

MINUTES
February 19, 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 7:34 p.m.

1. Roll Call

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

Members Absent: Aldermen Clark and Volk

Also Present: Aldermen Stark and Thelin Atac; Gary Holm, Public Works Director; William McGrath, City Administrator; Byron Ritchason, WWTP Superintendent; Bob Rogde, Electric Superintendent; Mayor Schielke (7:38 p.m.), and Connie Rizo, Recording Secretary

2. Approval of Minutes

None.

3. Resolution 13-29-R Authorizing approval of amendment to the Power Sales Agreement between NIMPA and the City of Batavia (Gary Holm, 2/15/13)

Gary Holm commented that this agenda item was a fairly significant item that resulted from the recent Brattle sale process. Holm indicated that the original power sales agreement did not give any flexibility as to how power was brought from the Prairie State facility to Batavia. Holm explained that through the sales process and in pursuing different options for sales there was a need to get flexibility to not just deliver to Batavia, but to multiple locations. Holm mentioned that even though it was a small wording change it was fairly significant.

Holm stated that the 138 kV project was still under construction when the original power sales agreement was approved and the physical interchange points were not defined at that time. This amendment will address defining the physical interchange points.

Ald. Wolff stated the amendment seemed straightforward.

Chairman Frydendall stated this amendment would provide the opportunity to get into the MISO market. Holm indicated that Batavia can get into the MISO market and anywhere it desires now.

Ald. Wolff inquired if NIMPA would need to be informed of changes or if there would be a need to petition them for changes. Holm stated the City would need to work with NIMPA and this amendment would give Batavia that authority.

Motion: To recommend to City Council approval of Resolution 13-29-R authorizing approval of the amendment #2 to the power sales agreement between NIMPA and the City of Batavia.
Maker: Brown
Second: Jungels
Voice Vote: 5 Ayes, 0 Nay, Motion Carried.

4. Discussion – Prairie State Basic Concepts & Utility Financial Projections (Gary Holm, 2/14/13)

Holm indicated that City Staff was asked to revisit several of the concepts associated with Prairie State and to look at the financial information related to the utility as whole. The requested information was demonstrated in Holm's 2/14/13 memo (refer to document).

Holm stated that one of the concepts behind ownership was to reduce exposure to the market. Holm explained that one of the takeaways from the charts he demonstrated was that according to the statistical model and the studies the City had done the exposure to the market has not been reduced because of the long position that we are dependent upon the market to sell back into.

Ald. O'Brien inquired if the future cost for Prairie State was steady/constant. Holm indicated that that was an assumption made for simplicity on the graphs he demonstrated. Ald. O'Brien stated it could be assumed that the cost of Prairie State could increase. Holm stated the cost could increase. Ald. O'Brien opined if the cost goes up and the Brattle Group is correct in their forecasting and the cross over occurs further out than 2024 it would not be good. Holm confirmed same.

Ald. Brown cautioned against thinking that things always increase because as the City has seen by purchasing power things do not always increase, but rather there was a decrease. Ald. Brown indicated previously the City forecasted there would be an increase in cost, but instead it went down. Holm stated the item mentioned was not a market item, but rather a physical item (i.e. excavation of coal, running a power plant, capital improvements) with costs over time that do not decrease.

Chairman Frydendall stated a big factor that also needs to be taken into consideration is the amount of power plants that are decommissioned in the next few years and if the government discontinues subsidies to wind power, which might have a tremendous effect. Holm shared that the Brattle Group has written two major studies on the retirement of coal and their latest study released last year is included in the model provided to the City of Batavia.

Ald. O'Brien inquired if the government would use the EPA to close coal plants because they are not clean enough in their generation. Holm stated that the government puts restrictions in place and coal plants end up closing themselves down because they become too costly to run. Ald. O'Brien stated those coal plants closing down could be a benefit to Prairie State because it is on the cutting edge of technology for coal generation. Holm confirmed same. Ald. O'Brien opined that that could result in the cross over becoming sooner in time rather than later. Holm confirmed and reminded the group that the Pace Global study indicated that the cross over was in 2016.

