

UNOFFICIAL MINUTES OF THE
PUBLIC HEARING
BOARD OF WATER, ELECTRIC,
AND COMMUNICATIONS TRUSTEES
OF THE CITY OF MUSCATINE, IOWA
NOVEMBER 25, 2008

Present: Trustees Ingstad, Heidbreder, Axel and Carlson. Trustee Tubandt was present by phone.

The purpose of the public hearings was to receive any citizen's comments regarding the 2009 Operating Budgets for the Electric, Water and Communications Utilities and comments regarding the 2008 Communications Utility Financing.

The secretary opened the public hearing at 5:26 p.m. to receive any citizens' comments on the 2009 Operating Budgets for the Electric, Water and Communications Utilities. The 2009 Budget Estimate Summary was posted at City Hall, the Public Library and MP&W Administrative offices for citizen's review and information. The Budget Summary was also published in the local newspaper. The Secretary asked if anyone in attendance would like to address the Board regarding the 2009 operating budget or the budget estimate summary. No written or oral comments were received regarding the budget. The Secretary closed the public hearing for the 2009 budget.

At 5:28 p.m. the secretary opened the public hearing for the 2008 Communications Utility Financing. The Secretary asked if anyone in attendance would like to address the Board regarding the Communications Utility financing. No written or oral comments were received regarding this financing.

The hearing was closed.

BOARD OF WATER, ELECTRIC, AND
COMMUNICATIONS TRUSTEES OF
CITY OF MUSCATINE, IOWA



Donald W. Kerker
Board Secretary

OFFICIAL PROCEEDINGS OF THE
BOARD OF WATER, ELECTRIC,
AND COMMUNICATIONS TRUSTEES
OF THE CITY OF MUSCATINE, IOWA
NOVEMBER 25, 2008 – 5:30 P.M.

The Board of Trustees met in regular session at Muscatine Power and Water's Administration/Operations Building, 3205 Cedar Street, Muscatine, Iowa, on Tuesday, November 25, 2008, at 5:30 p.m., CDT.

Chairperson Scott Ingstad called the meeting to order. Members of the Board were present as follows: Trustees Warren Heidbreder, Scott Ingstad, Joan Axel and Gary Carlson. Trustee Doyle Tubandt was present by phone.

Also present were Jay Logel, General Manager of Muscatine Power and Water; Donald W. Kerker, Board Secretary; Charles Potter, KWPC/KWCC Radio Station; Melissa Regennitter, Muscatine Journal; Sal LoBianco, Gary Wieskamp, Erika Cox, Brandy Dulceak, and Brenda Christensen of Muscatine Power and Water. Dan Eitheim, Financial Advisor of Dougherty & Company LLC was present by phone. Mr. Charles Lorensen was also present.

Chairperson Ingstad asked if there was anyone in attendance who wished to make any public comments. Mr. Charles Lorensen expressed concern about the Board of Trustees October regular meeting notice being published incorrectly in the Muscatine Journal, and the meeting correction notice not being easily located. Mr. Lorensen also expressed concern over the challenges he had of dealing with the complexity of connecting to the digital system and the continued irritation he has of dealing with the interpretation of rate changes. Mr. Lorensen also commented that roadwork that had been completed near his residence was not done to satisfaction due to water shut-off valve accesses and sewer manhole covers that were not brought up to final grade. Staff believes this is the responsibility of the city contractor and will work with the city on this matter.

There were no other public comments.

The minutes of the October 30, 2008 regular meeting were presented as previously submitted to all Board members in written form.

Trustee Axel moved, seconded by Trustee Heidbreder, that all minutes be approved and placed on file as submitted. Motion carried. All Trustees present voted aye.

The next agenda item was a recommendation to approve the 2008 Communications Utility Financing. Mr. Kerker reminded the Board that the Communication Utility's need for financing had been discussed during the Ten-Year Financial Projections reviewed with the Board at the July Board meeting and the 2009 Communications Utility Operating Budget presented to the Board in October. Mr. Kerker explained that in connection with the Communications Utility Digital Transition project, certain capital expenditures are necessary with a projected cost of approximately \$5.1 million. The project cost is expected to be financed partially from internally generated funds and the balance, not to exceed \$4.8 million, through local bank financing.

Management and staff have been working with its Financial Advisor and Bond Counsel, Dougherty and Company LLC and Chapman and Cutler LLP, respectively, to draft the documents necessary to complete the bank financing. Board Counsel has also participated, as requested by Bond Counsel and the Staff Attorney.

The Loan Agreement provides for the borrowing of up to \$4.8 million. It allows the Utility to draw down on the loan, as necessary to cover capital expenditures, over a two year period of time. The bank qualified tax-exempt loan will pay interest at the rate of 4.7%. Interest only is paid each January 1 and July 1 through July 1, 2011. Interest and principal repayments would take place beginning on January 1, 2012 and end on January 1, 2016. The Utility has the option to repay the loan early, without penalty. A draft copy of the Loan Agreement, Subordination Agreement and Tax Agreement were provided to the Board with their Board packet. The following resolution was submitted:

RESOLUTION 08-42

WHEREAS, the City of Muscatine, in Muscatine County, Iowa (the "City"), did heretofore, pursuant to an election theretofore held, establish a municipal communications system (the "Communications Utility") in and for the City; and

WHEREAS, the Communications Utility is managed and controlled by the Board of Water, Electric and Communications Trustees of the City of Muscatine Iowa, established and appointed as provided by law; and

WHEREAS, it will be necessary to acquire and install additions and improvements to the municipal communications system, including without limitation upgrades and equipment in connection with the conversion of the cable television system to a digital format; and

WHEREAS, the additions and improvements to the municipal communications system will be financed through the borrowing of not to exceed \$4,800,000 pursuant to the provisions of Sections 384.24A and 384.83 of the Code of Iowa; and

NOW, THEREFOR BE IT RESOLVED that the Board of Water, Electric and Communications Trustees of the City of Muscatine Iowa agrees to enter into a financing commitment not to exceed \$4,800,000.

