

Meeting Minutes

FINANCE COMMITTEE

MARCH 13, 2000 AT 6:40 P.M.

COUNTY ANNEX BUILDING PRESENT: Chairman Barr, Ald. Niedbalski, Rackow, Phillips, and Pazdernik

ALSO PRESENT: Comptroller-Treasurer Schlice; Mayor Wescott; Clerk Zdroik; Admin. Asst. Bumgarner; Directors Van Alstine, Schrader; Assessor Kuehn; Administrator Disher; Capt. Daubert; Ald. Nealis, Perlak, Aldinger, Sevenich; Marge Molski; Anthony Patton; Finance Clerk Freeberg; Gene Kemmeter (Gazette); Susan Kampmeier (Stevens Point Journal); Scott Krueger (WIZD); Joan Jones; Reid Rocheleau; Lois Weed; Nancy Kurszewski; Wally Jakusz; Father Przybylski; Shirley Suplicki; Attorney Maris Rushevics

ITEMS

1. **Assessor s Report.**
2. Request to Waive Special Assessment Charges for Sidewalk - Wilshire Blvd. - Catholic Cemetery Association.
3. Consideration of Claims.
  1. Maria Boris.
  2. Lois Weed / Nancy Kurszewski.
4. Update of (Potential) Unbudgeted Projects for Fiscal Year 2000.
  1. St. Paul Street
  2. Indiana Avenue
  3. Boyington Avenue
  4. Doolittle Drive
5. Funding for Flashing Signals - Church Street and Rice Street
6. Approval of Payment of Claims.
7. Adjournment.

**ITEM #1 - ASSESSOR S REPORT**

Motion made by Ald. Niedbalski, seconded by Ald. Rackow to approve the report of the Assessor and place it on file.

Ayes: All Nays: None Motion carried.

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**ITEM #2 - REQUEST TO WAIVE SPECIAL ASSESSMENT CHARGES FOR SIDEWALK - WILSHIRE BLVD. - CATHOLIC CEMETERY ASSOCIATION**

Attached memo was passed out from City Attorney Molepske to Comptroller-Treasurer Schlice during the meeting.

City Attorney Molepske explained that in July of 1999 the City assessed the street along the east side of the cemetery property on the east side of the City. At that time the assessment was in the area of \$17,000. It was assessed under the special assessment statute 66.60 which indicates an option of lump sum payment or payment options. The time has passed that statute 66.60 provides that a tax payer must file, within 90 days of receiving the notice of the assessment, a objection with the Clerk and request a refund and also file a surety bond. This was not done. We do have the authority under 66.60 (10) to reopen any assessment. We need to determine whether or not to reopen it and if so we need to go back and give notice to all property owners that are associated with that. In this case there are two properties, the Haertel property on the corner and the cemetery. A decision needs to be made as part of policy as to whether or not to reopen it, using the grounds that it is a cemetery and within five years, assuming the cemetery was not able to keep up with maintenance and the overall running of the cemetery, the City would possibly retain it. The City, in the past, did not assess St. Paul Lutheran Cemetery on Patch Street for the Sewer and Water and Curb and Gutter because of the same type of problem. The Episcopalian Cemetery was given \$11,800 subsidy for numerous years to allow the cemetery to be in a reasonable condition. He stated that he is not concerned about setting precedence because we have always treated cemeteries separately and beneficially. The law does allow us to make contributions to types of organizations, such as cemetery associations, which, if they were not helped they would be taken over by the City. We need to show some due diligence that there is some reason as to why we are not assessing them. A public reason would be because the Cemetery Association might wind up not being able to take care of it and this is to prevent that.

Chairman Barr questioned what the cost would be annually to the City to take over the cemetery.

Comptroller-Treasurer Schlice replied that it would depend on the size, but comparing it to Forest Cemetery, about \$17,000 plus to run. We are spending \$13,000 on Forest Cemetery right now.

Ald. Niedbalski questioned whether or not we need to reopen it in order to waive the cost.

City Attorney Molepske replied yes but the problem with this one is that the Haertel property is attached to it. He stated that he feels that the assessment could remain on Haertel and it could be waived on this property because it is a cemetery. The contingent liability that a cemetery could cause us after five years of abandonment would be a sufficient situation that would allow us to reopen it and indicate that the City would refund the \$17,000 to the cemetery and assess the other property.

