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AGENDA  
PUBLIC UTILITIES COMMISSION MEETING  
MONDAY, FEBRUARY 22, 2021 – 5:00 P.M.  
PUBLIC UTILITIES SERVICE CENTER  
1201 LIVINGSTONE RD.

1. Roll Call.
2. Discussion and Possible Action on Riverside Dr N. Lift Station Major Costs Recovery.
3. Adjournment.

Andy Hassan, Chairperson

cc:	Hassan	Peters	Weiss	O'Connor
	Korum	Frye	Chamberlin	Jensen
	Hall	Intihar	Mroz	Parotti
	Nolan	Reeves	Gray	Munkittrick
	Prissel	Johnson	O'Brien	Village of N. Hudson
	TeWinkel	Egger	Boles	River Channel Cable TV
	Wekkin	Eggen	Watson	City Hall Lobbies

Emailed to Commissioners and posted in City Hall lobbies – 2/18/2021

To access the meeting please use the link or phone number below. If you cannot access the meeting via the methods below or need any special accommodations please contact Kip Peters at 715-386-4765 x115 or [kpeters@hudsonwi.gov](mailto:kpeters@hudsonwi.gov).

Join Zoom Meeting <https://us02web.zoom.us/j/85838191955?from=addon> Meeting ID: 858 3819 1955

Notice is hereby given that a majority of the City Council may be present at the aforementioned meeting to gather information about a subject over which they have decision-making responsibility. This constitutes a meeting of the City Council pursuant to State ex rel. Badke v. Greendale Village Bd., 173 Wis.2d 553, 494 N. W. 2d 408 (1993), and must be noticed as such, although the Council will not take any formal action at this meeting.

**MEMORANDUM**

**TO:** Hudson Public Utilities Commission  
Kip Peters

**FROM:** Lawrie J. Kobza

**DATE:** February 16, 2021

**RE:** Major Cost Recovery for Riverside Drive Lift Station  
Review of Information Provided by Village of North Hudson

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At its February 9, 2021 meeting, the PUC discussed Utilities Staff's recommendation to authorize the addition of a \$16.42/quarter surcharge to all North Hudson customers for one year or until the outstanding balance for major repair costs related to North Hudson's Riverside Drive Lift Station had been reimbursed. The PUC tabled the item based on statements from North Hudson's liaison that she would provide documents to the PUC that discussed this topic years ago and that purportedly showed that the DNR weighed in on this topic and referenced "double billing". The PUC wanted legal counsel to review these documents and determine whether the information presented would change her prior opinion that North Hudson is responsible for reimbursing the City for major repair costs.

On February 10, 2021, North Hudson's liaison provided the documents referenced. I have reviewed those documents on behalf of the PUC and nothing in those documents changes my opinion. Under the agreements between the City and North Hudson:

- North Hudson is responsible for the Riverside Drive Lift Station;
- The cost of **daily** repair, maintenance service, and operation of the Riverside Drive Lift Station is to be borne by the Sewer Utility Fund;
- All **other** costs (i.e., costs that go beyond daily repair, maintenance service, and operation) for the Riverside Drive Lift Station are to be borne by North Hudson;
- Third-party costs to repair or upgrade the Riverside Drive Lift Station are costs that go beyond daily repair, maintenance service, and operation and are to be borne by North Hudson.

Up until December 2016, Hudson and North Hudson applied the agreements between them in the manner outlined above. North Hudson would reimburse Hudson for costs incurred for major repairs of the Riverside Drive Lift Station that went beyond daily operation and maintenance costs. Beginning in December 2016, North Hudson refused to pay these invoices.

My conclusion that North Hudson is responsible for reimbursing the City for third-party work done at the Riverside Drive Lift Station was explained to the North Hudson Village Administrator in a November 12, 2020 letter. North Hudson disagrees with this analysis as indicated in a December 18, 2020 letter from the Village's attorney. I have reviewed this letter and it is unpersuasive. It also inaccurately describes the relevant terms of the 1991 Amendment upon which it relies. The relevant language of the 1991 Amendment provides that:

the Sewer Utility Fund shall continue to provide the same daily repair, maintenance service, and operation of the Riverside Drive Lift Station as it has provided during the term of the contract. The expenses related to the daily repair, maintenance service, and operation of the Riverside Drive Lift Station shall be borne by the Sewer Utility Fund.

The 1991 Amendment does not require **Hudson Utilities** to perform these responsibilities related to the Riverside Drive Lift Station as the December 18<sup>th</sup> letter claims. The 1991 Amendment addresses only the obligation of the **Sewer Utility Fund** to cover a certain category of expenses. It also does not expand this category of expenses beyond "the same daily repair, maintenance service, and operation of the Riverside Drive Lift Station as [the Sewer Utility Fund] has provided during the term of this contract." Expenses that go beyond "the same daily repair, maintenance service, and operation of the Riverside Drive Lift Station" clearly are and remain the responsibility of North Hudson under the original 1979 Agreement.

The references in the December 18<sup>th</sup> letter to other documents are similarly unpersuasive. Nothing in those documents demonstrate that the Sewer Utility Fund was to fund more than daily repair, maintenance service, and operation of the Riverside Drive Lift Station.

The documents provided by North Hudson's liaison on February 10<sup>th</sup> appear to be the documents referred to by North Hudson's attorney in her December 18<sup>th</sup> letter. As indicated above these documents do not change my opinion that North Hudson is responsible for third-party costs for major repairs at the Riverside Drive Lift Station. In

fact, these documents affirm my opinion that the Sewer Utility Fund is to be used to fund daily expenses not third-party major repairs.

I also reviewed the October 8, 1991 letter from the Wisconsin Department of Natural Resources that was provided. This DNR letter explains that North Hudson's residents cannot be charged twice for the same work. If costs are already included in Hudson's sewer rates, those same costs cannot also be recovered from North Hudson directly. I have seen nothing, however, that indicates that Hudson's sewer rates include or have ever included costs for major repairs of the Riverside Drive Lift Station.

Since North Hudson has refused to accept financial responsibility for major repairs to its Riverside Drive Lift Station, the City has examined other methods to recover these costs. Trilogy Consulting's January 21, 2021 Memorandum calculated a surcharge to be imposed on North Hudson residents to pay for these major costs. This surcharge imposed against North Hudson residents appears to be a viable method of cost recovery for third-party costs related to the Riverside Drive Lift Station under Wis. Stat. § 66.0821(4).