

WATER POLLUTION CONTROL AUTHORITY

Town of Trumbull

CONNECTICUT

TOWN HALL
(203) 452-5048



5866 MAIN STREET
TRUMBULL, CT 06611

MINUTES

Water Pollution Control Authority March 23, 2011

Members Present:

Paul Kallmeyer, Vice Chairman
Laura Pulie
Ennio DeVita
Timothy Hampford
Karen Egri, Alternate (voting)

Members Absent:

Jeanine Maietta Lynch, Chairman

Also Present:

Joseph Solemene, Assistant WPCA Administrator
Stephen M. Savarese, PE/LS, Town Engineer
Dennis Kokenos, Esq., Town Attorney
Timothy M. Herbst, First Selectman (left at 9:00)
John Marsilio, Director of Public Works
Mary Moran, Tax Collector (left at 8:30)
Roberta Rubenstein, Assistant Tax Collector (left t 8:30)
Fred Mascia, Tighe & Bond, Project Manager
David Bjorklund, Spath-Bjorklund Associates

The following is a brief summary of the meeting. A recording was made on tape and is on file in the office of the WPCA/Town Engineer, Town Hall, Trumbull, CT.

The Trumbull Water Pollution Control Authority held their monthly meeting on Wednesday, March 23, 2011, in the Long Hill Room, Trumbull Town Hall. Vice Chairman Paul Kallmeyer called the meeting to order at 7:35 p.m.

MOTION made (Kallmeyer) 2nd (Pulie) to take out of order Agenda item number 5 New Business Stewart Barcham, 472 Daniels Farm: sewer use fees out of order. No discussion. ALL IN FAVOR. MOTION CARRIED UNANIMOUSLY.

5. New Business: Stewart Barcham, 472 Daniels Farm Road: sewer use fees.

Stewart Barchum, 472 Daniels Farm Road was present and stated his water meter is in a pit on Daniels Farm Road and has no practical access to it. He also said over the years he had several water leaks and this year he had a leak and found out about it when he received a very large bill (\$1177.08) from Aquarion Water Company and he also received a very large bill (\$1301.16) for sewer usage from Trumbull WPCA. He noted he didn't know about the leak and no one notified him about it and the sewer usage bills are for water he never used that leaked into the ground. He also stated he understands the WPCA bases sewer usage, not on actual usage, but on the Aquarion water bill and this is not very fair when there is a leak. He indicated he has to pay almost \$700.00 to Aquarion for water he never got the benefit of and Trumbull is also asking for almost \$700.00 for sewer usage for water that didn't go down the sewer. He requested a WPCA adjustment based on the average of his historic water and sewer usage which is approximately \$87.00. He detailed what he has done including going to Aquarion and DPUC to try to reduce these bills. Aquarion gave him a 150 ccf leak adjustment credit amounting to \$561.43 and he also received a WPCA sewer use credit of 150 ccf's amounting to \$640.80. The leak was between the meter and the house and it was repaired by Safety Value.

Discussion included credits received from Aquarion and WPCA and that the WPCA does not receive any credit from Bridgeport. Mr. Barcham pointed out that the Trumbull's sewer usage bills are not based on the amount of water bills that happen during the summer, so neighbors who have swimming pools or irrigation get a break and that break of about \$500,000.00 annually is being subsidized by the Town of Trumbull. He would appreciate the Commission taking into consideration that he got no benefit from the water and it didn't go down the sewer. Commission Kallmeyer stated the policy is if Aquarion adjusts the bill the WPCA adjusts the bill and we have to follow what Aquarion did.

Roberta Rubenstein, Trumbull Assistant Tax Collector stated historically Aquarion usually cuts the bill in half. She also stated this is one of the two quarters we use to average for the summer so this is going to affect his summer reads. It was reiterated that Trumbull receives no credit or adjustment from Bridgeport and Mr. Barcham stated he understands and he stated again he is helping his neighbors who fill pools in the summer. The Commission agreed to discuss this item later tonight if time permits otherwise it will be on next month's Agenda.

