

Utilities Committee

Wednesday, December 5, 2018

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1 The Meeting of the Utilities Committee was called to order at 7:00 p.m. on Wednesday,
2 December 5, 2018. It was noted that the meeting had been announced and a notice posted at City
3 Hall.

4
5 Roll call was taken, with the following members present: Ald. Jerry Every, Ald. Jim Olson, Ald.
6 Kim Smith, Village of Holmen Trustee Brandon Cain, Village of West Salem Trustee Leroy
7 Brown

8
9 Also Present: City Administrator Eric Rindfleisch, Financial Services Director/Treasurer Fred
10 Buehler, City Engineer Jarrod Holter, MTU Transit Manager Adam Lorentz

11
12 **Item 2 – Approval of minutes from the previous meeting**

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14 Motion by Ald. Olson, second by Leroy, to approve the minutes from the previous meeting as
15 printed and on file in the City Clerk’s Office.

16
17 On voice vote, motion carried.

18
19 **Item 3 – Public Input (limited to 3 minutes/individual)**

20
21 Ald. Every called three times for anyone wishing to provide public input and closed that portion
22 of the meeting.

23
24 **Consideration and possible action on the following items:**

25
26 **Item 4 – MASS TRANSIT**

- 27
28 a. Shared Ride Transit:
29 i. Financials (Justin Running or Jeff Burckhardt/Fred Buehler)

30
31 Fred reported the October 2018 Shared Ride statistics:

- 32
33 • **West Salem Trips:** 597 (an increase of 50 from October 2017)
34 • **Holmen Trips:** 1,002 (a decrease of 237 from October 2017)
35 • **Onalaska Trips:** 3,166 (a decrease of 48 from October 2017)
36 • **Total Trips:** 4,765 (a decrease of 235, or 4.70 percent, from October 2017)
37 • **MTU Passes:** 718 (a decrease of 30 from October 2017)
38 • **Agency Trips:** 1,048 (an increase of 125 from October 2017)
39 • **Year-to-Date Trips:** 47,476 (a decrease of 1,511 from October 2017)
40 • **Revenue:** \$161,230 (a decrease of \$8,182, or 4.83 percent, from October 2017)
41

Utilities Committee

Wednesday, December 5, 2018

2

42 Motion by Ald. Smith, second by Leroy, to accept the Shared Ride Transit Financials and place
43 them on file.

44

45 On voice vote, motion carried.

46

47 ii. Set date/time for public hearing to adjust the agency fare

48

49 Fred told committee members he had filed the 2019 Shared Ride Grant with the Wisconsin
50 Department of Transportation in mid-November. Fred said one of the items he had come across
51 an item titled "Agency Fare," and he told committee member the words "agency fare" were first
52 utilized and started in the Shared Ride Program in approximately 2012. Fred said that when the
53 City of Onalaska executes rate changes, he has all the rates comply to Federal Transit
54 Administration rules and regulations. However, Fred also said the agency fare has not been
55 increased, thus prompting a call to the FTA and Region V Transportation Program Specialist
56 Evan Gross. Fred said Evan told him there should be a public hearing if the city intends to
57 modify the agency fare. Fred noted the City of Onalaska's agency fare has been \$5 the last six
58 years, and he said Justin Running is asking that the agency fare be increased to \$6. Fred said
59 Justin feels comfortable at a \$6 rate, adding Justin also told him the agency fares he has seen
60 range from \$5 to \$13. Fred said Justin wants to see what transpires when the agency fare is
61 increased to \$6 and revisit this issue in one year. Fred said he proposing holding a 7 p.m. public
62 hearing at the January 2 Utilities Committee meeting to increase the agency fare from \$5 to \$6.

63

64 Leroy said there might be a conflict of scheduling for him on January 2 as the Village of West
65 Salem Board rescheduled its meeting for 7 p.m. that day. Leroy also said he is aware there is a
66 limit, percentage-wise, for regular fare increases, and he asked if there are similar constraints with
67 agency fares.

