



*Randy L. Smith, P.E., P.S.*  
**TRUMBULL COUNTY ENGINEER**

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April 12, 2018

Frost Brown Todd  
One Columbus, Suite 2300  
10 West Broad Street  
Columbus, Ohio 43215-3484

Re: Sewer Agreement between Warren and Trumbull County to provide service to Lordstown and Warren-Champion Sub Districts

Dear Attorney Samuels:

Thank you for your recent communication dated March 30, 2018. I appreciate the fact that you went to the time and trouble of "devoting so much ink to the legal analysis..." in order to provide me with your opinion. Obviously, it is the County's desire and intent at this time to avoid protracted litigation. Fortunately to date, the County has been able to avoid the expense of hiring outside counsel in regards to this matter. Based upon my directives, it remains my objective to continue with our negotiations in good faith with the intent of reaching a settlement amenable to both parties. Further, I recognize the potential legal expense and risk associated with resolving this matter before the court. As you are probably aware, the County recently expended \$1,181,399.30 with your firm in what could be construed a losing effort regarding sanitary sewers within the Village of Lordstown. It is my understanding that the City was also a defendant in this matter. Not only did the entities incur substantial legal fees, strained relationships between the entities also resulted. Regardless, I have devoted a sufficient amount of ink to express my intended course of direction.

Moving forward, I do have some concerns with the informality of the current negotiation structure. It is my understanding the City's initial proposal would have reflected a rate increase upon the customer base within the Village of Lordstown and Township of Champion by approximately 278%. Although I did not participate in the initial negotiation meeting, I am aware said proposal was not reduced to writing. After review of this verbal offer, the County responded with a written counter offer/proposal to Mayor Franklin. Having participated in the second session, I recognize this offer was rejected and a second proposal was offered by the City. By all accounts it would appear this offer actually reflected a substantial increase over the City's initial position. Perhaps I have made a mistake in math or have misunderstood this proposal.

Based upon the mass confusion that resulted early on with the initial meeting coupled with the overall lack of direction, and in an effort to streamline the process, I respectfully request that you reduce the City's current offer to writing along with all associated timelines. Thank you in advance for your anticipated cooperation in this request.

I have also noted that your correspondence references "other outstanding issues" that need to be addressed. Rather than delay and consume additional unnecessary time, I would like to review as to what I perceive the issues may be that you are referencing.

1. Failing meter regarding the Champion district.

The City provided some thought as to the relocation of the existing meter pit in conjunction with equipment replacement. It would appear this proposal would place the pit at a greater risk of inflow in addition to a substantial cost. On March 16, 2018 the County provided you with a written proposal which outlined a practical resolution, proportionate cost distribution and an offer to assist with equipment and manpower. As of this date, there has been no response on behalf of the City concerning same.

2. Tour of the treatment plant.

I appreciate your willingness to afford County personnel and representatives the opportunity to inspect the treatment plant. It is my understanding that you will also be participating in the tour. I am presuming the tour will be guided by either City personnel, perhaps yourself or another designated individual(s). At this time, I ask that you reconsider your prior demand to exclude Mr. Tom Angelo from the County's inspection team. As you should know the Board of Commissioners has requested Mr. Angelo's assistance in this matter. Based upon the tour being guided by Warren representatives in addition to having their legal counsel present, why deny access to a county representative? Should you desire to maintain the City's position in this matter, please reduce your justification to writing. Thank you in advance for your reconsideration of this matter and anticipated cooperation.

3. Request for complete Arcadis report.

Although during the second negotiation session you had suggested that the exchange of information could be handled by subordinate personnel, challenges continue. The County's March 16, 2018 transmittal contained numerous documents associated with the County's I & I efforts regarding the respective districts. These documents reflect the level of attention given to this issue. With this correspondence, I am requesting a complete copy of the Arcadis report concerning I & I and the overall Warren system. This request has been made on multiple occasions. In the event the City continues to fail in the production of this document, I will forward a public records request and take the necessary steps to acquire these public documents. The county anticipates this report will shed some light upon the actual challenges associated with I & I regarding the overall basin.

4. Audit of performance and associated expenses.

I understand your position that the expired agreement, which utilized a calculation based formula factoring actual operations expenses, is rather burdensome; however the County prefers this methodology. By utilizing this type of approach, both parties are ensured that neither entity is subsidizing the operation of the other. During the second negotiation session, you had indicated that it was not the City's intent to have the County subsidize the City's obligations as it relates to internal expenses. The appearance of the City's second verbal offer, coupled with the lack of any documentation regarding cost allocation would suggest this is simply an attempted money grab at the expense of County customers.

In order to eliminate this appearance, the County would suggest a performance audit of the wastewater operations in conjunction with an independent analysis of cost allocation by a mutually agreeable firm. By doing so, both parties will be ensured of efficient operations and a fee structure that is based upon utilization. Transparency in this matter will facilitate a greater public understanding of the overall needs and associated costs with these services.

As a side note, the County has retained two professional engineering firms for the purposes of determining alternatives for both water supply and wastewater treatment options. Therefore, the County's interest may be limited to a shorter term agreement in regards to the matter at hand.

Thank you again for your consideration of these matters. I look forward to our next meeting

Sincerely,

A handwritten signature in blue ink, appearing to read 'Randy L. Smith', with a long horizontal flourish extending to the right.

Randy L. Smith, P.E., P.S.  
Trumbull County Engineer