

LEBANON UTILITY SERVICE BOARD

Lebanon, Indiana

November 4, 2024

Council Chambers

5:00 P.M.

Board:

Neil Taylor, Chairman
Bill Stoner, Vice Chairman
Tim Hudson, Secretary
Aaron Smith, Member
Anne Patterson, Member (Absent)

Staff:

Ed Basquill, General Manager
Jeff Jacob, Legal Counsel
Jeff Greeno, Electric Ops Manager
Sandra Morgan, CFO
Ryan Ottinger, W & WW Ops Manager
Danielle Butts, Executive Assistant

Guests:

Scott Miller, Bakertilly
John Lightner, BF&S
Mark Chmeliwskyj, BF&S
Cameron Wright
John Brand, BF&S

Public:

Britt Reese
Brian Daggy
Tom Whitsett
Jeremy Grant
Colin Dale
Bryce Gustafson
Eric LaRue
Tim Schrock

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1. Chairman, Neil Taylor called the November 4, 2024, meeting of the Lebanon Utility Service Board to order at 5:00 P.M.
 2. Pledge of Allegiance to the American Flag was observed.
 3. Jeff Jacob, Legal Counsel explained the rules and agenda of the Public Hearing. Rules included, all public comments be made at the lectern, each person should state their name and address, and that each person should have a reasonable public comment period rather than establishing a hard time limit. As well as adopting a hard stop time of 6:45pm. Vice Chairman, Bill Stoner made a motion to adopt these rules. Secretary Hudson seconded the motion. Motion carried.
 4. John Lightner, BF&S explained the Preliminary Engineering Report – Wholesale Water Supply. No questions from the Board were received.
 5. Chairman Taylor opened the floor for public comment.
Tim Schrock, 825 Millerwood Drive, Lebanon, Indiana, asked what this would do to the water rates.

Britt Reese, In May of 2024 the City of Lebanon put a hold on new development due to over promising water in conjunction with poor planning specially related to the water needs of Eli Lily and Company. Since the Indiana Economic Development Corporations announced LEAP residents in the region have brought up concerns regarding water resourcing at multiple Lebanon City Council & other local government meetings. However, Mayor Matt Gentry & the Lebanon City Council continued to push through developments without taking into consideration broader impacts or fully investing the items that they were approving. This over promising of water has resulted in a \$25 million lawsuit against the City of Lebanon by Reality Link LLC. The Lebanon Utility Service Board is now bringing forth a proposed wholesale water supply program to apply for a drinking water state revolving fund loan from the IFA. The proposed project does no fulfill the intended use of DWSRF. Overview of eligibility of DWSRF was created as part of the 1996 Amendment to the Safe Water drinking act and is structured as a federal state partnership. There are rules set in place for eligibility and ineligible

projects at both the federal and the state level. All states are required to give priority to projects that (1) address the most serious risks to human health (2) ensure compliance with requirements of the Safe Drinking Water Act and (3) assist systems most in need on a per household basis according to the State affordability criteria. The federal requirements further state that DWSRF is meant to serve the public health of the existing population. Congress specifically directed in SWDA that the DWSRF program avoids the use of funds to finance the expansion of any public water in anticipation of future population growth. Key focus areas of the program include projects like lead pipe removal as emphasized by the implementing lead service line replacement projects funded by the Drinking Water State Revolving Fund which is an EPA memorandum from May of 2024. The State of Indiana further states that projects solely for the purpose of economic development are not eligible for this program. The total for all three phases of this project is estimated to be a very large number. As a large project, eligibility should not be taken lightly. Section 2 of the PER describes the utility need, and the true intentions became clearer, IEDC, LEAP & Eli Lily Company. It further goes on to call out commercial development, industrial development, the Hinkey Waterford Development and future water requirements. So, by both federal and state criteria this project isn't eligible so when we look at the federal criteria avoiding the use for expanding water for population growth. This project is exclusively focused on future growth. The City of Lebanon has over promised water and now has that pending lawsuit. From a state standpoint projects fully for the purpose of economic development are not eligible for the program. The project clearly states that the needs are due to IEDC, LEAP, Eli Lily and other commercial/industrial development. So federal definition of priority projects, the project does not address the most serious risks to human health, it doesn't ensure compliance with requirements of the Safe Drinking Water Act or does it assist a disadvantaged community. So, this project should not be considered for a DWSRF, funding this project takes away from communities who truly need these loans.

Brian Daggy, 2005 W. 250 N. Lebanon, Indiana, stated that he echoes and agrees with Britt Reese's comments and concerns. He also commented that with the projected lines being brought up from Indianapolis water, Citizens water from the south and east. When do you anticipate negotiations to state for right of way? And failing that with private landowners, do you anticipate or certainly intend to leave and reserve the possibility of using eminent domain to gain those right of ways? He would like to ensure the landowners are properly compensated for not only using the use of the ground but also possible drainage issues that are caused when those pipelines come through.