Chairman Frydendall indicated that gas is a moving target at the present time and if the U.S. gets to the point of exporting gas the price of exported gas is four to five times the prices of gas in the United States and it would stand to reason that the gas companies would want to export as much as they can out of the country. Chairman Frydendall stated that would have an effect on heating bills and electric generation. Holm stated fracking, clean water, and clean water regulations as they relate to fracking are an issue as well. Holm stated there are countless variables that would affect the topics discussed this evening. Holm added that the fact the City is long in power and are having to sell the excess is now very dependent on the numerous variables and makes projecting forward difficult.

Ald. O'Brien stated this was a good discussion to have on these difficult issues and he appreciated discussing it further to gain a better understanding. Ald. Thelin Atac commented it was good to have these discussions especially for those on the Committee who were not around when the purchase of Prairie State was made. Ald. O'Brien inquired if something were to go wrong on the Prairie State campus would the City of Batavia still be paying to correct whatever might go wrong. Holm replied the City of Batavia has financing through NIMPA and added that in theory a projected outage could result in a temporary decrease in operational costs due to people being furloughed during the outage.

Bill McGrath stated there are back up electricity contracts for what is planned to be the normal maintenance periods to cover all the investors in Prairie State. Holm mentioned there is insurance to cover the physical features of Prairie State, so if something is damaged there is insurance to get the item fixed so it can resume generating power. Holm added that when a situation occurred in the past with Prairie State having a physical item not functioning, NIMPA bought electricity on the market and supplied

Batavia with power. Holm mentioned that every year there are regularly scheduled maintenance outages.

Rick Herdrich, 806 Mandrake, Batavia, Illinois, stated he understood the insurance covering the workings of Prairie State, but inquired if Batavia had to buy the energy was that creating an extra cost to the consumer. Holm replied that through the power sales agreement with NIMPA it purchases power and then in turn charges Batavia for the power, so when Prairie State had its outage, Batavia was still paying NIMPA to go to market and make a market purchase, plus the financing costs associated with Prairie State.

Ald. Wolff stated Batavia was paying for the asset of ownership, but were not incurring charges for the actual power operations. Holm confirmed.

Herdrich advised he just became aware of the Prairie State purchase and did some research on the internet relative to Prairie State. Herdrich stated his findings were incredible and commented that as he did the research he understood that the contract with Prairie State was with different municipalities with each paying double what the going rate for power is being that the energy in Illinois is deregulated. Herdrich indicated that it was his understanding that Peabody Energy was the largest coal producer in the United States. Herdrich stated that Midwest Energy News indicated: "What today's report shows is that the Prairie State coal plant is turning out to be the financial nightmare that many of us feared when it was first proposed." Additionally, Herdrich relayed that the article mentioned that "none of the promises have been kept" by Peabody Energy. Herdrich shared that he was a proud Batavian and it was his belief that the Prairie State Coal campus has made promises to several towns and that they were untruths. Herdrich stated the Prairie State coal campus was not environmentally friendly. Herdrich stated he was flabbergasted with the results of his research on Prairie State and encouraged further review of the matter and suggested another Committee research the other communities impacted about what has transpired with Prairie State as well.

Chairman Frydendall stated the City of Batavia has been working with the advisor to the NIMPA organization because the three communities involved are Batavia, Geneva, and Rochelle. Chairman Frydendall shared that the advisor to Batavia is the Indiana Municipal Power Agency and the director of that agency is the leader in the Prairie State project. Chairman Frydendall indicated Batavia is a member of the Illinois Municipal Utility Association and he indicated that he along with Ald. Volk have attended several of those meetings. Chairman Frydendall commented that Batavia pulled out of the Illinois Municipal Electric Agency some years ago because of a difference of opinions on where each was going. Chairman Frydendall mentioned the City of Batavia has been working on the matters relative to Prairie State and has had studies conducted. Chairman Frydendall relayed that the City had no idea that the economy would take such a dive and that the situations would be as they currently are with the Federal EPA

and Illinois EPA. Chairman Frydendall conveyed that Batavia is meeting the requirements that are required presently with the EPA. Chairman Frydendall stated that Prairie State holds the record of being the cleanest coal power plant in the nation.