Ald. Rackow stated that the amount of funds that Comptroller-Treasurer Schlice talked about was not considering funds that are already in the account that the City would gain if they took over the cemetery.

Comptroller-Treasurer Schlice stated we only received a portion of the funds from the Episcopal Church when we took over the Forest Cemetery.

Chairman Barr added that this would be an annual expense.

Motion made by Ald. Pazdernik, seconded by Ald. Niedbalski to reopen the special assessment for the sidewalk on Wilshire Blvd. for the Catholic Cemetery Association and have a public hearing.

Ald. Aldinger questioned whether we would be able to forgive the \$17,000 without a financial review.

**City Attorney Molepske suggested that the Comptroller review the situation and report to the committee on what the cemetery's situation is but not necessary to do it.**

Ald. Niedbalski stated that a financial review is different in this case as it is a much bigger operation. He stated that when looking at past practice, we have helped out other cemeteries without a financial review.

Attorney Maris Rushevics commented on the financial issues stating that the statutes do require maintaining a perpetual care fund and they are restricted statutorily on how they can spend their money. They do have an existing fund but it is designed for perpetual care of the cemetery.

Ayes: All Nays: None Motion carried.

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#### ITEM #3 - CONSIDERATION OF CLAIMS - #1. MARIA BORIS AND #2. LOIS WEED AND NANCY KURZEWSKI

Ald. Rackow stated this is one of the unpleasant aspects of serving on this committee, but the insurance carrier advised us to deny the claim and that means that our insurance carrier does not pay on behalf of the City, the person has the recourse to file on her comprehensive insurance.

Motion made by Ald. Rackow, seconded by Ald. Phillips to deny the claim on Maria Boris.

Ald. Niedbalski commented that most insurance carriers will waive the deductible to fix the chip so that it does not spread.

Ayes: All Nays: None Motion carried.

**Lois Weed questioned why the insurance company won't to pay. She stated that they have big bills and they don't have the money to pay them. She also stated that this wasn't their fault, but rather the City's.**

Nancy Kurzewski stated that someone at the meeting today, which was held at the Water Department, stated concern over the company that put the pipes in didn't do a good job. **She stated that her question to them was when you were ripping the street up and repaving it, why didn't someone go in and check those pipes. She stated that the reply was because it wasn't in the budget. She then stated that the clean up is not in her budget nor was the replacement of the items. They ripped up our street twice in less than a year because of water problems, once was towards the end of last summer and then again this past February. She feels that it is excessive to have two major repairs to water mains or pipes in less than one year.**

Comptroller-Treasurer Schlice commented that we are dealing with the claim on the sewer, the Water Department has separate insurance coverage on the water claim. **The sewage is part of the City's responsibility.**

Ald. Niedbalski questioned what the outcome was of the last claims that we had on this same sort of problem.

Chairman Barr answered nothing happened. It was recommended that the claims be denied.

Ald. Phillips questioned Administrator Disher how many times this has happened in the past three years to this block in regards to sewer and water problems.

Administrator Disher answered one this year, one in 1999, and one or two in 1998, but he is not sure.

Ald. Phillips also questioned why Roto Rooter was there on Saturday morning and whether or not that was relating to the same problem. He stated that he believes there is a problem there that needs to be taken care of. It has happened three times in the past three years. He questioned whether that is the homeowners problem or ours. Sentry Insurance has a habit of denying everything. He questioned why we have insurance.

Chairman Barr stated that he has had a problem with this type of claim since he joined the Council. He is not speaking of the insurance coverage, if the insurance company finds that the insured is not negligent, then they say there is no liability. We buy a service from the City and that service is to remove the sewage from our homes. We pay for that service quarterly when we get our bills. **When the sewer backs up, the service hasn't been provided to us and that is where he stated he feels the problem is, when the City finds that it is not responsible. They did not provide the service that we pay for. He stated that he feels the whole situation needs to be looked at by the Mayor, himself, and Jon Van Alstine and a review should be done on the City's practices on this type of situation. He stated that he is not speaking of the lateral because that is on his property and he will take responsibility for that and he is not talking about the insurance coverage. He stated that he is speaking of the City's responsibility to provide a service for which they charge us and for which we pay.**

**City Attorney Molepske replied that Sentry is tailored to the City's benefit so that if the City regularly does checks and the City is not made aware of the problem, then the City is not liable. He does not recommend getting rid of the insurance because it is needed. There is a deductible to the City making the City pay for part of the claims.**

Ald. Nealis stated that he feels it is really unfair. He questioned why we have the insurance when we will end up paying the claim anyway. He stated that it dictates our vote, which he added he believes is unconstitutional.

