

MINUTES
March 12, 2013
Public Utilities Committee
City of Batavia

PLEASE NOTE: These minutes are not a word-for-word transcription of the statements made at the meeting, nor intended to be a comprehensive review of all discussions. Minutes are intended to make an official record of the actions taken by the Committee/City Council, and to include some description of discussion points as understood by the minute-taker. Any references to discussion and/or statements are only to provide greater clarity to the public and they may not reference all, some, or any of an individual speaker's comments.

Chairman Frydendall called the meeting to order at 8:22 p.m.

1. Roll Call

Members Present: Aldermen Brown, Clark, Frydendall, Jungels, O'Brien, Volk, and Wolff

Also Present: Aldermen Stark, Tenuta, and Thelin Atac; Gary Holm, Public Works Director; William McGrath, City Administrator; Bob Rogde, Electric Superintendent; Mayor Schielke, and Connie Rizo, Recording Secretary

2. Approval of Minutes for January 17, 2013

Motion: To approve the 1/17/13 Public Utilities Committee meeting minutes.
Maker: Volk
Second: Jungels
Voice vote: 7 Ayes, 0 Nays, Motion Carried.

3. Discussion – Professional Services Related to the Sale and Distribution of Electricity (Gary Holm 3/7/13)

Bill McGrath advised that the City has been exploring all avenues to shed some of the extra power the City owns through the Prairie State project. McGrath mentioned the City went through the PACE study and went through the steps to see if any other partners (NIMPA and Prairie State project) were interested in buying some of the load. McGrath stated that those attempts were unsuccessful. McGrath explained then the City went out to see if the private market would be interested in some long-term or short-term contracts through the auction, which did not work out either.

McGrath stated that in looking at other scenarios one scenario was whether the City could get authorization to sell the power in the retail sales market. McGrath indicated presently State Statute does not allow the City to sell power on the retail market outside of its borders. McGrath explained when the City takes ownership of the power it can only be sold retail to Batavia's own customers. McGrath mentioned if the City had the ability to change that in some way and perhaps work out some legislation that would be

very beneficial to Batavia. McGrath shared that the City has discussed this with Representative Schmitz and he is supportive of the position of the City of Batavia. McGrath indicated Rep. Schmitz was one of many representatives and opined that there would be no way that Batavia alone could draft legislation and try and get it passed. McGrath expressed that if it was possible to draft the legislation there would be a lot of interest in this legislation and also making sure that it did not infringe on others rights, contract or markets. McGrath mentioned that the only viable way for Batavia to try and move forward with this scenario would be to get some professional services via hiring a law firm (Chicago or Springfield) that works mainly in the energy field. McGrath relayed that at this time the City Staff did not have any law firm to present to the Committee because Staff wanted to discuss this first with the Committee. McGrath stated three firms were recommended to Staff. McGrath commented if the Committee was inclined to hire a law firm then the Staff would get a contract in writing and bring it to the Committee. McGrath shared that the cost for this type of service is significant and would be roughly \$75,000 if taken through the entire process. McGrath stated that these situations usually come with the right to cease on a monthly basis. McGrath encouraged Gary Holm to share the information he had because McGrath opined the decisions surrounding this topic could make a significant impact on the economic situation over the next several years. Ald. Thelin Atac inquired what the time frame would be to get the proposed legislation through. McGrath replied it could take an entire season and that there are no guarantees.

Ald. Stark inquired if Batavia was allowed to sell power to other communities would it open the door for others to sell power within Batavia. McGrath stated there would be some navigating through the statutory situation and the City would try to drive legislation that is specifically geared toward Batavia's situation without inviting others to sell power in Batavia. Holm stated it may not be just a Batavia route and could possibly be potentially changing the State Laws regarding the joint action agencies. Holm opined if the joint action agency was allowed to sell at the retail level then Batavia could sell the power through NIMPA. McGrath indicated he was generally talking about selling power to other municipalities or not-for-profits because of the bonds the City has out. Ald. Stark inquired if the City should be concerned about the lobbyists that the energy companies have. Holm stated the City would need to be concerned.

Ald. Volk asked if Batavia was just exploring this option now or whether it had already been discussed at the NIMPA level or with the IMUA. Holm replied the topic has been discussed in the NIMPA meetings. Holm added that this evening it was just Batavia exploring the topic. Ald. Volk inquired if in discussions with NIMPA there was any interest on the part of either Geneva or Rochelle to potentially do the same as what is being proposed by Staff. Chairman Frydendall replied Geneva and Rochelle had no interest. Ald. Volk stated he would like to have an idea on the cost to do this before going much further.

Ald. O'Brien opined if the City would likely just want to take this approach short-term until it is out of the current long position. Ald. Clark stated if the law is changed that would be something different. McGrath opined the way this would be handled would be to minimize the sense of encroachment by those who are not in favor of this. McGrath indicated those who are against this may also come up with ideas to make things workable.

Ald. Stark inquired if this legislation were to go through would Batavia be the electric provider to these other communities. McGrath and Holm replied Batavia would not be the one to maintain the poles and wires for those other communities, but rather just provide the electrons.

