

Amending the Agreement between the City of Milwaukee and the City of New Berlin for the purchase of water at wholesale

Special Public Works Meeting

July 29, 2008

Common Council File #080012

HISTORY

- In June, 2003, a water service agreement between Milwaukee and New Berlin was executed
- Through the agreement, New Berlin purchased water from Milwaukee at wholesale
- The agreement applied to only the 'eastern third' of New Berlin, or the 'Approved Lake Water Service Area'

CURRENT FILE:

Amending the Agreement

- This file is an amendment to the current water service agreement
- Adoption of this file will approve an amendment to the original 2003 agreement, which will provide service to the ‘middle third’ of New Berlin, or the “Expanded Lake Water Service Area”

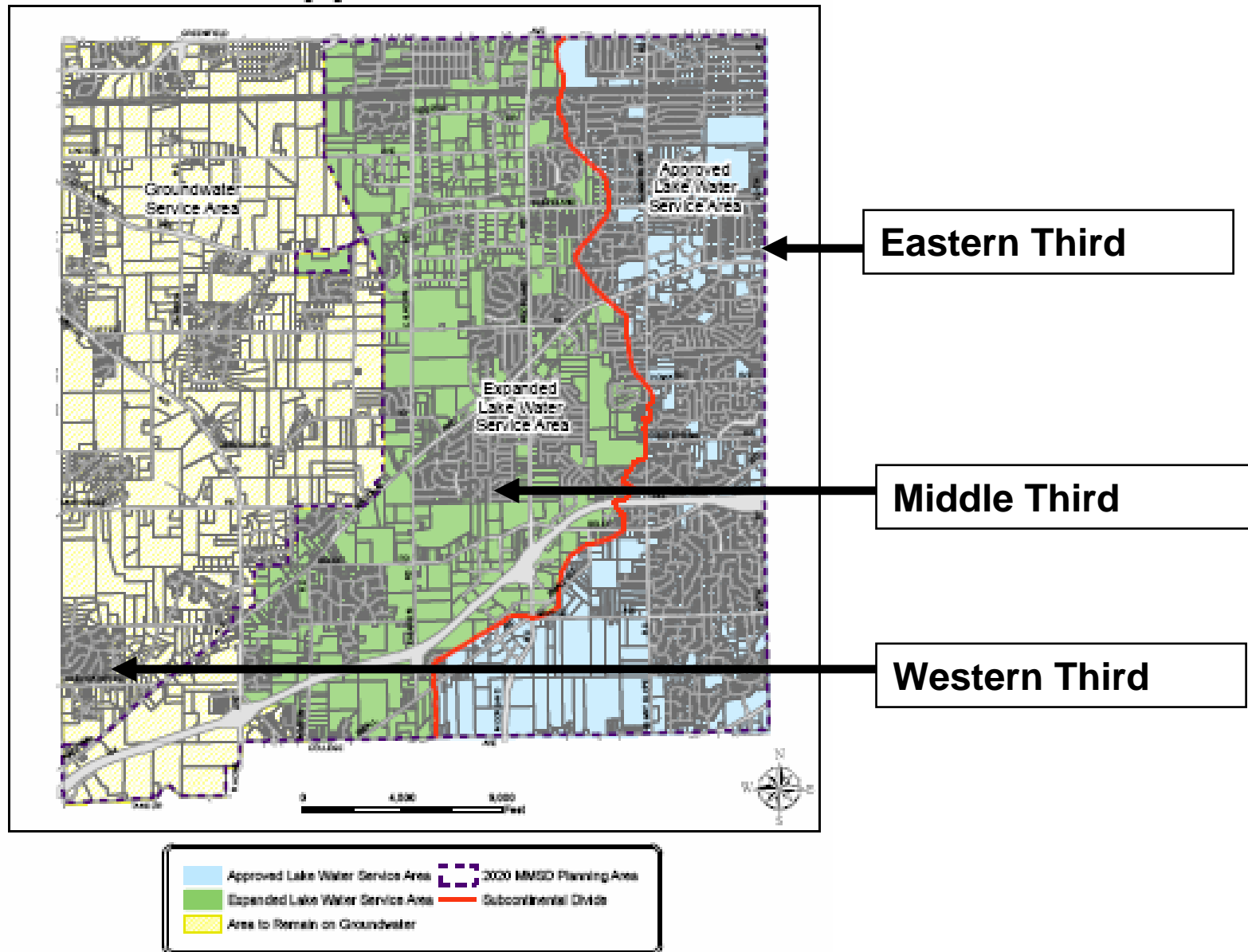
GEOGRAPHY:

The 'thirds' of New Berlin

- “Eastern third”: east of the sub-continental divide, and entirely within the Great Lakes Basin. Milwaukee currently provides water to this area.
- “Middle third”: west of the sub-continental divide and within the MMSD 2020 Facilities plan area (which is the current MMSD area plus the ‘ultimate’ MMSD area per its 2020 plan). This file will approve water service to this area.
- “Western third”: west of the sub-continental divide, and not part of the MMSD service area. This area is not part of the current file. This is called the ‘Groundwater Service Area’.

The map on slide 5 illustrates this

GEOGRAPHY



GEOGRAPHY:

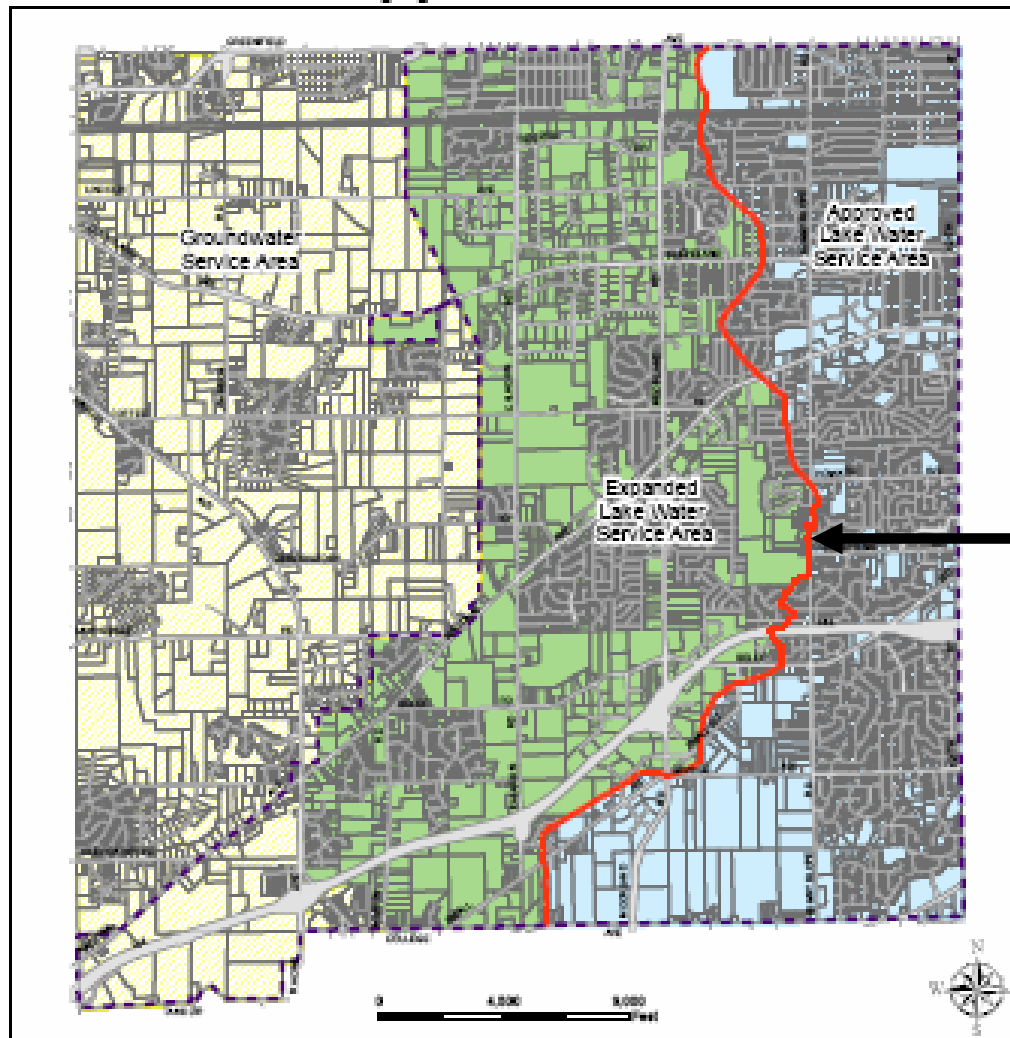
“Straddling Community”

