

ROCHESTER PUBLIC UTILITIES
BOARD MEETING MINUTES
July 27, 2010

Members Present: Mr. Williams, Mr. Reichert, * Mr. Hanson, Mr. Landwehr and Mr. Stahl
Absent: None
Also Present: Mr. Adkins, City Attorney

Board President Williams called the meeting to order at 4:00 PM.

1. Mr. Reichert moved to approve the minutes of the June 29, 2010 meeting, seconded by Mr. Stahl.

All voting "AYE"

2. Before opening the meeting for comments from the public, Mr. Williams stated he wished to clarify a misconception that the Utility Board was initiating the community lighting fee. In fact, the Common Council had created a Community Lighting Utility by adopting Ordinance 3964, and directed the Utility Board to establish rates for the new utility through a cost of service study. The proposed rates are presented under item #3 on the agenda. If the Board approves the results of the study and the recommended rates from the study, the Council will approve or disapprove the rates at their next meeting. In other words, the decision to implement the rates will come from the Council.

Mr. Mike McDonough, 603 26th Street NW, appeared before the Board to discuss the proposed community lighting fee. He voiced his objection to the manner in which the proposed fee was calculated because it was unfair to the poor. He also said that it was an unfair tax which was regressive rather than progressive. He distributed a "Community Lighting Fee Analysis" document he prepared to illustrate two alternative options. Both options were based on a kilowatt-hour (kWh) approach. He said everyone has kWh. Mr. Landwehr asked if RPU staff had seen his proposal. Mr. McDonough said he did not know how to do this. Mr. Koshire said that Mr. McDonough had just given RPU staff the information at this meeting. Mr. Koshire also said that the consultant hired to study this matter looked at more than one option and felt that the proposed fees set forth in item #3 of the agenda was the most fair way to allocate the costs based on reasonable utility practice of recovering only the cost to provide that service. Mr. Hanson said that the Council needs to approve the proposed fees first. He also said the Council will have a public hearing on the matter at their August 2 meeting.

Mr. Dean Rich, 6083 Hillsboro Drive NW, appeared before the Board to discuss water assurance/water breaks. He said on June 18, 2010, after the tornado, he noticed his sump pump was running every five minutes. This continued for one and one-half weeks. Eventually the water ran into some of his neighbors backyards. It cost him \$2,000 to repair the problem. He was told by RPU that if he had enrolled in RPU's Service Assured program, the cost would have been covered by this insurance because it was on his side of the main. He had never heard about the Service Assured® program for water.

He said he has talked to approximately 75 people about this and only one had heard about the program. He told the Board that he would rather have \$1.99 added to every customer's bill for this extra protection which they could waive if they did not want it. He asked the Board to impose this fee. Mr. Williams informed him that he had signed up for the program when he saw it advertised in a bill insert from RPU. Mr. Rich also said that four water breaks have occurred in the Hillsboro area in the last month. Mr. Koshire said 6,500 homeowners are currently enrolled in the Service Assured® which was implemented in 1999. Mr. Williams said we may need a renewed effort to encourage customers to sign up for this program, and that the Board will consider Mr. Rich's comments.

3. The Board discussed the results of the community lighting fee cost of service study. Mr. Koshire said that staff had also studied other rates throughout the state, and that the fee staff is recommending is within the range of other utilities. He also said that cost of service handles the recovery better than a kWh fee. Mr. Williams said the consultant, Utility Financial Solutions, LLC, stated that, *"No methodology exists to fairly allocate street lighting costs to customers of RPU; however of the methods evaluated some result in costs shifts when compared with amount paid through the general fund. The recommendation to charge on the meter equivalent basis results in more equitable cost and the results are comparable to community lighting rates in other communities."* Ms. Parker, Director of Corporate Services, said that a flat rate was not equitable and that the consultant chose the meter instead. She said that the consultant had studied three approaches. Mr. Reichert said that cost of service recovery is easy when you spin a meter, but asked how you recover for a streetlight down the block. Mr. Koshire said the fire hydrant fee is not based on service; it is based on safety. Mr. Hanson said someone has to pay for it. He further said that property taxes continue to escalate. The non profits in the community are part of the expense in community lighting, but they don't pay property taxes. The Council feels the community lighting fee spreads out the cost more evenly into the community. Mr. Landwehr asked if the Council would want the three rate options from the study so the Council could select one. Mr. Adkins said that this was not possible under the Home Rule Charter because the Utility Board sets the rate. Mr. Hanson said the Council wants the Board's recommendation. Mr. Landwehr asked Mr. Adkins if the Charter requires the Utility Board to collect cost of service. Mr. Adkins said that essentially it does. Mr. Koshire said the Board can recommend the best of the three options with both fairness and cost of service in mind. Mr. Hanson said there would be a hearing on this matter so that the Council could refer the fees back to RPU or adopt them. Mr. Reichert moved to approve the community lighting fee rate schedule, seconded by Mr. Stahl.

