

**ELK RIVER MUNICIPAL UTILITIES
SPECIAL MEETING OF THE UTILITIES COMMISSION
HELD AT THE FIELD SERVICES BUILDING TRAINING ROOM**

October 10, 2023

Members Present: Chair John Dietz, Vice Chair Mary Stewart, Commissioners Paul Bell, Matt Westgaard, and Nick Zerwas

ERMU Staff Present: Mark Hanson, General Manager
Sara Youngs, Administrations Director
Megan Zachman, Human Resources Generalist
Melissa Karpinski, Finance Manager
Tony Mauren, Governance & Communications Manager
Tom Geiser, Operations Director
Chris Sumstad, Electric Superintendent
Mike Tietz, Technical Services Superintendent
Dave Ninow, Water Superintendent
Chris Kerzman, Engineering Manager
Jenny Foss, Communications & Administrative Coordinator
Parker Theisen, IT/OT Technician

Others Present: Jared Shepherd, Attorney; Steve Rohlf, Cornerstone Auto; Andrew Harvala, Heritage Construction

1.0 GOVERNANCE

1.1 Call Meeting to Order

The special meeting of the Utilities Commission was called to order at 3:30 p.m. by Chair Dietz.

1.2 Pledge of Allegiance

The Pledge of Allegiance was recited.

1.3 Consider the Agenda

There were no additions or corrections to the agenda.

Moved by Commissioner Westgaard and seconded by Commissioner Bell to approve the October 10, 2023, agenda. Motion carried 5-0.

1.4 Recognition of Employee Longevity – Tom Geiser, 24 years

In September 2021, the Commission approved a Longevity Pay benefit to be paid to qualifying, eligible employees based on their years of service. Operations Director Tom Geiser earned the 24-year longevity pay benefit.

Mr. Hanson recognized Mr. Geiser and his contributions to the company through a brief PowerPoint presentation which included photos of Mr. Geiser in various stages of his career.

Chair Dietz presented Mr. Geiser with his award and there was a round of applause.

Mr. Geiser thanked the commission and his fellow managers.

2.0 CONSENT AGENDA (Approved By One Motion)

Moved by Commissioner Zerwas and seconded by Commissioner Stewart to approve the Consent Agenda as follows:

2.1 Check Register – September 2023

2.2 Regular Meeting Minutes – September 12, 2023

Motion carried 5-0.

3.0 OPEN FORUM

Mr. Rohlf and Mr. Harvala, addressed the Commission regarding the Cornerstone Auto Quick Lane project, located at 10965 171st Avenue NW, Elk River. They explained that during excavation the water line was struck resulting in the curb stop being removed and the line being capped at the curb stop. They continued that capping the line at the water main, per City requirements, would potentially impact utilities, gas, and fiberoptic lines, making it a risky endeavor in their opinion. Mr. Rohlf and Mr. Harvala requested authorization to pay the exemption fee which would allow them to keep the water line capped at the curb stop and not the main.

Chair Dietz informed Mr. Rohlf and Mr. Harvala that commissioners do not comment on open forum items and that their exemption request will be added to the November commission meeting agenda for discussion.

4.0 POLICY & COMPLIANCE

4.1 Commission Policy Review – G.2a1 - Payment in Lieu of Taxes (PILOT) and Other Donations to the City of Elk River

Mr. Mauren presented his memo and opened a discussion on any potential changes or comments on Commission Policy – G.2a1 – Payment in Lieu of Taxes (PILOT) and Other Donations to the City of Elk River.

Mr. Mauren noted that although PILOT programs are typical among cities with a municipal utility the services provided by ERMU to the City must bring value and should never inhibit ERMU's ability to make repayment on debt, cause ERMU to become non-competitive, or inhibit needed investment in personnel or infrastructure which may hurt ERMU's ability to meet the needs of their customers.