New Berlin is intersected by the sub-continental divide:

- The Great Lakes basin is east of the divide, where water is ‘returned’ to Lake Michigan
- The Mississippi River basin is west of the divide, where water is ‘returned’ to the Mississippi River
- The Great Lakes Compact defines a community within two watersheds as a “straddling community”

The map on slide 7 illustrates this

GEOGRAPHY



Sub-continental
Divide



West of the divide, return of water to Lake Michigan?

- The Great Lakes Compact requires the return of water to the Great Lakes basin
- The expanded service area, the 'middle 1/3', is west of the divide, where water is returned to the Mississippi River
- However, MMSD sewers allow treated wastewater from the 'middle third' to be returned to Lake Michigan

Demand for Milwaukee Water: Radium-contamination in groundwater

- Radium levels exceed U.S. EPA and WI DNR standards, and the DNR ordered New Berlin to comply with these standards by December, 2006
- The engineering firm Ruekert & Mielke recommended pursuing Lake Michigan water as the most cost-effective and environmentally-friendly option
- The City of Milwaukee is not the only water utility which can provide Lake water to New Berlin

Demand for Milwaukee Water: Radium-contamination in groundwater

- According to the City of New Berlin, treating the water for radium will result in a capital cost of up to \$4 million and additional operation and maintenance costs of over \$2 million during the 20-year life of the plant

Demand for Milwaukee Water: hard water

- The groundwater is very hard (high mineral content), and requires water softening
- The salt used to soften water is now returned to Lake Michigan

Demand for Milwaukee Water: need for a long-term solution

- The aquifer is depleting rapidly, and New Berlin will have to look for solutions in the future, probably to the Lake

City of Milwaukee policy for the sale of water

guided by Council files 980871 and 020459

- Milwaukee Water Works
- Legislative Reference Bureau
- Department of City Development
- Common Council consideration

Current Policy

- **Before a proposed water service agreement is executed, the DCD, LRB and Water Works prepare studies which provide information relating to the community that seeks to purchase the water and a feasibility study relating to the proposed sale.**
- **The Water Works, DCD and LRB reports are attached to the file.**

Milwaukee/New Berlin Profile

Population, Racial/Ethnic Composition

| | New Berlin | Milwaukee |
|----------------------------|------------|-----------|
| Total Population | 39,234 | 573,358** |
| Percent White | 94.9% | 45.7% |
| Percent African-American | 0.5% | 36.7% |
| Percent Hispanic or Latino | 1.1% | 11.9% |
| Percent Other | 3.5% | 5.7% |

**Unadjusted 2006 Population Estimate used

Milwaukee/New Berlin Profile:

Individuals and families below poverty level

| | New Berlin | Milwaukee |
|---------------------------------|-----------------------|---------------------------|
| Families below poverty level | 139 families, or 1.3% | 23,687, or 17.4% |
| Individuals below poverty level | 748 persons, or 2.0% | 123,664 persons, or 21.3% |

Milwaukee/New Berlin Profile:

Median household income and home value

| | New Berlin | Milwaukee |
|--|------------|-----------|
| Median Household Income | \$67,576 | \$32,216 |
| Median Value of Owner-occupied Home | \$162,100 | \$80,400 |

Current Policy:

Common Council Consideration

- According to policy, the Common Council's consideration of any proposed water sale shall include but not be limited to the following criteria:

Current Policy:

Common Council Consideration

1. Whether the proposed sale is the result of a water shortage or water contamination public health crisis in the community or area to be served.
2. Whether the community to be served is fully developed or primarily undeveloped.
3. Whether the community to be served is primarily residential or business.
4. Whether the further expansion of the community is contingent upon the availability of City of Milwaukee water.
5. Whether the sale may have a potential negative impact on the City due to lost opportunities for attracting new businesses and jobs to Milwaukee.
6. Whether the community to be served has adopted a comprehensive plan according to the provisions of s. 66.1001, Wis. Stats. (Wisconsin's "Smart Growth" law).
7. Whether the community to be served has adopted a comprehensive housing strategy. Per LRB analysis to the 2003 file, the strategy would integrate affordable housing opportunities to encourage racial and income diversification.
8. Whether the community to be served has adopted a comprehensive public transportation strategy. Per LRB analysis to the 2003 file, the strategy would expand and improve transportation links between disadvantaged persons living in urban Milwaukee County and suburban job opportunities.

#1: Is the proposed sale the result of a water shortage or public health crisis?

Both: Short-run and long-run:

- Short-run: The proposed sale results from water quality concerns, including excessive levels of radium. The Wisconsin DNR ordered New Berlin to reduce the level of potentially cancer-causing radium to comply with standards set by the federal Safe Drinking Water Act by December, 2006.
- Long-run: The aquifer is depleting rapidly, and New Berlin will have to look for solutions in the future, probably to the Lake. Further, as aquifer levels deplete, the radium concentration increases.

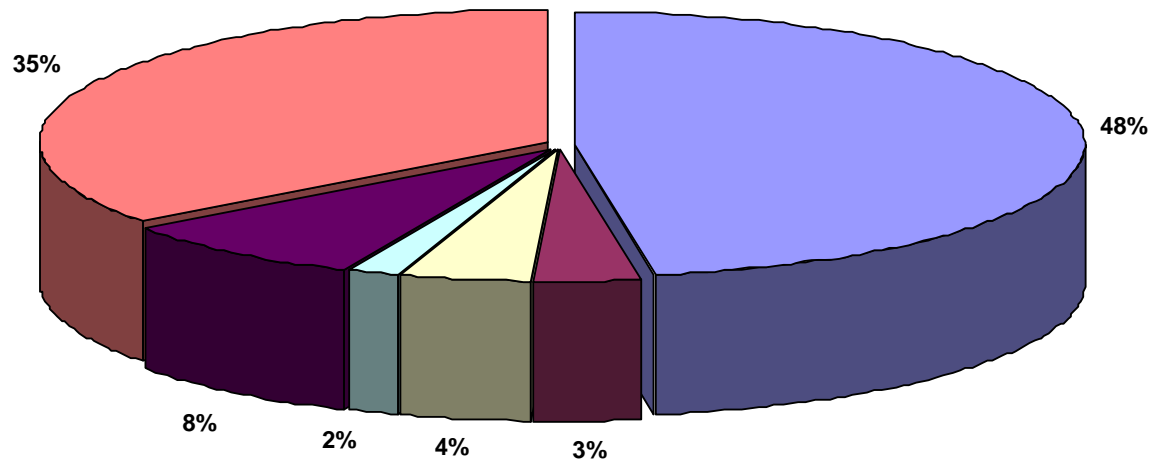
#2: Is the area of New Berlin to be served fully developed or primarily undeveloped?







- The area to be served (the “middle third”) is partially developed. The area contains approximately 1900 homes, additional undeveloped areas that are zoned for residential development, and approximately 175 acres that could be developed for non-residential uses.

