

Stelzner, Pa K (PUC)

From: MN_PUC_PublicAdvisor
Sent: Thursday, October 27, 2022 9:43 AM
To: Staff, CAO (PUC)
Cc: Michael Hult
Subject: FW: Docket NO: E286,E112/SA-22-388 Attn: Bill Black
Attachments: exhibit B 1 Bob Egan Agreement.pdf; Exhibit C Audit.pdf; exhibit D Water & Light turmoil.pdf; Water&Light Exhibit A Terry smith resignation and Brenda Jepsen resignation.pdf; Egan 2.pdf

Hello CAO,

Can you efile this comment and the attached documents?

Thanks,

Charley

From:
Sent: Wednesday, October 26, 2022 6:27 PM
To: MN_PUC_PublicAdvisor <publicadvisor.puc@state.mn.us>
Subject: Docket NO: E286,E112/SA-22-388 Attn: Bill Black

This message may be from an external email source.

Do not select links or open attachments unless verified. Report all suspicious emails to Minnesota IT Services Security Operations Center.

To whom it may concern,

I am writing to you as a North Branch Water & Light concerned customer. I have been following the North Branch light / ECE transition for awhile now and have been following this Docket as well. I recently read North Branches rebuttal to the PUC and I do not think that they are being honest with you on a few things. First off, one of the employees that "resigned" was actually bought out. Mr. Egan was bought out in september of 2021 per the minutes of the Water and light Commission meeting archives. The General Manager at the time was also let go at the end of August of 2021 and was paid until the end of the year. He served as a consultant to the commission. As far as office staff goes, the commission hired an accountant who later resigned without notice on a pay week and then was rehired by the city as a contractor to take on the accounting duties at city hall. There was also a great deal of mediating from city hall and some of that led up to commission members leaving their seats. To me this whole thing just seems very unethical and it seems to me that the city set up the utility to fail so they could fall within the language to not have a public vote. A lot of people in town had and still have not idea what was going on. No one knew we could comment on this Docket. We have been kept in the dark on something we voted against doing in 2016. No public hearings, just a little notice in our monthly invoices. I have attached several newspaper articles from the local papers and some documents from the City of North Branches website.

Sincerely, Mike Hult

10/1/2021 1:16:00 PM

NB Water & Light electric plant operator no longer employed

The methodical behind-the-scenes dissolution of the North Branch Water & Light utility continued this week.

It took the North Branch Water and Light commissioners all of five minutes to call their special meeting to order Monday to act unanimously with no discussion, on a separation agreement with electric plant operator Bob Egan. The commission, minus member James Baxter, agreed to pay three months' wages, a lump sum equal to Paid Time Off that's un-used and \$3,000 lump sum to go to health premiums.

Egan agrees to not speak about the utility and to not publicly discuss the separation agreement. He agrees to not talk about any agents of the city, or past and present members of the city council.

The plant operator's position was made obsolete when Water and Light Utility commissioners recently voted to hire a firm to place a valuation on electric division assets, so the commission could put them up for sale. Again, this was voted on with no discussion at the commission level. In the meantime there is an agreement (which the Press has been unable to obtain a complete copy) with East Central Electric to oversee power needs and provide personnel. Linemen with ECE are reportedly being instructed by former Water & Light linemen on local systems and presumably on the generating system.

There is a deadline of the end of December for the Water & Light assets value study to be completed.

The water side of the utility has been absorbed into North Branch municipal public works operations and the city Public Works Director Shawn Williams is now the utility's General Manager. All wages reportedly continue to be paid out of utility revenues, however, the utility commission has not received a financial report in quite sometime.

Scott Hautala is in a consulting role. He attended Monday's meeting from an unannounced location via the Internet. He stepped down as GM but continues to be paid until the end of 2021. The separation agreement included his positive letter of reference for Egan.

Water & Light audit finds nothing to substantiate OT and on-call excesses

The 2019 audit for North Branch Water and Light was delivered last week to utility commissioners, with Chris Bibeau absent. There were no fiscal red flags, according to the audit presenter Dennis Oberloh, Redwood Falls.

He explained that organizations do audits specifically to go through financial statements for accuracy.

