

# “Public Testimony”

JAMESTOWN CITY COUNCIL  
REGULAR MEETING, APRIL 5, 2010  
OFFICIAL MINUTES

Detailed transcription of the Jamestown City Council Regular Meeting

Time element: 36:00-1:10:20 approximate.

The regular meeting of the City Council was called to order by Mayor Liechty at 5:00 P.M.

The Pledge of Allegiance to the flag was recited.

Roll Call showed the following members present: Mayor Liechty, Council Members Kourajian, Nygaard and Schulz, City Attorney Dalsted, City Engineer Schwartzkopf and City Administrator Fuchs. Absent: Council Member Parisien.

Liechty: Item C to approve or disapprove the request from Stutsman Rural Water District to amend the current agreement with the City for the sale of water to Stutsman Rural Water for a new 20 year agreement. Does someone want to present this?

Fuchs: Council will recall that the...

Liechty: I guess I'm wondering if Rural Water wants to present it. What they are requesting and where they plan to provide service

Keller: Bob Keller, Barlett & West, we're engineers for Stutsman Rural Water District. The water district is happy with the current agreement they have. They are under progress to expand the Rural Water System and with that they have to go through basically a grant loan procedure and through that the funding agencies are requiring, basically asked for a 40 year term as far as having a source for 40 years, but working with Jeff and Reed we're now asking for 20 years with a chance to extend for another 20 years so we're not asking for any changes, we're happy with the agreement we have but just the term of it and that's because of the funding agencies.

Liechty: What are you, where are you planning on, you are going to use this money you're getting as a grant from Rural Development.

Keller: The loan portion would be from Rural Development, the grant portion would be from M R Nye Garrison Conservancy District and the expansion part of the project is for, would be expanding in western Stutsman County right now. The water district does not serve western Stutsman County and so would be expanding in that, so with that they need additional water. Their current water treatment plant is at its capacity so we had to do an engineering study through this process and through that finding

with their treatment plant being at its capacity, the funding agencies would rather see a regionalized water system where if there is somebody else with water available for purchase, water districts can go that route, so that's why basically they would like to use the water that's available from the City of Jamestown.

Liechty: Who is 'they'?

Keller: The State Water Commission, Farmers Home Administration.

Liechty: Whose plant is at capacity?

Keller: Stutsman Rural Water District. Their plant is located about 10 miles southeast of Jamestown.

Liechty: We don't have any maps as to where you're planning to put this line in. We haven't been provided any plans to put this line in. I guess what my concern is, what are the points along the way that you plan to provide water and is this in areas where we should really be annexing this land to our City rather than having Rural Water provide them with water.

Keller: Currently the water district has a connection with the City of Jamestown in the NE section of the City near Cavendish Farms and through the existing agreement that the water district has with the City, they have basically the option to connect in the area of the fairgrounds, so the NW part of the City and so that is what we would like to do. So as far as serving anybody within your one mile jurisdiction, I think you're probably talking about, we are basically working with Reed and Jeff and anybody, that before we would serve those people we basically provide them with a letter asking if the City would like to serve them or they would like the water district serve them.

Liechty: Isn't that something we should have a contract so that we are not selling water to Rural Water at the same price that we are charging our City residents or our City property owners for their water, so that we aren't expanding our water system out to our extraterritorial zone area and beyond, that when those land owners should really be annexed to the City of Jamestown so that when they are purchasing water they should also be charged for our sewer system, so that we have the benefit of that end for the charge of water also. We have people outside of the City limits now who are building close to town and we aren't receiving the tax benefit from them other than, I would say we're not receiving the tax benefit from them, and water is a precious commodity and they are building outside of the City limits because they are able to get good water and I don't have a disagreement with the contract with Stutsman Rural Water but if we are selling our water at the same price that our City residents are buying, then I think we need to be, if we're opening up the contract then we need to be opening up the whole contract and put in a system where we are making a profit on our water.

Keller: The water district basically is paying the same water rate, you're correct, as the rest of the residents. Their connection point is only two connections right now; it's one if we would go with the second connect, there would be only two connections both of those connections, the first one has been approved by the City, the second one we would be working with Reed, your City Engineer and Jeff as far as if those connection points were acceptable to them. After that time the rural residents actually would be paying the same rate as any other rural water users out in the entire district. So in other words, somebody a few miles from Carrington would be paying the same amount as somebody using water coming from the City of Jamestown. It actually would be more favorable to the people to get water from the City directly but they would have to pay for their own lines and basically be annexed to

the City so this is a service of providing those people with water.

Liechty: I understand that. You say there are two connection points but one is not... We're only using one of them now, over in the SE connection?