68

69 Leroy was told there are no constraints.

70

71 Ald. Smith asked Leroy if it would be helpful to him if the January 2 Utilities Committee
72 meeting starts earlier than 7 p.m.

73

74 Leroy said it might work for him if the meeting started earlier that evening.

75

76 Ald. Smith asked if perhaps the January 2 Utilities Committee meeting could start at 6 p.m.

77

78 Fred said he can put changing the date and time of the January 2 Utilities Committee meeting on
79 the December 11 Common Council agenda if the committee wishes to do so.

80

81 Ald. Smith asked Leroy if he would like the start time of the January 2 Utilities Committee
82 meeting changed to 6 p.m.

83

Utilities Committee

Wednesday, December 5, 2018

3

84 Leroy said yes, provided that it will not be an inconvenience for the rest of the committee
85 members.

86

87 Motion by Ald. Smith, second by Brandon, to set the date and time for the public hearing to
88 adjust the agency fare from \$5 to \$6 for 6 p.m. on Wednesday, January 2, 2019.

89

90 On voice vote, motion carried.

91

92 Fred noted that earlier Wednesday he had received the audited 2017 report from WisDOT, and
93 he told committee members WisDOT had discovered one deficiency while auditing Richard
94 Running’s financials. Fred said, “When they go to the last call and return back to the shop, the
95 auditors did not find sufficient time-stating. When you’re leaving that last call to go back to the
96 shop, you can’t use those hours for purposes of dollars from the state program. What it equates
97 to is although it may be small, it came to 5.81 hours over the year of 2017. If you take 5.81
98 hours and multiply them by the hourly rate of \$26.32, it comes to \$153. I wanted to bring it to
99 your attention because this report that you have in front of you, I need to send it back.” Fred
100 noted he had spoken in person with City Administrator Rindfleisch, and on the telephone with
101 Justin Running, and he said Joy Tarkowski of Shared Ride Transit will provide the city with a
102 memo that will satisfy WisDOT. The memo will be submitted with Fred’s signature on the
103 document before committee members this evening, and the 2017 audit will be closed.

104

105 b. MTU Transit financials (Adam Lorentz)

106

107 No report.

108

109 c. Holmen Transit Input (Holmen Rep.)

110

111 No report.

112

113 d. West Salem Transit Input (West Salem Rep.)

114

115 No report.

116

117 e. Onalaska Transit Input (Onalaska Rep.)

118

119 No report.

120

121 **Item 5 – UTILITIES**

122

- 123 a. Consideration and possible action regarding creation of a Metropolitan Sewerage District:
124 i. Memorandum of Understanding between the City of La Crescent, Minnesota and
125 the City of Onalaska, Wisconsin regarding sewer services

Utilities Committee

Wednesday, December 5, 2018

4

126 ii. **Resolution 30-2018** to create the La Crosse Area Metropolitan Sewerage District

127

128 Motion by Ald. Smith, second by Ald. Olson, to accept the Memorandum of Understanding
129 between the City of La Crescent, Minnesota and the City of Onalaska, Wisconsin regarding
130 sewer services.

131

132 Ald. Smith asked if City Attorney Sean O’Flaherty has reviewed the Memorandum of
133 Understanding.

134

135 City Administrator Rindfleisch told Ald. Smith that Sean had written and reviewed the MoU.
136 City Administrator Rindfleisch addressed Resolution 30-2018 and told committee members it
137 follows Chapter 200 of the Wisconsin Statutes, which spells out the process for the creation of a
138 Metropolitan Sewerage District. City Administrator Rindfleisch said, “The formation of a
139 Metropolitan Sewerage District will promote the health and welfare, protect our waters and
140 natural resources, enhance efficiency and economy in the financial and engineering management
141 of the sanitary sewer system, increase regional cooperation utilizing already established state
142 statutes and procedures, provide transparency in rate-setting, ensure long-term viability of our
143 regional system, provide equitable sharing of costs among all users, provide an equitable level of
144 services among all users, provide an equitable governance structure for all users. The
145 Metropolitan Sewerage District will be a change from our current sewer service system, where
146 the City of La Crosse operates a plant on a contractual basis for the towns of Shelby and
147 Campbell, and the cities of Onalaska and La Crescent. The current system has not allowed for
148 partnering communities to fully share with La Crosse in the decisions regarding capital projects,
149 plant operations, and fiscal management.