Herdrich stated in the article he quoted from it indicated that the Prairie State project was possible because it occurred prior to 2011 and that Prairie State is as clean as a coal plant can be. Herdrich indicated that saying a coal plant is environmentally friendly is false. Herdrich reiterated that more research needed to be done for what appears to be a project that has doubled in cost. Herdrich commented that what he was addressing was not what was including just Geneva, Rochelle, and Batavia, but rather the issue that encompassed the 217 towns in several states who signed contracts to buy electricity from Prairie State. Herdrich stated that the state mandate for renewable energy is 8%. Herdrich indicated because the energy is produced by Prairie State and Batavia is buying it Batavia is not a part of that renewable energy mandate. Herdrich stated even though the City is working on the issues relative to Prairie State the current contract has no bearing on whether Batavia is paying the market rate for energy. Herdrich opined that the ownership of Prairie State is turning out to be an open ended liability for the electric consumers in Batavia. Chairman Frydendall clarified he was referring to the NIMPA group when he mentioned Batavia, Rochelle, and Geneva. Chairman Frydendall stated Illinois Municipal Electric Agency includes the other municipalities in Illinois except for Geneseo, Batavia, Geneva, and Rochelle.

Chairman Frydendall emphasized that Batavia is doing everything it can and taking into account feedback from the public in trying to solve the Prairie State issue. Chairman Frydendall indicated Batavia is not happy with the current situation with Prairie State either and is trying to find a way to work out of the situation it finds itself in. Herdrich commented he understood Batavia tried to sell the energy on the open market and could not. Herdrich stated that some of the figures that are being used because of deregulation have left Batavia to pay double what other communities are paying for energy. Herdrich shared that he felt Batavia was misrepresented in the entire process with the Prairie State coal campus and he opined that Peabody Energy was behind that misrepresentation. Herdrich commented if the liability was open ended in this matter then it should behoove Batavia to spend some money to research this further. Herdrich pointed out the Sierra Club sued to not have Prairie State built. Herdrich stated he hoped these conversations tonight would spark action to do the right thing by the residents of Batavia.

Holm stated his desire was to clarify a few things and make sure all the facts are presented as best as possible. Holm stated the project costs did not go from \$1Billion to \$5 Billion. Holm indicated \$1 Billion was never an estimate for the project. Holm relayed that the project during the course of construction did incur approximately a \$1Billion increase. Holm explained that the total cost including the mine and the facilities at the power plant are approximately \$5 Billion.

Holm stated that Peabody, just as a matter of course, is not out after five years. Holm explained that Peabody has a provision in their contract that would allow them to sell in five years if they so choose. Holm shared that it was important for everyone to fully understand how the structure works and stated that NIMPA was a joint action agency formed by Rochelle, Geneva, and Batavia, which basically has the power to go out and obtain financing. Holm stated that such project based agencies can just do specific projects and not all members have to do all projects. Holm stated that NIMPA chose to do the project of Prairie State. Holm explained that Batavia is a member of NIMPA and is not an owner in Prairie State meaning that the City Council cannot take a vote to direct anything at Prairie State. Holm added that the City Council does not have the power to direct the Prairie State Generating Company to do anything, but that the City Council can work through its NIMPA representative because NIMPA is really the owner.

Bob Rogde reiterated what Holm stated and indicated that the City of Batavia procures power from different companies (i.e. Exelon, Constellation, NextEra, Edison Mission) and that that structure was very similar to the relationship with NIMPA. Rogde stated that the City of Batavia likely has somewhat more of a say indirectly through NIMPA than with some other company. Holm stated with NIMPA being a 3-member community Batavia has more say as an owner than other owners who have 70 communities. Holm pointed out that NIMPA is only 7.6% of the Prairie State project.