Trustee Heidbreder moved, seconded by Trustee Axel, that the said resolution should be passed, approved and adopted this 25th day of November 2008. On roll call Trustees Heidbreder, Axel, Tubandt, Carlson and Ingstad voted aye. Voting nay, none.

Board Attorney, Duane Goedken, introduced that several of the Trustees are associated with the banks that are participating as either employees and/or Board members of the banks, and that although they do not have a true conflict of interest since they and their immediate family members do not own 5% or more of ownership interest in the banks or holding companies, they should still recuse themselves from participating in consideration of the loans and abstain from voting on the financing matter.

Mr. Goedken also asked Mr. Eitrheim to explain to the Board how the interest rate was set. Mr. Eitrheim explained that the interest rate, recommended by him and agreed to by management, was based on interest rates reflective of the time period the rate was negotiated. It was similar to interest rates on other recent municipal debt issuances. Mr. Goedken confirmed to the Board that this was a fair and appropriate approach to establishing an interest rate.

The Board investigated and found that notice of the intention of this Board to take action at the time and place of this meeting for the borrowing of not to exceed \$4,800,000 to finance improvements to the municipal communications system had, according to law and as directed by this Board, been duly given by publication on the 14th day of November, 2008, in the *Muscatine Journal*, a legal newspaper published and of general circulation in the City, and that no oral or written objections of any kind had been filed or made to the borrowing of money in such amount for such purpose, and that no one had appeared responsive to said notice to make objection to such action.

Whereupon Trustee Axel announced that (1) she has an interest in the action to be taken by the Board with respect to the Loan Agreement and related documents to be entered into by the City, acting by and through the Board, in connection with such borrowing (the "Loan Documents") solely by reason of her position as a Director of Central State Bank, (2) she, her spouse and her immediate family, collectively, do not own or control, directly or indirectly, five percent or more of the outstanding stock of Central State Bank, and (3) the remuneration of her directorship with Central State Bank will not be directly affected as a result of the Loan Documents and the duties of her directorship with Central State Bank do not directly involve the procurement or preparation of any part of the Loan Documents.

Whereupon Trustee Heidbreder announced that (1) he has an interest in the action to be taken by the Board with respect to the Loan Documents solely by reason of his position as a member of the Board of Central Bancshares, Inc, the holding company associated with Central State Bank, (2) he, his spouse and his immediate family, collectively, do not own or control, directly or indirectly, five percent or more of the outstanding stock of Central State Bank, and (3) the remuneration of his directorship with Central State Bank will not be directly affected as a result of the Loan Documents and the duties of his directorship with Central State Bank do not directly involve the procurement or preparation of any part of the Loan Documents.

Whereupon Trustee Ingstad announced that (1) he has an interest in the action to be taken by the Board with respect to the Loan Documents solely by reason of his employment as President and Chief Executive Officer of First National Bank of Muscatine, Chairman of the Board of First National Bank and its' holding company (2) he, his spouse and his immediate family, collectively, do not own or control, directly or indirectly, five percent or more of the outstanding stock of First National Bank of Muscatine, and (3) the remuneration of his employment with First National Bank of Muscatine will not be directly affected as a result of the Loan Documents and the duties of his employment with First National Bank of Muscatine do not directly involve the procurement or preparation of any part of the Loan Documents.

Whereupon Trustee Carlson introduced and caused to be read Resolution No. 08-37 hereinafter set out entitled, "Resolution authorizing and providing for the execution and delivery of a Loan Agreement between the City of Muscatine, Iowa, acting by and through its Board of Water, Electric and Communications Trustees, as borrower, and Central State Bank, First National Bank of Muscatine and Community Bank, as lenders, and related documents, for the purpose of borrowing funds to defray costs of improvements to the municipal communications system of said City, and providing for the repayment of said loans from the net revenues of the municipal communications system."

RESOLUTION NO. 08-37

RESOLUTION AUTHORIZING AND PROVIDING FOR THE EXECUTION AND DELIVERY OF A LOAN AGREEMENT BETWEEN THE CITY OF MUSCATINE, IOWA, ACTING BY AND THROUGH THE BOARD OF WATER, ELECTRIC AND COMMUNICATIONS TRUSTEES, AS BORROWER, AND CENTRAL STATE BANK, FIRST NATIONAL BANK OF MUSCATINE AND COMMUNITY BANK, AS LENDERS, AND RELATED DOCUMENTS, FOR THE PURPOSE OF BORROWING FUNDS TO DEFRAY COSTS OF IMPROVEMENTS TO THE MUNICIPAL COMMUNICATIONS SYSTEM OF SAID CITY, AND PROVIDING FOR THE REPAYMENT OF SAID LOANS FROM THE NET REVENUES OF THE MUNICIPAL COMMUNICATIONS SYSTEM.

WHEREAS the City of Muscatine, Iowa (the "City") did heretofore, pursuant to an election theretofore held, establish a municipal communications system (the "Communications Utility") in and for the City; and

WHEREAS the Communications Utility is managed and controlled by the Board of Water, Electric and Communications Trustees (the "Board") of the City, established and appointed as provided by law; and

WHEREAS it will be necessary to acquire and install improvements and additions to the Communications Utility, including without limitation upgrades and equipment in connection with the conversion of the cable television system to a digital format; and

WHEREAS it is contemplated that the acquisition and installation of said improvements and additions will be financed through the borrowing of not to exceed \$4,800,000 pursuant to the provisions of Sections 384.24A and 384.83 of the Code of Iowa:

NOW, THEREFORE, Be It Resolved by the Board of Water, Electric and Communications Trustees of the City of Muscatine, Iowa, as follows:

- Section 1. That a Loan Agreement (the "Loan Agreement") between the City, acting by and through the Board, as borrower, and Central State Bank, Muscatine, Iowa, First National Bank of Muscatine, Muscatine, Iowa, and Community Bank, Muscatine, Iowa, as lenders, substantially in the form attached hereto as Exhibit A, be and the same is hereby approved.
- Section 2. That a Tax Agreement (the "Tax Agreement") relating to the loans pursuant to such Loan Agreement, substantially in the form attached hereto as Exhibit B, be and the same is hereby approved.
- Section 3. That the Chairperson and Secretary of this Board be and the same are hereby authorized to execute, attest and deliver the Loan Agreement and the Tax Agreement, substantially in the forms attached hereto, and, together with the General Manager and such other officers and employees of the Communications Utility as may be appropriate, to take all such actions and execute all such other documents, including the Promissory Notes required by the Loan Agreement, as may be advisable or necessary to carry out the intent and purposes of this Resolution.