MOTION made (Kallmeyer) 2nd (Egri) to take out of order Agenda item number 5 New Business Mr. & Mr. George Brown, 30 Middlebrooks Avenue: sewer use fees (previous owner's usage). No discussion. ALL IN FAVOR. MOTION CARRIED UNANIMOUSLY.

5. New Business: Mr. & Mrs. George Brown, 30 Middlebrooks Avenue: sewer use fees (previous owner's usage).

Mr. and Mrs. Brown were present and Mrs. Brown stated they moved in between January 14, 2011 and February 7, 2011. They are requesting an adjustment of the sewer usage bill. Mrs. Brown said they received a sewer bill of \$463.07 from Trumbull and a water bill from Aquarion water bill in the amount of \$68.26. The consumption is correct, but the problem is 90 percent of it probably it is from the previous owner

Roberta Rubenstein stated the way it is setup the December consumption is used for the January, February and March bill and, if anything, they should have gotten an adjustment for the sewer usage from their attorney at closing. The original bill covered until about December 2nd and then there was another read done at the end of the month for 15 units of water which was added to this bill. Under normal circumstances that reading wouldn't have been done and it would have been included on the next bill. Roberta noted the March consumption will be used for the next bill and if the Commission requests she could move the 15 units from one to the other. She explained we are actually using 90 percent of the consumption from another party because of the way the billing is done. Further discussion included previous owner's consumption, readings, affects on summer reads, billing, and what information was available at the time of closing. This bill was generated in February or March and the data for the billing was not available at the time of closing in January. The Commission suggested Mr. and Mrs. Brown contact the closing attorney and/or try to collect from the previous owner themselves. Mrs. Brown gave Mrs. Rubenstein a check for the outstanding balance.

MINUTES TO PREVIOUS MEETINGS:

February 23, 2011 Meeting Minutes. Commissioner Kallmeyer noted for the record that the name of Sanitary Sewer Recommendation Committee has been changed to Sanitary Sewer Evaluation Committee (SSEC).

The following corrections and/or additions were requested:

Page 3, New Business: Clerical fees, legal, accounting, and engineering professional services for Sewer Committee on waste water options. 3rd line says "Commissioner Hampton" change to "Commissioner Hampford"

MOTION made (Kallmeyer) 2nd (Hampford) that the Minutes of February 23, 2011 meeting be accepted as amended. Discussion. ALL IN FAVOR. MOTION CARRIED UNANIMOUSLY.

The following corrections and/or additions were requested:

March 16, 2011 Special Meeting Minutes.

Page 1, In Attendance: Says "Laurie Pulie" change to "Laura Pulie"

MOTION made (Kallmeyer) 2nd (Pulie) that the Minutes of March 16, 2011 special meeting be accepted as amended. Discussion. FOUR IN FAVOR (Kallmeyer, Hampford, Pulie, DeVita) ONE ABSTENTION (Egri). MOTION CARRIED.

MOTION made (Kallmeyer) 2nd (Hampford) to take out of order Agenda item number 4 Old Business Discussion: Delinquent sewer use fees. No discussion. ALL IN FAVOR. MOTION CARRIED UNANIMOUSLY.

OLD BUSINESS:

Discussion: Delinquent sewer use fees.

Trumbull Tax Collector Mary Moran and Trumbull Assistant Tax Collector Roberta Rubenstein were present. Mrs. Moran discussed the draft of the new procedures they want to implement to address delinquent sewer use bills and she described what the tax office is currently doing to collect delinquent amounts. She also said currently the tax office does not send out delinquent notices for sewer use bills but they are currently aggressively addressing delinquent accounts.

Mrs. Rubenstein gave a brief history of Trumbull's previous flat rate fee and change over to consumption billing and she highlighted the following information from a recent State wide meeting of tax collectors:

- Most sewer usages are not based on consumption
- Sewer usage is added onto tax bill – included with property taxes
- Greenwich bases it on the assessment of your house and set a separate mill rate for it
- Killington bases it on number of bedrooms – flat rate fee
- Bridgeport uses straight consumption
- No one at the meeting said they do any kind of adjustment for having a sprinkler system
- Delinquencies went down when procedures were changed by including real estate taxes and sewer use taxes on one bill.