**Mayor Wescott commented that Ald. Phillips had a good question. He stated that he understands City Attorney Molepske's comment about the one time failure, but if we have had three or four failures to the same system in a few years, that sets aside the argument that we are investigating, televising, and are checking because if we had been down there we would have detected the problem. He stated that it disturbed him that there was a member of the commission that made a comment to the effect that there may have been a known problem but there wasn't budgetary funds to correct it. He asked Administrator Disher to address that issue. He stated that he has a real problem with that because if there is a known**

problem, it better get fixed.

Administrator Disher responded those breaks happen automatically. There was a bigger problem on Fourth Avenue from Division Street all the way to St. Peter's Church. **There are worse problems in the City than this one. He does not know why there is a problem, the pipes on Water Street were put in 1936 and he doesn't know what else to do.**

Lois Weed stated that before those big trucks were allowed down Water Street they never had these problems. She stated that the houses just **shake when the trucks go down the road and if they were kept off that street we wouldn't have these problems.**

Clerk Zdroik clarified that the claims were not denied by Sentry Insurance, they were denied by the Stevens Point Water & Sewage insurance carrier.

Comptroller-Treasurer Schlice questioned whether Sentry verbally asked us to deny.

Clerk Zdroik replied that they are not involved at this point. If the complainants are going to pursue the claim, they probably would get involved because of the sewage.

Ald. Rackow stated that Chairman Barr suggested the possibility of a study for this. It is a bigger project and there has been a number of Alderman who expressed their reservations and if we are going to pursue this route, what do we do with the two before us tonight. He questioned if we could get some indication from the Mayor and his staff as to what would be involved in this kind of study and the time frame involved.

Mayor Wescott replied that we want to find out is what is going on in other communities, we are not the only community that has this concern. He questioned how other communities handle it, do they differentiate between this act of god, once in a lifetime event, or we are televising, we are checking but still something happens. The first phase is going to be fact finding information gathering. We could talk to our insurance carrier and ask how other municipalities handle this. He stated that he understands where City Attorney Molepske is coming from and he agrees with him **when it is one event through no fault of ours, but when it's multiple failures over three years there is something else going on and we have to decide what we can do about it.** If the committee wishes, he will take it to the Board of Public Works and we can try to figure out if there is a better approach. We also have to consult with the City Attorney because of legal issues. This will not help these two ladies here tonight, but it is time to look at it and do something about it.

Chairman Barr questioned what the service is that he is paying for if not the removal of the sewage.

Ald. Rackow stated that we need guidance as to what to do with the complainants right now. The mood is not to act on them now.

Ald. Phillips stated that somebody has to pay the bill.

Chairman Barr stated that he does not see any immediate change in procedure that we take, if any change comes about it will take awhile.

Mayor Wescott questioned City Attorney Molepske how long this procedure has been in place.

City Attorney Molepske replied that it started before he was here. If nothing is done on the claim it will be deemed denied by law. If on smaller claims, the City wants to pay, that is fine, but he would not recommend getting rid of the insurance because it may be needed if a bigger situation arises. There is a lot of exposure in this area, it happens all the time. The majority of the cities in Wisconsin are insured by Wausau Insurance and they take this same approach and they deny 90% of them. If it is decided to pay out of pocket and there is ten a year, that would be \$10,000 coming out of the treasury that normally would not be.

Mayor Wescott stated what the City operates under has been in place for a long time, so we are going to need time to get this done right. If Wausau Insurance denies 90% but accepts 10%, we as a municipality would like to know what some of the criteria is in that 10%. That may be a situation of multiple breaks in a certain period of time. He asked City Attorney Molepske if he knows the criteria.

City Attorney Molepske mentioned a situation on Division Street and Fourth Avenue where a repair was done and a sewer line was filled up with sand because one of our men left a cover off and it blocked up the sewage all the way up the street and we had to pay that one.

Chairman Barr stated that the two claims tonight have to be decided on the basis of our present procedure.

