

Minutes
Board of Light and Power
Regular Meeting – June 7, 2007
LL&P Office

Call to Order: Chairman Maatman called the meeting to order at 5:30PM with Board members Greg Canfield, Perry Beachum also present. Also attending was Operations Manager; Jeff Mullins, Administrative Manager; Mary Sawka and Mayor Pro Tem; Al Mathews. Also attending was resident Delores Dey of 725 Bowes Rd.

Approval of Minutes: A motion was made by Beachum and supported by Canfield to approve the minutes of the regular May 3 Board meeting. The motion passed with the unanimous vote of the Board.

Accounts Payable: The Board reviewed and discussed the list of April accounts payable. A motion to approve the full list of payables was made by Beachum and supported by Canfield. Discussion followed regarding the following items:

- Expense for advanced Excel computer training for selected staff and managers.
- Clarification that Central Michigan Tree Service is also known as Medco.

The accounts payable was approved by a unanimous vote of the Board.

MPPA Resolutions: The Board considered and discussed the staff's recommended resolutions related to certain MPPA projects and activities.

A motion was made by Board member Canfield to approve a resolution committing that, to the degree possible under Michigan law, Lowell would maintain confidentiality regarding certain documents related to the mediated settlement discussions between MPPA Power Pool members and the Lansing Board of Light and Power.

The motion was supported by Beachum and approved by a unanimous vote of the Board.

The Board also discussed and considered the resolutions necessary for Lowell to participate in three MPPA project service committees including:

- A resolution stating Lowell's desire to participate in the MPPA "Renewable Resources Study Service Committee". The project committee will help MPPA member communities in evaluating and acquiring ownership and/or energy from renewable energy resources to meet the needs of the participating cities.
- A resolution stating Lowell's desire to participate in the MPPA "Power Supply Service Committee". The committee will serve the participating members in the evaluation and procurement of capacity and energy through power supply purchase agreements with outside providers.
- A resolution stating Lowell's desire to participate in the MPPA "NERC Compliance Committee", delegating MPPA to represent and assist Lowell and other member cities in meeting the electric reliability compliance requirements of the National Electric Reliability Council and its regional counterparts.

After reviewing the specific resolutions and Richards' summary of Lowell's needs and the anticipated benefits from each project, he responded to the Board's questions on each, including:

- Clarification of the anticipated projected costs involved with the specific projects.
- Explanation on how the costs would be allocated for the various projects.

A motion was made by Board member Beachum to approve the project committee resolutions required for Lowell's participation in the "Renewable Resources", "Power Supply" and "NERC Compliance" project committees. The motion was supported by Canfield and approved by a unanimous vote of the Board. Richards indicated he would provide the finalized resolutions to the Chairman for his signature on behalf of the Board.

Power Line Clearance Policy: Richards provided a recap of the current status the ongoing impasse with City Council over tree trimming and removal issues and the efforts to resume the needed power line clearance program within the city limits. He reminded the Board of the background of the current situation.

- The August 2006 Board/Council work session where the Board agreed that the City Manager or DPW Director would have final approval on the trimming or removal for all city trees in the right-of-way.
- The Board's proposal to City management to share the cost of removing 12 specific right-of-way trees that had been identified as needing removal both by the City Staff and the Utility Staff. City Council rejected the cost sharing proposal and directed that an independent arborist be consulted regarding the need to remove the trees.
- The Council's move to halt all trimming and tree removals in the city, overruling the DPW or City Manager's authority to approve R-O-W trimming or removals. The directive that a specific tree trimming policy should be developed and recommended by a new Tree Committee, representing the City, its residents and the utility.
- The independent arborist's recommendation that each of the 12 R-O-W trees (identified for removal) should in fact be removed rather than trimmed to the degree necessary to meet safe clearance standards.
- The Board's approval of the Power Line Clearance Policy which detailed the utility's current standards and practices for trimming and/or removal of trees encroaching on the aerial power lines.
- The Arbor committee's acceptance and recommendation of the Power Line Clearance Policy for support by the Council.
- The Council's apparent reluctance to support the Policy or to lift the 'moratorium' on power line clearance efforts.