Chair Dietz asked for clarification regarding the Transmission Transformed Service Rate. Mr. Hanson explained that this is a Minnesota Municipal Power Association (MMPA) rate structured for very high use sites such as large data centers. Mr. Hanson stated that the developers of such projects would contract directly with MMPA and each business who meets the criteria of this specialized rate would have its own unique contract. Mr. Hanson further explained that ERMU would operate at a loss paying 4% on the use for this level of consumption, therefore the rate was established so that payment is 4% on the margin.

Chair Dietz asked if ERMU has ever had a business in its service area that met the Transmission Transformed Service rate criteria. Mr. Hanson replied that it has not.

5.0 BUSINESS ACTION

5.1 Financial Report – August 2023

Ms. Karpinski presented the August 2023 Financial Report.

Chair Dietz asked for confirmation that the significant increase to the interest and dividend income from the prior year is accurate. Ms. Karpinski confirmed it was.

Commissioner Stewart asked if the increase was in relation to the federal government increasing interest rates. Ms. Karpinski said it was.

Chair Dietz asked if the interest rate change affects only the short-term investments. Ms. Karpinski explained that ERMU books accrued interest based on the market value per the Governmental Accounting Standards Board (GASB).

Chair Dietz asked for clarification on the \$140K increase to administrative expenses from the prior year. Ms. Karpinski explained the main drivers were office supplies, insurance, and holiday pay with the addition of the Juneteenth holiday. There was also a past unemployment claim that was delayed for an unknown reason.

Commissioner Westgaard asked for clarification as to what items are included in the schools and meetings budget. Ms. Karpinski explained this includes the travel and training expenses.

Commissioner Westgaard pointed out that August was a large expense within the schools and meeting budget. Ms. Karpinski noted that the Minnesota Municipal Utilities Association Summer Conference takes place in August and contributes to the expense.

Moved by Commissioner Westgaard and seconded by Commissioner Stewart to receive the August 2023 Financial Report. Motion carried 5-0.

5.2 2024 Annual Business Plan: Electric and Water Expenses

Ms. Karpinski presented the 2024 Annual Business Plan: Electric and Water Expenses for commission review in preparation for approval of the complete plan in December. Ms. Karpinski noted that the 2024 purchase power costs have not been released yet by Minnesota Municipal Power Agency (MMPA) and the CIP budget has not been finalized therefore the 2023 budget numbers for these two items are preliminary.

Ms. Karpinski highlighted that with the Advanced Metering Infrastructure project there are a number of meters that will not be fully depreciated at the end of 2024 and those that are taken out of service will be a loss. She also noted that income from any of these meters being sold will be minimal.

Ms. Karpinski explained that she increased the estimated pension expense per GASB 68 noting that this is an entry the auditors prepare, and the amount is unknown until the end of the audit.

Chair Dietz asked if the estimated pension expense is related to how many years staff has and what their pension would be after a certain period of time. Ms. Karpinski replied that it is based on a complicated formula used for estimations.

Commissioner Westgaard asked when MMPA rates would be known. Ms. Karpinski stated that the information will be available in either November or December.

Chair Dietz asked if the rate increase for water has been finalized. Mr. Hanson estimated water rates will increase 2% based on the recommendation from ERMU's rates consultant, Dave Berg.

5.3 Wage & Benefit Committee Update

Commissioner Stewart presented the proposed vacation accrual update based on the request for review from staff. She noted there is concern from staff that the current vacation structure isn't attractive to new employees and may affect retention of early

hires. Commissioner Stewart reported that committee members determined adjustments should be focused on the lower tenured employees and provided a proposed schedule outlined in document 5.3b.

Commissioner Westgaard asked if Minnesota's new law for earned sick and safe time leave was considered when the proposed changes were discussed. Ms. Karpinski explained that ERMU's plan is more robust than what is being required by the state. She noted that the only work group that will be affected by the new law will be temporary/seasonal hires. ERMU typically has only one or two employees per year in this category.

Ms. Zachman clarified the impact of the new state mandate to ERMU stating that 48 hours of sick and safe time leave would need to be offered to our temporary, seasonal, or part-time employees only.