Keller: Over in the NE by Cavendish Farms, that's the only connection that's being used right now.

Liechty: And there's another connection but you're not connected to that, but you have the ability to?

Keller: There's another connection point in the contract that states which would be the NW part of the City by the fairgrounds.

Liechty: And you haven't connected with that yet?

Keller: Not yet. And we would, it's in the contract that we can, but we will not connect until we clear that with Reed and Jeff and anyone else as far as the exact location.

Liechty: Anyone from the council? Councilman Schulz.

Schulz: I have a couple of questions. One, in the contract Jeff, in section 4C, Stutsman shall pay Jamestown a six month fee of \$250 so they pay us \$250 basically for connection fee and on top of that they pay us the water rate?

Jeff: Right.

Schulz: Do we have right now, what's our water usage and what's our capacity approximately. I realize it varies every day.

Fuchs: Well right now of course, in this time of the year, our average usage I suppose, is right in the neighborhood of 2 ½ to 3 million gallons. Our capacity, I would guess Reed, is right around 6 or 6 ½ million right now and of course once we complete our Water Improvement Project that will be higher.

Schulz: Right. So is there any point in the near future, that we are in danger of, you know, as long as our wells are working properly, that if we sold water to Stutsman Rural Water District that we would be in any danger of over utilizing our capacity, even with the projected new Regional Medical Center and other building that we would hope would go on in that area.

Fuchs: At this point, and Reed or Steve, correct me if I'm wrong, but I don't think there would be any time unless of course we had a major breakdown like the water tower or something that wasn't anticipated, but under normal operating conditions, No.

Schulz: Ok. I think that it's in the City's interest to have a good working relationship with Stutsman Rural Water when we do annex any areas that are being served by Stutsman Rural Water, isn't that part of the agreement Jeff, that the individuals in that area switch over to City water.

Fuchs: Yes.

Schulz: Yes. That's already included in that, so it's not that the City isn't able to provide water out to these

individuals now, their other options would be that they would dig their own wells, and whatever other means they had of providing water and when the City annexed them it would be a worst mess as far as I can see.

Liechty: Councilman Schulz. When you provide water to an area and they are not annexed into the City now, or they are not part of the City now, the chances of them requesting annexation, I would think would be very slim or not at all and in this case here we don't have any maps from Stutsman Rural Water as to where they plan to be putting their lines and are they in an area that if there is going to be development there and the only way they can get water from the City, to be annexed into the City, they will come in but if Rural Water is supplying them water, why would they even annex into the City when you have higher property taxes in our City than what they do in the rural area.

Schulz: Jeff, the new development on Hwy 281 at the top of the hill, Dean Hafner and that area, is that in the City limits?

Fuchs: Yes.

Schulz: And it's being supplied by Stutsman Rural Water. Correct, or did we run...

Fuchs: Yes. No, there is an area along the 281 North corridor that is being served through a separate agreement by Rural Water because we do not have any water facilities in that area.

Schulz: So short of the City spending a lot of money to provide water up there, this was an agreement with Rural Water, this was a good way for those people to get water and they're paying City property taxes. Correct?

Fuchs: Right.

Schulz: They're in the City. I see that an agreement with Rural Water is good business for Jamestown.

Liechty: Councilman Nygaard

Nygaard: I like Jeff's recommendation. I'm a bit more ...

Liechty: Can you state what it is.

Nygaard: The, well just, I'll state the later part perhaps, 'the 20 year term with the 20 year renewal should be addressed as a 20 year term with two ten year renewals to provide greater flexibility for future amendment and adjustments'.

Liechty: Where are you reading that?

Nygaard: The second page.

Liechty: OK. Would you like to tell the audience what we're reading from here, that it was to the council from Jeff Fuchs regarding Rural Water so that the audience knows where this is coming from and what it is you're now reading.

Nygaard: I guess it's sort of a memo from Jeff to the council regarding the agreement, I sort of like the recommendation that with the 2 – 10 year renewals I'm a bit reluctant to move forward and lock ourselves into something for such a lengthy term. We don't know what the volume will be 2, 3, 4 years from now. I do like the idea of giving ourselves a bit more flexibility at different intervals throughout that agreement, whether every 5 years or 10 years or something like that, something that allows us to take another look at it to determine what's working for the City.

Kourajian: Your Honor,

Liechty: Councilman Kourajian.

Kourajian: I think one of the reasons they're here is that they need an extension on this contract in order to get loan papers. Correct?

Keller: Correct.

Kourajian: Otherwise they wouldn't be here but the agreement also says that if our rates go up to our citizens, then they automatically go up for them and Cavendish and anyone else that uses City water. And I would assume that in our water rate there is a profit built into it, the amount we sell the water for. So they are paying for water just like anyone else.