Tom Whitsett, 2215 Travis Dr, Lebanon Indiana, stated that he owns a lot roughly 3 spaces down from his home on Travis Dr. He has owned this property for over 10 years. Tom stated in the first part of this year they hired an architect to draw up some housing plans because his wife and he decided it was time to move to a single-story house. Tom continued that he read in the paper when they were about to submit their plans in May that the City was not issuing any more building permits. Which he believed when he read it that it could not apply to him, who owned this lot and paid taxes to the city for several years and certainly for single buildings in the City of Lebanon. Tom requested the Lebanon Utility Service Board to answer how in the world did authorize 100% of all the available water hookups to major development and ignore the fact that there may be lots within the city limits who wanted to build? Tom stated that not only have they denied the opportunity to him, but he is also sure that they have denied that opportunity to many others. Also rendered the owners of lots, building lots virtually worthless, until such a time as water is available. He stated that he has read estimates from 24-45 months until water is available. Tom asked how this happened and was it intentional or did they simply not consider the fact that there are other lots within the city who might want to build. Tom also asked when the Board could give him a realistic date for when lots within the City of Lebanon might be able to get hook up.

Tim Schrock, 825 Millerwood Drive, Lebanon, Indiana, returned to the lectern to ask when the building permits can be approved again.

6. Jeff Jacob, Legal Counsel, responded to Mr. Schrock's first question regarding rates. Jeff stated the Board has recommended to the City Council the creation of two rate districts. One being the Civil Rate district, which he will refer to a "non-LEAP rate payers" within the city. The Board has also recommended the approval of the second district, the LEAP district, so the infrastructure anticipated within the PER would be funded by users exclusively within the LEAP district itself, as well as other sources through the State and IEDC. We would anticipate and this board has worked very hard to isolate non-LEAP rate payers and property owners out of that LEAP district and to isolate any rate impact that that district would have on the non-LEAP users of the system. That is not, however, as John may note, there is a significant supply of water anticipated in the project that would come into the city not just within the LEAP district as well as infrastructure from a redundancy standpoint and general improvements that would aid the non-LEAP portion of the city as well. Member Smith stated that the existing rate payers within the city limits, their rates are not expected to change because of this PER.

John Lightner, Butler Fairman & Seufert, in addressing Brian Daggy's question regarding right of ways. John stated that the land acquisition process will start soon and that they are still in the preliminary design phase working through the preliminary engineering report. Also, they are working further on those routes and trying to determine exactly which side of road is best, avoiding septic fields or major impacts on the community. He stated this process will begin in the near future and those property owners that are impacted will be contacted. Jeff Jacob, Legal Counsel stated the practice of this Board that eminent domain is a last resort or last measure. The utility is afforded that authority and have usually partnered with the City Council when that has been necessary in the few times that it has been. They would go through the normal condemnation process where there be appraisals and offers made to purchase the property, in advance of taking any action like that. That would include impact on the property, drainage issues would be taken into consideration and the like. John Lightner stated that it would be anticipated along the transmission lines those are within easements will likely want to purchase property for the connection points and storage tanks to sit on but the transmission lines themselves will lie within an easement. Ed Basquill, General Manager stated that this map is still preliminary and not concrete.

John Lightner, BF&S, in addressing Britt Reese's comments stated that they had the same questions and pose those to IFA. Jim McGoff with IFA provided us with a statement via email that John read. The SRF program is not permitted to finance projects in anticipation of future growth. The SRF would not be permitted to finance a project in anticipation or to promote future growth which would be prior to any planning zoning plat development etc. In this instance a substantial amount of planning and official action has taken place including development of a PUD that includes mixed use, meaning it's not all industrial and the need is already created as construction is underway. In addition 20% of need is for current and future needs of Lebanon's non-LEAP areas. The IFA does not believe this project is solely for the purpose of economic development.

Jeff Jacob, Legal Counsel, in addressing Tom Whitsett's comments recommended that Mr. Whitsett appear at any other utility board meeting as his comments are outside of the scope of tonight PER public hearing. Jeff and any other Board member would be happy to discuss this with him in another forum. Member Smith stated that the next Board meeting is Wednesday November 6, 2024 at 5pm.

John Lightner stated in response to Mr. Schrock's second question regarding timing. John stated that contemplating the PER as we went over would be the first 2 MGD of water would be available in Quarter One of 2027. John also stated there could be potentially opportunities that pre-allocation could exist if we get far enough in planning and comfort level of knowing. He stated the last thing we want to do is actually hit that 4.6 MGD and cause existing customer issues, and really they do not want to be at the 90% that actual number. He stated there is more discussion and designing to be had on that exact timing but the most conservative estimate would be Quarter One of 2027.

7. John Lightner stated that the next steps. The PER will remain available for public comment for the next 5 calendar days and written comment can still be provided for the next 5 days as well. We will takes all those comments and responses to send to SRF. If the public has submitted their emails, John stated he plans on copying them on the response to the IFA so that they don't have to go searching for it.

8. Secretary Hudson made a motion to close the public hearing portion. Vice Chairman Stoner seconded the motion. Motion carried.

9. The next Utility Board meeting will meet as scheduled on Wednesday November 6, 2024, at 5:00pm.

10. Hearing of no further business to be brought before the Board a motion was made to adjourn the meeting by Secretary Hudson. The motion was seconded by Vice Chairman Stoner. Motion carried.

The meeting was adjourned at 5:32 P.M.

APPROVED THIS 20th day OF November 2024

CHAIRMAN OF THE BOARD

ATTEST:

SECRETARY OF THE BOARD