First Selectman Timothy Herbst commented that after a policy was put in place for real estate taxes the tax collection rate went up and the key is to have a uniform consistent policy that's applied across the board. Attorney Kokenos briefly explained the collection procedure for real estate and how it will be adapted for sewer use collection. The criteria for collection will be set by the Tax Collector.

MOTION made (DeVita) 2nd (Hampford) to approve delinquent sewer use fee procedures as presented and based on the threshold that the Tax Collector sets. No discussion. ALL IN FAVOR. MOTION CARRIED UNANIMOUSLY.

MOTION made (Pulie) 2nd (Kallmeyer) to move up Agenda item number 6 Presentation on Contract 5 by David Bjorklund. No discussion. ALL IN FAVOR. MOTION CARRIED UNANIMOUSLY.

David Bjorklund, principal in Spath-Bjorklund Associates provided the Commission with a memo summarizing where we are with Contract 5. He gave a history of the 1996, 2004 and 2005 plans that were prepared including reasons for splitting up the contract, connecting to Stratford and/or Bridgeport and hook-up fees. He reviewed his 2009 letter to the WPCA outlining options and reported on the status of the easements. He also went into detail as to what is needed for a new pump station. He also noted the plans are based on field survey work that was done in 1996 and 2004. Mr. Bjorklund outlined what is needed to complete the plans and what needs to be clarified. He questioned if the drawings are going to be modified to show additional storm drainage. He stated Spath-Bjorklund intends to finish Contract 5 and there is not a lot of work to be done. The big work that remains is to field check the plans and design a pump station.

Discussion took place regarding resuming a dialog with Stratford, finding out what happened with Shelton and Stratford, disconnects on specs, quantities in the bid, pay items and up-dating the specs. The Commission

expressed a desire to be involved in preparing the bid and specs. Commission Hampford volunteered to contact Stratford. Mr. Bjorklund suggested a session to update the specs and look at everything. John Marsilio requested David Bjorklund put together a package of correspondence and information from previous meetings.

TIGHE & BOND:

Progress Report. Fred Mascia noted since the last Commission meeting the contractor has multiple crews on the site including 3 main line pipe crews, a lateral crew and next week will have a paving crew. He highlighted Mark IV's work locations

Change orders. Change Order R35: 12/17/10 Repair uncharted storm lines at 12 Hunters Lane. Fred Mascia stated there is an easement and storm drainage was encountered installing the sewer. The work is completed and the drains were there and they recommend it.

MOTION made (Egri) 2nd (Pulie) to approve change order R-35 dated December 17, 2010 in the amount of \$277.40 for repair uncharted storm lines at 12 Hunters Lane. Discussion. ALL IN FAVOR. MOTION CARRIED UNANIMOUSLY.

Change Order R36: 12/23/10 Remobilization for air testing at locations where laterals were not completed. Mark IV has requested to air test all lines knowing that some laterals were not install or completed and the Commission's direction is if the work is not completed they don't want the testing done. Fred said they do not recommend this change order.

MOTION made (Kallmeyer) 2nd (Hampford) to reject change order R-36 dated December 23, 2010 in the amount of \$2,100.00 for remobilization for air testing at locations where laterals were not completed. Discussion. ALL IN FAVOR. MOTION CARRIED UNANIMOUSLY.

