

Executive Session - Township Meeting

DATE: April 26, 2010

TIME: 7:00 p.m.

LOCATION: St. Clair Township
107 Service Street
Swansea, IL 62226

MEMBERS PRESENT: Tim Buchanan, Supervisor
Mary Carroll, Clerk
Bob Trentman, Trustee
Dave Barnes, Trustee
Richard Schobert, Trustee
Greg Bridgman, Trustee

At the special meeting of the St. Clair Township board, Trustee Schobert had made a motion to go into Executive Session to discuss the sewer agreement negotiations with the Village of Swansea. It was seconded by Trustee Trentman.

Township Attorney, Bill Stiehl, gave a summary. Attorney Stiehl said the events started with the demand from Swansea for \$1.3 million to be paid in thirty days. It is now ending with an arbitration demand on the old contract. He reiterated the arbitration was for the old contract and not the new contract. He felt strongly that the people negotiating the old contract would agree this was not the intent of the old contract. He pointed out parts of the contract for the Board to review. He said he would be talking to people who negotiated the contract and asked Trustee Schobert who those people were. Trustee Schobert said it would be Rolly Thouvenout, Terry Firnkes and himself. Trustee Schobert said the intent of the 1995 contract was to pay for the sewer plant expansion and the way the rates were determined would stay the same. He added that he wasn't sure who was all involved in the original contract, but he suggested that maybe Wayman Milam could have been.

Trustee Schobert added that Swansea never came to the Township for their input when the improvements were made. He said the Township had no input at all. He said that if Attorney Stiehl could find the original contract before 1995, it would read the same, except for the information on the loan. Trustee Schobert said that when they negotiated the old contract, the original contract was still in effect.

Attorney Stiehl said he has had discussions with their attorney and they are not budging. Either the Township accepts the arbitration or we talk about a payment provision. He said as far as the arbitration is concerned, the downside would be the costs: 1) arbitrator; 2) 1/2 cost of third arbitrator; 3) the engineer expert; and 4) the attorney's fees. He did point out that if we lose the arbitration, we would not have to pay Swansea's fees in relation to the arbitration.

Attorney Stiehl said that even if the Township wins the arbitration, Swansea could sue us in Circuit Court. He said they would be entitled to some fair value for the benefit the Township is receiving.

It was agreed that until the flow measurements are finished, it would be difficult to determine what a fair value would event be. Trustee Schobert said that we figure we use about 500,000 gallons a year, which would be closer to 20-25% of the useage, but not 34% that Swansea is claiming.

Supervisor Buchanan said that the flow measurements will take about 4 week to complete and we are about 1-1/2 weeks into it now.

Some things that Supervisor Buchanan noted were that: 1) Section 5C focused on this new improvement; 2) calling an impasse after one meeting and not countering anything showed a lack of cooperation from Swansea; 3) the contract indicates that flow monitoring is acceptable; 4) Swansea erroneously estimated high growth of the Township; and 5) engineers were picked to arbitrate, but the issue appears to more of a contract interpretation dispute.

Attorney Stiehl said the role of the arbitrator is to determine if capital cost for the new expansion were envisioned under the current contract. After this, their job is over. It is a possibility the Township may end up in Circuit Court to resolve what we should be paying.

Attorney Stiehl said he will be in contact with our arbitrator to make sure he has been in contract with their arbitrator, and he will be working on our case. He expected that the actual arbitration would not take place before July or August of this year.

Trustee Schobert made a motion to close the Executive Session and Trustee Barnes seconded the motion. Roll call vote. All in favor. The Executive Session was adjourned at 8:25 p.m. and returned to the meeting.

Respectfully submitted:



Mary Carroll
Township Clerk