Ald. O'Brien inquired how Batavia would protect itself as participants of NIMPA from potential breakdowns that could occur at Prairie State. Holm indicated the best way for Batavia to protect itself is to work through NIMPA and be on top of decisions that are being made and have a voice in what occurs. Holm mentioned that even being involved in that decision making process does not deter natural disasters (i.e. tornadoes). Holm stated the voice Batavia would have comes through NIMPA's representatives on Prairie State's management committee. Holm explained that the management committee contains a member from of all the owners and they make the management decisions.

Ald. Thelin Atac inquired in trying to protect the residents of Batavia's interest and in being as responsible as possible how could the Batavia City Council help in the process and get involved. Ald. Thelin Atac encouraged getting better access to reports and discussing them more at the Committee level for further understanding. Holm replied that the information would need to come through NIMPA and Batavia through its NIMPA representative. Ald. Thelin Atac suggested having two more representatives on the NIMPA board in addition to Chairman Frydendall. Holm and Chairman Frydendall mentioned that additional representatives have previously been a topic of discussion. Chairman Frydendall opined that the Opens Meeting Act almost mandates that there be more representatives at the NIMPA board. Chairman Frydendall indicated even though he is the representative at the NIMPA board all Executive Sessions can be attended by staff from the member communities. Chairman Frydendall pointed out that Mike Buffington, President of NIMPA as well as being the Director of Electric in Geneva, is familiar with the building of power plants along with Raj Rao, CEO of the Indiana

Municipal Power Agency, who has built power plants and is in charge of the nine member associations in the ownership.

Ald. Thelin Atac commented that a 3-member board was a small amount of members to be managing the huge project that Batavia has responsibility for. Chairman Frydendall reiterated what Holm pointed out that Batavia is only a member of NIMPA who owns 7.6% of the Prairie State project. Chairman Frydendall added that even with more board members the end result would likely be identical. Holm relayed that from a communications standpoint he does attend every NIMPA board meeting and Executive Sessions indicating the board does allow for input from non-members, but indicated he does not have access to the owner's portal. Chairman Frydendall stated at the present time Buffington has that access and provides whatever is legal to distribute to Batavia.

McGrath stated the fact that the project at hand is complex makes it is easy to mix up different factors. McGrath opined that the problem was not deregulation and pointed out that electricity is a commodity. McGrath explained that the basic issue is that Batavia agreed to purchase too much of a commodity that was based on projections from the prior decades use of electricity, similar to many other communities. McGrath pointed out that the problem was exacerbated with the occurrence of the unprecedented fall of natural gas prices on top of the amount of electricity Batavia already had. McGrath spoke to the history of municipalities and their connections to power plants and how much of the United States is powered by coal. McGrath opined that communities moving away from their dependency on coal is unrealistic over the next 20 years.

McGrath paralleled Batavia's stake in Prairie State similar to a shareholder attending a shareholder's meeting with a small amount of shares and the limitations that come along with that. McGrath indicated that those on the Prairie State board are representatives of the 250 municipalities and are informed on the issues at hand. McGrath stated that one of the problems is that there is confidential information with Prairie State and the problem with that is that over the past 10-15 years everyone is in favor of local government acting like the private sector. McGrath indicated in conducting business like the private sector Prairie State has confidential information, trade information, and competition. McGrath shared that anyone can contact Batavia City Staff to discuss topics they might have questions on and he opined that providing information is freeing. McGrath expressed his confidence in the Prairie State board and pointed out it is \$5 Billion operation. McGrath reiterated that the problem is that Batavia bought too much power and then the market collapsed. McGrath pointed out the reason Batavia and Ohio are experiencing difficulties is that in terms of a portfolio Batavia's share of energy compared to total energy needs is larger than a lot of other communities. McGrath did not give much importance to the Sierra Club suing to not have Prairie State built because according to McGrath a lawsuit in societal terms is to request a conversation on a certain topic. McGrath indicated in Batavia's making an investment in Prairie State it has to live by the standards set by the government.