Change Order R37: 01/24/11 Additional rock removal at precast concrete chimney locations. This charge is for 35 locations. Fred said part way through the project the contractor was directed to stop using the previous chimney and use the cast-in-place chimney that's on the plans and the contractor offered to use the precast chimney and it was approved. Discussion included installation of the precast chimney, the contractor categorizing it as a structure, and rock removal. They do not recommend this change order. Discussion: It was noted for the record that Mark IV was installing chimneys as directed when they started the project back in September, 2009. An exploratory video done on Shelton Road showed some of the chimneys that were installed had problems. Fred Mascia explained it was determined that the contractor was installing chimneys that do not work in the situation and he was told to go back and install the cast-in-place chimney that is part of the bid specs. As an alternative Mark IV requested to install a precast chimney and received approval and there was no mention of extra for the rock. Mark IV installed 35 of the precast chimneys. The Commission noted if the poured-in-place was installed there wouldn't have been any extra for rock and Mark IV had the choice of which one he wanted to do. Attorney Kokenos raised the question if the way the work was done was discussed with the Town and the Commission indicated not that aspect of it and nothing relating to rock removal was discussed. Fred also said when they were told the precast would be used there was no change in the WPCA's price and there was no mention of additional rock removal. He said no additional work was expended by Mark IV to do this and he is looking to expand the pay limit of rock that's already been removed. The Commission is denying this change order because it is not an addition to the Contract and it is something that was on the design specs. It was not discussed with the Commission prior to doing the work and if it was it never would have been a change in the work and it certainly isn't now either. The Commission reiterated that it was the contractor's choice to use this product and there was no extra work involved. The Commission also pointed out if he said he needed more room to put the precast in the Commission probably would have denied him using it and would have directed him to go with the poured-in-place.

MOTION made (DeVita) 2nd (Hampford) to reject change order R-37 dated January 24, 2011 in the amount of \$31,070.00 for rock removal at precast concrete chimney locations based on the fact he is not acting in the best interest of the Town. Discussion. ALL IN FAVOR. MOTION CARRIED UNANIMOUSLY.

Change Order R38: 01/25/11 Reconsideration of prior request at 71 Greenbrier Road video inspection of storm line as requested by inspector. This change order is not for Contract 4 and has previously been denied twice by the Commission. The actual invoice date is February 23, 2010 and was first submitted on April 28, 2010. The contractor claims the inspector directed him to do the inspection. The Commission wants the contractor to talk to the sewer administrator as this may be an administrative cost and it is not a Contract 4 cost. MOTION made (Kallmeyer) 2nd (Hampford) to reject change order R-38 dated January 25, 2011 for reconsideration of prior request at 71 Greenbrier Road video inspection of storm line as requested by inspector in the amount of \$690.00 and to direct the contractor to talk to the sewer administrator. Discussion. ALL IN FAVOR. MOTION CARRIED UNANIMOUSLY.

Change Order R39: 02/03/11 Changes to manhole structures at pump station. Fred said this is based on the revised pump station plans and the manholes were adjusted. MOTION made (Pulie) 2nd (DeVita) to approve change order R-39 dated February 3, 2011 in the amount of \$741.18 for changes to manhole structures at pump station. Discussion. ALL IN FAVOR. MOTION CARRIED UNANIMOUSLY.

Change Order R40: 02/10/11 Installation bulkhead on storm line on Carrousel Drive. Fred stated the storm drain was not depicted on the plans. MOTION made (DeVita) 2nd (Hampford) to approve change order R-40 dated February 10, 2011 in the amount of \$250.00 for installation bulkhead on storm line on Carrousel Drive. Discussion. ALL IN FAVOR. MOTION CARRIED UNANIMOUSLY.

Change Order R41: 02/17/11 Connection of trench drain to catch basin on Golden Hill Road. Fred said they are minimizing the use of trench drains, but when there is a drop manhole there are water issues and trench drains are being put in. The Commission has paid \$350.00 before and it was noted that is also the same amount that was discussed during the mediation. MOTION made (Hampford) 2nd (Pulie) to approve change order R-41 dated February 17, 2011 in the amount of \$350.00 for connection of trench drain to catch basin on Golden Hill Road. Discussion. ALL IN FAVOR. MOTION CARRIED UNANIMOUSLY.

