

# OFFICIAL NOTICE AND AGENDA

There will be a Special meeting of the City of Stoughton Utilities Committee on Tuesday, June 12, 2012 to be held at 6:45 p.m. in the Common Council Chambers of the Stoughton Public Safety Building, 321 S. Fourth Street, Stoughton, WI 53589.

## AGENDA:

Call To Order.

## BUSINESS:

1. Stoughton Utilities Wastewater Treatment Facility Emergency Influent Pumps (Screw Pumps) Project.  
**(Action.)**

## ADJOURNMENT

Mayor Donna L. Olson,  
Stoughton Utilities Committee Chairperson  
June 7, 2012

## Notices Sent To:

Mayor Donna L. Olson, Chair  
Aldersperson Michael Engelberger, Common Council Alternate Liason  
Aldersperson Eric Hohol, Vice-Chair, Common Council Liaison  
Aldersperson Elvin (Sonny) Swangstu  
Stoughton Utilities Committee Citizen Member David Erdman  
Stoughton Utilities Committee Citizen Member Jonathan Hajny  
Stoughton Utilities Committee Citizen Member Angie Halverson  
Stoughton Utilities Citizen Member-Nominated Alan Staats  
Stoughton Utilities Operations Superintendent Sean Grady  
Stoughton Utilities Director Robert P. Kardasz, P.E.

cc: Jane M. Carlson, P.E. – Strand Associates, Inc.  
Stoughton Common Council Members  
Stoughton Utilities and MEUW Southeastern Regional Safety Coordinator Christopher A. Belz  
Stoughton Utilities Billing and Consumer Services Technician Erin N. Bothum  
Stoughton City Media Services Director William H. Brehm  
Stoughton City Attorney Matthew P. Dregne  
Stoughton Utilities Wastewater System Supervisor Brian G. Erickson  
Stoughton Utilities Office and Information Systems Supervisor Brian R. Hoops  
Stoughton Deputy City Clerk and Confidential Secretary Maria P. (Pili) Hougan  
Stoughton Utilities Finance and Administrative Manager Kim M. Jennings, CPA  
Stoughton Utilities and WPPI Energy Energy Services Representative Cory Neeley  
Stoughton Library Administrative Assistant Debbie Myren  
Stoughton City Clerk and Personnel Director Nick Probst  
Stoughton Utilities Water System Supervisor Roger M. Thorson  
Stoughton Utilities Electric Lead Line Worker Craig A. Wood  
Stoughton Leadership Team  
Stoughton Newspapers  
Wisconsin State Journal

**IMPORTANT: FIVE MEMBERS ARE NEEDED FOR A QUORUM:** If a Stoughton Utilities Committee member encounters a situation that may affect your scheduled participation, please contact Robert Kardasz or Sean Grady at 877-7423 or 877-7416 respectively prior to 5:00p.m. or via e-mail at [bkardasz@stoughtonutilities.com](mailto:bkardasz@stoughtonutilities.com).

It is possible that members of, and possibly a quorum of members of other committees of the Common Council of the City of Stoughton may be in attendance at the above-mentioned meeting to gather information. No action will be taken by any such group(s) at the above-mentioned meeting other than the Stoughton Utilities Committee consisting of Mayor Donna Olson, Alderperson Michael Engelberger, Alderperson Eric Hohol, Alderperson Elvin (Sonny) Swangstu, Citizen Member David Erdman, Citizen Member Jonathan Hajny, Citizen Member Angie Halverson, and Citizen Member Nominated Alan Staats.

Upon reasonable notice, efforts will be made to accommodate the needs of disabled individuals through appropriate aids and services. For information or to request this service, please contact the Stoughton Utilities Director at (608) 877-7423.

An expanded meeting may constitute a quorum of the Common Council.

Current and past Stoughton Utilities Committee documents, including meeting notices, meeting packets, and meeting minutes, are available for public download at <http://uc.stoughtonutilities.com>.

RESOLUTION NO. \_\_\_\_\_  
CITY OF STOUGHTON COMMON COUNCIL

A RESOLUTION DISPENSING WITH THE BOARD OF PUBLIC WORKS, AND  
DETERMINING THAT DAMAGE TO THE WASTEWATER TREATMENT PLANT HAS CREATED  
AN EMERGENCY IN WHICH THE  
PUBLIC HEALTH OR WELFARE OF THE CITY IS ENDANGERED.

