



City of CHARLOTTE

MEMORANDUM

TO: Mayor Lewis and City Council Members

FROM: Gregg Guetschow, City Manager

SUBJECT: Awarding Contract for Water Service Investigation

DATE: December 16, 2016

The agenda packet for City Council's October 24 meeting included a copy of an October 4, 2016 letter from Bethel Skinker of the Department of Environmental Quality to Amy Gilson regarding the City's water supply. The purpose of this letter was to report the results of an investigation into a complaint that the City had violated regulations addressing the lead content of fixtures installed in new water services.

As the letter states, new rules became effective January 4, 2014 that reduced significantly the amount of lead that could be contained in valves and other components installed on water service lines that are used for potable water. The complaint alleged that the City had violated this rule by using older components that did not meet the new standard. These non-compliant components were said to have been installed on a residential water service, the location of which was not identified, and on a line serving a hydrant located at the skating rink on Shepherd Street. City staff members were able to provide documentation demonstrating that components meeting the January 2014 rule were used on the skating rink hydrant (even though they were not required for that installation). Further, staff members showed Ms. Skinker that non-compliant components had been removed from the customary inventory area to a remote storage area at the time the rule change had gone into effect.

Because the location of the residential service was not known, Ms. Skinker was unable to investigate that complaint and informed the complainant. It would appear that DEQ considers this matter closed at this time. Unfortunately, the same cannot be said of City staff. We find the unresolved question of an improper water service an unacceptable circumstance that should be addressed.

Two courses of action, which are not necessarily mutually exclusive, are possible to allow us to conclude an investigation. The first is to interview the source of the information that led to the complaint. Such an interview could provide useful information in determining the likelihood that these components were installed and where. For reasons explained below, this avenue is presently closed to us.

We first became aware of the allegation that led to this investigation through an email sent by Ms. Skinker to Ms. Gilson on September 19, 2016. Ms. Skinker indicated that the complainant was a city resident who had requested that his identity be kept confidential. The knowledge of rules related to water service installations required to make the allegation caused us to suspect initially that the source was a current or former City employee. Aspects of the questions posed to Ms. Gilson by Ms. Skinker during her on-site investigation, however, led us to believe the complainant was Council member Anthony Russo. DEQ officials refused our requests to confirm that he was the complainant.

Mayor Lewis and I met with Mr. Russo about this matter immediately prior to the October 24 meeting. He admitted that he was indeed the complainant. He refused to divulge the identity of the source of allegation but did confirm that it was either a current or former City employee. He said he was told there were not one but two residential services on which non-compliant components were used, had been unsuccessful to date in learning the addresses and would continue to pursue this information. I asked him to contact either Ms. Gilson or me as soon as he learned these locations so that we could investigate.

Because we had had no further contact from him on this matter subsequent to the October 24 meeting, Mayor Lewis and I met again with Mr. Russo just prior to the start of the December 12 Council meeting. He indicated he had not learned the addresses where non-compliant components were allegedly installed and again refused to identify the source of the allegation. I advised him that his continued refusal to identify the source of his information hampered our investigation and that I would be bringing to Council a recommendation to contract for work necessary to complete an investigation.

The internal investigation that we have conducted to date has revealed nothing that would cause us to conclude that non-compliant components had been used on water services subsequent to January 4, 2014. Apart from this as yet unproven allegation, we have no reason to believe that anything improper was done. Nevertheless, we have been frustrated in our attempts to conduct a thorough investigation by Mr. Russo's continued refusal to identify the source of the information that formed the basis of his complaint to the DEQ.

The integrity of the water system and the safety of consumers are of supreme importance to us. Some Council members will recall that the City expended approximately \$200,000 to conduct a year-long study in an effort to prove to the DEQ that the City's well field was not under the direct influence of surface water sources. This led the DEQ to withdraw its order to construct a \$20 million water filtration plant, an action with which some DEQ employees disagreed. In addition to our overriding concern for producing the safest possible drinking water, we wish to avoid any circumstance that could cause DEQ to doubt the City's capability to manage its utility systems in a manner consistent with applicable state and federal standards.

As I stated above, interviewing the source of Mr. Russo's information is an avenue that is presently closed to us so long as he refuses to reveal his informant. There is no mechanism available to me or the Council to compel Mr. Russo to disclose his identity. We must assume that he will continue in his refusal.

For that reason, we are recommending a second course of action: awarding a contract to excavate all 41 residential water services installed between January 1, 2014 and September 19, 2016. We believe that such an investigation will prove that proper components were used on these services. If non-compliant components are found, however, we will be able to determine from our work orders the names of individuals involved and perhaps learn how such an error could have occurred. Of equal importance, we will be able to replace the non-compliant components.

This excavation work could be done by City employees but we do not believe this is a prudent alternative. The allegation implies that the City intentionally violated the rule regarding lead-containing components. If we were to use our own employees for this work, and no non-compliant components are located, we would find it more difficult to counter accusations of a cover-up. We believe that doubts about our compliance with this rule are best addressed through the use of an outside contractor. Further, undertaking this work using City staff would interfere with the regular duties with which these employees would be engaged.

The scope of work required to complete the investigation varies depending on the nature of the original work. Some installations took place only in parkway areas; others required excavation within, and restoration of, paved areas of streets. A few were located on State trunklines. We obtained preliminary estimates from an excavation contractor which included restoration of areas disturbed through this work. That estimate, which assumes that work will commence in the spring, totals \$144,000 for the 41 services. This estimate does not include costs the City will incur for work such as MISSDIG location staking and replacing improper components, if any are found

A resolution authorizing staff to solicit bids for this work will be found elsewhere in the agenda packet.