Change Order R42: 03/02/11 Return of manhole structure at GH-1 due to change in sewer layout. Fred said this is for the return of a sanitary manhole at the intersection of Golden Hill Road and Red Fox. He stated at previous meetings they recommended and adjusted the sewer layout to avoid storm drainage in three locations and this is the charge to return the manhole that had a casting of five openings. This charge is basically a restocking fee and it has been picked up. It was noted that a lot of money was saved at this intersection based on the redesign. MOTION made (Kallmeyer) 2nd (Hampford) to approve change order R-42 dated March 2, 2011 in the amount of \$975.50 for return of manhole structure at GH-1 due to change in sewer layout. Discussion. ALL IN FAVOR. MOTION CARRIED UNANIMOUSLY.

Change Order R43: 03/03/11 Replacement of damaged DVD. Fred said the DVD was unreadable when they received it and they requested a replacement. He did not recommend paying this change order. It was noted by the Commission that is not a change in the work according to the contract. MOTION made (Pulie) 2nd (Kallmeyer) to deny change order R-43 dated March 3, 2011 in the amount of \$91.43 for replacement of damaged DVD. Discussion. ALL IN FAVOR. MOTION CARRIED UNANIMOUSLY.

Change Order R44: 03/09/11 Re-drilling at Golden Hill Road at manhole GH-1A to PR-8. This is a storm manhole shown on the plans as paved over but the location was incorrect and an adjustment had to be made. Fred recommended this change order.

MOTION made (Hampford) 2nd (Pulie) to approve change order R-44 dated March 9, 2011 in the amount of \$1,640.96 for re-drilling at Golden Hill Road at manhole GH-1A to PR-8. Discussion. ALL IN FAVOR. MOTION CARRIED UNANIMOUSLY.

Change Order R45: 03/16/00 Alteration manhole at North Stowe for trench drain. This is for a connection to a storm manhole for a trench drain. Fred recommended this change order.

MOTION made (Kallmeyer) 2nd (Hampford) to approve change order R-45 dated March 16, 2011 in the amount of \$450.00 for alteration manhole on North Stowe for trench drain. Discussion. ALL IN FAVOR. MOTION CARRIED UNANIMOUSLY.

Tighe & Bond accounting – billing statement. The Commissioners reviewed the costs spreadsheets.

Pavement Coring: Fred Mascia highlighted Tighe & Bond's Dogwood Pond borings reports and information. He said this information was sent to Mark IV and they asked what the Town wants to do with the water. Tighe & Bond will respond back to them that they have to provide a plan and it will be evaluated. Work around the pond is scheduled for July, August, and September. The contractor has to prepare a water handling plan that needs to be reviewed and approved before the work is done.

Fred Mascia highlighted Tighe & Bond's draft Permanent Pavement Evaluation Report dated January 31, 2011. They used DOT criteria based on traffic flow, difference of pavement and underline soil types and came up with a pavement program. They believe about 60% of the roads could be milled and overlaid and about 40% need more substantial like full depth reclamation. Fred explained a sewer project is completed with skim coat overlay and if the sub-base of the existing material is poor then after two three years the roads start falling apart. Commissioner Kallmeyer commented on the report and gave a historical background relating to pavement management and Town roads.

John Marsilio summarized a capital plan being compiled to address paving some of the obvious problematic roads which include some recent sewer project roads. Examples of the sewer project roads that haven't lasted ten years and didn't receive the proper attention and specifications in the final paving portion are Stonehouse Road and Tanglewood Road. At the end of the project the roads should match State specifications for twenty year roads. Discussion included project costs and responsibilities, Town costs and responsibilities, sewer contract and specs, paving policies, evaluation, cost of overlay and cost of reclamation, existing road sub-base and replacing sub-base. How to calculate and separate the cost and designating the trench limit line and the Town's obligation need to be determined. Mr. Marsilio stated the specifications dictate curb to curb mill and pave and the borings identified locations that need reclamation. Fred Mascia described the overlay, milling, and reclamation processes. When Mr. Marsilio receives a refined updated report he will provide the Commission with a copy.

INVOICE APPROVAL:

Mark IV Construction Co., Inc., Phase IV, Part B – Contract 4 – North Nichols Project, Application #19 dated March 14, 2011 in the amount of \$410,352.50.

