

**UTILITIES COMMISSION MEETING
APRIL 21, 2014**

Mayor Cerino called the meeting to order at 7:30 p.m. In attendance were Council members Liz Gross, Linda Kuiper, Samuel T. Shoge and Mauritz Stetson, Robert Sipes, Utilities Manager, W. S. Ingersoll, Town Manager, Jennifer Mulligan, Town Clerk, and guests.

Mayor Cerino asked if there were any additions or corrections to the Utilities Commission meeting minutes of March 17, 2014. **Mr. Stetson moved to approve the minutes as submitted, was seconded by Ms. Kuiper and carried unanimously.**

Mayor Cerino stated that cash on hand and in banks was \$838,896.27. There were water and sewer funds set aside of \$77,150.00 in a capital fund.

Ms. Stetson moved to pay the bills as submitted, was seconded by Ms. Gross and carried unanimously.

Mr. Sipes stated that the controller for the UV system has developed a short circuit. He said that troubleshooting was performed and the manufacturer was getting a price on the controller as it had to be replaced. Ms. Kuiper asked if there was an estimated price for the controller. Mr. Sipes stated that he thought the controller was approximately \$12,000.00 plus the labor to install and program and thought it would be in the range of \$16,000.00.

Mr. Sipes stated that the radios in the Utilities trucks have been upgraded to a narrow band, including the bay station at Town Hall. He said that if there was an emergency, where cell phones would not work, they could still communicate with each other.

Mr. Sipes stated that the blacktopping was done as far as street repairs.

Mayor Cerino stated that Shore Regional Health was going to give a presentation and an update on the remediation plan for the oil spill at the Hospital, along with progress that has been made on the emergency room expansion.

Mr. Ken Cozell of Shore Regional Health was present and stated that the Council had a tour of the emergency room last week and that the Hospital was making great progress. The Hospital would have 18 additional private rooms when the project is complete.

Mr. Cozell stated that additional physicians have also been brought to Town, one of which specialized in diabetes and endocrinology, and the other specialized in breast health.

Mr. Cozell stated that he brought along to the meeting, Mr. Dane Bauer (Vice President of Diversified Building Solutions), Ms. Melissa Hall (Diversified Solutions), Ms. Patti

Willis (Vice President of Shore Regional Health) and Ms. Trena Williamson (Shore Regional Health).

Mr. Cozell stated that he has been with Shore Regional Health for 2 years and inherited the issue with the oil at the Hospital. He said that he wanted to work collaboratively with the Town and Maryland Department of the Environment to maintain public safety and engage the Town in a transparent process to remediate the remaining oil.

Mr. Cozell stated that an action plan was presented in October 2013 to MDE and the Town had questions and concerns when work commenced. He said that they stopped work and retriggered the pump and treat process, and began addressing the concerns of the Town. He introduced the Hospital consultant, Mr. Dane Bauer

Mr. Bauer stated that materials would be left behind showing a chronology and a history of the free-product recovery in chart form. He said that 84,000 gallons total has been recovered to date. There was an estimated 100,000 gallons of original spill.

Mr. Bauer stated that in 2012 MDE determined that the Hospital had to move into a different phase of remediation. The pump and treat recovered a lot of product but they were now just getting trace amounts and low concentrations.

Mr. Bauer stated that pump and treat served two purposes. Wells were constructed with pumps that pumped the water out. When there was free-product, oil separation occurred and the water that remained in the system was run through filters and smaller concentrations of the petroleum were removed. Another reason was that a pump and treat created a zone of depression around the pump field. He said that it changed the gradient so the groundwater no longer moved in its natural direction (towards the Town wells), but created a gradient to move into the pumping range. He said that kept the water from migrating.

Mr. Bauer stated that part one of the new plan was to turn the pumps off for a period of time and measure all the down gradient wells to see if the concentrations would go up. He said that process began in July 2012 and for 10 months only trace amounts were recovered. At that point, they thought they could move from a remediation phase to a close-out phase.

Mr. Bauer stated that during the 10th, 11th, and 12th months the concentrations came back. Under the terms of an agreement with MDE the pump and treat system was immediately started up again, which reversed anything that was moving down gradient and recovered anything that had built up.

Mr. Bauer stated that in August 2013, the Hospital realized that there was a situation where the soils had retained some of the original spill that was never cleaned. Therefore, when rainwater went through it rinsed some of it out and concentrations ended up in the wells. However, when the water table went up and came in to contact with the oil it would wash some of it out.

Mr. Bauer stated that UMMS contacted the owner of Ivey International a company which dealt with this type of situation. Mr. Ivey visited Chestertown and looked at the site. He said that Mr. Ivey said his company could inject soap solutions into the wells, leave it there for 24 hours, rinse the soils and pump it out the next day. The process could take days or weeks. A plan was proposed to MDE and an underground injection control permit was obtained to inject the soaps into the ground. At the Town of Chestertown's request, the information on the patent was provided to MDE, who kept it classified and satisfied themselves that the chemicals were safe. MDE then asked UMMS to give them a new plan that would use the Ivey International product and go into phase 2.