Liechty: I believe our water rates are based on cost. My point is that when you provide water to someone outside the City, is near the City, at the same cost as what the City residents are paying for their water, that they don't have the incentive to have that land annexed into the City and we did not receive any maps from Rural Water as to where they are going to run their line, what areas they plan on servicing with this here funding they are receiving from Rural Development or Garrison Diversion and we should know where they're going to be providing water so that it is not in areas where that land should be annexed into the City and that we are charging more for the water than what our City residents are paying for their water. We have a commodity that is valuable and we should not give it away and if they are asking us to open up the contract and I realize in order to get the funding, they need to have 20 years out if they're looking for opening up the contract, there are other areas of the contract we should be opening. Just a question for you, why didn't we get maps with this information?

Keller: We had provided maps to the City Engineer as far as our proposed routes and that, but I apologize if we didn't get that to you.

Liechty: The council didn't get the maps so we don't...

Keller: The only, as far as, are you referring to the pipe lines that would be within the 1 mile jurisdiction?

Liechty: That in particular, and also your entire line.

Keller: As far as the pipe line, that would be within the 1 mile jurisdiction, any pipe lines or residents we would be serving within that jurisdiction we would get approval from the City. So we're not asking for any pipeline routes to be approved tonight, as far as any residents within the 1 mile jurisdiction to be served we're just asking so we can move forward with the project to get the contract amended to be the 20 year contract.

Liechty: There again, I wouldn't want the City Engineer or City Administrator to be approving where those lines are going to be, it should be coming to the City Council, through the Planning Commission and then to the City Council. Councilman Schulz.

Schulz: Jeff or Ken, do you see anything of concern with the contract other than the term?

Dalsted: The only clause, and the clause should have been in these originally, by law we can't do anything that would bind future councils that would be committed to building say, all the sudden we didn't have enough water and we had to build another plant or something and typically contracts like this have language in there that is subject to appropriate appropriation asking power of executed and I think that should be added, by law it should be in there no matter what and typically that's not going to cause a problem for the funding.

Liechty: I'll make a motion that we table this request from Stutsman Rural Water to sometime in the future, does it have to be a specific time?

Dalsted: No, you can but you don't have to.

Liechty: And if it says sometime in the future it can be brought back at any time, if you say a specific date then it can't be brought back at any time.

Dalsted: That is correct.

Liechty: I'll move that we table this request from Stutsman Rural Water until our next Public Works Committee on April 22<sup>nd</sup> so that we can get maps from Rural Water so we get more information as to where they are putting the pipe lines and what costs it's going to be for the City to provide them water at the same price as our City residents. Is there a second to table? Bearing none, the motion dies for a lack of a second. Councilman Nygaard.

Nygaard: I want to approve the request from Stutsman Rural Water to amend the current agreement for a term of 20 years and Jeff, is it your intent as part of your recommendation here that at the 10 year mark, Council would be, an amendment at the 10 year mark or something is when rate structure or rates in the agreement can be discussed again.

Fuchs: If we're going to look at a 20 plus 10 and 10 then based on my memo what I was suggesting is that date would be 15 years from now or in other words, five years prior to the end of what the new term would be. That is basically when the current contract would expire anyway. At that point we start negotiations, that gives us a couple to three years to do any negotiations on anything that either party might see needing modification in the agreement and still keep both parties within the two year window to not renew and provide notice to the other.

Liechty: So, we're how many years out before this can come to the council again?

Fuchs: It would be fifteen.

Liechty: Fifteen years out before this can be addressed by the council again?

Fuchs: That is what it is now under the current contract.

Liechty: And, let's see, there was a motion, do you want to restate your motion? I don't think we had a second.

Nygaard: OK. I move to approve the request from Stutsman Rural Water to amend the agreement with the City for the sale of water to Stutsman Rural Water District for a new 20 year term.

Liechty: Is there a second? It's been seconded by Councilman Kourajian.

Fuchs: One question for clarification, just a straight 20 year term, no extension?

Nygaard: No...

Fuchs: Or do you want to include the 10 plus 10.

Nygaard: Yes. With the 10 plus 10.

Liechty: So we're how many years off.

Fuchs: It's still 20 years because the renewals are still subject to council approval at the time they would come up.

Liechty: Councilman Kourajian.

Kourajian: Are we going to incorporate Ken's concerns into the new contract?

Dalsted: That would be a good idea and all it is, is a clause which says it is subject to any control by future councils to get appreciate fund for the water systems

Fuchs: We'll get the language because the contract will have to...