It was noted all percentages are shown on the invoice. It was noted rock excavation is at 68%. Fred Mascia said 66% of the pipe is installed. The crews are hitting a lot of rock in the Copper Kettle Road, Teeter Rock Road, Turkey Meadow Road areas. He answered questions regarding erosion problems in the cross country areas. The status of the camera testing was brought up and Fred said 50% of the pipe or 37% of the 67% of the pipe still has to be camera tested and they were told camera testing will resume next week. Fred informed them the Commission is considering holding back pipe payment until the camera up to date. He pointed out the spec says air testing, manual testing, and TV is to be in progress as sewer is laid. This is holding up releasing other areas for connection. Discussion regarding the camera testing included bringing all the testing up to schedule, having all the testing reviewed and approved before paying, reasonable time for camera follow up and concerns about paying for something that has not been camera tested and reviewed.

The Commission requested the Steve Savarese the sewer administrator send a letter voicing the Commission's concerns, request for recovery schedule with a date or deadline, and stating the Commission's expectations. It was pointed out the Commission has paid for one half of this project already and we don't have the tapes. It was noted a video tape that was done on Shelton Road confirmed the sewer had problems at the chimneys and Fred said that was the last video tape received. The Commission agreed to request a schedule from Mark IV, make sure it is acceptable and that it starts in a week or two. If it is done on an on-going basis there is no issue, but if it hasn't begun a decision will be made at the next meeting.

MOTION made (Kallmeyer) 2nd (DeVita) to approve invoice number 19 in the amount of \$410,352.50. Discussion. ALL IN FAVOR. MOTION CARRIED UNANIMOUSLY.

OLD BUSINESS:

Increase in unit charge. Joe Solemene told the Commission there has not been a change in the unit charge since 2007. It is \$23.83 a quarter now and it was \$19.24 in 2005 and \$20.50 in 2006. We have approximately 12,543 units that are billed. This is a single fixed cost per quarter billed every resident access to the sewers whether they are connected or not. Residents not connected are not exempt from this cost. To get the unit charge the fixed fee of the budget is divided by the number of users. Billing information is needed from Bridgeport before a new unit charge can be determined. Reasons for the increase include rebuilds of the Beardsley and Reservoir pump stations and the I&I study. This item will be put on next month's agenda for further discussion.

Discussion: Status of Town's audit of the 59 and 20 accounts. Commissioner Kallmeyer's e-mail to the purchasing agent and director of finance was discussed and submitted for the record. He said the notice would go out the week of March 21st and responses are due the second week of April. Financial reports from Maria Pires were discussed and submitted for the record. Commissioner Kallmeyer commented on the reports and balances. The Commission requested Maria Pires next month's meeting.

Discussion: Owens, Schine & Nicola retainer information regarding Mark IV Arbitration.

Attorney Kokenos requested this item be tabled until the next scheduled meeting in April.

MOTION made (Kallmeyer) 2nd (Pulie) to table Agenda item 4 Old Business Discussion: Owens, Schine & Nicola retainer information regarding Mark IV Arbitration until the next regularly scheduled meeting in April, 2011. Discussion. ALL IN FAVOR. MOTION CARRIED UNANIMOUSLY.

Discussion: Certificate of Payment form submitted by Commissioner DeVita at the 2/23 meeting.

Commissioner Kallmeyer said all the unit prices, description of work, item number are basically identical to the AIA form except it is generated by the Town. The essential difference is the front page. Commissioner DeVita said the first part does not change the only change is to the work done to date. He detailed how the form is used and stressed the information does not change but it is generated and filled out by the Town. Discussion included benefits and reasons for using the old form, benefit of using the new form, verification of information, running summary, certifying information and having all the signatures in one spot.

MOTION made (Hampford) 2nd (Pulie) to continue to use the AIA billing form. Discussion. FOUR IN FAVOR (Kallmeyer, Hampford, Pulie, Egri) ONE AGAINST (DeVita). MOTION CARRIED.

