

MEMORANDUM

TO: Charlotte City Council

FROM: Thomas M. Hitch, City Attorney

RE: **CITY ATTORNEY REPORT**

DATE: February 10, 2012

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 Litigation. The City has paid to the Crittendens the judgment amount, plus interest, the attorney fees and interest on the attorney fees, and the expert fee for the appraiser, Robert Vertalka. The money was paid on January 25, 2012.

As I indicated before, we have not agreed upon two other expert witness fees which the Crittendens have indicated they are seeking. At this time, no pleadings have been filed to bring that issue before Judge Osterhaven. I will advise the Council when the pleadings are filed by the Crittendens.

2. MDEQ. As the Council has been provided elsewhere in the packet, the City's consultant, Mark Sweatman of AMEC, has prepared a proposal for further testing to demonstrate to MDEQ that no water treatment facility is necessary. I have discussed this matter with Mr. Sweatman and have met with Gregg Guetschow, Amy Schoonover and Mr. Sweatman, and it is my recommendation that the City Council enter into this testing contract which will provide what we believe to be irrefutable evidence that the water treatment facility is not necessary.

After Monday's meeting, I will send a letter to MDEQ setting forth the testing results of the new City well (PW-6), an analysis by an independent consultant, Jennifer Clancy, Ph.D., who has analyzed all of the reports that the City has had prepared by its consulting engineers, and will be requesting that the MDEQ reconsider its determination.

I did meet with Senator Rick Jones and he was very sympathetic as it related to the City's circumstances, and agreed that he would write a letter on the City's behalf. He did state, candidly, that he did not believe that MDEQ was amenable to any sort of influence from his office. He indicated that there are a number of State Senators who are concerned about the actions of the MDEQ and plan to take this up with the Governor. Senator Jones indicated that our case would be included with the examples to be provided to the Governor's Office.

3. Owens-Brockway. As you have seen elsewhere on the agenda, there are matters that I wish to discuss with the City Council in closed session. Pursuant to provisions of the Open Meetings Act, I am requesting that this Council go into closed session at the conclusion of Monday's meeting to discuss with me the pending litigation involving Owens-Brockway.

TMH:ddy