Dalsted: The contract should have that in there now and...

Fuchs: Ken, we'll have to put it together.

Dalsted: It's the kind of contract that's always in these things, just like the lease at the Civic Center with the Highway Department.

Liechty: So we need a motion to amend the motion.

Fuchs: No, we'll just do that.

Liechty: Is that part of your motion?

Nygaard: Yes.

Liechty: A question I have and I guess it's for Reed and Jeff is why was, you gave the City maps, but why did the Council not receive maps? I'm asking Reed and Jeff why the Council did not receive maps as

to where you are planning your pipe line. I don't know how we can, for myself this is information I would want to know.

Keller: Can I answer that. The maps that were provided were basically preliminary maps that were part of our preliminary engineering report. None of those pipe line routes which involves 500 miles of pipeline across Stutsman County are set in stone so those lines on a map, from that point, is after that time that we move further into the project, it would be when those pipe line routes would have to be approved by the entire City Council.

Liechty: I understand they are just preliminary maps but I think the council members can read preliminary maps so we have some idea as to where you're planning to do your extension of Rural Water.

Keller: And we can provide those maps to you.

Liechty: We've had insufficient, for myself it's insufficient information, to extend a contract out for Stutsman County Rural Water. Any more discussion? Thank you Bob. Councilman Kourajian.

Kourajian: I believe the gentleman stated your maps, none of that was in the 1 mile territorial jurisdiction.

Keller: Only map that probably was provided was the same map, you were at the meeting that was with the hospital and basically that pipeline route was basically the only pipeline that would be within the 1 mile jurisdiction. So it would be basically just the pipe line that would be brought up if approved for the backup water for the hospital.

Liechty: And that would be the pipeline from 17<sup>th</sup> Avenue going west on the north side of the road so that we could very easily have people from that area hook onto Rural Water and the City of Jamestown would never see the light of day of having them annexed to our City and you could run that line south from the interchange just west of the hospital and service that whole area there so the City of Jamestown would never see that area annexed into the City. I don't have a disagreement with Rural Water because I think they have provided good service to rural residents and rural people who have needed Rural Water but when we are having you run a line where people from the rural area can connect to that line in areas where that land should be annexed into the City and be part of our tax base, I don't feel that myself as a, what I think as good business for the City is to provide that line for you in that area. Councilman Nygaard.

Nygaard: Call for question.

Liechty: Any more discussion? Is there anyone from the audience who wishes to speak? Thank you Bob. Is there anyone from the audience who wishes to speak.

Kaiser: I'm Geneva Kaiser, manager of Stutsman Rural Water District. Madam Mayor. I understand what you're saying in regards to the people that live within the 1 mile zone, but those people also have a great deal of value to the City of Jamestown. They work here, they shop here, just like we serve some businesses outside the City of Jamestown, like Dura Tech, Agri-Cover, people who live here, work there as well. So, I believe you have to look at it as I do, as a community, not just the City.

Liechty: Do you have any question of Geneva? I can appreciate that but it's the City residents who are paying.

Schulz: Councilman Nygaard called for a question. I second that.

Liechty: When you ask the audience if they want to participate, to cut them off with a "second" is in my estimation rude. If I had acted on Councilman Nygaard calling for the question, Geneva Kaiser with Stutsman County Rural Water would not have been able to come up and speak and say what she had to say. I think it's not good for the image of the City to cut our residents off or the people who want to come and speak to the council. Is there anyone else from the audience who wishes to speak. Bearing none, let's call for a vote.

Fuchs: Mayor Liechty...

Liechty: The motion is, let's read the motion again.

Fuchs: The motion is to extend the agreement for a 20 year period from today's date or contract date, with 2-10 year renewals and to incorporate the language suggested by the City Attorney dealing with binding of future councils.

Liechty: Call for vote.

Fuchs: Mayor Liechty-No, Councilman Kourajian-Yes, Councilman Schulz-Yes, Councilman Nygaard-Yes.

Council Member Nygaard moved to approve the request from Stutsman Rural Water District to amend the current agreement with the City for the sale of water to Stutsman Rural Water District for a new 20 year term with two 10 year renewals and City Attorney language added. Seconded by Council Member Kourajian.

Mayor Liechty moved to table the request to the next Public Works Committee meeting on April 22 to obtain more information. The motion died for lack of a second.

Council Member Nygaard called for the question. Seconded by Council Member Schulz.

Roll Call No. 6 showed: 3 ayes, 1 nay (Liechty), 1 absent. Carried.

ATTEST:

JEFF FUCHS  
City Administrator

APPROVED:

CLARICE LIECHTY  
Mayor