Update: SSRC. It was noted the name has been changed to Sanitary Sewer Evaluation Committee (SSEC). Commissioner Hampford summarized the second meeting. He said discussions included regionalization issues, trying to get questions on the table, looking at Greater New Haven, proposals regarding transactions that have gone on in the past and details of the proposal. They will meet twice a month and the goal now is to get through regionalization discussions summary. Then they will discuss the existing contract and then hopefully have a treatment plant report. He will continue to provide summary information.

MOTION made (Egri) 2nd (Kallmeyer) to approve invoice number 11731 to Owens, Schine & Nicola, P.C. in the amount of 884.00. Discussion. ALL IN FAVOR. MOTION CARRIED UNANIMOUSLY.

NEW BUSINESS:

Owens, Schine & Nicola: Invoice RE: Anthony Mase – Teeter Rock Road:

Attorney Kokenos went over the invoice and detailed the work that was performed. He is filling the Certificate of Taking with the Clerk on Friday for signing. He also said after the Certificate is signed and filled he is putting a Stipulation in the Court with the agreed amount and it will be signed by everyone and then he will have the Court distribute the funds to the estate.

MOTION made (Egri) 2nd (Kallmeyer) to approve invoice number 11731 to Owens, Schine & Nicola, P.C. in the amount of 884.00. Discussion. ALL IN FAVOR. MOTION CARRIED UNANIMOUSLY.

MOTION made (Kallmeyer) 2nd (DeVita) to close the regular meeting of the WPCA and go into Executive Session at 10:45 p.m. to discuss with the Town Attorney strategy and negotiations with respect to pending litigation as defined by 1-200(6) and/or to discuss attorney client-privileged information as set forth by 1-210 relating to the following:

- Discussion: Town of Trumbull WPCA vs. Mark IV – Mediation – Penny Items

No discussion. ALL IN FAVOR. MOTION CARRIED UNANIMOUSLY.

The tape recorder was turned off at 10:47 p.m. and the Commission went into executive session. The following were present: Commission members, Paul Kallmeyer, Ennio DeVita, Laura Pulie, Tim Hampford and alternate Karen Egri, Attorney Kokenos, Steve Savarese, Joe Solemene, Fred Mascia, John Marsilio.

MOTION made (Kallmeyer) 2nd (Pulie) to close the executive session at 11:15 p.m. and to state for the record that no vote was taken during the executive session. No discussion. ALL IN FAVOR. MOTION CARRIED UNANIMOUSLY.

The Agreement was submitted into record and is included in these Minutes.

MOTION made (Kallmeyer) 2nd (Hampford) that we authorize the Town Attorney to enter into a proposed settlement agreement to resolve the arbitration on the penny items with Mark IV as presented to the Commission tonight titled Proposed Agreement Between Town of Trumbull, Water Pollution Control Authority and Mark IV Construction Company, Inc. Regarding – Contract 4, North Nichols, Penny Items. Discussion. ALL IN FAVOR. MOTION CARRIED UNANIMOUSLY.

Attorney Kokenos noted for the record that Mark IV has now agreed to install the catch basins at the penny and install the drainage at the penny and the settlement is only revolving around the removal and disposal of those items.

MOTION made (Hampford) 2nd (DeVita) to adjourn the regular meeting of March 23, 2011 at 11:20 p.m. No discussion. ALL IN FAVOR. MOTION CARRIED UNANIMOUSLY.

Submitted by,

Joyce Augustinsky
Clerk of the Commission

PROPOSED AGREEMENT BETWEEN TOWN OF TRUMBULL, WATER POLLUTION
CONTROL AUTHORITY AND MARK IV CONSTRUCTION COMPANY, INC
REGARDING - CONTRACT 4, NORTH NICHOLS, PENNY ITEMS

The Town and Mark IV agree as follows as resolution of the current disputes that are the subject of arbitration:

- 1) The Town will establish a new pay item of \$200 for removal and disposal of existing catch basins. All other work needed to install new catch basins will be at the existing contract price of \$0.01.
- 2) The Town will establish a new pay item of \$7.50 per linear foot for removal and disposal of existing RCP drainage pipe. All other work needed to install new drainage will be at the existing contract price of \$0.01/LF.
- 3) The Town will pay for tie in of new drainage pipes to existing structures at \$350 for catch basins and \$450 for manholes.
- 4) The Town will pay Mark IV for removal and replacement of uncharted drainage at \$45/LF for 4"; \$50/LF for 6"; and \$55/LF for 8".
- 5) The Town will be responsible for the decision to obtain any Army Corps of Engineer permit, and will bear the cost of doing so as well as any costs if it does not obtain the permit.
- 6) Mark IV will be responsible for obtaining the DEP general discharge permit, including the soil and erosion contract portions, and will be responsible for the cost of doing so.
- 7) The Town will provide, at no cost to Mark IV, the electronic topographical GIS data when received by the Town.
- 8) The Town and Mark IV will share 50/50 the cost of preparing wetlands delineated as needed for the permitting including any certifications regarding soil degradation, and any remediation plans for prior wetlands crossings. ~ \$25,000
- 9) The Town commits that it will not require, under this contractual arrangement, and drainage work other than replacement of existing structures in their present location.

**AGREEMENT BETWEEN TOWN OF TRUMBULL, WATER POLLUTION
CONTROL AUTHORITY AND MARK IV CONSTRUCTION COMPANY, INC
REGARDING - CONTRACT 4, NORTH NICHOLS, PENNY ITEMS, BID ITEMS
57-63**

The Town of Trumbull, WPCA and Mark IV Construction Company agree as follows as resolution of the current disputes that are the subject of Arbitration, Case # 12-110-716-10:

- 1) The Town will establish a new pay item of \$200 for removal and disposal of existing catch basins. All other work needed to install new catch basins will be at the existing contract price of \$0.01.
- 2) The Town will establish a new pay item of \$7.50 per linear foot for removal and disposal of existing RCP drainage pipe. All other work needed to install new drainage will be at the existing contract price of \$0.01/LF.
- 3) The Town will pay for tie in of new drainage pipes to existing structures at \$350 for catch basins and \$450 for manholes.
- 4) The Town will pay Mark IV for removal and replacement of uncharted drainage at \$45/LF for 4"; \$50/LF for 6"; and \$55/LF for 8".
- 5) The Town will be responsible for the decision to obtain any Army Corps of Engineer permit, and will bear the cost of doing so as well as any costs if it does not obtain the permit.
- 6) Mark IV will be responsible for obtaining the DEP general discharge permit, including the soil and erosion contract portions, and will be responsible for the cost of doing so.
- 7) The Town will provide, at no cost to Mark IV, the electronic topographical GIS data when received by the Town.
- 8) The Town and Mark IV will share 50/50 the cost of preparing wetlands delineation as needed for the permitting including any certifications regarding soil degradation, and any remediation plans for prior wetlands crossings.
- 9) The Town commits that it will not require, under this contractual arrangement, any drainage work other than replacement of existing structures and pipe in their present location.

- 10) This agreement is contingent upon the approval of Mark IV's owner and the approval of the Town body or bodies with jurisdiction. Absent both approvals it shall be of no effect.
- 11) Any and all costs of Mediation and Arbitration shall be split 50/50 between the Town and Mark IV.
- 12) The agreement is not intended nor shall it be construed as an acknowledgment or admission of any wrong doing on the part of Mark IV Construction Co., Inc. with regard to its performance under the contract which is the subject of the current dispute of the parties, and each party to this agreement shall reserve all rights and/or defenses with regards to any and all other matters which are not directly related to this Mediation. This resolution is the result of the parties' desire to amicably resolve issues pertaining to an interpretation of the applicable contract language as pertaining to the Contract between Mark IV Construction Company and the Town of Trumbull entitled, Contract IV - North Nichols, Bid Items 57 - 63 only.

TOWN OF TRUMBULL

MARK IV CONSTRUCTION CO.

By _____
Dennis J. Kokenos
Town Attorney

By _____
Kenneth Rozich
ITS: Attorney