Chair Dietz asked for clarification regarding what happens to a temporary or seasonal employee's accrued sick and safe time hours if they leave and then return to the company. Ms. Zachman replied that if the employee returns during the same calendar year the statute states the employee would be able to access those hours.

Mr. Hanson stated that staff will provide specific sick and safe time details at the November or December commission meeting. He assured the Commission that the impact to budget will be minimal since it only applies to the one or two seasonal employees per year and not the 46 full time employees.

Commissioner Stewart presented staff's request for changes to the night work and rest time policy, citing safety as their main concern.

Commissioner Bell asked if the qualified sleep time rate of pay is time and a half. Mr. Geiser replied that qualified sleep time is paid at the regular pay rate.

Commissioner Stewart asked if overnight work is a rare occurrence. Mr. Geiser replied that it is.

Chair Dietz expressed his concern regarding the proposed vacation policy as it compared to the City of Elk River's vacation policy. Further discussion revealed a discrepancy between the City's vacation policy information provided to Chair Dietz and that which was provided to the ERMU general manager and human resources generalist.

Chair Dietz presented the proposed bereavement leave update. The committee supports more inclusive verbiage but felt the current three days were appropriate given the proposed changes to the vacation accrual schedule. The committee also supported adding a tier for uncles, aunts, and cousins for one day.

Chair Dietz presented the proposed wage increase update. The committee agreed to propose a 4.0% wage adjustment for 2024 as opposed to the metro average plus a dollar which was originally requested by staff.

Chair Dietz initiated a discussion regarding the Review of the Annual Wage & Benefits Evaluation Process as outlined in document 5.3b. He stated that he would prefer all commissioners attend an open wage and benefits meeting in order to hear information presented firsthand as opposed to the current committee summary process.

Commissioner Bell asked Chair Dietz to clarify when this meeting would be held if all commissioners would need to be present. Chair Dietz replied it would be a special meeting one hour prior to the regular meeting.

Chair Dietz asked ERMU's attorney, Mr. Shepherd, to clarify if the Wage & Benefits committee should be an open or closed meeting. Mr. Shepard stated the Wage & Benefits committee should follow Open Meeting Law since the committee meets regularly once a year and is a sub-committee of the commission.

Mr. Hanson presented historical information to give context to the origin of ERMU's Wage & Benefits Committee (WBC) meetings. Mr. Hanson noted that the idea for a WBC came in 2011 from a process being practiced at Shakopee Public Utility. Starting in 2011, ERMU's committee meetings were not posted for two reasons. The first was related to confidentiality concerns over wage and benefits information. Mr. Hanson clarified that legal counsel has now informed him that this is not proper procedure and moving forward WBC meetings will be posted. The second reason cited for a closed meeting was based on previous legal counsel concerns over dialog between non-management staff potentially being considered collective bargaining. Mr. Hanson deferred to ERMU's attorney for guidance regarding the collective bargaining concerns. Mr. Shepherd stated that, in general, the collective bargaining concern isn't a factor.

Commissioner Stewart asked if Open Meeting Law would then apply to all sub-committee meetings moving forward including the Information Security Committee noting their discussions include cybersecurity details. Mr. Shepherd responded that all sub-committee meetings should follow Open Meeting Law as the default, however, due to the safety and security nature of cybersecurity it would be acceptable to close that meeting.

After thorough discussion, the consensus from the Commission regarding the Review of the Annual Wage & Benefits Evaluation Process as outlined in document 5.3b was to continue the process as it is with legal counsel's recommended update to the posting procedure.

Mr. Hanson presented his compensation study for commission consideration noting that the last full compensation study was completed in 2008-2009. Mr. Hanson explained the inspiration to conduct his study came from concerns and feedback brought forth from the

employee engagement survey and stay interviews as well as observations during recent hiring efforts. Mr. Hanson clarified that a compensation study is different than a cost-of-living adjustment (COLA) in that a COLA is specific to inflation whereas the compensation study looks at wage comparisons for similar positions with similar responsibilities.