Section 4. That all orders or resolutions or parts of orders or resolutions in conflict herewith be and the same are hereby repealed.

Section 5. That this Resolution shall become effective immediately upon its passage and approval.

Passed and approved November 25, 2008

Trustee Tubandt moved that said resolution be adopted, seconded by Trustee Carlson, and after due consideration thereof by the Board the Acting Chairperson put the question and, upon the roll being called, the following voted: Aye: Tubandt and Carlson Nay: None

Abstain: Axel, Heidbreder and Ingstad each declined to vote by reason of conflict of interest as previously described

Whereupon the Acting Chairperson declared the motion carried and Resolution No. 08-37 duly adopted.

Trustee Carlson next introduced and caused to be read Resolution No. 08-38 hereinafter set out entitled, "Resolution authorizing and providing for the execution of a Subordination Agreement between the City of Muscatine, Iowa, acting by and through its Board of Water, Electric and Communications Trustees, and Central State Bank, First National Bank of Muscatine and Community Bank."

RESOLUTION NO. 08-38

RESOLUTION AUTHORIZING AND PROVIDING FOR THE EXECUTION AND DELIVERY OF A SUBORDINATION AGREEMENT BETWEEN THE CITY OF MUSCATINE, IOWA, ACTING BY AND THROUGH THE BOARD OF WATER, ELECTRIC AND COMMUNICATIONS TRUSTEES, AND CENTRAL STATE BANK, FIRST NATIONAL BANK OF MUSCATINE AND COMMUNITY BANK.

WHEREAS the City of Muscatine, Iowa (the "City"), did heretofore, pursuant to an election theretofore held, establish a municipal electric light and power plant and system (the "Electric Utility"); and

WHEREAS the Electric Utility is not part of a combined utility system and is managed and controlled by the Board of Water, Electric and Communications Trustees (the "Board") of the City; and

WHEREAS the City did heretofore, pursuant to an election theretofore held, establish a municipal communications system (the "Communications Utility"); and

WHEREAS the Communications Utility is not part of a combined utility system and is managed and controlled by the Board; and

WHEREAS the Electric Utility did heretofore lend \$35,327,000 to the Communications Utility, all of which is currently outstanding ("Outstanding Debt"); and

WHEREAS the Communications Utility is borrowing up to \$4,800,000 (the "Bank Loan") from Central State Bank, Muscatine, Iowa, First National Bank of Muscatine, Muscatine, Iowa, and Community Bank, Muscatine, Iowa (the "Banks") pursuant to a Loan Agreement of even date between the City, acting by and through the Board, and the Banks; and

WHEREAS it will be mutually advantageous to the Electric Utility and the Communications Utility to subordinate the Outstanding Debt to the Bank Loan:

NOW, THEREFORE, BE IT RESOLVED by the Board of Water, Electric and Communications Trustees of the City of Muscatine, Iowa, as follows:

- Section 1. That a Subordination Agreement (the "Subordination Agreement") between the City, acting by and through the Board, and the Banks, substantially in the form attached hereto as Exhibit A, be and the same is hereby approved.
- Section 2. That the Chairperson and Secretary of this Board be and the same are hereby authorized to execute, attest and deliver the Subordination Agreement, substantially in the form attached hereto as Exhibit A.
- Section 3. That all orders or resolutions or parts thereof in conflict herewith be and the same are hereby repealed.
- Section 4. That this Resolution shall become effective immediately upon its passage and approval.

Trustee Tubandt moved that said resolution be adopted, seconded by Trustee Carlson, and after due consideration thereof by the Board, the Acting Chairperson put the question and, upon the roll being called, the following voted: Aye: Tubandt and Carlson Nay: None

Abstain: Axel, Heidbreder and Ingstad each declined to vote by reason of conflict of interest as previously described

Whereupon the Acting Chairperson declared the motion carried and Resolution No. 08-38 duly adopted.

Mr. Logel stated that he would like to take the time to recognize the finance team for all their hard work on structuring this agreement.

Mr. Lorensen and Mr. Eitrheim left the meeting.

Mr. Kerker stated the next item on the agenda had to do with amending the resolutions regarding the debt between the Communications Utility and the Electric Utility. Mr. Kerker explained the initial operation and construction of the Communications Utility and purchase of the Mediacom assets was financed by several loans from the Electric Utility. The loans consolidated into a single loan currently totals \$35,327,000. The interest rate was fixed by the Board at 3.53% in November 2006. The loan agreement calls for repayment of the principal to be established annually by the Board and to be included in the annual operating budget adopted by the Board. During the 2007 audit our auditors, Virchow Krause & Company, raised a question on the intent of the Communications Utility regarding repayment of the loan. At that time, no principal had been repaid but sufficient cash flows were being produced to allow for beginning a repayment plan. However, principal repayment was postponed due to the digital transition project and contemplated external financing.

Mr. Kerker reminded the Board that the Ten-year Financial Projection presented to the Board in July 2008 showed an external borrowing of \$4 million in late 2008 for the digital transition project, with interest only to be paid through July 1, 2011. Interest and

principal repayments would take place beginning on January 1, 2012 and end on January 1, 2016. Interest only would be paid on the \$35,327,000 loan from the Electric Utility, with the first principal payment on January 1, 2016, based on a thirty year amortization schedule. Although there is a one year overlap on principal repayment cash flows are projected to be sufficient to accommodate. The auditors suggested a principal repayment schedule be adopted by the Board to affirm and document the Board's intent to repay the Electric loan. Without addressing this issue there was the possibility the auditors would qualify their opinion on the audit or treat the loan as a transfer of funds (grant). The only modification to the existing loan arrangements would be the establishment of a loan repayment schedule. An amortization schedule was included in the Board packet.

