

Committee of the Whole Minutes
Tuesday, April 18, 2017 - 8:35 p.m.
Council Chambers

Purpose: Town of Neenah Sanitary District No. 2 Tentative Agreement regarding relief of capacity issues at Lift Station No. 7 ("LS7") and Arbitration Demand.

Present: Aldermen Bates, Hillstrom, Lendrum, Erickson, Lang, Pollnow, Kunz, Stevenson and Mayor Kaufert. Alderman Boyette was excused.

Also Present: City Attorney Godlewski, City Clerk Sturn, Director of Finance Easker, Director of Community Development & Assessment Haese, Director of Public Works Kaiser and Engineer Kummerow.

Council President Stevenson called the meeting to order at 8:35 p.m.

Town of Neenah Sanitary District No. 2 Tentative Agreement

Council President Stevenson turned the meeting over to City Atty. Godlewski to discuss the Town of Neenah Sanitary District No. 2 Tentative Agreement regarding relief of capacity issues at Lift Station No. 7 ("LS7") and Arbitration Demand.

Mayor Kaufert thanked City Atty. Godlewski for his hard work on this agreement. There have been ongoing discussions with the Town of Neenah Sanitary District No. 2 with regards to issues with flows and capacity. They were prepared to do some upgrades that would cost six figures. We were not sure of the impact that would have on the City of Neenah with them adding more flow into our sanitary sewers. At that point, he and members of the Town Sanitary District are searching for a long term solution to our sanitary needs west of town. Mayor Kaufert asked staff to meet and look at possible long term solutions to those needs and this is the result of those discussions with the Town Sanitary District. He believes this solution will set the city up for many years for continued growth to the southwest side of Neenah.

City Atty. Godlewski advised that the agenda was done in such a way that if the Committee would decide to go into closed session it has been noticed. He briefly described the agreement and highlights of his memo (attached). The City's engineering staff estimates hard construction costs for the collector sewer extension at approximately \$628,000 and an additional \$51,000 for the easement. The total cost of the project ended up being approximately \$812,000 with the City's share being negotiated down to a 50/50 split or \$411,000. Part of the transaction to be completed is a reduction in the amount of lots in the Cottages at Woodside Green from an 81 unit development to a 52 unit development. They were expecting revenue from those lots of \$1,000 per lot, therefore requested as part of the overall settlement a credit of \$29,000 against their share of the cost. We also insisted on our engineering staff being compensated for their work as well as his time spent on the eminent domain work for the easement. He feels this is a good long term deal for both parties in settling the long term needs for sewerage collection from the new subdivisions. It eliminated the capacity problems. One other aspect of the agreement is that the town would have a vested right to 40% of the capacity of the collector. Our engineering staff has estimated there is more than sufficient room in the collector to accommodate growth for 30 or 40 years.

If approved, work would begin to acquire the necessary easement for the Cummings Lane right-of-way portion for the collector sewer. Design work would also commence upon approval. Actual construction would occur in the fall after the crops are harvested.

The agreement provides a significant resolution to a long standing area of dispute between the City of Neenah and the Town Sanitary District. It also provides the infrastructure to promote City growth west and northwest of the current City limits for many years to come.

8:50 pm Engineer Kummerow entered the meeting.


City Atty. Godlewski and Engineer Kummerow answered questions from the Committee. Concerns raised include: the funding source; I/I leakage of water; capacity issues; and our working relationship with the District. Engineer Kummerow indicated this is the first step to get us separated from them. Following further discussion: **MS Pollnow/Erickson to recommend the MOU with the Town of Neenah Sanitary District No. 2 with the funding source carry forwards and the remaining balance from the sanitary sewer fund (p. 106, line 22).**

The Committee discussed the motion and the funding source. There was concern over approval at this meeting. Mayor Kaufert indicated there is no expectation to act tonight. Further discussion during the CIP workshop wouldn't hurt.

MSC Pollnow/Bates to refer the Breezewood / Cumings Collector Memorandum of Understanding with the Town of Neenah Sanitary District No. 2 to the Committee of the Whole to the 2017-2021 Capital Improvements Program workshop on Monday April 24, 2017, all voting aye.

Adjournment

MSC Pollnow/Bates to adjourn at 9:43 p.m., all voting aye.