Ald. Thelin Atac opined that the real issue at hand is how to manage the Prairie State issue going forward. McGrath stated going forward would not include having lawyers investigate if there is some fraud or mismanagement by Peabody because that notion was off the mark and the reality is that Batavia is doing all it possibly can including spending large sums of money to get law firms to analyze Batavia's entire position with the power sales agreement and the best consultants in the country to educate the City on the situation and ascertain information on the potential sale of Prairie State. McGrath stated he would be glad to discuss these topics further with Ald. Thelin Atac outside of the Public Utilities meeting. Ald. Thelin Atac stated that small stockholders in companies oftentimes know more about their company than one would believe and she expressed that she needed to know more about Prairie State and did not understand the need for confidentiality and wanted to be able to answer questions posed to her as an alderman. McGrath shared that Batavia has been pressing NIMPA and Prairie State to get as much information as it possibly can and agreed with the suggestion to have a larger NIMPA board. McGrath stated Batavia has a NIMPA representative, Buffington, who is on the board that runs all of Prairie State. Ald. Thelin Atac inquired if that was good or bad. McGrath indicated it was great and that he could provide an organization model to describe how it all is run.

Bob Rogde stated having a diverse portfolio is another tool to protect Batavia. Ald. O'Brien asked what Batavia is doing and what would it do toward diversification of the portfolio. Rogde stated selling Batavia's part of its allocation from NIMPA would leave room to do something else in the portfolio. McGrath stated further diversification would be beneficial to Batavia.

Steve Vasilion, 426 Illinois, Batavia, Illinois, introduced himself and stated he appreciated the public conversation of these Prairie State matters. Vasilion disagreed with the decision to burden the taxpayers with the \$246 Million obligation in the Prairie State campus. Vasilion opined that he saw very little transparency in decisions made concerning the 30-year obligation. Vasilion commented that information on the project has only been made available through the Freedom of Information requests. Vasilion stated viewing proper financial statements on this \$5 Billion project was crucial. Vasilion shared all this was not just a matter of a downturned economy, but that Batavia evidently signed an agreement with no guaranteed amount of power and no maximum price. Vasilion mentioned that Batavia obviously purchased too much base load power and has been unable to sell off the excess and added that the electrical rates in Batavia are higher rather than lower than those of surrounding communities. Vasilion indicated that obviously Batavia's agreement with Prairie State is generating a loss rather than a profit and per the Brattle Group's estimates a profit may not be seen until 2024 at the earliest assuming Prairie State would experience flat line expense. Vasilion stated changes in legislation, technology, implementation of a CO2 tax could easily skew the matter into a worsening scenario. Vasilion opined committing coal as the sole source of energy for the next 30 years was an unwise environmental decision because by Prairie State's own admission the coal is a high sulfur lower BTU coal. Vasilion stated the

residents need to hear more about what Batavia is doing proactively to address Prairie State.

Betsy Zinser, 801 Wind Energy Pass, Batavia, Illinois, introduced herself and commented she has previously addressed the City on the Prairie State matter and she agreed with McGrath that Batavia has worked harder than any other municipality among the 217 municipalities to bring greater disclosure to Batavia and she expressed appreciation for that. Zinser expressed appreciation to Batavia for the efforts to sell the excess power and for having this Public Utilities meeting this evening to discuss the matter. Zinser opined there was a very large disconnect between the risk the rate payers have assumed by living in Batavia vs. the control the City Council has in managing the financial risk the community is carrying. Zinser shared she was hopeful the two groups would continue to work to bridge the disconnecting gap. Zinser stated it was alarming to her to discover that the City does not have access to the owner's portal for Prairie State information, which she opined the City needed to have access to in order to have the knowledge to discuss issues at meetings with NIMPA and Prairie State. Zinser offered assistance to the City to help them obtain access to the owner's portal to obtain the necessary information.