Potential Development Lands in the New Berlin Proposed Service Area – Middle Third

| Zoning Code | Area (sq. ft.) | Acres |
|--|----------------------|-----------------|
| Agricultural | 1,436,354.06 | 32.97 |
| Agricultural and Rural Holding | 21,595,453.16 | 495.76 |
| Shopping Center | 262,961.05 | 6.04 |
| General Retail Sales & Service | 1,290,142.04 | 29.61 |
| Automobile Oriented Business | 63,971.79 | 1.47 |
| Institutional | 891,155.67 | 20.46 |
| Light Manufacturing | 3,583,977.95 | 82.28 |
| General Industrial | 257,172.94 | 5.90 |
| Office and Business Service | 66,104.57 | 1.52 |
| Business Park Development | 1,890,706.70 | 43.40 |
| Rural Estate Single-Family Residential | 10,610,687.06 | 243.59 |
| Low-Density Single-Family Residential | 3,701,321.52 | 84.97 |
| Low-Density Single-Family Residential | 1,943,414.01 | 44.61 |
| Medium-Density Single-Family Residential | 408,403.35 | 9.38 |
| Medium-Density Single-Family Residential | 460,626.33 | 10.57 |
| Multi-Family Residential | 30,905.35 | 0.71 |
| Totals | Area (sq. ft.) | Acres |
| Total Potential Development Land | 48,493,357.56 | 1,113.25 |

Potential Development Lands in the Proposed Service Area – Middle Third



| | |
|--|--|
|  Agricultural/rural holding |  Retail/commercial |
|  Office |  Institutional |
|  Manufacturing |  Residential |

#3: Is the area of New Berlin to be served primarily residential or business?

➤ **Primarily residential and agricultural.**

Of 1,113.25 developable acres:

- 394 acres are zoned residential (35%)
- 529 acres are zoned agricultural (47%)
- Shopping Center, Retail Sales, Automobile-oriented, Light Manufacturing, General Industrial, Office and Business Service and Business Park Development zones combined have 170.22 developable acres (15%)

#4: Is the further expansion of New Berlin contingent upon the availability of City of Milwaukee water?

According to DCD:

- The area to be served comprises multiple land uses, and the development potential of each is affected differently by the proposed amendment to New Berlin's water sales agreement:
- The development of the residential areas, which are most dependent on the availability of high-quality drinking water, will be most affected by the ability of the City of New Berlin to comply with these orders.
- The water sale decision will have no impact on the development of land reserved for agriculture and rural holding (48% of developable land).

#4: Is the further expansion of New Berlin contingent upon the availability of City of Milwaukee water?

According to DCD:

“With respect to industrial, office and commercial development, we anticipate minimal impact from the water sale. Certain types of manufacturing do, of course, use large quantities of water in the manufacturing process. However, many water-reliant industries use non-potable water. Water quality, rather than water supply, is the salient issue in the New Berlin case. The water quality problem will be solved in some fashion, and development will occur, with or without the water sale.”

#5: Does the sale have a potential negative impact on the City due to lost opportunities for attracting new businesses and jobs to Milwaukee?

According to DCD:

The available and developable land represents approximately 5,668 potential jobs (approximately 1,152 of which would be in industrial areas):

Potential Workers in Development Areas

| Zone Type | Area (sq ft) | Acres | Potential Building Area | Average sq ft/worker | Potential Workers |
|-----------------------------|---------------------|--------------|--------------------------------|-----------------------------|--------------------------|
| Shopping Center | 262,961 | 6.04 | 78,888 | 250 | 316 |
| Retail Sales and Service | 1,479,086 | 33.96 | 443,726 | 250 | 1,775 |
| Automobile | 63,972 | 1.47 | 19,192 | 250 | 77 |
| Light Manufacturing | 3,583,978 | 82.28 | 1,075,193 | 250 | 1,075 |
| Industrial | 257,173 | 5.90 | 77,152 | 1,000 | 77 |
| Office and Business Service | 66,105 | 1.52 | 19,831 | 1,000 | 79 |
| Business Park Development | 1,890,707 | 43.4 | 567,212 | 250 | 2,269 |
| TOTAL | 7,603,981 | 175 | 2,281,194 | ----- | 5,668 |

#6: Has New Berlin adopted a comprehensive plan according to the provisions of s. 66.1001, Wis. Stats. (Wisconsin's "Smart Growth" law)?