Patricia A. Sturn, WCPC/MMC

MEMO

DATE: April 14, 2017
TO: Mayor Kaufert, President Stevenson, and members of the Committee of the Whole
CC: City Clerk Sturm, Directors Kaiser, Haese & Easker
FROM: City Attorney Jim Godlewski
RE: Agreement regarding relief of capacity issues at the Cumings Lift Station

Introduction

Last fall, Town of Neenah Sanitary District requested the City's consent to reconstruct the force main on Hilltop Lane between the Cumings Lift Station No. 7 ("LS7") and the City's sewer on Nuthatch Lane. The reconstruction would involve increasing the size of the force main from 4" to 6". Sanitary District engineers estimated the cost at approximately \$250,000. The district indicated the increased force main size was necessary because current conditions (both new developments and storm water I/I) exceed the capacity of the existing system to transport waste during critical high water flows. While reconstruction of the force main was an immediate solution, engineers projected that the increased capacity would only accommodate demand for approximately 10 years, making reconstruction only a temporary solution.

The long term solution would be to extend the Breezewood collector sewer westward to the mapped right-of-way of Cumings Lane extended to Breezewood, then north along that mapped right-of-way to LS7. The collector sewer extension is depicted on Exhibit A. The City's engineering staff estimated hard construction costs at approximately \$628,000. However, the installation of the collector along the mapped Cumings Lane right-of-way would require acquiring a utility easement from the property owner voluntarily or by eminent domain. Soft costs involved with designing the collector, acquiring the easement, running the bid process and managing the construction would bring the cost of the project to approximately \$813,000.

At the same time, the District asserted that the development agreement for The Cottages at Woodside Green was no longer valid because one of the parties to the agreement, The Cottages at Woodside Green, LLC, ceased to exist and the agreement could not be assigned without the district's consent. The district withheld that consent and increased the connection fee charged to new houses from \$1,000 (the agreed amount in the development agreement) to \$2,000 (the standard district charge for new connections). The District took this position in part because the new developer of the Cottages revised the lot layout, which reduced the number of lots by 29 to 52 lots, thus reducing the District's revenue. City staff took the position that if the original development agreement was no longer valid, then the District had no basis to charge any connection fee to owners

of City lots. Based on the dispute, the District filed for arbitration through the dispute resolution provisions of the Cottages development agreement. Despite the arbitration demand, the parties continued meeting to achieve a mutually agreeable resolution.

Agreement Reached

The parties reached consensus that the wisest course was to construct the Breezewood / Cumings collector as a relatively permanent solution to the capacity issue. Initially, the parties while agreeing on the preferred solution, disagreed on how the costs should be shared. Based on current usage, the City asserted it should be responsible for 40% of project costs while the district stated the share should be reversed (60% city, 40% district).

After several meetings, the parties compromised at 50% share each, with soft costs included in the project budget. Each party's share would not be capped, but if the overall budget were to exceed \$1.1 million, either party could cancel the agreement; and costs incurred prior to cancellation would be split 50/50. In addition, the agreement includes the following items:

- The District would take the lead in acquiring the easement across the private farm where the mapped Cumings Lane traverses. City would assist in order to keep acquisition costs lower. Easement acquisition costs would be included in the project budget and split between the parties.
 - Once project completed, easement of interceptor would be deeded to the City and the City would be responsible for maintenance of the collector.
 - District would retain a vested right to 40% of the collector's flow capacity for serving its customers.
- District would receive a \$29,000 credit representing the lost connection fee revenue when the final plat of the Woodside Terrace subdivision reduced the number of lots created by 29. The arbitration request would be withdrawn.
- City would assume administration of sewer billing for lots located within the City and which flow through the Breezewood/Cumings collector. District would be given credit for sewerage generated from City lots but passing through District pipes.
- City responsible for the design, engineering, bidding and construction management.
 - A 10% construction management fee would be built into the budget for the City's services. A 5% contingency would also be included.

A projected budget is attached. Based on that budget, total project cost would be just over \$812,000 with the City's share at \$411,000.

I&I Problem

The parties also agreed that the long term health of the system required that I/I be addressed to reduce the amount of storm water infiltrating the sanitary sewer system. To that end, the District agreed to acquire and operate storm water pump in Sunset Terrace in a manner consistent with best engineering practices to reduce I/I. City acknowledges Sanitary District makes no representations or warranties regarding the extent storm water will be reduced.

Schedule

If approved, work would begin to acquire the necessary easement for the Cumings Lane right-of-way portion for the collector sewer. Design work would also commence upon approval. Actual construction would occur in the fall after the crops are harvested.