RECITALS

- A. One of the two screw pumps serving the City's wastewater treatment plant has failed and must be replaced. With only one functioning pump, the wastewater treatment plant has no back-up pump in the event of another failure. If the second screw pump fails, the wastewater treatment plant will not operate properly.
- B. Wastewater treatment is fundamental to public health and welfare.
- C. Pursuant to Wis. Stat. § 62.14(1), the common council may, by a two-thirds vote, dispense with the board of public works, in which case the powers and duties of the board of public works shall be performed by the common council or a committee thereof, or by such officer, officers or boards as the council designates.

RESOLUTION

The Common Council of the City of Stoughton hereby resolves as follows:

- 1. Pursuant to Wis. Stat. § 62.14(1), the board of public works is dispensed with, and its powers and duties shall be exercised by the common council.
- 2. Pursuant to Wis. Stat. § 62.15(1b), the damaged or threatened damage to the wastewater treatment plant caused by the failed screw pump creates an emergency in which the public health or welfare of the City is endangered.

Adopted by a two-thirds vote of the common council this \_\_\_\_\_ day of June, 2012.

By: \_\_\_\_\_  
Donna L. Olson, Mayor

ATTEST:

\_\_\_\_\_  
Nick Probst, City Clerk



**Stoughton Utilities**

600 South Fourth Street  
P.O. Box 383  
Stoughton, WI 53589-0383

*Serving Electric, Water & Wastewater Since 1886*

**Date:** June 7, 2012

**To:** Stoughton Utilities Committee

**From:** Brian G. Erickson-Stoughton Utilities Wastewater System Supervisor  
Robert P. Kardasz, P.E.-Stoughton Utilities Director

**Subject:** Stoughton Utilities Wastewater Treatment Facility Emergency Influent Pumps (Screw Pumps) Project.

We have experienced a failure of one of our two screw pumps at the wastewater treatment facility. These vintage-1970's pumps have been well maintained over the years and exhibited no potential failure issues. There is a 16-week lead time for screw pump delivery and installation must take place prior to cold-weather conditions due to the units' location out in the elements. We are proposing to replace both screw pumps at this time using the statutory emergency procurement provision. We have temporarily restored the failed pump to operational status but another failure may occur without warning. A rental auxiliary pump would be cost prohibitive.

A June 6, 2012 memorandum from City Attorney Matt Dregne explains the emergency exemption provisions as provided in Subsection 62.15(1b), State Statutes.

Funds are available from the wastewater treatment facility equipment replacement account for this project.

We are requesting that the Stoughton Utilities Committee recommend to the Stoughton Common Council to approve the replacement of both pumps and adopt the corresponding resolution on June 12, 2012 at projected costs as follows:


- |  |                  |
|--|------------------|
| • Direct procurement of two screw pumps:                 | \$110,000        |
| • Pump installation through the standard bidding process | <u>\$150,000</u> |
| Total:   | \$260,000        |

Encl.

cc: Jane M. Carlson, P.E.-Strand Associates, Inc.  
Matt Dregne-City Attorney  
Sean O Grady-Stoughton Utilities Operations Superintendent  
Kim M. Jennings, CPA-Stoughton Utilities Finance and Administrative Manager

Confidential Memorandum  
Privileged Lawyer-Client Communication

To Robert Kardasz, Utilities Director  
Stoughton Utilities

From Matt Dregne, City Attorney 

Date June 6, 2012

Re Replacement of failed wastewater treatment plant pump

INTRODUCTION

This memorandum is in response to your request for our opinion regarding whether a failed screw pump used in the wastewater treatment plant may be purchased under the emergency exception to public bidding as provided for in Wis. Stat. § 62.15(1b).

In my opinion, Stoughton Utilities may order the replacement screw pump under the emergency exception. However, the board of public works, or such other officer or body as designated by the common council, must first adopt a resolution determining that damage or threatened damage to the wastewater treatment plant creates an emergency in which the public health or welfare of the city is endangered. In reviewing the Code of Ordinances, I have not been able to determine who has been authorized to act as the board of public works for the City. It is my understanding that you will be asking the Utilities Committee to recommend the adoption of an emergency determination resolution to the Common Council. As you requested, I have prepared the enclosed resolution that may be used for that purpose.

My conclusions are based upon my understanding of the facts set forth below.