Mr. Bauer stated that the plan was to inject surfactants (chemical name for soap) and try to wash the stain out of the soil and clean it up once and for all. He said that MDE thought the plan was aggressive and worried it would do too good a job, with the soils being cleaned too fast, allowing migration off site.

Mr. Bauer stated that MDE, in answer to Chestertown's letter, suggested a pilot study where the wells were only in the realm of the pump and treat system. The pump and treat would be turned off causing the water table to rise, then soaps would be added and 24 hours later the soaps would be removed. The wells would be monitored in the immediate area for 3 months with a report to MDE. MDE would then determine if the pilot program was successful.

Mr. Bauer stated that at a meeting a week ago, the Town raised questions as to how many of the wells would have the surfactant added. He said that there was a suggestion that the Town's consultant and Mr. Bud Ivey (Ivey International) reevaluate the pilot study and reduce the number of pilot wells injected.

Mayor Cerino asked how many wells the Hospital had and how many were proposed for the test. Mr. Bauer stated that counting the injection wells and the monitoring wells, there was upwards of 45 to 50 wells on site, some were injection wells and some were pump wells. He said that he thought there were 30 plus monitoring wells. Mayor Cerino asked the size of the spill site. Mr. Bauer stated that the wells were in the surrounds of the Hospital buildings, which encompassed several acres.

Mr. Sipes asked if he heard Mr. Bauer correctly that there were injection wells. Mr. Bauer stated that some of the wells would be used for injection wells. He said that it would be pailed in and it was not a lot of high concentration material.

Mr. Bauer stated that the Hospital authorized Mr. Ivey to speak with Mr. Sipes and Mr. Mark Eisner (Town and environmental consultant) in an attempt to make a recommendation on how to proceed. He said that all who have worked in the public health field are charged with the health, welfare and safety of the citizens and want to get this process right, but they had to find the correct methods.

Mr. Bauer stated that nothing would be submitted to MDE until it has been approved by the Town.

An area resident in the audience who asked about the array of the pumps and the source of the oil. Mr. Bauer stated that there were maps of the area and they have been provided to the Town and said that the wells were scattered through the site and covered several acres. Mr. Bauer stated that some of the wells were tested on a monthly basis, but all wells were tested quarterly for a full array of petroleum byproducts.

Mayor Cerino stated that there was no option with this project; it had to be done right. He said that this spill could not reach the Town wells. Mr. Bauer stated that MDE was concerned with travel time of the petroleum. He said that under the hydro geologic conditions the fastest travel to the wells would be 2 years, as groundwater moves inches per year as opposed to streams that move feet per second. Mr. Bauer added that the law was to stop the spill at the property line and that was what they were going to do; they did not want this to migrate off the property.

Mr. Sipes stated that the groundwater flow time was theoretical. He said that the exact flow pattern from site to site was unknown, but the goal was to keep anything from going off-site. Mr. Bauer stated that the Hospital's goal was that when there was a time that MDE felt this site could be closed there would be zero risk to the Town water supply.

Ms. Gross stated that temperature made a difference so the timing may make a difference. Mr. Bauer stated that there had to be water in the area where the soil was being watched. He said that the pump and treat would be turned off in order to get the ground water to rise. Ms. Gross asked if temperature was taken into account when MDE did their estimations on travel time. Mr. Bauer stated that he did not think temperature was taken into account.

Mr. Sipes stated that what he was worried about was that the water did not move beyond the point of recapture from any recovery well on the Hospital property. Mr. Sipes stated that what he understood from reading the literature was that the cone of control extended 90' from monitoring well #13. Mr. Bauer stated that he did not want to get too technical at this meeting.

Mr. Sipes stated that there are monitoring wells in Town where there have been detects, which was outside the cone of control. He said that turning the pumps back on does not always pull all the product back.

Mr. Bauer stated that he was hoping to get feedback from the consultants within two weeks and then submit a plan to MDE. He said that he would like to proceed with the project in June, not at a time when the groundwater was so low that it made it difficult to wash the soils.

Mr. Sipes stated that this has not been a transparent process the whole time and there have been issues all along. Mr. Sipes stated that this included the meeting in the fall

when everything was put on hold until March. He said that there were documents that were supposed to be received by the Town, as outlined in the meeting, which were never received. The Town was also supposed to be copied on lab results and they were not. He said that the Town was never notified 2 years ago that the pumps were being shut off and only found out after the fact. As a result, the Town had detects in monitoring wells where there were none before. He said that this did not go away because the system was turned back on and that there were detects in January in a monitoring well. He said that there should be no rush to this process and it had to be done safely.

