

STOUGHTON UTILITIES COMMITTEE REGULAR MEETING MINUTES

Monday, November 20, 2023 – 5:30 p.m.

Stoughton, WI

Page No. 1

Location: Edmund T. Malinowski Board Room, Stoughton Utilities Administration Office
600 South Fourth Street, Stoughton, Wisconsin
Optional Virtual Participation: GoToMeeting ID 277-425-269

Members Present: Citizen Member Carl Chenoweth, Citizen Member David Erdman (Chair), Alderperson Regina Hirsch, Alderperson Greg Jensen, Alderperson Daniel Payton, Mayor Tim Swadley, Citizen Member Dustin Thoren (Vice-Chair)

Excused: None

Absent: None

Others Present: WPPI Vice President of Operations Valy Goepfrich, Stoughton Utilities Assistant Director Brian Hoops, WPPI Energy Services Manager Darren Jacobson (Virtual), Rick Manthe (Stafford Rosenbaum LLP)(Virtual), Stoughton Utilities Finance Manager Shannon Statz, Stoughton Utilities Director Jill Weiss

Call to Order: Chairperson Erdman called the regular Stoughton Utilities Committee Meeting to order at 5:30 p.m. Chenoweth, Erdman, Hirsch, Jensen, Payton, Swadley, and Thoren were present in person. No members attended virtually.

Verification of Quorum: The chair verified that a quorum of the committee membership was present.

Certification of Compliance with Open Meetings Law: Hoops certified that the meeting had been properly noticed in compliance with open meetings law.

Public Comments: There were no public comments.

Utilities Committee Consent Agenda: Stoughton Utilities staff presented and discussed the Stoughton Utilities Committee consent agenda items. Discussion followed.

Motion by Payton, the motion seconded by Thoren, to approve the following consent agenda items as presented:

- a. Draft Minutes of the October 16, 2023 Regular Utilities Committee Meeting
- b. Stoughton Utilities Payments Due List Report
- c. Stoughton Utilities Financial Summary
- d. Stoughton Utilities Statistical Report
- e. Stoughton Utilities Activities Report
- f. Communications

The motion carried unanimously 7 to 0.

Status of the Utilities Committee recommendation(s) to the Stoughton Common Council: Stoughton Utilities staff presented and discussed the following items from the Stoughton Utilities Committee that were recently approved and/or placed on file by the Stoughton Common Council:

Consent Agenda:

1. Minutes of the August 21, 2023 Regular Utilities Committee Meeting

STOUGHTON UTILITIES COMMITTEE REGULAR MEETING MINUTES

Monday, November 20, 2023 – 5:30 p.m.

Stoughton, WI

Page No. 2

2. Minutes of the September 18, 2023 Regular Utilities Committee Meeting
3. Stoughton Utilities Payments Due List Report
4. Stoughton Utilities Financial Summary – June, July, and August 2023
5. Stoughton Utilities Statistical Report

Business:

1. Authorizing and directing the proper City official(s) to approve the Stoughton Utilities 2024 Budget and Five-Year (2024-2028) Capital Improvement Plan (CIP)

Discussion followed.

Status of the PSCW Electric Rate Application Filing: Staff provided the committee with an update on the electric rate application that was filed with the Public Service Commission of Wisconsin (PSCW) in February 2023. The PSCW has proposed a revised increase of 3.29%, or \$548,393. The actual change to individual customers will vary based on class of service. If the application is approved by the PSCW as recommended by PSCW staff, the average residential customer using 689 kilowatt-hours (kWh) of electricity per month will see a monthly increase of approximately \$2.79, or 3.1%.

A hearing on the application has been scheduled for Tuesday, November 28, 2023 at 10:00 a.m. The hearing will be held by virtual meeting with a physical meeting location in the Ed Malinowski Boardroom at the Stoughton Utilities Administration Office. Staff explained that the hearing time of 10:00 am was specified by the PSCW. Staff further explained that if approved by the PSCW, the effective date for the new rates is planned to be January 1, 2024.. Discussion followed.