North Branch Water and Light's 2019 audit information shows an adequate 156 percent of debt service is covered, and the utility had a net-income-over expenses of \$1.2 million for water and electric in total, and funds are in their appropriate designated accounts.

"...there don't appear to be any misstatements...whether due to fraud or error," the Oberloh & Oberloh Ltd. audit cover letter states.

This 42-page audit included nothing to support an announced hundreds of thousands in payout to a handful of staff, that city officials announced a few months ago.

An expert hired by the Water and Light Commission to review the budget was said to have unearthed possible "malfeasance" according to a December 31 2019, administrator's e-mail to city staff and members of the city council updating the ouster of the General Manager and Office Manager the commission acted on..

There was concern, the e-mail stated, tied to "a \$335,000 in an on-call and overtime expenditure paying four utility employees."

In the wake of this now-unsubstantiated accusation, two longtime utility administrators saw their management of the budget questioned, and were dubbed as insubordinate when they were hesitant facilitating outside access to utility records and accounts.

The behavior was described in the Dec. 31 city administrator's e-mail as disconcerting and might possibly indicate "malfeasance."

December 30, 2019 the Water and Light General Manager and the utility office manager were removed from duty by an "emergency" vote of Commissioners Peter Schaps and Kelly Neider.

Under MN Open Meeting Law public employees who are the subject of a closed session, must be allowed to request an open session -- which didn't happen. There was a follow-up meeting to revise the office manager status to "paid leave" instead of unpaid, and this meeting was opened when the office manager requested it.

She has since officially severed ties and is working elsewhere.

The utility is still seeking a permanent general manager. Applicants for GM were scheduled to be interviewed late last week.

The General Manager requested the commission set a "retirement" date retroactive for early in what was termed an administrative leave period, and it was approved.

When asked about the accusations originating at the commission level alleging the unauthorized \$335,000 expense-- associated with longtime staff being forced out-- Commissioner Neider, who is also a North Branch city council member, responds with 'no comment' to protect what she says is an active "investigation."

In discussing finances at last week's Water and Light Commission meeting, there was perhaps a tiny light shed on what instigated that turmoil.

The budget expert who alleged the on-call and OT payments, now is the commission's Finance Director. She requested a software accounting program upgrade be approved, causing Commissioner Neider to remark that maybe this new computer format will help her comprehend financial information.

Neider explained that this budget format "...will make it a little more simplistic for those of us who aren't totally about numbers."

She said, "...last December, I didn't understand" (the budget.)

Newly-promoted to a job created by the commission as Water and Light Finance Director, Brenda Jepsen explained the software upgrade will make operating versus non-operating revenues and expenses etc., easier to input and comprehend.

Neider motioned at last week's meeting to approve hiring Jepsen to be a permanent employee as Finance Director. Neider explained she had consulted with legal staff and it's "my opinion" the newly created position doesn't require posting or advertising. She added that Finance Director is a "confidential" employee classification, excluded from the union which utility employees are forming.

Terms in Jepsen's employment agreement were not made public. The Press has requested a copy.

Following the sounding of the 2019 budget alarm besmirching staff reputations, along with the improperly noticed and closed commission meetings, on top of the abrupt vote by the chair and Neider to freeze employee pay and reduce benefits going into 2020; it came as no surprise when Water and Light staff gave notice they were going to unionize with IUOE Local 49.

There have been a few meetings and some Tentative Agreements reportedly are coming out of the negotiations. The contract completion is timed for mid-July, when the hope is a permanent General Manager can be hired.

New legislation just signed by Governor Walz, lets the city appoint four new members to the utility commission. (Bibeau retains his seat until end of 2020)

In debating policy and process for expanding the three person commission to five members, city council members have spent considerable time arguing whether to have a city councilperson seated on the new utility commission.

Applicants for the "new" Water and Light commission were to begin to be called in for interviews June 25 in a special council session.

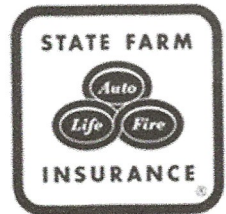
In other business the city of North Branch and Water and Light will cooperatively work on submitting a potentially multi-million dollar grant application to the federal government, seeking inclusion in a one-time CARES Act appropriation that offers an 80-20 split (city covers 20.) North Branch has a tentative new water tower on the horizon the grant would be used for.

