



# City of Appleton

100 North Appleton Street  
Appleton, WI 54911-4799  
www.appleton.org

## Meeting Agenda - Final-revised Utilities Committee

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Tuesday, November 7, 2023

4:30 PM

Council Chambers, 6th Floor

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1. Call meeting to order

2. Pledge of Allegiance

3. Roll call of membership

4. Approval of minutes from previous meeting

[23-1335](#) Approval of the October 24, 2023 Utilities Committee Meeting minutes.

**Attachments:** [October 24, 2023 Utilities Committee Meeting Minutes.pdf](#)

5. **Public Hearing/Appearances**

6. **Action Items**

[23-1336](#) Approval to single source and award 2023D Stormwater Consulting Services contract with raSmith for Construction Related Services for Unit H-23 Lightning Drive Phase 1 in an amount not to exceed \$80,510.

**Attachments:** [2023D Single Source H-23 CRS raS award util memo.pdf](#)

[23-1357](#) Authorization to opt-out of 3M and Du Pont PFAS class action settlements.

**Attachments:** [PFAS - Memo to Utilities Committee - 11-03-2023.pdf](#)

7. **Information Items**

8. **Adjournment**

*Notice is hereby given that a quorum of the Common Council may be present during this meeting, although no Council action will be taken.*

*Reasonable Accommodations for Persons with Disabilities will be made upon Request and if Feasible.*

*For questions on the agenda, contact Chris Shaw at 920-832-5945 or Danielle Block at 920-832-6474.*



# City of Appleton

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## Meeting Minutes - Final Utilities Committee

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Tuesday, October 24, 2023

4:30 PM

Council Chambers, 6th Floor

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1. Call meeting to order

*Chairperson Meltzer called the Utilities Committee Meeting to order at 4:30 p.m.*

2. Pledge of Allegiance

3. Roll call of membership

**Present:** 4 - Meltzer, Del Toro, Firkus and Siebers

**Excused:** 1 - Doran

4. Approval of minutes from previous meeting

[23-1242](#)

Approval of the October 10, 2023 Utilities Committee Meeting minutes.

**Attachments:** [October 10, 2023 Utilities Committee Meeting Minutes.pdf](#)

**Siebers moved, seconded by Firkus, that the Minutes be approved. Roll Call.  
Motion carried by the following vote:**

**Aye:** 4 - Meltzer, Del Toro, Firkus and Siebers

**Excused:** 1 - Doran

5. **Public Hearing/Appearances**

6. **Action Items**

7. **Information Items**

[23-1274](#)

DuPont and 3M Multijurisdictional PFAS Settlement Status - Under Review

*The DuPont and 3M Multijurisdictional PFAS settlement status was discussed.*

[23-1183](#)

2024 Utilities Department Budget Discussion

*The Department of Utilities portion of the 2024 Utilities Budget was discussed.*

[23-1243](#)

Monthly Reports for July, August, and September 2023:  
- Wastewater Treatment Plant Synopsis and Receiving Station Report  
- Water Treatment Facility Synopsis  
- Water Distribution and Meter Team Monthly Report - September

**Attachments:**    [2023 Q3 Wastewater Plant Synopsis.pdf](#)  
                          [2023 Q3 Water Facility Synopsis.pdf](#)  
                          [September 2023 Water Main Breaks.pdf](#)

*The monthly reports were reviewed.*

## 8. Adjournment

**Firkus moved, seconded by Del Toro, that the Utilities Committee meeting be adjourned at 4:56 p.m.. Roll Call. Motion carried by the following vote:**

**Aye:** 4 - Meltzer, Del Toro, Firkus and Siebers

**Excused:** 1 - Doran

## Department of Public Works – Engineering Division

### MEMO

**TO:** Utilities Committee

**FROM:** Danielle Block, Director of Public Works  
Pete Neuberger, Deputy Director/City Engineer

**DATE:** October 30, 2023

**RE:** Approval to single source and award 2023D stormwater consulting services contract with raSmith for Construction Related Services for Unit H-23 Lightning Drive Phase 1 in an amount not to exceed \$80,510

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The Department of Public Works is requesting approval to single source and award 2023D stormwater consulting services contract with raSmith for Construction Related Services for Unit H-23 Lightning Drive Phase 1 in an amount not to exceed \$80,510.

raSmith has been working for several years with DPW Engineering staff to design and permit the extension of Lightning Drive north of CTH JJ. As the design engineer, they are uniquely qualified to provide Construction Related Services for this project.