Mr. Bauer stated that they were dealing with timeframes and their expert was only available at certain times because he was a world traveler. He said that the Hospital did not want to miss the opportunity to get the best person in the business.

Mr. Sipes stated that the Town had asked what was in Ivey-Sol and the answer given was that they could not be told because it was patented. Mr. Sipes stated that the United States Patent Office gave a person the exclusive rights to use a chemical or chemical process in exchange for making the information public. He said that the only patent that did not have to be made public were things that dealt with National Security. He said that it was public information and he had printed it from the website.

Mr. Bauer stated that Mr. Ivey told the Hospital that it was a protected patent and the Hospital protected it under the terms of their agreement with him. He said that MDE said that they were going to protect it as well, as long as they were provided the information. He said that the Hospital stayed within the letter of the law according to MDE. Mr. Sipes stated that his entire point was that it was not the law; it was public information.

Mr. Sipes stated that Ivey-Sol was a combination of 6 different chemicals used in different combinations depending on the process being applied. He said that the patent was #6447207 and it could be found at the United States Patent Office. Mr. Sipes stated that he also looked up the MSDS sheets and there was nothing that seemed hazardous, but the Town was working with a geologist to verify.

Mayor Cerino stated that it was critical to have transparency in this entire process. He said that this was an unprecedented situation, where there were drinking wells for an entire municipality were at stake. He said that this was a serious issue for all involved.

Mayor Cerino stated that he would defer to Mr. Sipes on this subject and if Mr. Sipes was not comfortable with the process; he was not comfortable. Mayor Cerino stated that he supported Mr. Sipes and even if MDE was fully satisfied that this was remediated, the Town would demand that there was a series of monitoring wells down-gradient of the spill active in perpetuity. Mr. Bauer stated the Hospital has already proposed that.

Mr. Sipes stated that nobody in this scenario thought the oil was gone and the system was shut off with the presence of oil noticeable. He said when there was a sub-surface spill and a liquid phase extraction; you were going to get about 50%. He said that there was still at least 20,000 gallons of oil there. Mr. Bauer stated that this was for high level

technical experts to decide. Mr. Sipes stated that the project was almost closed out before the Town even was aware that they were attempting to shut it down.

Mayor Cerino stated that he agreed that this issue was for experts, but he said it was important for the Hospital to understand the Town's concerns for the health and safety of their drinking water.

Mr. Sipes showed the Council a map of the monitoring wells and said that product has been picked up at well 18, which was not on the Hospital site. He said that all of the monitoring wells belonged to the Hospital.

Ms. Kuiper asked about the residual effects of Ivey-Sol. Mr. Sipes stated that they have been told that Ivey-Sol was completely biodegradable made up of mostly alcohol compounds. He said that there was no expectation, at this point, that if it were put into the ground and not pumped back out, that it would reach the water plant. He said that Ivey-Sol biodegrades 90% in 30 days, and he would expect 100% eventually, but long before it reached the water plant.

Mayor Cerino stated that Mr. Cozell and his staff have been open with the Town recently and said that he appreciated their communication. Mr. Cozell thanked the Council for the opportunity to speak and said that there were two components to this project, the technical side and the public safety side. He said that they will move forward from this point working together on both.

Mr. David Foster of Byford Court stated that he was just about 4 blocks down gradient from the site of the spill. He said that he was pleased to hear that communication was improving, but it was the law. He said that public hearing was required as a part of a corrective action plan. Mr. Foster stated that the trust of the community was jeopardized by withholding this information and there was still no public hearing to date.

Ms. Elizabeth Watson of Campus Avenue stated that she wanted to know what was driving this process, and why was the Town entering into it at this late date. Mr. Bauer stated that this was an enforcement case, and was an action that MDE took against the Hospital when the spill occurred. He said that enforcement cases did not have a public hearing process. He further explained that there was a situation that violated State code and they have proposed a Consent Agreement to MDE, which was being drafted at this time. The Town would have input on the Consent Agreement before anything was done with it.

Mr. Bauer stated that the Hospital hired Mr. Mike Powell, who was the previous counsel of MDE, as their private counsel. Mr. Bauer stated that this would be an open process, with the Town's review before submission to MDE.

Ms. Alice Macnow of South Kent Street stated that Ivey International was discovered by the Hospital and asked how long they have been using this system or chemicals and how

much has been tested in this type of situation where drinking water is at risk. She also asked what other alternatives have been considered as a possible solution.

Mr. Bauer stated that he would pass around a paper where anyone with questions can ask them and they will be answered as soon as possible. He said that they had not been expecting any questions from the public at this meeting.

Ms. Gross stated that the patent was issued in 2002.

Mayor Cerino stated that the public would be apprised of the situation moving forward.

There being no further business, Ms. Gross moved to adjourn the meeting at 8:22 p.m., was seconded by Mr. Shoge and carried unanimously.

Submitted by: 
Jennifer Mulligan
Town Clerk

Approved by:
Chris Cerino
Mayor