150

151 A fully metropolitan district will create a system which will promote the three key concepts I
152 believe are necessary for any true regional service: a governance structure which allows for
153 decisions to be made by representatives of all partners; agreements on the level of services and
154 methodologies for sewage treatment; and an equitable system for identifying and sharing the
155 costs of improving and maintaining this system. The City of Onalaska has this opportunity to
156 take the lead in promoting a sound, legal, and equitable cooperative system within the La Crosse
157 area. I recommend approval of both documents so that we may move forward.” City
158 Administrator Rindfleisch asked the committee to take action on both the MoU and Resolution
159 30-2018 as they are concurrent, adding it would not be logical to approve one without the other.

160

161 Motion by Ald. Smith, second by Ald. Olson, to amend the previous motion and approve both
162 the Memorandum of Understanding between the City of La Crescent, Minnesota and the City of
163 Onalaska, Wisconsin regarding sewer services, and Resolution 30-2018 – to create the La Crosse
164 Area Metropolitan Sewerage District.

165

166 Ald. Every said he believes everyone is in favor of the regional concept in terms of future
167 operations. However, Ald. Every also said, “This isn’t just a simple move. This involves

Utilities Committee

Wednesday, December 5, 2018

5

168 figuring out whose equipment we're going to use, how it's going to get paid for, how we're
169 going to be able to tax, how we're going to be able to bond, and there are a lot of decisions I
170 think need to be made before we make a final decision. As far as looking into it, I have no
171 problem with that. But to go ahead and say we're going to do that I think is a little premature.
172 The other problem I have is that is we don't know if the others are going to take part in this or
173 not, and I suspect there is probably one that will not. But that being the case, even if that is the
174 case, the statute is very clear in that no resolution for formation of a district encompassing the
175 same or substantially the same territory may be made by any municipality for one year following
176 the issuance of an order denying the formation of this subchapter. So, if somebody says 'no,'
177 you're stuck for another year before you can even make another application.

178

179 The other thing was, one of the other major things that I saw to this was the management and
180 how the district is going to choose its members and who they are. They will run this. We have
181 nothing to say about; they will run it. One of the municipalities would have to be the treasurer
182 and keep track of the financial things. But other than that, I think there's a lot of research that
183 needs to be done – who has what? The other thing is, if you form this consortium and there's
184 currently bonding by any of these other districts that's not paid off for items that are being used
185 for that same situation, you have to assume those bonds. You have to assume that debt. I would
186 be happy to go ahead with possibly the Memorandum of Understanding, but I don't think we
187 should go ahead with our resolution now until we have more facts. I am willing to move this up
188 to the [Common] Council level. I am going to abstain because I do want to know some more
189 about this before I'm going to vote to do it, although I think with the right planning this type of
190 thing, and fire [protection] and other things, could be advantageous to us.”