Chairman Frydendall emphasized that Batavia was not an owner of Prairie State and clarified that NIMPA was the owner and the owner's portal is between the NIMPA president and Prairie State. Zinser stated she understood that, but that the rate payers were holding the risk. Chairman Frydendall stated Batavia is working on the issues and at the same time NIMPA may desire certain things some of the other member communities are also working on other issues. Zinser encouraged getting the other communities on board with Batavia.

Bob McQuillan, Geneva, Illinois, introduced himself and stated he is a candidate for Mayor of Geneva and wanted to learn as much as possible regarding local issues. McQuillan advised he has witnessed meetings in Geneva where they are pleased with their electric costs. McQuillan stated today transparency is demanded of everyone in government and corporate America. McQuillan expressed that he did not buy the argument that information should not be shared. McQuillan commented since Batavia finances Prairie State it should have access to their financial records and if it does not that should be corrected. McGrath stated before the financing was done the project was taken through review by attorneys, Batavia's bond counsel, bond counsel for NIMPA, and bond counsel for every one of the municipal groups involved in the project. McGrath added if the Prairie State project had been deemed to be a non-workable project the bonds would not have been able to be sold on the market. McGrath explained when Batavia offered its shares of Prairie State for sale on the market there was response, but the price was not desirable. McGrath stated in all the conversations Batavia's consultants had with potential buyers there was no indication that they would not buy the power or offer less because the operation was deemed unreliable or not meeting standards of other power suppliers.

Holm stated that both Moody's and Fitch at the end of 2012 reaffirmed the positive ratings associated with Prairie State bonds and NIMPA. Holm indicated the reports were on the City website. Holm pointed out that Geneva has two significant factors that differentiate it from Batavia. Geneva owns its own generation producing good revenue for Geneva and Batavia does not have its own generation. Geneva's ownership share in Prairie State is a smaller part of Geneva's portfolio compared to Batavia's portfolio. Holm explained that Batavia's electric rates as evidenced from last fall's figures shows it was comparable to other communities with some communities being higher than Batavia.

Holm stated that City Staff was asked to look out into the future with respect to the overall performance of the electric utility. Holm explained that expenses (i.e. personnel, operations and maintenance, equipment, facilities) excluding purchase power are expected to rise modestly or in some cases remain level over the next five years. Expenses for short-term summer peak purchase power are projected to remain relatively constant throughout the 5-year period. Batavia was notified at the January NIMPA meeting that insufficient funds were collected by the agency in 2012. An additional \$1.2 Million needs to be collected during the first six months of 2013 in order to make up the shortfall. This information was not accounted for in Batavia's 2013 budget. According to the most recent information provided by NIMPA, costs associated with Prairie State are projected to be level over the next five years.

Holm stated revenues excluding the sale of energy are expected to rise modestly over the next five years. These revenues include items such as interfund transfers, permit fees, reimbursements, and investment revenues to name a few. The amount of energy sold to Batavia customers is expected to rise 1-2% annually over the next five years. The utility's Purchase Power Adjustment Factor (PPAF), which was established by Ordinance as part of the 138 kV bonds, will automatically adjust to cover the cost of purchase power. City Council has previously authorized the use of up to \$2 Million in reserve funds to stabilize the PPAF and reduce impacts on Batavia customers. It is anticipated that the PPAF will rise in 2013 despite the anticipated use of the entire \$2 Million in stabilization funds.

Holm indicated that the future financial impact to rate payers is most clearly seen by looking back in time. The utility's annual cost of purchase power has increased approximately \$6 Million from 2010 to the present. It is this increased cost that will continue to impact rate payers going forward. Holm stated it is difficult to project best and worst case scenarios. Holm shared that additional revenues may be needed for 2013 and beyond. These revenues could come in the form of a higher PPAF and/or rate/fee increases. Based on current information it is projected the PPAF throughout the first half of 2013 would range between \$0.01 and \$0.02. This assumes utilization of the entire \$2 Million in rate stabilization funds.

