

MEMORANDUM

TO: Charlotte City Council

FROM: Thomas M. Hitch, City Attorney

RE: **CITY ATTORNEY REPORT**

DATE: January 20, 2012

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The following is my report to the City Council on several issues in which our office has been engaged since the last Council meeting:

1. Crittenden. I am in the process of working with the Crittendens' attorney regarding the pleadings that will conclude this case. We have agreed upon the form of the judgment, which has been entered, and the order as it relates to reimbursement of attorney fees and the witness fee for the appraiser.

We have not agreed upon two other expert witness fees which the Crittendens are seeking. It appears that this will be an issue that will go before Judge Osterhaven. I will keep the Council apprised.

2. MDEQ. I have set a meeting with the staff of Senator Rick Jones for February 3, 2012. Prior to the meeting, I will be preparing a letter to the MDEQ and transmitting the test results for the new city well (PW-6) and will be seeking to have MDEQ reconsider its prior determination that the City should go to a full treatment plant.

3. Owens-Brockway. The City retained an expert, Craig Carmody, who has had extensive experience in glass manufacturing, to view the site and assist the City in the preparation of its case against Owens-Brockway. Mr. Carmody spent a day and

a half at the plant looking at the furnace and the remaining equipment, in order to help the City evaluate what had been sent to other plants and whether, under the terms of the contract, Owens-Brockway breached the agreement. He will be preparing a report which will be presented to the Court.

I am also scheduled to take the depositions of three of Owens-Brockway's witnesses – Hans Ruffer, who was the former plant engineer at the Charlotte facility, Jeff Wonderly, who was in corporate engineering, and James Seving, the former chief financial officer who was the individual responsible, from Owens-Brockway's perspective, for the negotiation and execution of the contract back in 1999.

I will keep the Council apprised as the case progresses.

TMH:ddy