Work under this contract will include:

- Answer contractor questions during bidding
- Review bids and recommend contract award
- Attendance by the bridge designer and pond designer at the preconstruction meeting
- Site visits during construction as needed
- Answer questions during construction
- Calculate final earthwork quantities for payment
- Review contractor submittals for materials and processes per the specifications
- Review and approve materials testing results per the specifications

Based on the work raSmith has already completed for the Lightning Drive Extension- Phase 1 project staff is recommending award of this project to raSmith.



## OFFICE OF THE CITY ATTORNEY

100 North Appleton Street  
Appleton, WI 54911  
Phone: 920/832-6423  
Fax: 920/832-5962

**TO:** Chairperson Vered Meltzer  
Members of the Utilities Committee

**FROM:** Christopher R. Behrens, City Attorney  
Chris W. Shaw, Director of Utilities

**DATE:** November 3, 2023

**RE:** PFAS Opt Out  
Our File No. A21-0078

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Most Wisconsin water utilities, including Appleton, have received class action settlement notices related to PFAS settlements with 3M and Du Pont. Appleton will need to determine if it wishes to be covered by the settlement; otherwise, it must specifically opt out of the Du Pont settlement by December 4, 2023 and the 3M settlement by December 11, 2023.

City staff including the Utilities Director, City Attorney and Risk Manager along with their staff, have reviewed this matter in several respects. From the Utilities perspective, the known impact of PFAS on the water utility is minimal at this time due to the City's primary water source being surface water. Tests for PFAS have fallen well below current regulatory limits. Appleton is fortunate in that it hasn't been negatively impacted as some other communities around the country who have been forced to take extreme measures including trucking in water. What is unknown is how the regulatory requirements regarding acceptable PFAS levels might change in future years or decades and, in that scenario, the extent of additional infrastructure that would be required to meet those new requirements. These considerations (even though still relatively unknown) and preservation of potential future rights have to be balanced against what rights would be given up should Appleton stay in the settlement class and accept a (projected) settlement from each company.

There is a resource that staff were able to use where various inputs result in a projected settlement amount from each company. The 3M settlement, according to this resource, could be in the area of \$1,825,000 and the Du Pont settlement is around \$175,000. While these numbers are certainly significant in some contexts, it is important to consider them in the context of the Water Utility. These total amounts equate to about thirty-six (36) days' revenue for the Utility. Should changes in PFAS regulatory standards require the Utility to add new infrastructure to its system, that would require \$10s of millions in capital costs alone. To put these costs into context, the water utility will experience approximately \$400,000,000 in expenses over the next 20 year period (without PFAS treatment). The proposed combined settlements equate to less than 0.5 % of utility expenses. Moreover, after 20 years, any PFAS treatment equipment would likely reach its useful life and need

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Christopher R. Behrens  
*City Attorney*

Amanda K. Abshire  
*Deputy City Attorney*

Darrin M. Glad  
*Assistant City Attorney*

Zak Buruin  
*Assistant City Attorney*

to be replaced. Therefore, the settlement would provide minimal current relief without the possibility of funding recourse for these large water plant expansions and ongoing operating costs.

The release of claims, i.e., rights given up, in the Du Pont settlement are primarily related to impacts on drinking water. The 3M release is broader and also releases claims not related to drinking water (any claim for punitive or exemplary damages relating to PFAS or any product containing PFAS, any claim related to the municipality's transport, disposal or arrangement for disposal of waste containing PFAS or wastewater containing PFAS). In both cases, significant weight must be placed on whether it is prudent to accept a settlement now that would prevent the City of Appleton from seeking future remedies against these companies based on the terms of the respective releases. For example, should regulations change in future decades requiring more extensive remediation or, should PFAS have a greater negative local impact in the future, the City's recourse would be limited if it stays in the settlement classes and releases these companies.

The decision before this committee and ultimately the Council is whether to accept the projected settlements by remaining in the lawsuit or, opting-out of the class action suit to preserve the right to potential future claims. It is not an easy decision because it involves unknowns that may impact future generations. Based on staff analysis, the projected present day settlement amounts do not merit releasing rights that otherwise would be available if needed in the future. Accordingly, we are respectfully recommending that it be:

APPROVED that City Staff and the Mayor be authorized, on behalf of the City of Appleton, to immediately execute and file a Request for Exclusion with the appropriate courts and parties in the 3M and Du Pont class action lawsuits so that the City is opted-out of these respective lawsuits.