The Board discussed the current situation and strong possibility that damage or injury could result if the danger-trees were not addressed before some severe weather causes a tree to contact or bring down the aerial lines in the City. Also discussed was the potential of a liability claim against the city and the possible finding of responsibility on the grounds of gross negligence.

Richards expressed his exhaustion with the issue... having addressed all of the City's questions and concerns but with no resolution to the impasse.

Richards and Beachum recounted the Council's consideration of the Power Line Clearance Policy and some apparent disagreement over the interpretation of the City's obligation to match the utility's \$250 contribution to the City tree fund when a tree was

removed for line clearance. Discussion followed, suggesting that there was also no apparent clarity on exactly what commitment the Council made when it approved and established the 'tree fund' in February.

Mayor Pro Tem Mathews suggested that he felt the Council would have voted to support the clearance policy with the exception of the \$250 matching contribution language. Discussion followed that while the matching contribution was included in the Board's resolution, it may have been interpreted differently by the City Council. Mathews also indicated that the DPW budget constraints are apparently making it difficult to commit to a matching contribution.

Richards advised the Board that Mayor Meyers had suggested that he felt that the Board should take final action on the policy before Council could express its support. He also discussed Council member Pfaller's suggestion that the policy should also include the policy for reimbursing property owners for stump removal and lawn restoration if a tree is removed from private property.

Board member Beachum proposed revising the policy to remove overhanging branches, clarifying that such removal would only be done if it were deemed necessary by an independent arborist. Discussion followed about the risk posed by branches overhanging aerial lines, and the added cost of getting arborist evaluations for each situation. Richards pointed out that overhanging branches do pose a risk and they frequently break and fall on the lines. He added that unless a tree is declared 'safe' by a qualified tree expert, we can only assume there is a risk when limbs overhang the high voltage lines. He said the policy as it was proposed gives the City or a resident the opportunity to question the removal of overhanging branches and to avoid removals if a qualified expert will take responsibility for declaring the situation safe. Beachum expressed his opinion that the overhanging branches problem would only be factor on a handful of trees.

Discussion followed regarding the possible expense and complication of having all trees (with overhanging branches) evaluated by an independent arborist. Richards explained that the utility's practices are consistent with the industry accepted standards, and the practices used by the utilities serving the majority of Michigan customers. Also discussed was the average annual cost of the line clearance.

Canfield asked about the communication with residents in areas where line clearance work is planned. Richards described the process of using letters, public information meetings and personal communication with affected home owners. Canfield also asked about the removal of important or historic trees. Richards clarified that the utility's practice has been that no trees are removed without the approval of the City management (and previously the approval of the homeowner).

Beachum expressed his support of the proposed policy as written, but felt it should include an opportunity for not only the City but also for the home owner to question the trimming necessary and get an arborist's opinion on safe alternatives to the proposed trimming. Language was discussed to give the adjacent property owner a ten day window to get a written opinion from a qualified arborist who may provide an opinion that a lesser amount of trimming is considered safe.

Beachum also recommended that the policy also reference the Board's existing policy and procedure for reimbursing customers for stump removal and lawn restoration for trees removed on private property.

Beachum moved for the Board to adopt the Power Line Clearance policy with the amendments to reference the stump / restoration policy and to allow customers the opportunity to modify trimming with the written opinion of a qualified arborist. The motion was supported by Canfield and approved by the unanimous vote of the Board.

Richards recommended and by consensus the Board supported his proposal that specific written documentation of all recognized tree hazard situations be provided to the City if the Council fails to lift the tree trimming moratorium. Richards recommended that the Board do this as a means of protecting the utility from claims of liability for line clearance hazards that it was prevented from correcting.

Performance Data: Richards reviewed financial, sales and performance data from the April operations of the utility compared to the prior month and the previous April. He noted that in spite of some month to month declines, electric usage and sales were in the normal range for April. He reminded the Board that the \$1.34 million in "investments and cash" does not reflect the nearly \$500,000 that will be repaid with the sale of the cable system, or the nearly \$400,000 in the MPPA Municipal Competitive Trust investment fund.