Chairman Frydendall opined that the City Council would be pleased if all the concerning issues relative to Prairie State would cease, but after reviewing the facts, Batavia has to deal with the facts and certain criteria and he expressed appreciation for the input on how to approach these issues toward a solution. Chairman Frydendall reiterated that Moody's positive rating indicated that Prairie State was a good project, but did speak to the financial obligation the City of Batavia has to meet and pointed out how the financial obligation differs from community to community and state to state. Chairman Frydendall pointed out how the different communities have different factors that affect their own rate payers. Chairman Frydendall mentioned that the 138 kV installation gave Batavia the opportunity to attract good major industries because Batavia's electric reliability and redundancy was extremely high as recently reported via the media indicating that Batavia had the shortest outages in Northern Illinois.

Ald. Wolff stated that when Batavia made the decision to go into Prairie State and it was decided to go in for 55 megawatts it was thought it would be a little over half the base load according to the trends, not knowing the economy would take such a downturn. Ald. Stark stated now Batavia has to move forward and trust staff's recommendations and NIMPA reports to do the best thing for the residents.

5. Discussion – Industrial Customer Updates

Gary Holm advised that Portola Packaging, which is one of the top 10 electrical consumers in Batavia, has announced they are moving their production to two other facilities outside of Illinois with their corporate headquarters remaining in Illinois.

Holm stated that Rubicon has informed that they would be turning down production and starting in April-May 2013 their facility would be closed for six months before resuming production. Holm explained that Rubicon is under a market-based rate structure and the market-based ordinance indicates if the customer drops below a certain level for more than three months that it is no longer eligible for the market-based rates. Holm relayed that Rubicon is under a take or pay contract and they are still purchasing seven megawatts from Batavia for the remainder of the year whether they use it or not. Holm stated that the City Staff desires the Committee's consensus on their determination of whether they view the City Staff's position that Rubicon is meeting their contract obligations or not. Holm shared that Batavia would not be receiving from Rubicon revenue for water or waste water during their close down time period.

Holm explained that beginning January 1, 2014, the clock begins again and if Rubicon goes more than three months below the threshold of market-based rates then the ordinance would be enacted on Rubicon. Holm stated Rubicon may choose to buy another take or pay contract at that time, but Holm indicated that could be discussed later in the year.

Chairman Frydendall inquired if Rubicon would automatically lose their market-based rate if they drop below a certain level for more than three months. Holm replied that based on the ordinance if Rubicon drops below the consumption levels they would fall back to the bundled rate. Holm reiterated that Rubicon has a take or pay contract and still would be a seven megawatt user through 12/31/13. Ald. Wolff inquired if even though Rubicon is not consuming, but are still paying for the seven megawatts, were they still paying utility taxes and administrative fees. Holm replied Rubicon is still being charged utility taxes, administrative fees, PJM transmission items, and associated costs. Rogde stated that Rubicon could take the electricity and sell it or use it somewhere else. Rogde added that Rubicon has bought seven megawatts, but only need to buy five megawatts to meet the requirements of the ordinance.

Ald. Wolff asked why Portola Packaging was moving out of Illinois. McGrath stated he was making contacts to find out more information. McGrath relayed that Portola Packaging believes the cost of their facility here was greater than the cost of expanding each of their facilities in Tennessee and Arizona. Mayor Schielke mentioned a Portola Packaging employee indicated they were moving because of state related issues and not Batavia. Ald. O'Brien inquired if there were any other industries coming into Batavia to replace Portola Packaging. Holm replied there are currently four industrial leads and two of the four have indicated they are large electric utility users. Rogde pointed out the City's economic development incentive has attracted industrial customers to come to Batavia as well as encouraging existing customers to expand their operations in Batavia.

Ald. O'Brien inquired about Rubicon's proposed second facility. Holm replied that Rubicon's second facility would likely be constructed in 2015 rather than 2014. Rogde indicated Rubicon's first facility needs to be at the 100% production level before triggering anything for the second facility.