➤ New Berlin's Smart Growth plan has not yet been adopted:

New Berlin is currently in the process of updating its comprehensive land use plan in accordance with Wisconsin's "Smart Growth" law. "Smart Growth directs compliance by January, 2010, and final adoption of New Berlin's comprehensive plan is scheduled for late 2009.

#7: Has New Berlin adopted a comprehensive housing strategy?

- The analysis of the policy set forth in Council File 020459 states that communities which seek water are required to have adopted a comprehensive housing strategy which integrates affordable housing opportunities to encourage racial and income diversification.
- A memo submitted by the City of New Berlin does not directly say that the City has adopted such a strategy, although it indicates that the city's Smart Growth plan will include an affordable housing strategy. The memo also details its arrangement with the Waukesha Housing Authority to operate a HUD Housing Choice voucher program within the city limits, and indicates that the city participates in the "HOME" Consortium to provide rental subsidy and home purchase and home repair assistance to low-income households.

#7: Has New Berlin adopted a comprehensive housing strategy?

- According to the memo, New Berlin provides approximately 75 to 100 units of affordable housing annually, and as of April 1, 2008, ranked second in affordable housing units offered in Waukesha County.
- An E-mail sent by an American Civil Liberties Union attorney to Ald. Bauman questions New Berlin's commitment to affordable housing because many of the city's rent vouchers and affordable units are used by low-income elderly residents rather than families.

#8: Has New Berlin adopted a comprehensive public transportation strategy?

- The analysis of the policy set forth in Council File 020459 states that communities which seek water are required to have adopted a comprehensive public transportation strategy which expands and improves transportation links between disadvantaged persons living in urban Milwaukee County and suburban job opportunities.
- New Berlin has a transportation plan, prepared by Ruekert/Mielke in 2004, which acknowledges the importance of retaining fixed route transit service to serve the northeast portion of the city because of high employment and residential densities.
- However, according to DCD, the needs of Milwaukee County residents are not paramount in New Berlin's plan.

#8: Has New Berlin adopted a comprehensive public transportation strategy?

- At present, Milwaukee residents who work in New Berlin's employment centers have limited public transit options:
- A rider may take a Milwaukee County Transit System bus to Brookfield Square shopping center, and then transfer to Waukesha Metro Transit route #218 to the New Berlin Industrial Park. The daily round-trip cost from Milwaukee to the Industrial Park is \$5.00, and is longer than 2 hours.
- Waukesha Metro Route 906, the Mukwonago Milwaukee Express, operates from Mukwonago to downtown Milwaukee on Interstate-43 with a stop at the Moorland Road park-and-ride lot in New Berlin. The daily round-trip cost from downtown Milwaukee (leaving Milwaukee only in the evening, between 4:05 and 5:30 p.m.) to the park-and-ride lot in New Berlin is \$5.50. The trip from downtown Milwaukee takes approximately 30 minutes.
- There had been a direct MCTS connection between Milwaukee and New Berlin, but the route was eliminated in 2004.

Additional Policy Requirement for Negotiations with New Berlin

- Council File 071076, adopted in December, 2007, stated:

“Any discussions or negotiations with the City of New Berlin relating to extending the approved service area should include an assessment of issues relating to affordable housing, the potential negative impact on the City of Milwaukee due to lost opportunities for attracting new businesses and jobs to Milwaukee, and an assessment of potential negative and environmental impacts.”

File 080011 – Intergovernmental Cooperation Agreement

- This resolution approves an intergovernmental agreement between the City of Milwaukee and the City of New Berlin relating to sale of water for considerations that are separate and distinct from those under the authority of the Wisconsin Public Service Commission.
- The agreement provides for a \$1.5 million payment from New Berlin to Milwaukee's general revenue fund in 2009.
- Among other provisions, the agreement states both parties agree that neither party shall take any action to promote, encourage, offer economic incentives to, or otherwise solicit businesses to relocate from the City of Milwaukee to the City of New Berlin, or the City of New Berlin to the City of Milwaukee.