191

192 City Administrator Rindfleisch said according to the City of La Crosse, its current sewer system
193 has no debt. City Administrator Rindfleisch said, “If anything, that would become part of the
194 full district. You [Ald. Every] are correct that the district purchases the equipment for the
195 outstanding debt. You do not purchase it for the existing infrastructure; it's only the debt. At
196 this point, there is no debt outstanding at the plant or any of the mains in the City of La Crosse
197 that would likely be part of the full district. All the partnering communities still have their
198 existing utilities and the infrastructure in place, so while the City of Onalaska has debt on its
199 system, the City of Onalaska will still pay off its debt. The Town of Campbell, the Town of
200 Shelby, and the City of La Crescent would still have their own. To the users, there would be
201 very little difference. They would still get bills from their local utility. The rates would be
202 established based on our own utility costs, as well as what we'd need to pay the district for the
203 transmission and the treatment of that water. The difference would be instead of writing a
204 quarterly check to the City of La Crosse, it would be a quarterly check to the La Crosse Area
205 Metropolitan Sewerage District for that. All the communities would be involved with that.”

206

207 City Administrator Rindfleisch said it is correct that if denied, no district could be formed under
208 one year. However, City Administrator Rindfleisch also said, “That doesn't mean if one of the
209 communities does not wish to join – they must take positive actions to join – the district is still

Utilities Committee

Wednesday, December 5, 2018

6

210 created. Within 30 days a hearing must be made by the DNR from when the Council would take
211 action on the district. If it passes, then there is a 30-day window. The hearing then would take
212 evidence regarding, does it create – under 4a, b, and c – is it conducted to fiscal and physical
213 management of the unified system? I believe it would. The formation of the district would
214 promote sewage management policies and operations consistent with adopted plans. I believe it
215 would since we would have existing utilities. And the formation of the district would promote
216 public health and welfare and affect efficiency and economy in sewage management. I think that
217 is kind of the base question: that we have no say over the fiscal management of the current
218 utility, so I think that would also. If the DNR agrees with those three findings, they would create
219 the district 90 days after the hearing, at which time each community must take positive action to
220 join the district. If one of the communities listed in the resolution does not join the district, the
221 district still is formed. In the case the City of La Crosse chose not to join the district, the
222 remaining members of the regional district would then negotiate with the City of La Crosse for
223 that provision of services.

224
225 The provision of services can only be negotiated on the basis of, what are the costs for
226 infrastructure, upkeep, and maintenance, and not include anything else that wouldn't really
227 pertain to the actual treatment and transportation of sewage. It would also provide clarity over
228 negotiating in terms of some of the questions I proposed earlier. If there was money being
229 borrowed from the city utility or we're paying into for future infrastructure upgrades but there is
230 no cash on hand for those upgrades, [there would be] negotiating with La Crosse to offset those
231 costs and getting a reduction of our fees because that's part of the regional component of why
232 we're paying fees right now. There is definitely a benefit even if La Crosse does not join. The
233 district would still be formed, and it would really put a mutual regional concept in terms of
234 negotiating and leading the treatment of the sewage. If La Crosse does join, the current plant and
235 the main lines would become part of that system. But likewise, the district would be reviewing
236 the operations of that plant to make sure that whatever operations and maintenance costs and
237 personnel costs are applicable, whatever we're doing for treatment, whatever our capacities are
238 regarding both the City of La Crosse and whatever else is negotiated as well. It really formulates
239 it that all we're really going to be discussing is either with or without La Crosse, the treatment
240 and transportation and the future upgrades and how we share those costs, just for sewage
241 treatment and nothing else. They will run it, and that is correct. A district would be created.
242 The [La Crosse] County Board would initially appoint five members of the public to be the
243 initial commissioners for the district, after which they would establish the rotations for
244 commissioners and their election cycle. That would be open to members of the public to run for
245 that commissioner's seat as long as they live in the district. If La Crosse does not join, then it
246 would just be the surrounding partners that would have the ability to run for that seat.”

247
248 City Administrator Rindfleisch addressed professional staff and said, “My argument is that the
249 district created by the partners would rely on current district employees and staff within our
250 partnering communities that have the knowledge of operating a plant and being able to utilize
251 that information. Our legal counsels and our engineers would be assisting with the negotiations

Reviewed 12/10/18 by Fred Buehler

Utilities Committee

Wednesday, December 5, 2018

7

252 for treatment of that plant.” City Administrator Rindfleisch told Ald. Every he is correct that
253 there still are several questions that must be answered, adding, “Following Chapter 200, the
254 resolution needs to be clean and just propose those three items, which are listed on the last
255 section of the ordinance, which speak to 4a through c. Once the district is created, those
256 questions need to be answered.”