There was discussion on the interest on the loan and what has been paid to date. There was also discussion on the fact that although these resolutions were the intention of the Board at this time, the interest rate can be changed by the Board at any time. Trustee Ingstad pointed out to the Board that this is considered a long-term obligation that is not committed to the 3.53% interest rate indefinitely, the rate has been adjusted previously. The following resolutions were submitted.

RESOLUTION 08-39

AMENDING TERMS OF A LOAN FROM THE ELECTRIC UTILITY TO THE CITY COMMUNICATIONS UTILITY

WHEREAS, the City of Muscatine, Iowa (the "City") has heretofore established a municipal electric light and power plant and system (the "Electric Utility") and the management and control of the Electric Utility is vested in the Board of Water, Electric, and Communications Trustees of the City of Muscatine, Iowa (the "Board"); and,

WHEREAS, the City has established a municipal communications system (the "City Communications Utility") and the management and control of the City Communications Utility is vested in the Board; and,

WHEREAS, the City Communications Utility has previously requested the Electric Utility to lend funds to the City Communications Utility in an aggregate amount not-to-exceed \$35,327,000 for the purpose of financing the initial construction and expansion of the City Communications Utility; and,

WHEREAS, pursuant to such request the amount of \$35,327,000 has been loaned by the Electric Utility to the City Communications Utility for such purpose pursuant to Resolutions No. 98-36, 98-37, 00-71, 00-72, 01-39, 01-40, 02-09, 02-10, 02-63, 02-64, 03-26, 03-27, 04-21, 04-22, 06-72 and 06-73 of this Board; and,

WHEREAS, this Board has determined that the annual principal repayment schedule should be amended;

NOW THEREFORE, BE IT AND IT IS HEREBY RESOLVED BY THE BOARD OF WATER, ELECTRIC, AND COMMUNICATIONS TRUSTEES OF THE CITY OF MUSCATINE, IOWA, AS FOLLOWS:

Section 1. That the annual principal repayments, due each January 1, beginning January 1, 2016, shall be as set forth in attached amortization schedule.

- Section 2. All actions of the officers, agents, and employees of the Board that are in conformity with the purposes and intent of this Resolution, whether taken before or after the adoption hereof, are hereby ratified, confirmed, and adopted.
- Section 3. Management is hereby directed to prepare the necessary instruments to accomplish and document such loan and the terms for the repayment thereof.
- Section 4. This Resolution shall be in full force and effect immediately upon its adoption.
- Section 5. That all orders or resolutions or parts of orders or resolutions in conflict herewith be and the same are hereby repealed.

Trustee Heidbreder moved, seconded by Trustee Axel, that the said resolution should be passed, approved and adopted this 25th day of November 2008. On roll call Trustees Tubandt, Heidbreder, Axel, Carlson, and Ingstad voted aye. Voting nay, none.

RESOLUTION 08-40

ACCEPTING AMENDED TERMS ON A LOAN FROM THE ELECTRIC UTILITY TO THE CITY COMMUNICATIONS UTILITY

WHEREAS, the City of Muscatine, Iowa (the "City") has heretofore established a municipal electric light and power plant and system (the "Electric Utility") and the management and control of the Electric Utility is vested in the Board of Water, Electric, and Communications Trustees of the City of Muscatine, Iowa (the "Board"); and,

WHEREAS, the City has established a municipal communications system (the "City Communications Utility") and the management and control of the City Communications Utility is vested in the Board; and,

WHEREAS, the City Communications Utility has previously requested the Electric Utility to lend funds to the City Communications Utility in an aggregate amount not-to-exceed \$35,327,000 for the purpose of financing the initial construction and expansion of the City Communications Utility; and,

WHEREAS, pursuant to such request the amount of \$35,327,000 has been loaned by the Electric Utility to the City Communications Utility for such purpose pursuant to Resolutions No. 98-36, 98-37, 00-71, 00-72, 01-39, 01-40, 02-09, 02-10, 02-63, 02-64, 03-26, 03-27, 04-21, 04-22, 06-72 and 06-73 of this Board; and,

WHEREAS, this Board has determined that the annual principal repayment schedule should be amended;

NOW THEREFORE, BE IT AND IT IS HEREBY RESOLVED BY THE BOARD OF WATER, ELECTRIC, AND COMMUNICATIONS TRUSTEES OF THE CITY OF MUSCATINE, IOWA, AS FOLLOWS:

- Section 1. That the amendment to the loan to the City Communications Utility by the Electric Utility in the aggregate amount of \$35,327,000, as referred to in the preamble hereof, is hereby accepted by the City

Communications Utility on the terms and conditions set forth in Resolution No. 08-39 of the Board.

- Section 2. All actions of the officers, agents, and employees of the Board that are in conformity with the purposes and intent of this Resolution, whether taken before or after the adoption hereof, are hereby ratified, confirmed and adopted.
- Section 3. This Resolution shall be in full force and effect immediately upon its adoption.
- Section 4. That all orders or resolutions or parts of orders or resolutions in conflict herewith be and the same are hereby repealed.

Trustee Axel moved, seconded by Trustee Carlson, that the said resolution should be passed, approved and adopted this 25th day of November 2008. On roll call Trustees Tubandt, Heidbreder, Axel, Carlson, and Ingstad voted aye. Voting nay, none.

Trustee Tubandt left the meeting.

The list of October expenditures and transactions was presented as previously submitted in written form to all Board members. Mr. Logel pointed out that there were two line item purchases that had to do with power purchases during the unplanned outages of Units 8 & 9. This cost also included a commission payment to Rainbow Energy Marketing. Mr. Logel also stated that there were several payments to GE Energy that included repairs and engineering to Unit #9 boiler. There was also a payment listed to Babcock & Wilcox for the last milestone payment for the completed project of the Over Fire Air System. There was discussion about what will be done with the system now. It was noted that the D.C. Circuit Court vacated the CAIR rules without issuing a mandate to EPA for the vacature. The EPA and others have appealed the decision. Until this is sorted out, the IDNR considers the CAIR rules to be in effect. Conversations with IDNR have been that we must still run the equipment in order to meet the new permit requirements that have been set for the plant.