Aqueous Film-Forming Foam (AFFF) Product Liability Litigation (MDL 2873): *The chair moved this item ahead in the agenda. Although the agenda item was noted that it may move to closed session per State Statute 19.85(1)(g) to confer with legal counsel for the governmental, the committee did not convene in closed session.*

Stoughton Utilities staff informed the committee that in September 2023, Stoughton Utilities received notices of class action settlements regarding Aqueous Film Forming Foams Product Liability Litigation. Water utilities across the United States filed lawsuits against 3M and Dupont for contaminating drinking water sources with PFAS, and these lawsuits were consolidated into a single multi-district litigation cases (MDL) that resulted in two Class Action settlements designed to resolve claims for PFAS contamination in Public Water Systems' Drinking Water, as those terms are defined in the respective agreements.

Staff explained that Stoughton Utilities has previously completed baseline testing for PFAS and this prior testing has indicated that the utility would be a Phase One Qualifying Class Member unless it chooses to exclude itself from the settlement class. Phase One Qualifying Class Members can make claims to recover some of the costs of addressing PFAS contamination in their drinking water systems. An exact amount that would be received as part of the settlement class is not yet known, but the estimates currently published indicate a potential award of between \$180,000-\$200,000.

It was further explained that 3M and DuPont have proposed these settlement agreements in order to settle certain claims, remove themselves from this lawsuit, and prevent class members from suing in the future. Under the settlement agreements, every settlement class member who remains in the settlement agreement thereby agrees to “expressly, intentionally, voluntarily, fully, finally, irrevocably, and forever release, waive, compromise, settle, and discharge” these companies from certain claims. This includes any claim related to PFAS in drinking

STOUGHTON UTILITIES COMMITTEE REGULAR MEETING MINUTES

Monday, November 20, 2023 – 5:30 p.m.

Stoughton, WI

Page No. 3

water or the public water system that has arisen or may arise in the future. The release in both agreements is extremely comprehensive.

Stoughton Utilities has the option of opting-out of the settlement class, thereby not releasing any future claims related to the PFAS contamination of Stoughton's drinking water supply system.

If the City does not opt out, the City will have released these companies from liability and, therefore, cannot bring any lawsuit against either 3M or DuPont related to the claims resolved by the settlement agreements. It is staff's recommendation that Stoughton Utilities remain a member of the settlement class, which requires no action from the utility at this time.

Discussion followed. Attorney Rick Manthe of Stafford Rosenbaum, LLP, representing the Stoughton City Attorney, fielded questions from the committee and discussed the extent of the liability release, potential risks from remaining in or opting out of the settlements, what actions his firm has observed other municipalities take regarding the settlements, and more. When asked to provide a recommendation, Manthe stated that opinions within his firm are divided, and he would defer to staff's recommendation.

Motion by Hirsch, the motion seconded by Jensen, to approve taking no action and remaining a member of the settlement classes under Master Docket No. 2:18-MN-2873-RMG of the United States District Court for the District of South Carolina, and recommend the same to the Stoughton Common Council at their November 28, 2023 meeting. The motion carried 5 to 2, with Chenoweth and Payton voting No.

Presentation by WPPI Energy: Leading with Purpose: Stoughton Utilities staff introduced Ms. Vally Goepfrich, Vice President of Operations at WPPI Energy, who provided a presentation about general information and updates on WPPI Energy, including power supply, sustainability efforts, wholesale costs, industrywide challenges, and more. Discussion followed.

Scheduling of the Utilities Committee Regular Meeting in December: Stoughton Utilities staff informed the committee that a potential new business item had arisen in recent days and there may be a need for a meeting in December. It was recommended that the December regular meeting remain on the schedule for December 18, and a cancellation will be sent out closer to the meeting date if it is determined there is not a need to hold the meeting. Discussion followed. The committee took no action.

Utilities Committee Future Agenda Items: Stoughton Utilities staff informed the committee that a requested to release a utility easement will be presented at a December or January meeting, and February items will include the annual delinquent account write off list, presentation of the annual year in review report, and presentation of a publication to customers focused on rate education and transparency. The committee requested that additional discussions be held regarding the promotion of the Stoughton Utilities Choose Renewable program. Discussion followed

Adjournment: Being no further business before the committee, the chair adjourned the meeting at 7:24 p.m.

Respectfully submitted,

Brian R. Hoops

Stoughton Utilities Assistant Director

STOUGHTON UTILITIES COMMITTEE REGULAR MEETING MINUTES

Monday, November 20, 2023 – 5:30 p.m.

Stoughton, WI

Page No. 4