257
258 Ald. Every said he sees employment as a problem if the City of La Crosse chooses to participate.
259 Ald. Every also said the statute is “very clear that you are obligated to keep the employees into
260 their present positions, wherever they are now, in whichever municipality they belong to.” Ald.
261 Every noted there will be several individuals who are concerned if they will remain employed, as
262 well as who will be working where. Ald. Every also said he is concerned about the tax levy,
263 stating, “They are very exact about the tax levy. It can only be \$1 million per so much of
264 equalized value in each community. I don’t know how that would work. We really would have
265 to put a fine pencil to that one. I don’t think we could answer all those questions tonight or iron
266 it out. I think it’s a bigger subject than we can handle in 15 or 20 minutes. But if we talk about
267 it next week [at the Common Council meeting], those are questions I would definitely like to
268 have answers to – and not just generally. Where is the plant going to be? Who has the
269 equipment now? What would we use if we don’t have current equipment that will work? The
270 only other place that has equipment would be Holmen other than La Crosse if they don’t join.
271 Where would it be? You would have to acquire land. You have to have all of that laid out in
272 your plan. Where is it going to be? What is it going to cost? [Regarding] the construction of it,
273 they’re even very explicit about how to construct your plant – the waterways, the bids, the
274 bidding you have to do.

275
276 I like the idea, Eric, but I think there are a lot of questions we need answered before we go and
277 make a legal document and tie ourselves down to something we may not want to be into. I am
278 going to abstain until I get some more information.”

279
280 City Administrator Rindfleisch told Ald. Every the intention would not be to create new plant
281 facilities. Rather, it would be status quo. City Administrator Rindfleisch noted there is an
282 existing plant and said it would be logical to utilize both for the City of La Crosse’s purposes and
283 the surrounding communities. City Administrator Rindfleisch said the opportunity that is
284 presenting itself at this time “is so that we can continue to negotiate on an even keel with the
285 City of La Crosse. What has been presented to the surrounding communities – we have an
286 extension to the end of 2019, as does the Town of Campbell – has not been presented the same
287 way to the Town of Shelby and the City of La Crosse. We can expect the same agreements to
288 come forward keeping the status quo.”

289
290 City Administrator Rindfleisch said that while the City of Onalaska has an extension into 2019
291 and no changes, the Town of Shelby has broader questions because it is attempting to establish a
292 boundary agreement with the City of La Crosse. The proposed agreements given to the Town of
293 Shelby by the City of La Crosse has been changed in that there no longer is an agreement for

Utilities Committee

Wednesday, December 5, 2018

8

294 sanitary sewer conveyance and treatment. It now is an intergovernmental cooperation
295 agreement.

296

297 Ald. Every noted the Town of Shelby has owned some of its own sewage, and the City of La
298 Crosse owns the other part of it.

299

300 City Administrator Rindfleisch noted there is no mechanism under the current agreements for the
301 City of La Crosse to cut off any service, and he said the City of La Crosse is proposing to the
302 Town of Shelby that if the town agrees to the agreement, it agrees to allow the city to cut off
303 service at any time. City Administrator Rindfleisch said one of the most significant proposals to
304 the Town of Shelby is Article 14 (“The Cooperative Plan and Revenue Sharing Agreement”).
305 The agreement indicates that the obligations to perform the sewer agreement is also subject to
306 agreeing to the cooperative plan, which includes a boundary agreement. The revenue sharing
307 agreement states that the party’s obligation to perform under the agreement are further
308 conditioned upon the parties having executed a revenue sharing agreement, which includes
309 provisions for a regional services payment. There is no dollar amount listed for this payment.
310 City Administrator Rindfleisch said that by agreeing to this, the Town of Shelby agrees to being
311 cut off by the City of La Crosse if they do not reach an agreement on a regional services
312 payment.