Chairman Frydendall stated Batavia needs to make Rubicon comfortable on making their decision to purchase power through the time period and continue with their market-rate or go to the bundled rate. Chairman Frydendall expressed that Rubicon needs to decide which type of rate is best for their business. Holm pointed out Rubicon already has a take or pay contract with Batavia through 12/31/13. Chairman Frydendall inquired if Rubicon was requesting relief on that contract. Holm stated Rubicon is not requesting relief on that contract. Chairman Frydendall stated since Rubicon's decision to resume production would not be until 2014 that would depend on how many months of vacancy would take place and would determine which direction Rubicon would want to choose. Holm pointed out that the ordinance indicates if Rubicon's monthly usage drops below 3,600,000 kilowatt hours per month for more than three months they would fall back to the bundled rate.

McGrath stated that Batavia did not want to have invested in the electric infrastructure to support a big user and then have them pull back the power, so in Rubicon's case

they are still paying for the electricity and Batavia is still getting the benefit toward the contribution of infrastructure beyond the fact that Rubicon paid for their own. McGrath commented Batavia is still getting the benefit that was envisioned by this ordinance as it was based on a drop in revenues to Batavia to reimburse for the costs put in. McGrath reiterated that Rubicon has not breached the ordinance and was living up to the spirit of the ordinance. McGrath added that the ordinance was passed after Rubicon arrived in Batavia.

Chairman Frydendall asked if anyone on the Committee had an objection with how City Staff is handling the Rubicon situation providing it complied with the ordinance. Ald. Brown stated as long as Rubicon was meeting the ordinance it was a non-issue. Rogde stated the revenue continues to flow, but the electrons were not being used.

Ald. O'Brien pointed out the economy had a lot to do with the situation with Prairie State and the industrial company changes in Batavia. Rogde stated that Batavia would be viewed better in the eyes of the rating agencies if it were to secure the two additional industrial customers.

6. Discussion – WWTF 2013 Rehabilitation Project Status

Holm stated there would be brief update on the 2013 rehabilitation project and additional discussion on the future potential expansion of the wastewater treatment facility.

Scott Trotter made a 79-page PowerPoint Presentation to the Committee on the City of Batavia' wastewater treatment facility design and permitting (refer to document). The highlights of Trotter's presentation were:

- Background of plant history
- Recap of task order #1 – Existing WWTP
 - Evaluation of loading and performance data
 - Process by process evaluation
 - Excess flow and chlorination
 - Headworks
 - Primary clarifiers
 - Process evaluation – biological process
 - Final clarifiers
 - UV Disinfection
 - Sludge stabilization and dewatering
 - Recommendations for immediate needs
 - Long term rehabilitation
 - Next steps
 - Task Order #2
 - Expansion needs

- Regulatory needs
- Development and analysis of alternatives
- Task Order #3
 - Headworks
 - Primary clarifiers
 - Intermediate pump station
 - Aeration basins
 - Anaerobic digestion

7. Discussion – WWTF Expansion Options (Gary Holm, 2/15/12)

Trotter continued his presentation (refer to document) highlighting the following:

- Task order #2 – Capacity and regulatory
 - Expansion needs
 - Capacity needs
 - Current operating conditions
 - Detention Time
 - Regulatory compliance
 - Phosphorus removal
 - Total nitrogen
 - Biosolids
 - Excess flow/blending issues

8. Executive Session: Acquisition of Real Property

Motion: To adjourn to Executive Session for the purposes of discussion of acquisition of real property.

Maker: Wolff

Second: O'Brien

Voice Vote: 5 Ayes, 0 Nay, Motion Carried.

The meeting was adjourned to Executive Session at 9:54 p.m. and when Regular Session resumed at 11:02 p.m. all the same Committee members were present.

9. Other

Ald. Wolff inquired if Fox Metro could be option 3 or 4 relative to the WWTF. It was determined that Fox Metro would not be an option.

10. Matters From The Public

None.

11. Adjournment

A motion was made by Ald. O'Brien and seconded by Ald. Wolff to adjourn the meeting at 11:05 p.m. All were in favor and the motion was carried.

Minutes prepared by
Connie Rizo