Comptroller-Treasurer Schlice stated that when we had this problem last year we did check to see what a number of communities were doing and we can find out what the results were but he believes that if it is the municipalities fault, they paid, if it was not the fault of the City, they did not pay.

Ald. Sevenich stated that those claims were in her ward on Franklin Street and it was determined that the problem was because we got six inches of rain, therefore the claims were denied.

Ald. Rackow stated that after that time it was recommended by the Council that all the Street Department employees have training once a year on how to interact with the people who have had problems.

Ald. Niedbalski stated that he has had the same situation several times and the first thing he did and he recommended that everyone look at if they are susceptible to this problem, is to make sure they have check valves. If there is a back up, the check valve usually takes care of it and you **won't get flooded out.**

Motion made by Ald. Niedbalski, seconded by Ald. Rackow to have the Mayor direct a study of our policy regarding sewer backups and that these two claims could be acted on retroactively if we have a change in policy.

Ald. Phillips stated that we cannot leave the contractors hanging.

Chairman Barr replied that the complainants will have to pay the bills.

Ald. Niedbalski stated that he left the door open that if there is a change in policy we can look at it retroactively.

Ald. Phillips stated that he believed the point was missed on why they were unfortunately burdened by financial cost of the city water line breaking which ran into a faulty sewer basin, filled up and ran into their basements. The problem has been there and they keep reoccurring, it is not going to help to wait.

Ald. Niedbalski commented that this policy has been in effect for fifty years and now it is finally at the point that we can do something. The other people in the past had the same financial difficulties and we didn't help them out either, but at least there is a possibility with the motion that if we have changes in our policy it will be retroactive.

Ald. Phillips questioned if it could be included in the motion to pay the bills and then later on if we find a difficulty, they pay us back.

Ald. Pazdernik questioned the City Attorney whether or not the motion is acceptable.

City Attorney Molepske replied that it is and that by denying the claim now it is similar to the special assessment with the cemetery. It is closed now and can be reopened in the future. He stated that we will also need the report from the Water and Sewage Department stated what caused the problem.

Ayes: Chairman Barr, Ald. Niedbalski, Rackow and Pazdernik Nays: Ald. Phillips

Motion carried.

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#### ITEM #4 - UPDATE OF (POTENTIAL) UNBUDGETED PROJECTS FOR FISCAL YEAR 2000: ST. PAUL STREET; INDIANA AVENUE; BOYINGTON AVENUE; AND DOOLITTLE DRIVE

Comptroller-Treasurer Schlice stated that the list shows preliminary plans for St. Paul Street, \$74,000; Indiana Avenue, \$117,000; Boyington Avenue, \$26,000; and Doolittle, \$82,000. They total slightly over \$300,000 and it is being presented to see if there are any questions or problems. They are not done deals but they have good potential. They would be coming in asking for repayment over 5-10 years rather than cash on completion. We get a number of these each year but in prior years it was one here and there and now we have an overall picture.

Ald. Niedbalski asked what the recommendation was.

Comptroller-Treasurer Schlice recommended working it out, as we would get the continued growth in the City. We would be trading cash for a receivable.

Ald. Phillips questioned if we normally go for 5-10 years.

Comptroller-Treasurer Schlice replied that we do, they have an option of either cash upon completion, payment over a 5 year period or payment over a 10 year period. In a 5 year period we get 1% over what the City's borrowing rate is and over 10 years it is 2% over. We are a little over 8% on a 10 year. This is just for information no action is needed.

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#### ITEM #5 - FUNDING FOR FLASHING SIGNALS - CHURCH STREET AND RICE STREET

Comptroller-Treasurer Schlice stated that the estimated cost is \$14,000 and if approved he recommended it come from contingency.

Motion made by Ald. Niedbalski, seconded by Ald. Pazdernik to approve the funding of \$14,000 from contingency for the flashing signals at Church and Rice Streets.

Ald. Phillips questioned if there would still be a crossing guard there.

Captain Daubert replied there would be.

Ayes: All Nays: None Motion carried.

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#### ITEM #6 - APPROVAL OF PAYMENT OF CLAIMS

Motion made by Ald. Rackow, seconded by Ald. Phillips to approve the payment of claims in the amount of \$220,618.92.

The claims were discussed.

Ayes: All Nays: None Motion carried.

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Adjournment at 7:34 p.m.

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