the purchase of pens, and she would like to know how that will work moving forward.

City Attorney Rogers stated there will be a resolution on the next Common Council agenda directing city staff to investigate merging the two utilities and how it would work.

Utility Manager Adler asked if those discussions would be in open session.

City Attorney Rogers stated he hoped so.

It was moved by Comm. Brandel and seconded by Comm. Ganser to adjourn to closed session pursuant to section 19.85(1)(f) considering financial, medical, social or personal histories or disciplinary data or specific persons, preliminary consideration of specific personnel problems or the investigation of charges against specific persons except where par. (b) applies which, if discussed in public would be likely to have a substantial adverse effect upon the reputation of any person referred to in such histories or data, or involved in such problems or investigations. On call of the roll, motion carried. (Pieters – Aye, Brandel – Aye, Ganser – Aye, Bristol – Aye, Adams – Aye, Neils - Aye)

It was moved by Comm. Pieters and seconded by Comm. Neils to reconvene to open session and to adjourn. Motion carried on a voice vote. The meeting adjourned at 6:39 p.m.

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PRESIDENT

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SECRETARY