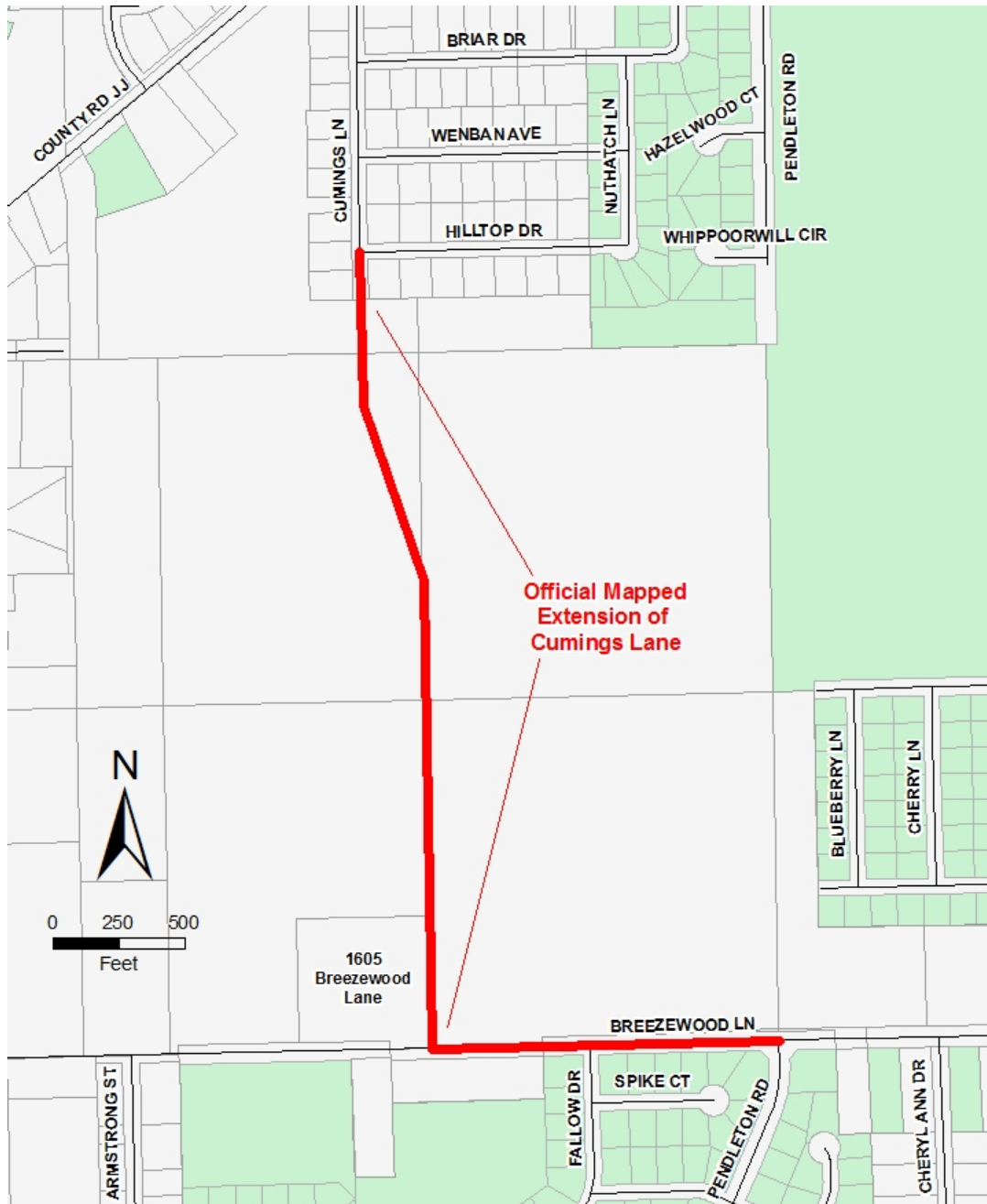
Conclusion

The agreement provides a significant resolution to a long standing area of dispute between the City and District. It also provides the infrastructure to promote City growth west and northwest of the current City limits for many years to come.

An appropriate motion would be to recommend Council approve the Breezewood / Cumings Collector Memorandum of Understanding with the Town of Neenah Sanitary District No. 2 as outlined above.

EXHIBIT A

Approximate location of Breezewood to Cumings 15" Sewer Collector




 Approximate location of 15" Breezewood to Cumings Sanitary Sewer Interceptor.

EXHIBIT B

Estimated Budget for Breezewood to Cumings 15" Sewer Collector

<i>Budget Items</i>	<i>Cost Estimate</i>
Project hard costs:	\$628,620.00
Easement Acquisition Value:	\$51,000.00
Easement Acquisition Soft costs	\$25,000.00
Appraisal costs	\$10,000.00
Engineering, Construction Mgt:	<u>\$ 62,900.00</u>
Subttl costs before contingency:	\$777,520.00
Contingencies:	<u>\$ 35,200.00</u>
Total project cost:	\$812,700.00

Project share: 50%