Trustee Carlson asked if the Account Payable Expenditures could be sorted by vendor instead of date. Mr. Kerker said that the date format was set up some time ago, but an additional format could also be done for the Board to review. Mr. Kerker will provide a draft to the Board in a new format with breakdown by vendor.

After review, Trustee Heidbreder moved, seconded by Trustee Axel to ratify payments of \$7,290,659.16 for the Electric Utility, \$401,147.86 for the Water Utility, and \$817,914.13 for the Communications Utility for a total amount of \$8,509,721.15. Motion passed. All Trustees present voted aye.

Mr. Kerker introduced the Water Utility Reimbursement Resolution as the next item on the agenda. The Ten-Year Water Utility Financial Projection and 2009 Water Operating Budget presented to the Board in July and October, respectively, shows tax-exempt financing of \$2 million in 2009. Capital projects approximating \$3 million are included in the projection and budget for 2009. The three largest projects are a water main project for \$1.2 million, re-drilling of two wells for \$541,000 and land acquisition of \$500,000. Acquisition of the land is now expected to take place in December 2008. In order to include the land as part of the 2009 tax-exempt financing, adoption of a Reimbursement Resolution by the Board is necessary. To give the Board maximum

flexibility in sizing the 2009 debt issue, staff is recommending adoption of the Water Utility Reimbursement Resolution. The Resolution was drafted by our bond counsel, Chapman and Cutler, and reviewed by MPW's Staff Attorney. The Resolution states that the Board reasonably expects to reimburse itself or pay for capital expenditures from the proceeds of a future debt issue. The Board may then issue tax-exempt debt for capital projects paid within 60 days prior (September 26, 2008) to the passage of the resolution or paid after passage of the Resolution (November 25, 2008).

The IRS requires that funds, obtained through the issuance of tax-exempt debt, be expended within three years. The Reimbursement Resolution gives the Board the flexibility to size the issue to include those projects that could be completed within three years of the debt issuance, including projects paid for after September 26, 2008. The Reimbursement Resolution does not obligate the Board to include all capital projects paid for after September 26, 2008 and prior to the date of the debt issue, but it does give the Board the ability to include them in the debt issue, if they otherwise qualify and the economics warrant. The following resolution was submitted.

RESOLUTION 08-41

Whereas the City of Muscatine, Iowa (the "Issuer"), acting by and through its Board of Water, Electric and Communications Trustees (the "Board"), now desires to finance improvements and additions to the municipal waterworks plant and system, including without limitation the acquisition of land for future wells, a major water main extension project and other capital projects related to the municipal waterworks plant and system (the "Projects"); and

WHEREAS all or a portion of the expenditures relating to such Projects (the "Expenditures") (i) have been paid within the sixty days prior to the passage of this Resolution or (ii) will be paid on or after the passage of this Resolution; and

WHEREAS the Issuer reasonably expects to reimburse itself or pay for the Expenditures with the proceeds of an obligation;

NOW, THEREFORE, Be It and It is Hereby Resolved by the Board of Water, Electric and Communications Trustees of the City of Muscatine, Iowa, as follows:

- Section 1. The Issuer reasonably expects to reimburse or pay the Expenditures with proceeds of an obligation.
- Section 2. The maximum principal amount of the obligations expected to be issued for the Projects is \$3,000,000.
- Section 3. All actions of the officers, agents and employees of the Issuer or the Board that are in conformity with the purposes and intent of this Resolution, whether taken before or after the adoption hereof, are hereby ratified, confirmed and adopted.
- Section 4. This Resolution shall be in full force and effect immediately upon its adoption.

Trustee Heidbreder moved, seconded by Trustee Axel, that the said resolution should be passed, approved and adopted this 25th day of November 2008. On roll call

Trustees Heidbreder, Axel, Carlson, and Ingstad voted aye. Voting nay, none. Trustee Tubandt was absent.

Mr. Logel reminded the Board that it was time again for the Strategic Plan Review and Update. As a part of an ongoing effort, to make sure we are concentrating our limited resources on the right issues, the Strategic Plan was reviewed. This review included the results of the last residential customer satisfaction survey, the results of an internal employee survey, and the feedback that was received from the Board of Trustees. Issues that are current and important to meeting our mission of serving the people of Muscatine with high quality, low cost utility services were discussed. This resulted in an update of the Strategic Plan, which was presented to the Board for discussion and final input. Critical Issues identified will be assigned to teams for the further development of tactics to address these issues and to report back progress periodically throughout the year to the Board.

Trustee Carlson moved, seconded by Trustee Heidbreder, to approve the 2009 Strategic Plan. Motion passed. All Trustees present voted aye.

Mr. Logel stated the next agenda item was approval of the 2009 Operating Budget. Mr. Logel wanted to assure the Board that as their approval is requested for the 2009 Operating Budgets, that all MPW Staff recognizes the affects of the current general economic conditions and its impact on MP&W. September, October, and November to date financial results for the Electric Utility reflect a reduction from budget of wholesale energy sales, both in quantity and price; staff has considered the reduction in wholesale energy sales in the 2009 Operating Budget and will closely monitor the situation going forward. Retail demand has not been greatly affected and discussions with our major customers have not revealed any large, planned reductions in electric demand. The Utility is also putting in place a program to reprioritize our planned expenditures to identify those that can be put off or cancelled without jeopardizing reliability if our financial performance requires such actions. Mr. Kerker stated that projects have already been deferred and wholesale sales have been adjusted to reflect the current situation. Trustee Carlson asked if we have approached our suppliers about not accepting price increases and/or price cuts. Mr. Kerker will approach the procurement group on this and respond to the Board.

Mr. Logel said that the addition and replacement of employees will now require a review by the general manager and his staff before approval is given, keeping in mind that succession planning is currently an issue that needs immediate consideration. There was discussion between Staff and the Board that we are in unique economic times and the Board feels that succession planning review and structural review should take place. Board consensus is that all spending should be done with caution and extra review.

Mr. Logel continued that the annual Operating Budgets for the Electric, Water, and Communications Utilities were presented in written form for review and information at the October 30, 2008 Board of Trustees. There have been no changes or revisions to the Operating Budgets since the October meeting.