313

314 City Administrator Rindfleisch next addressed Article 16 (“No Challenge to Validity of
315 Agreement”), noting it clarifies that neither party may approach the Public Service Commission
316 or any other jurisdiction to challenge the validity of the agreement. City Administrator
317 Rindfleisch noted the Town of Shelby’s agreement is dated August 17, 2018, and that the City of
318 La Crescent received its agreement, an intergovernmental cooperation agreement, on August 11,
319 2018. City Administrator Rindfleisch said the City of La Crescent’s Section 14 “is much more
320 in-depth and in detail,” and it specifies that by the City of La Crescent signing the agreement, it
321 understands it is a net user of the public services of the City of La Crosse in the following areas:
322 the La Crosse Center, the La Crosse Public Library, the La Crosse Parking Utility, and the La
323 Crosse Parks, Recreation and Forestry Department. The City of La Crescent would agree to the
324 same fee that is proposed to the Town of Shelby. City Administrator Rindfleisch noted this
325 agreement specifies that the cost is \$60 per household, per year, increasing by the lesser of 3
326 percent per year, or the yearly increase of CPI. The City of La Crosse Planner, in his/her sole
327 absolute discretion based upon current information containing the geographic information
328 systems for Houston and Winona counties, sets the number of households. In addition, the City
329 of La Crosse agrees to provide City of La Crescent residents with sewer service, and this service
330 will be terminated if there is no payment.

331

332 City Administrator Rindfleisch said, “One can anticipate upon agreement of any of these two
333 agreements that we would be presented the same argument with them. There are a lot of answers
334 that need to be provided yet with Metropolitan Sewerage District. But to me, the clear solution
335 to eliminating the conversation about regional services payment – which I think is a healthy

Reviewed 12/10/18 by Fred Buehler

Utilities Committee

Wednesday, December 5, 2018

9

336 debate to have. But utilizing the water we utilize for recreation in our area, public health and
337 welfare, and our future ability to grow and maintain our own utility and our own city, as well as
338 the plant, needs to be separated from that debate. I think if we're trying to negotiate a sewer
339 service arrangement, just sewer service should be discussed. ... I believe it's probably the
340 appropriate step to avoid some of the further conversation that we're facing right now in that if
341 other communities agree to, we'll ultimately be forced to agree to some nature. Or once we get
342 to our agreement [the City of La Crosse] will cut us off as well."

343

344 Ald. Every said the reason for the difference in charges is transmission will be different from
345 point to point. Ald. Every said it seems to him based on what City Administrator Rindfleisch
346 said that the City of La Crosse is in "the bully pulpit" and utilizing it. Ald. Every said it is his
347 understanding that the communities will have the opportunity to collectively stand up to the City
348 of La Crosse and say, "This is the way it's going to be." Ald. Every said, "If that's the intent, I
349 like it because that's the way I like to do things."

350

351 City Administrator Rindfleisch said that is indeed his intent.

352

353 Ald. Every addressed the composition of the commission and expressed concern that the La
354 Crosse County Board still will want to apply pressure because "they have a good deal of the
355 marbles." Ald. Every reiterated he likes City Administrator Rindfleisch's idea and said he
356 believes City Administrator Rindfleisch "would be a good match" for the City of La Crosse.
357 However, Ald. Every also reiterated he wants to see more information.

358

359 On voice vote, motion carried, 2-0, with one abstention (Ald. Every).

360

361 **Adjournment**

362

363 Motion by Ald. Smith, second by Ald. Every, to adjourn at 7:35 p.m.

364

365 On voice vote, motion carried.

366

367

368 Recorded by:

369

370 Kirk Bey