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## SUMMARY OF FACTS

At the head-end of the wastewater treatment plant, there are two large screw pumps that lift the wastewater, which then flows by gravity through the treatment plant. One of the two screw pumps has failed and needs to be replaced. Replacing the screw pump will require the utility to purchase a new screw pump, at an estimated cost of \$110,000. There are only two companies in the United States that manufacture a suitable replacement screw pump. Once an order is placed, it will take 16 weeks for the screw pump to be delivered. In addition to the pump itself, the utility will need to contract for the work needed to incorporate the new pump into the plant, at an estimated cost of \$150,000. The project will require installation of new concrete and bearings, and performing other work in connection with installing the new pump.

Stoughton Utilities plans to publicly bid the contract for the installation work. Purchasing the new screw pump, however, presents a timing problem. If the utility can order the pump without public bidding, the pump should be delivered in time for installation in September, 2012. If the utility needs to publicly bid the pump, the pump could not be ordered until late July, for delivery in late November. If the pump is not delivered until late November, it will be too late in the season to complete the installation, and the project could not be finished until spring 2013. In the interim, the plant would be operating with only one screw pump. Operating with only one pump presents a significant risk to public health and welfare, because the wastewater treatment plant cannot operate properly without a pump. It is not uncommon for a screw pump to seize-up during the winter. If the replacement pump is not operational before winter, the utility would need to lease a temporary backup pump at a cost of \$900 per week until the new pump is installed. If the second screw pump then also fails, the utility would need to lease a second, temporary backup pump.

## APPLICABLE STATUTES

*Emergency exception to public bidding:* Wis. Stat. § 62.15(1b):

The provisions of sub. (1) and 281.41 are not mandatory for the repair and reconstruction of public facilities when damage or threatened damage thereto creates an emergency, as determined by resolution of the board of public works or board of public utility commissioners, in which the public health or welfare of the city is endangered. Whenever the city council determines by majority vote at a regular meetings that an emergency no longer exists, this subsection no longer applies.

*Board of public works:* Wis. Stat. § 62.14(1):

In [third class] cities the board [of public works] shall consist of the city attorney, city comptroller and city engineer. The council, by two thirds vote, may determine that the board of public works shall consist of other public officers or persons and provide for the election or appointment of the members thereof, or it may, by a like vote, dispense with such board, in which case its duties and powers shall be exercised by the council or a committee thereof, or by such officer, officers or bards as the council designates.

#### DISCUSSION

1. *Is the failure of the screw pump "damage or threatened damage" to a public facility that creates an emergency "in which the public health or welfare of the city is endangered"?*

Based on the above facts, it is my opinion that the failure of the screw pump is damage to a public facility that creates an emergency in which the public health or welfare of the city is endangered. If the second screw pump fails, the wastewater treatment plant cannot operate properly. Wastewater treatment is clearly fundamental to public health and welfare. Therefore, the emergency exception to public bidding in Wis. Stat. § 62.15(1b) applies.

2. *The "utilities committee" provided for in Sec. 2-526 is most likely not a "board of public utility commissioners" within the meaning of Wis. Stat. § 62.15(1b).*

Under the emergency exception statute, "the board of public works or board of public utility commissioners" is required to adopt a resolution determining that the damage creates an emergency in which the public health or welfare of the city is endangered. It is unlikely that the utilities committee provided for in Sec. 2-526 of the Code of Ordinances is a "board of public utility commissioners" within the meaning of the emergency exception statute. The "board of public utility commissioners" referred to in the emergency exception statute likely means a public utility commission established to manage a public utility under Wis. Stat. § 66.0805(1). In Stoughton, the common council has provided that the utilities are under the supervision of and operated by the common council pursuant to Wis. Stat. § 66.0805(6). The utilities committee was created to serve in an advisory capacity to the common council. Sec. 2-530.

3. *Who can act as, or in place of, the board of public works?*

Under Wis. Stat. § 62.14(1), “the board [of public works] shall consist of the city attorney, city comptroller and city engineer.” The council, by two thirds vote, may determine that the board of public works shall consist of other public officers or persons and provide for the election or appointment of the members thereof, or it may, also by a two-thirds vote, dispense with a board of public works, in which case its duties and powers shall be exercised by the council or a committee thereof, or by such officer, officers or boards as the council designates. I have not been able to locate anything in the Code of Ordinances describing who has the authority to act as the board of public works.

As we discussed, I have prepared the enclosed resolution for consideration by the common council. The resolution provides for two things. First, it provides that the powers of the board of public works may be exercised by the common council. Second, it provides that the damage to the screw pump creates an emergency in which the public health or welfare of the city is endangered, thereby making the emergency exception for public bidding available.

Please feel free to contact me if you have any questions, or if we can provide any further assistance.

Enclosure

cc: Mayor Donna Olson