After reviewing the compensation study, Mr. Hanson presented the compensation study data applied to the 2023 ERMU Pay Study spreadsheet.

Commissioner Bell acknowledged that the information presented provided a compelling argument for reviewing employee pay.

Commissioner Stewart pointed out that the study didn't articulate the methodology behind the pay scale of each comparable utility. Mr. Hanson replied that all comparable positions followed a similar step process as ERMU.

Commissioner Zerwas asked if Mr. Hanson knew what it would cost to have an independent consultant provide a market analysis. Mr. Hanson estimated \$30K-\$40K.

Commissioner Westgaard agreed that a compensation study is needed at this time using an independent consultant. He recommended putting a \$133K placeholder in the 2024 budget for the first of Mr. Hanson's three-year distribution plan if the independent study comes in at a similar level. Mr. Westgaard added his perspective that any changes would be retroactive to January 1, 2024.

Commissioner Stewart noted ERMU would have to budget for the consultant as well.

Commissioner Bell asked if a motion was needed to move forward with finding a consultant. Mr. Shepherd replied that consensus is sufficient at this time.

Chair Dietz expressed concern with the comparison utilities in Mr. Hanson's study. Commissioner Stewart replied that the consultant would have expert knowledge in gathering appropriate comparable utilities.

Chair Dietz complimented Mr. Hanson on his thorough report but stated his preference for using a third-party consultant.

Chair Dietz requested staff bring a recommendation forward for a third-party consultant including a compensation study timeline for commission approval. There was consensus from the commissioners to proceed with finding an independent consultant and budgeting for impacts to the 2024 budget for the consultant fee and possible wage adjustments.

5.4 **Wage & Benefit Committee Proposed 2024 Adjustments**

Chair Dietz requested the commission wait until the November commission meeting before voting on any of the WBC proposed 2024 adjustments so the vacation schedule discrepancy could be resolved. There was consensus among the commission to wait until November to vote on any of the proposed wage and benefits changes.

6.0 BUSINESS DISCUSSION

6.1 Staff Updates

Mr. Hanson informed the Commission of a new management plan for the Conservation Improvement Program (CIP) which includes working with a consulting firm that will track rebates and savings to ensure we meet our energy savings goals. The plan is to use the firm for the remainder of 2023 and beyond.

Chair Dietz asked if ERMU was meeting its CIP goals for 2023. Ms. Youngs replied that it was not, however, she has filed a three-year plan with the State that will allow us to use the average over three years.

Chair Dietz asked if there was a contract that needed to be approved before moving forward with the consultant. Mr. Hanson said he will discuss with legal counsel and follow up.

Ms. Youngs reported on behalf of Mr. Mauren that ERMU's communications department was recently awarded the Excellence in Public Power Communications Award for web and social media content by the American Public Power Association (APPA). The award was based on the yearlong social media campaign introducing ERMU staff to the community to build stronger customer connections. Ms. Foss will be accepting the award next month at the APPA Customer Connections Conference in San Antonio, TX.

Jarod Shepherd will be attending the APPA Legal & Regulatory Conference in Seattle, WA along with Mr. Mauren, October 15-18.

6.2 City Council Update

Commissioner Westgaard discussed recent city council topics such as a conditional use permit for a business, an ordinance amendment to update the requirements for home occupations, and setting the City's preliminary budget for 2024. There were also presentations from ERMU staff regarding Advanced Metering Infrastructure and the energy audit of the Furniture & Things Community Event Center.

6.3 Future Planning

Chair Dietz announced the following:

- a. Regular Commission Meeting – November 14, 2023
- b. 2023 Governance Agenda


6.5 **Other Business**

There was no other business.

7.0 **ADJOURN REGULAR MEETING**

Moved by Commissioner Bell and seconded by Commissioner Westgaard to adjourn the regular meeting of the Elk River Municipal Utilities Commission at 5:34 p.m. Motion carried 5-0.

Minutes prepared by Jenny Foss.




John J. Dietz, ERMU Commission Chair

Tina Allard, City Clerk