4 Voting Aye
1 Abstain (Mr. Hanson)
Motion Carried

WHEREAS, Rochester Public Utilities has conducted a cost of service study at the request of the Common Council in order to establish a community lighting fee based on reasonable utility practice of recovering only the cost to provide that service; and

WHEREAS, Section 15.05, subd. 3 of the Rochester Home Rule Charter states that the Public Utility Board, with the concurrence of the Common Council, shall fix the rates to be charged for the availability and use of the public utility commodities and services under its jurisdiction; and

WHEREAS the cost of service study has recommended fees based on customer class and meter equivalents and has been publicly noticed,

NOW, THEREFORE, BE IT RESOLVED by the Public Utility Board of the City of Rochester that the Board approves the cost of service study for the recommendation of fees as set forth in that study and, subject to the Council's implementation of the rates, establishes the Community Lighting Utility rates as set forth in that study.

BE IT FURTHER RESOLVED that the Board defers to the Common Council in determining whether the Community Lighting Utility rates should be implemented.

4. Mr. Koshire said that the joint Board/Council resolution regarding future generation capacity for the Southern Minnesota Municipal Power Agency (SMMPA) had previously been discussed at the June 29 board meeting. The proposed resolution would also rescind the 1994 and 2004 RPU Board and City Council resolutions regarding future SMMPA generation. Mr. Stahl recommended some changes to one of the paragraphs in the resolution which the Board concurred with. Mr. Reichert said he believed this resolution set a good direction for RPU and the City. Mr. Landwehr moved to approve the resolution as amended, seconded by Hanson.

All voting "AYE"

WHEREAS, on February 23, 1994, and December 20, 2004, the Rochester Public Utility Board and Common Council passed joint resolutions (identified as Resolution #92-94 and Resolution #651-04, respectively) regarding the City of Rochester's position concerning its obligation to help pay for future generation capacity from the Southern Minnesota Municipal Power Agency (SMMPA) as a result of Rochester's decision to accept the Contract Rate of Delivery (CROD) under the existing Power Sales Contract between the City and SMMPA and thereby freeze the maximum amount of power it receives from SMMPA; and,

WHEREAS, the issue involving Rochester's obligation to pay for generation and transmission assets to serve SMMPA system load growth beyond 1999 has been the subject of litigation and is now completed; and,

WHEREAS, on May 26, 2009 and June 1, 2009, the Rochester Public Utility Board and Rochester Common Council, respectively, elected not to extend the City's Power Sales Contract with SMMPA beyond the expiration date of 2030 as described in the attached resolutions; and,

WHEREAS, the cities of Austin and Waseca also elected not to extend their Power Sales Contracts with SMMPA beyond 2030; and,

WHEREAS, SMMPA may require refinancing or capital expansion through construction of generation or transmission facilities funded by bonds, or other financing extending beyond 2030; and,

WHEREAS, the City of Rochester may not benefit from such an investment in generation and transmission capital assets with extended lives beyond the expiration of the Power Sales Contract in 2030; and,

WHEREAS, the result of the litigation between SMMPA and the City as well as the City's decision to not extend the Power Sales Contracts with SMMPA beyond 2030 requires direction from the Board and Council as to how the City should respond to potential investments in capital assets proposed by SMMPA; and,

WHEREAS, the purpose of this resolution is to provide for that direction and to formally rescind Resolutions #92-94 and #651-04.

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City of Rochester that Rochester's representative to SMMPA will consider the purpose and benefits of the capital expansion, the manner in which any capital expansion may be financed, including by bonds, and the potential rate impacts to the City before voting on any such financing or bond issue between now and 2030.

BE IT FURTHER RESOLVED by the Council that Resolutions #92-94 and #651-04 are hereby rescinded and no longer in effect.

5. Mr. Koshire said the Southern Minnesota Municipal Power Agency (SMMPA) is proposing to take advantage of the current governmental stimulus program for incentives through a program called "Build America Bonds" with a \$90 million bond issuance. These bonds have low interest rates, flexibility in spending and a large discount. SMMPA is proposing to refinance the Agency's commercial paper as well as build a new gas generator at Fairmont up to 30 megawatts. The bonds would be financed over a 30 year period. The SMMPA board will vote on this matter at their August 11 meeting.