Holm reviewed with the Committee information about existing conditions and potential retail sales. Holm mentioned that Batavia would likely be targeting municipalities, wastewater agencies, water districts, and other areas where Batavia can work under with the bonds and get into the market in that way. Ald. Brown stated if the other areas were to purchase power from Batavia they would likely want to buy for less than the current market. Ald. O'Brien inquired how Batavia would find these other municipalities or organizations to sell power to. Holm stated he was familiar with the Northern Illinois Municipal Electric Cooperative that would likely provide potential municipalities or other government agencies that could purchase power from Batavia through a bid process. Holm stated another option besides bidding would be to take the direct approach and accomplish the sale of power through intergovernmental agreements. Ald. Clark stated she was encouraged to hear that retail prices were going up, since that has not been expressed in a long time.

Mayor Schielke stated he was at the Executive Board meeting of the Metropolitan Mayor's Caucus yesterday. Mayor Schielke stated these same topics were discussed because 130 municipalities in the region have found it necessary to hire a law firm to represent them in a cooperative discussion of where the future of aggregation is going. Mayor Schielke stated there needs to be a determination of the authority over regulations and rates and whether that is the Illinois Commerce Commission or Illinois Power Development Authority. Mayor Schielke stated there is an administrative law judge trying to provide an opinion and the aggregators' fear that the opinion forthcoming would not be in their favor. Mayor Schielke pointed out that now the ICC membership has been totally reappointed by Governor Quinn. Mayor Schielke stated everyone on the board is an advocate for public agencies that are very much involved in this whole process. Mayor Schielke stated the power companies do not have anyone on the ICC presently.

Mayor Schielke stated the other issue is when many of the towns aggregated the initial contract was generally a 13-month contract. Mayor Schielke stated after the 13 months a negotiated new rate would then come into play. Mayor Schielke stated the 13 months has come or is fast approaching for most and no one is willing to give a future rate.

Mayor Schielke opined that those present believed there would be a significant increase by aggregators in Illinois at the end of the year and would likely become a disappearing industry, which would be favorable for Batavia.

McGrath reiterated he could provide more written materials, proposals, and references from other sources for the Committee. McGrath indicated it would be a hardship to have the law firms come to Batavia because they are in Springfield working during session, but could possibly be done via phone.

Ald. Clark inquired if the law firms would take on the work and charge a fee to Batavia for what it has in mind even if the law firm felt it would be unsuccessful. McGrath replied a law firms' reputation means a lot to them. McGrath stated the law firms they have contacted have advised it would not be an easy task. McGrath stated the law firms certainly would not try to foretell outcomes because it is uncertain what might occur in Springfield. McGrath stated knowing the benefits of this approach would make \$75,000 seem like a small amount to pay to sell the power Batavia currently has. Ald. Wolff stated it would be good to have this legislation and would potentially make it easier in the future to sell the power outright. McGrath commented he would not proceed forward without a written contract. McGrath encouraged being in close touch with the assistant minority floor leader, Rep. Tim Schmitz, as well as working through other contacts/networks that Mayor Schielke might have.

Ald. Thelin Atac inquired if there were disadvantages other than price to taking the potential approach being discussed this evening. McGrath replied if any organization tried to bust open the entire municipal power market that would likely not be advantageous. McGrath opined he did not envision that occurring, but rather that the legislation would likely just not occur. McGrath reminded the Committee that the amount of power Batavia was talking about selling would be infinitesimal compared to what the power companies deal with. Ald. O'Brien spoke in favor of working with a law firm to change the legislation. Ald. Wolff stated according to what he had heard from Mayor Schielke this evening this was probably the best time to take this approach. Ald. Clark stated she appreciated Staff brainstorming and coming forward with all options.

Chairman Frydendall stated Rep. Mike Fortner was currently the representative for the largest portion of the City of Batavia. Chairman Frydendall encouraged discussing these matters with Rep. Fortner. McGrath indicated the City Staff would speak to Rep. Fortner and Rep. Kay Hatcher. Chairman Frydendall was in favor of the approach provided by Staff on seeking professional services related to the sale and distribution of electricity as well as potentially changing legislation to help Batavia and keeping options open for a possible end user. Ald. Stark agreed with McGrath that \$75,000 seemed like a small amount to pay. Ald. Wolff indicated it could have the most potential benefit to Batavia. McGrath expressed that if rate increases were in the future the City would be in a better position to explain it took every other possible approach prior to incepting any rate increase.

McGrath reiterated he would provide more written materials, proposals, and references from other sources for the Committee. Chairman Frydendall was curious if the law firms were in state or out of state. McGrath indicated the law firms were in Illinois with potential contacts outside of Illinois. Chairman Frydendall opined that these situations with power would likely reverse themselves between 2016-2024 and was hopeful it would be closer to 2016.

4. Other

Gary Holm stated there would likely be a special Public Utilities Committee meeting on 3/26/13.

5. Matters From The Public

None.

6. Adjournment

A motion was made by Ald. Volk and seconded by Ald. O'Brien to adjourn the meeting at 9:02 p.m. All were in favor and the motion was carried.

Minutes prepared by
Connie Rizo