Trustee Carlson moved, seconded by Trustee Axel, to approve the 2008 Operating Budgets for the Electric, Water and Communications Utilities. Motion passed. All Trustees present voted aye.

Mr. Logel stated that the next agenda item also pertained to the 2009 Operating Budgets. Muscatine Power and Water is required by the Iowa Code to submit a summary

of the Operating Budgets to the City Clerk who then forwards the budget summary to Muscatine County for submittal to the State of Iowa Auditor. The revised budget certificate summary was presented as previously submitted in written form to all Board members. The budget summary was published on November 14, 2008 in the Muscatine Journal. Copies of the budget summary along with additional data were available to the citizens at Muscatine City Hall, Musser Public Library, and at MP&W's Administrative/Operations Office. The budget hearing was conducted earlier in the evening. The following resolution was submitted.

RESOLUTION 08-43

BE IT RESOLVED, by the Board of Water, Electric, and Communications Trustees of the City of Muscatine, Iowa, that the annual budget for calendar year 2009, as set forth in Muscatine Power and Water's Utility's Budget Estimate Summary showing the revenue and expenditure estimates for said calendar year is adopted, and the Secretary is directed to file the same with the Clerk of the City of Muscatine, Iowa.

Trustee Axel moved, seconded by Trustee Heidbreder, that the said resolution should be passed, approved, and adopted on this 25th day of November 2008. On roll call Trustees Heidbreder, Axel, Carlson and Ingstad voted aye. Voting nay, none. Trustee Tubandt was absent.

The next meeting was a recommendation to set dates for the receipt of bids and to conduct a public hearing. Mr. Logel reviewed the previously submitted memorandum to all Board members explaining that a project has been approved for a total expenditure of \$1,176,000 for the construction of 5,650 feet of 24" ductile iron water main from MP&W's West Hill Pumping Station located at 210 Kindler Avenue to east of the intersection of Cedar Street and Clarabeck Lane. In addition, the project includes construction of a new pump header and 20" building wall outlet, furnishing and installing a 20" magnetic meter, installation of a 8' X 8' X 8' metering manhole, and construction of an additional 35' of 20" ductile iron water main with associated fittings, hydrants, valves, and surface restoration. The procurement group would like to provide more notice than normal, due to the holidays, to assure positive bidding results. It was staff's recommendation that bids are received January 13, 2009 at 3:00 p.m. and a public hearing be conducted at 5:28 p.m. on January 27, 2009. After discussion and review of the project, the following resolution was submitted.

RESOLUTION 08-44

WHEREAS, plans and specifications have been prepared for the West Hill 24" Water Main and Pump Header Modifications Project; and,

WHEREAS, said proposed plans and specifications and proposed form of contract were now on file with the Secretary of the Board and the Board finds the same were in substantial conformity with the requirements necessary to carry out said plans; now therefore,

BE IT RESOLVED, by the Board of Water, Electric, and Communications Trustees of the City of Muscatine, Iowa, that the plans and specifications in the proposed

form for the West Hill 24" Water Main and Pump Header Modifications Project were tentatively approved; and,

BE IT FURTHER RESOLVED, that the date of January 13, 2009, at 3:00 p.m., CST, was hereby set for receipt of bids on said project at which time the Board's duly appointed representative was hereby authorized, empowered, and directed to receive, open and read aloud all sealed bids, and receive and record all oral bids, and keep a written record of said proceedings and notice to bidders be published not less than twenty (20) days nor more than forty-five (45) days prior to said date for receipt of bids all as required by the Code of Iowa; and,

BE IT FURTHER RESOLVED, that the hearing on said plans and specifications and proposed form of contract as provided by statute, be held in the office of the Board of Water, Electric, and Communications Trustees of the City of Muscatine, Iowa, on January 27, 2009, at 5:28 p.m., CST, and notice to bidders be published not less than four (4) days nor more than twenty (20) days prior to said hearing all as required by the Code of Iowa.

Trustee Heidbreder moved, seconded by Trustee Axel, that the said resolution should be passed, approved, and adopted on this 25th day of November 2008. Trustees Heidbreder, Axel, Carlson and Ingstad voted aye. Voting nay, none. Trustee Tubandt was absent.

Trustee Heidbreder left the meeting.

Mr. Logel introduced Mr. Danz, Director Utility Operations, to give some background and additional upcoming actions pertaining to the Public Utility Regulatory Policies Act (PURPA). Mr. Danz reminded the Board that the Energy Independence & Security Act of 2007 was signed into law on December 19, 2007. Among the many provisions of this federal legislation are four new standards added to PURPA that Muscatine Power and Water is obligated to consider. These standards apply only to utilities with total annual retail sales greater than 500,000,000 kilowatt-hours.

The four standards contain a "requirement for consideration of adoption" to begin by December 19, 2008. These standards are Integrated Resource Planning, Rate Design Modifications to Promote Energy Efficiency Investments, Consideration of Smart Grid Investments, and Smart Grid Information. The Board of Trustees may decline to adopt or may implement the standards, but must state in writing the reason for its decision prior to December 19, 2009. Mr. Danz stated that staff's recommended approach to considering the four standards will be to solicit both written and oral comments from the community for the Board of Trustees to consider before formulating the Utility's position on adoption or declining implementation of the standards. Staff will submit a recommended position for these four standards to the Board of Trustees for consideration.

In order for this to happen, staff needs the following approval from the Board:

- Authorize staff to receive written comments on the Public Utility Regulatory Policies Act's Integrated Resource Planning, Rate Design Modifications to Promote Energy Efficiency Investments, Consideration of Smart Grid Investments, and Smart Grid Information standards on or before the close of business on February 2, 2009.

- Set the date and time of 1:00 P.M. February 3, 2009 for a public hearing to receive and place into the record written comments received by the close of business on February 2, 2009, and to receive oral comments regarding the Public Utility Regulatory Policies Act's Integrated Resource Planning, Rate Design Modifications to Promote Energy Efficiency Investments, Consideration of Smart Grid Investments, and Smart Grid Information standards. Oral comments shall be received and transcribed by a court reporter and become part of the record.
- Require two publications of notice (December 9, 2008 and January 6, 2009) in the local newspaper of the Utility's intent to receive written comments and to conduct a public hearing as stated above.
- Appoint Mr. Mark Nelson of MP&W's staff to conduct the public hearing on the Board's behalf.