Mr. Landwehr expressed concern about the language in the two proposed resolutions which contained words like "...the Agency has determined that is in the best interests of the Agency..." being used to water down RPU's position. Mr. Koshire said that the SMMPA Board had asked Agency staff to tighten up this language. The SMMPA Executive Director & CEO's response was that due diligence would be used so as not to front-end load the bonds. Mr. Landwehr asked if the bond length of 30 years and asset life of 50 years should be considered. Mr. Koshire said that if this is in the economic interest of RPU rate payers, then RPU's member rep on the SMMPA Board could vote in favor of it, at least for this bond issue. He also said that future bond issues would need to be looked at based on their own merits and benefits. Mr. Williams referred to the July

19, 2010 letter signed by the SMMPA Executive Director & CEO and attached to the For Board Action request which stated that adding a generating facility in Fairmont and using Build America Bonds, “...to be repaid on a level debt basis over a 30 year period (approximately) to finance that facility.” He asked if there was a second vote after the weighted vote to accept the proposal. Mr. Koshire said that the Agency issues negotiated bonds, and that an underwriter finds a bond buyer. No additional weighted vote is used, and the SMMPA board votes on whether to accept the bond issue. Mr. Landwehr again expressed concern that RPU and the City need to be really careful of what they are going to sign. Mr. Stahl said that the phrase “...the Agency shall direct its consultants and advisers to use reasonable, good-faith efforts to structure the Bonds to the extent practical to be amortized on a level debt basis over a minimum of 30 years...” in the resolution was more problematic to him. If the Agency does not tighten up this language, the RPU member rep would have no reason to object.

Mr. Reichert asked about the future liability of SMMPA members who chose not to extend their contract beyond 2030. Mr. Koshire said that Austin Utilities’ attorney had requested a letter from SMMPA on Austin’s obligations, if any, after 2030. A letter dated July 9, 2010 was sent to both Austin and RPU which stated members who withdraw from the Agency when their contract expires would not be responsible for repayment of any portion of the debt issuance. Mr. Williams said he suspected that the other SMMPA members do not understand the impact of 2030 and beyond when the three members paying two-thirds of the proposed \$90 million bond issuance leave the Agency. After further discussion, it was consensus of the Utility Board that the SMMPA resolution, as written, was not acceptable. Mr. Koshire will discuss this with the SMMPA board.

* Mr. Hanson left the meeting at this time.

6. Mr. Benson discussed the plans for Phase 2 of the RPU Education Center Exhibits at Cascade Meadow Wetlands and Environmental Science Center. Mr. Koshire said the Board had approved Phase 1 earlier in the year, and staff desires to move Phase 2 up a year by using contingency funds and budget allocations. Mr. Williams asked if there would be ongoing operational costs. Mr. Benson said there would be costs associated with new and miscellaneous maintenance for the exhibit which have been budgeted for in future years. Mr. Landwehr moved to approve the contract with Kidzbits, seconded by Mr. Reichert.

All voting “AYE”

BE IT RESOLVED by the Public Utility Board of the City of Rochester, Minnesota, to approve a Fabrication Services Agreement with Kidzibits, and to request that the Mayor and the City Clerk execute the Agreement for

Phase 2 Exhibit Development for RPU Education Center at
Cascade Meadow Wetlands and Environment Science Center

The amount of the Agreement to be NINETY-SEVEN THOUSAND FIVE HUNDRED AND 00/100 DOLLARS (\$97,500.00).

- 7. The General Manager provided the following report to the Board:
 - a. Mr. Bob Cooke, RPU Safety Manager, was introduced to the Board.
 - b. Mr. Landwehr asked about public input received on the Community Lighting Fee. Mr. Benson said over 70 comments about the fee had been received on RPU's blog.
 - c. Mr. Reichert requested that a status report on OPOWER be placed on a future board agenda.

- 8. The management and financial reports were discussed. Ms. Parker briefly discussed the June financials with the Board.

The payables were reviewed. Mr. Stahl moved to approve the accounts payable report, seconded by Mr. Reichert.

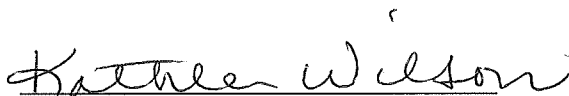
All voting "AYE"

- 9. Mr. Reichert moved to adjourn the meeting, seconded by Mr. Stahl.

All voting "AYE"

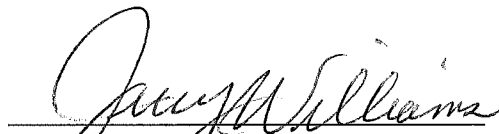
The meeting adjourned at 5:35 p.m.

Submitted by:

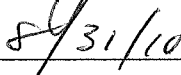


 Secretary

Approved by the Board:



 Board President



 Date