Income Statement: The Board reviewed the utility's revenues and expenses for April as well as the General Manager's written summary describing all significant variations in revenues and expenses as compared to the budget projections and the normally anticipated levels.

Richards advised the Board that with several recent months when the utility is showing a negative net income, he and Mary have asked financial and rate consultant Mark Beauchamp to review the recent financial results to help us determine if the current rate structure still appears to be appropriate and adequate.

Other Items: Richards updated the Board on topics including:

- The MMEA Spring Conference in Lansing. Richards provided printed copies of the presentations from the programs presented by the various speakers at the conference.
- The selection of the Township Participating Plan for property and liability insurance. Richards advised that he had worked together with City Manager Pasquale to solicit and consider proposals from the Michigan Municipal League and two competitive providers. The Participating plan provided higher coverage levels (\$5 million), lower deductibles and a strong liability pool containing many other Michigan municipalities. LL&P should see an annual savings of about \$7,500.
- The inspector from the MDEQ advised us that the utility must install individual venting (to the roof of the building) for each of the generation plant's diesel and

lubricating oil tanks. When questioned why these requirements were not brought to our attention during previous annual inspections, the MDEQ inspector advised that the requirements haven't changed, but the MDEQ was now enforcing the venting rule. The corrections must be made in 60 days. Staff was evaluating available options and getting estimates for the alternative venting solutions.

- A claim for the \$10,300 cost of the copper conductor theft has been filed with the property insurance carrier. A full reimbursement, minus the \$1,000 deductible is expected.
- A proposal for a video surveillance system for the Chatham Street warehouse has been received from CATV-5 consulting engineer Jim Batch. The Board requested that the staff obtain and consider competitive bids by any local providers.
- Proposals are being requested for repairs to (or replacement of) the roof on the east (vacant) section of the Chatham street warehouse. Many leaks have been found, but Richards indicated his opinion that since the building was vacant, there was no urgency to repair the roof until there is a lease arrangement pending.
- Richards provided the Board with the written evaluation and recommendation regarding the 12 R-O-W trees proposed for removal by the utility and DPW Director Desjarden. The arborist confirmed that in her professional opinion that each of the trees required removal.
- Beachum suggested that a specific tree, scheduled for removal, might be preserved if the electric distribution could be raised higher on the transmission pole that supports it. He requested staff to review the situation and evaluate the possibility of raising the lines in the 900 block of Hudson. Richards cautioned the Board about setting a precedent of going to extraordinary expense and effort to move or rebuild aerial facilities when trees grow into the existing lines. Mullins noted that the maximum working height of our aerial bucket trucks is a limiting factor. Staff agreed to look at the possibilities report to the Board.
- Richards noted that some Lowell residents have suggested that the headline of the image ads: "When I own the power company" gives implies that the community's ownership of the utility is somehow changing or uncertain. The consensus of the Board was that the ads did not create any confusion, nor did they need to be reworked. The consensus of the Board was that the misconception by a few did not need to be officially addressed. Delores Dey expressed her criticism of the Council's sale of the Lowell Cable system and felt that public distrust has been created. She agreed to hold the remainder of her comments until the Cable Board meeting.

Complaint Register: Richards noted that no complaints had been registered by customers since those that were reported May meeting of the Board.

Agenda – Board & Council Joint Work Session: Richards provided and the Board considered a list of proposed topics for discussion at the June 14 work session meeting with the Council.

Schedule of Meetings: Richards provided and the Board reviewed a schedule of upcoming meetings for the Board, the Lowell City Council, Michigan Public Power Agency and the Michigan Municipal Electric Association.

Public Comment: There was no public comment.

Next Meeting: The next regular meeting was set for 5:30 PM on Thursday July 12 at the Light and Power offices.

Adjournment: The Chairman adjourned the meeting at 7:08 PM.

James Maatman, Chairman

12 July 2007