City council members will need to authorize city staff hours for assisting in writing the grant.

Advanced Search

search...

search



North Branch Water & Light in turmoil

North Branch Water and Light utility is without a general manager, at least for the time being. The GM and an office staff member were placed on unpaid leave of absence December 30. According to records North Branch Police were sent at 10:04 a.m. to escort the two away from the utility office property.

Apparently there is no appeal process for employees to defend against allegations of "insubordination" and the length of the leave was not spelled out by the commission vote.

Utility commissioners however, met January 10 and did revoke the unpaid condition, making the administrative leave "paid."

Not surprisingly, Water and Light employees filed notice December 31 that they are beginning the process for representation from Teamsters 49ers.

The Water and Light Commission's Chairman Peter Schaps stated January 10 the commission attorney will tell the commission when/if the employees can be reinstated.

The meeting during which the two employees were placed on unpaid leave (Dec 30) was not convened according to MN Open Laws. The meeting January 10 also did not comply.

A reporter was present in yet another special commission session, held to address Water and Light's budget-- Thursday December 26.

However, by Monday December 30 the commission (Schaps and Neider) met again, without providing 72 or 24 hour meeting notice; which is key because employees have the right to open a meeting when they are the subject of a closed session. Without advance notice employees have no time to prepare and weigh their option whether to open the meeting.

Schaps and North Branch City Council member Kelly Neider, who is Council liaison to the utility, were the yes votes on these actions.

The third utility commissioner Chris Bibeau says he wasn't receiving useful notices. For example, the e mail he got for the January 10 special meeting (he gave the Press a copy) incorrectly said the session was to be Jan. 8.

Bibeau told several Water and Light employees who attended the January 10 session, that they need to disregard these machinations being orchestrated by individuals on the commission and keep doing a great job.

Apparently, the action placing utility general manager Mark Petsche and the office staff person on leave was alleged to have resulted from "insubordination."

A person being described as a "finance secretary" who was recently hired by Schaps and Neider, Brenda Jepsen, reportedly asked for files, and access to Water and Light accounts records and to use the utility computer and was denied.

Jepsen was present at the commission meeting Jan. 10 and Bibeau asked her if she is bonded, insured, etc and she said no. Bibeau guessed that this could have been staff just being cautious, and he was astonished two long time employees would have been escorted by law enforcement off the premises based on what he has been told.

Attempts by this reporter to ask the commission chairman about what led to hiring an outside bookkeeper, were ignored.

Chairman Schaps raced into a non-public mechanical room access door and disappeared after the Jan 10 meeting adjourned at the utility offices in North Branch.

The city hall and public works department employees and city council members, were given some information in an e mail from the city administrator, distributed December 31. Renae Fry explained the action imposing the leaves of absence. She said there is to be a "...thorough review of the utility's financial records and other pertinent documents...the city policy of insurance also covers the utility and there is bond

coverage...for possible errors, omissions or financial malfeasance...I will be contacting (the League of MN Cities) to let them know of the situation and ask for their guidance as may be appropriate, to protect the interests of the city and the utility as the Commission undertakes its review."

Schaps and Neider also voted (during the Jan. 10 session) in support of hiring legal firm Madden Galanter Hanson (Bibeau voted no.)

Attorney Chelsie Troth, Pine City, reportedly also serves as general commission counsel as well.

Former Water and Light attorney Vince Stevens, with the CITY of North Branch's law firm, resigned as counsel to the commission a couple months ago. The firm of Miller Stevens Law continues to represent the city, attending council meetings, etc. Stevens preferred to withhold comment on his resigning water and light at this time.

Bibeau asked where the need for a labor relations law firm was coming from and Neider said she is recommending them, after asking organizations that work with utilities and government units, for names of firms. The commission did not look over any other professional services proposals.

There's likely going to be plenty of work for labor law specialists-- considering that along with the unionization notice, Schaps and Neider voted Dec. 26 for a host of contract adjustments; freezing staff wages, cutting by over half the contributions to employees' HSA and healthcare premiums, and also reducing all customer base water fees by \$5 per month as of the first billing of 2020. (Story Press Jan 2.)