Staff will review all written and oral comments received and prepare a recommendation for the Board prior to the December 19, 2009 deadline. A recommendation will be made before this time to conduct a second public hearing at a regular Board meeting to adopt or decline the referenced standards.

RESOLUTION 08-45

WHEREAS, it appears in a written report from the Board's staff that a public hearing for the Public Utility Regulatory Policy Act (PURPA) standards regarding Integrated Resource Planning, Rate Design Modifications to Promote Energy Efficiency Investments, Consideration of Smart Grid Investments, and Smart Grid Information should be conducted; now therefore,

BE IT RESOLVED, by the Board of Water, Electric, and Communications Trustees of the City of Muscatine, Iowa that a public hearing be conducted on the said PURPA standards in the office of the Board of Trustees on February 3, 2009 at 1:00 p.m. CDT and notice to the citizens be published not less than four (4) days nor more than twenty (20) days prior to said hearing and that the said standards were available for review at the office of the Board of Trustees, 3205 Cedar St., Muscatine, Iowa.

BE IT ALSO RESOLVED, by the Board of Water, Electric, and Communications Trustees of the City of Muscatine, Iowa that written comments will need to be received and placed into the written comments by the close of business on February 2, 2009.

Trustee Axel moved, seconded by Trustee Carlson, that the said resolution should be passed, approved, and adopted this 25th day of November 2008. On roll call Trustees Axel, Carlson and Ingstad voted aye. Voting nay, none. Trustees Tubandt and Heidbreder were absent.

Mr. Logel advised that it was management's recommendation that the price for MPW Cable expanded basic services price be increased effective January 12, 2009, and asked Mr. Gary Wieskamp, Director of Utility Relations, to review the recommendation.

Mr. Wieskamp reviewed the previously submitted memorandum to all Board members. Pursuant to review of the 2009 Communications Utility Financial Projection it is

recommended that the price for cable television service be adjusted effective January 12, 2009. The requirement for an increase is primarily due to continued increases in programming costs, debt service requirements and other inflationary factors. This would be the first increase for MPW Cable since September of 2007, at which time a \$2.90 monthly increase was implemented for Basic and Expanded Basic Service. Programming costs alone are budgeted to increase 4.2% per subscriber for 2009.

Mr. Wieskamp continued that MPW Cable is moving to an all digital service during 2009. This is in response to customer's wanting more High Definition (HD) programming, HD On Demand, and faster Internet speeds. Transitioning to all digital will provide additional bandwidth, which will allow us to provide these enhanced services. It will also allow us to remain competitive with DirecTV and Dish Network and bring the highest quality of television entertainment available, to our customers. Moving to an all digital format changes how our customers will watch their T.V. programming. On each T.V., any service received over and above the Basic service package will require our customers to rent a MP&W digital box at a price of \$4.00 per box per month, or they can purchase their own digital box, or purchase a T.V. with two way cable card compatibility. Our price for the two-way cable card is \$1.00/month. The features and benefits of digital service are many, and in order to receive them, additional equipment in the home has become a necessary part of that evolution.

The world of digital is indeed changing our lives everyday. In order for our product and service to be recognized, we have recently changed our name from MPW Cable to MPW Digital TV. This change will enable us to be recognized as having the highest quality and level of service available.

Staff is recommending the price for our new Basic service tier be increased \$1.00 per month from our current price of \$17.50 to a total of \$18.50 per month. Two channels, Univision and CNN Headline News will no longer be available on this tier but are available to our customer on the next level of service. Effective January 12, this Basic tier will consist of 22 channels and will not require the customer to have a digital box at this time.

Our current Expanded Basic tier, which will require a digital box, will be renamed "Select" and will include 6 new digital channels in addition to the existing 70 channels currently received. It is our recommendation to adjust the current price for "Select" service from \$49.89 to \$52.79. Most recently, we also modified our "Select" tier to allow for customers who own a High Definition T.V. to receive eleven HD channels without moving above the "Select" tier to a "Preferred" tier. This high definition additional service is now available to them for the advanced box rental price of \$10.99 a month. Mr. Wieskamp reviewed the previously submitted attachments comparing MPW Digital TV monthly prices to other cable and satellite providers' prices, the features and benefits of digital, the new channel lineups for the tiers and the history of MPW Cable price adjustments.

There is no price adjustment for Machlink Internet services.

Additionally, it was recommended that the General Manager continue to be responsible for establishing price tiers, promotional packages, premium services, and discounts to assure the financial viability of the Communications Utility. After further review, the following resolution was submitted.

RESOLUTION 08-46

BE IT RESOLVED, by the Board of Water, Electric and Communications Trustees of the City of Muscatine, Iowa, that effective January 12, 2009 the Communications Utility's price structure for MPW Basic service shall be \$18.50 per month and MPW Select service shall be \$52.79 per month; and,

BE IT FURTHER RESOLVED, that the General Manager of Muscatine Power and Water shall be responsible for establishing price tiers, promotional packages, premium services, and discounts for all Muscatine Power and Water's Communications services as deemed necessary to ensure the financial viability of the Communications Utility.

Trustee Carlson moved, seconded by Trustee Axel, that the said resolution should be passed, approved, and adopted this 25th day of November 2008. On roll call Trustees Axel, Carlson and Ingstad voted aye. Voting nay, none. Trustees Tubandt and Heidbreder were absent.

Mr. Logel asked Mr. Danz to give the Board an update on MPW joining the Midwest Independent System Operators (MISO) energy market. Mr. Danz reminded the Board that they had seen numerous presentations over the years concerning the Utility's ability to purchase and sell wholesale energy and the many obstacles that have been encountered in the process. Access to transmission is vitally important when purchasing replacement energy due to outages of our own generation equipment; equally important is our ability to move excess energy out into the wholesale energy market. At times, in recent years, reliability has been in jeopardy when this needed transmission was marginally available. Membership in MISO has been considered at several different times; always concluding that it was better to remain in the Mid-Continent Area Power Pool (MAPP) system. Conditions have continued to evolve over the years to a point where we are now recommending joining the MISO Energy Market.

Membership in MAPP has served the Utility well over the years for transmission planning, transmission operations, reserve sharing, and energy marketing. Energy marketing, once done entirely in-house, is now outsourced to two energy marketing partners; Omaha Public Power Marketing, and Rainbow Energy Marketing utilizing MAPP's regional transmission tariff and MISO energy markets. MISO's primary objective when it was first created was to ensure transmission was available to all on a first come first served basis and not being manipulated by its owners. Later MISO entered into energy marketing and has since continued to look for ways to expand its marketing footprint. FERC recently conditionally approved MISO's modified Transmission and Energy Marketing Tariff requests, which will allow others to join the energy market without turning over planning and operation of an entity's transmission system to MISO. As a result, MidAmerican Energy Company (MEC) has announced its intent to join the MISO Energy Market. However, five Nebraska utilities originally expected to also join MISO have announced they are leaving MAPP to join the Southwest Power Pool who operates a less mature, day one energy market. This option is not available to MPW due to the lack of needed electrical interconnections, unless MEC were to also join the Southwest Power Pool. The loss of MEC and the Nebraska utilities from the MAPP system will greatly hamper the buying and selling of energy within the MAPP organization.

Based on an assessment completed by New Energy Associates for Muscatine Power and Water, the Utility could expect to pay the same, or even slightly lower fees, to

participate in the MISO Energy Market compared to current participation in MAPP. In addition, margins are expected to improve as a result of being able to sell larger percentages of available excess energy into the MISO market and eliminating the paying of sales commission to outsourced energy marketers. The MISO Energy Market requires that all energy needed to meet our native system customer's needs be purchased from the Market, thus eliminating our dependence on our own generation and ensuring a reliable supply. Native customer's cost of energy will be insulated from price variations in the MISO Energy Market by ensuring generation units are operated at a level that, at a minimum, matches the native system demand. MAPP is expected to continue providing transmission planning services to its members.

FERC held a technical conference on MISO's Market Coordination Service Tariff Modification Request on November 12, 2008. Based on the Nebraska entities' decision to join the Southwest Power Pool rather than MISO, and some concerns raised by existing MISO transmission owners that the approval of MISO's request might cause existing transmission owners to leave MISO and rejoin under the more favorably modified membership, make it unclear whether FERC will give the final approval or not. However, given the timing of Board meetings, Staff still recommends that the Board authorize the General Manager to enter into the required contracts with MISO to provide Reliability Coordination Services, Interconnected Operations and Congestion Management Services, and Market Coordination Service if approved by FERC. These contracts are anticipated being signed at various times between now and the end of the first quarter of 2009. The anticipated start date for entering the MISO market if approved by FERC is September 1, 2009. The contract's initial durations are three years, with one year's advanced notice of withdrawal thereafter. The Utility has been working with the law firm of Van Ness Feldman in Washington D.C. to review these contracts as they pertain to public utility law. Public utilities such as MPW have special termination provisions should MISO evolve in such a way as to cause the public utility to be in violation of state laws. Should MPW decide to withdraw at a later date, the cost of withdrawal is unknown at this time, but it would be subject to the unamortized portion of improvements made during membership remaining at the time of termination. Staff requests that Board authorize the General Manager to sign necessary contracts to facilitate Congestion Management, Reliability Coordination, Market Coordination Services and associated documents for the purpose of participation in the MISO Energy Market.

Trustee Axel moved, seconded by Trustee Carlson, to approve the Board to authorize the General Manager to sign necessary contracts to facilitate Congestion Management, Reliability Coordination, Market Coordination Services and associated documents for the purpose of participation in the MISO Energy Market. Motion passed. All Trustees present voted aye.

Mr. Logel stated that as previously discussed, Muscatine Power and Water is experiencing the effects of the economic crisis that is ongoing internationally. It is in that light that we have taken steps to prioritize our work and our expenditures. This effort is being undertaken with both his and Sal LoBianco's full support, as the transition of the General Manager position takes place. Of course, we must maintain reliable utility services in order to help our consumer/owners during this period. We will continue to deliver water, electricity and communication services of the highest quality at the lowest cost possible. Mr. Logel stated that this concluded his report unless there were questions from the Board.

The November financial operating statements and balance sheets for the Electric, Water, and Communications Utilities were presented to the Board of Trustees as previously submitted in written form to all Board members. Mr. Logel asked Mr. Kerker to present the financial highlights.

Mr. Kerker advised that all three utilities were doing well compared to budget. The Electric Utility experienced wholesale sales through October with a 10.6% higher average sales price, which was somewhat offset by native system sales being lower than expected and on the expense side because a greater amount of coal was burned at a higher average cost, along with higher than budgeted coal handling equipment diesel fuel costs and higher purchase power costs. The Water Utility Sales were lower due to lower consumption by contract, residential and commercial customers, resulting in \$87,395 lower revenue. The Communications Utility cable revenue was higher than anticipated due to more HDTV subscribers, along with greater buys in pay-per-view and VOD, and ad insertion revenues being higher than budgeted, which was somewhat offset by lower digital converter box fee revenue than budgeted. There was additional discussion on how Utility investments are secured.

Trustee Axel moved, seconded by Trustee Carlson, to receive and place on file the October financial operating statements and balance sheets for all Utilities. Motion carried. All Trustees present voted aye.

The monthly Competitive Quotes for Public Improvement Report was presented as previously submitted to all Board members. There were no competitive quotes awarded during October. The report was received and placed on file.

The departmental reports were presented as previously submitted to all Board members in written form.

Trustee Carlson moved, seconded by Trustee Axel, to receive and place on file the October departmental reports. Motion carried. All Trustees present voted aye.

Trustee Axel moved, seconded by Trustee Carlson that the meeting be adjourned. The meeting stood adjourned at 7:25 p.m.

BOARD OF WATER, ELECTRIC,
AND COMMUNICATIONS TRUSTEES
OF THE CITY OF MUSCATINE, IOWA



Donald W. Kerker
Board Secretary