

MINUTES OF GREENVILLE TOWN COUNCIL MEETING, December 13, 1994.

The regular monthly meeting of the Greenville Town Council was called to order by President Harold Hall at 8:00 P.M. with Councilmember Bob Williams and the Clerk of the Council present.

Also attending was Dick Libs, Elmer Knable (Wind Dance Subdv.), Jim Lemmons and Butch Richardson and Janet Riggs for the Water Advisory Board, Attorney George Gesenhues, Jr., Ramsey Vansey (Marshall), Bob Gibson, Janice Gibson, Gary Getrost, Janice Smith, and Robert Hamilton, Attorney.

Minutes of the November meeting was approved as written. (2-0).

Claims for the Town/Utility were approved. (2-0).

The Clerk Treasurer's report indicate bank balances are correct.

Butch Richardson stated the Advisory Board recommended the Town not do any the project as proposed by INdiana Cities/Americal/n Water Works and to request Indiana Cities to fund outstanding bills at the pre-agreement arrangement of interest charges.

Mr. Richardson believes the main question facing the utility is source of supply. Mr. Hall was requested to re-state to Indiana Cities the commitment of source of water.

Mr. Gesenhues asked the Council to move to authorize him to proceed to make arrangements with appraisers for appraisal of the utility on condition he (Gesenhues) obtains funding arrangement with Indiana Cities. Mr. Hall & Williams voted in the affirmative for the proposal.

Janice Smith advised the Council she would like the alley next to her property to be surveyed and that she had her attorney, Mr. Hamilton present for her case. Mr. Gesenhues stated the Town will have the alley in question surveyed to determine exact location. But Mr. Gesenhues stated that if the Town cannot locate the exact location they (Town) may leave it up to the property owners to decide boundaries. Mr. Hamilton explained this position to Ms. Smith.

Dick Libs stated Wind Dance Subdv. has been approached by an engineer to plan a sewer plant for their subdivision and asked where the Town stands at present on the sewer issue.

Mr. Hall stated the Town has had two (2) projects in the past regarding sewers but they were dropped. Hall advised Libs that when they obtain more information the Town would like to hear about it.

Regarding Street lighting for Wind Dance the Council approved (2-0) to take over maintenance and monthly costs of the lights with the subdivision owners being responsible for maintenance at the present time; and for Libs & Knable to advise PSI and ReMC to change billing into the Town's name for payment of bills.

Libs also stated that they (Knable & Libs) have property surrounding Wind Dance that has not been taken into the Town and asked the Council if they were interested in annexing.

Mr. Gesenhues reviewed the property in question and advised the Council the Town would have to include services previously offered in Phase I. He also advised the Council, if they agreed to annex, a Resolution would have to be offered with a Physical Plan.

MINUTES OF GREENVILLE TOWN COUNCIL MEETING, December 13, 1994; (Cont'd).


Mr. Hall then requested a motion to consider an Ordinance annexing the property in question. Mr. Williams motioned that the Town proceed with annexing ordinance and physical plan, with exact boundaries of the area to be determined. Mr. Hall seconded the motion to annex the area, motion carried by a vote of 2-0. Second and final reading of the Ordinance will be considered at the January meeting.

Mr. Libs asked if the Town had any plans for inspections of homes under construction. Mr. Gesenhues explained the Town's position on inspections, that the Town was attempting to work out an agreement with the County to perform the inspections, but until that is accomplished the Town will not do any.

Ramsey Vance requested the Council approve a Grant Application for additional salaries and benefits for law enforcement and to purchase a Pager from Ameritech; which also provides additional Pagers for use by the Utility Superintendent, with costs shared by the Town/Utility. On motion by Mr. Williams and seconded by Mr. Hall Council agreed to file the Grant Application and purchase necessary Pagers from Ameritech, with cost sharing agreement.

The Council approved (2-0) the authorization of Mr. Getrost and Mr. Gibson to contact the Ramsey Water Co. regarding source of water, clearing with the Town Attorney before proceeding.

No further business coming before the Council, Mr. Williams motioned for adjournment, seconded by Mr. Hall.



President of the Council

ATTEST:



Clerk of the Council

Jack



Indiana-American Water Company, Inc.

401 Camby Court • P.O. Box 570 • Greenwood, Indiana 46142-0570 • (317) 885-2400 • (317) 885-2406 FAX

MEMORANDUM

December 5, 1994

TO: R. E. Hargraves
FROM: E. W. Thornburg *EWT*
RE: Greenville Municipal Water Authority

Based on our review of the hydraulic model, the original construction plans and the contract with SIECO Engineering, we put forth the following:

- 1) The original pipeline project, designed by SIECO to be built by Temple and Temple is not required to solve the pressure and quantity concerns involved. This was calling for nearly 13,500' of 10" PVC and 3000' of 6" PVC. Total cost for the pipeline and appurtenances was bid at \$336,750 (See Attachment A). We recommend we not build.
- 2) The 150,000 gallon tank which was to be built by Caldwell Tanks was bid for \$216,900, was not of the proper size nor was it in the proper location based on our criteria. We recommend we not build.
- 3) Contract documents require that Greenville compensate SIECO "for design and contract administration services" based on actual construction cost, exclusive of items indicated in Dan McGill's November 14, 1994, memo. The agreement also states that SIECO is to be paid in stages - 70% after acceptance of the drawings, specifications cost estimates and contract documents. Greenville clearly accepted these items and the project was bid. Total project cost was \$553,650 before review by Indiana-American. Although there ultimately was no construction, Greenville had accepted the work product. Based on this, it seems reasonable to compensate SIECO accordingly:

\$535,150	\$553,650	
x	10.14%	(Per FHMA Sliding Scale)
x	<u>70%</u>	

\$39,298.08

	39,298.08	
	<u>-14,736.96</u>	(Invoice #38163)
	\$24,561.12	Pay to SIECO
Plus	<u>2,250.00</u>	Preliminary Engineering Report
	<u>\$26,811.12</u>	

- 4) Indiana-American should not recommend that SIECO continue with this project as either Engineer and Construction Manager. Indiana-American should serve as Engineer. Projects of this scaled-down size do not require a Construction Manager.
- 5) ^{250,000} Indiana-American should design the new tank as previously recommended (~~200,000~~ gallon elevated tank). Estimated cost is \$335,000. Completion estimate - July-September, 1996.
- 6) Indiana-American should design additional interconnect with Floyds Knobs adjacent to U.S. 150. This will enhance source capabilities and eliminate majority of service problems before tank is completed. Tank construction will eliminate all others and provide fire protection and equalization required. This project consists of 1,850' - 12" and metering point at a total cost of \$62,200.00.

Summary

- 1) Settle with SIECO for \$26,811.12. Eliminate any future role for them in the project.
- 2) Execute construction funding agreement.
- 3) Proceed with tank design.
- 4) Proceed with Floyd Knobs' 2nd interconnection negotiations and design.
- 5) Issue cost estimates to Mount St. Francis for service extension. (\$55,150 to bore U.S. 150 and \$44,100 in on-site piping).

EWT/me

REVISED CONSTRUCTION COST PER UTILITY REGULATORY COMMISSION REQUEST
 FOR CHANGE ORDER C.O. - 1 - FOR THE
 TOWN OF GREENVILLE, INDIANA
 WATER STORAGE TANK, CONTROLS AND WATER MAINS
 August 12, 1994

Item	Description	Base Bid Quantity	Unit Bid Price	Base Bid Price	C.O. Quantity	C.O. Price	C.O. Difference
1.	10" PVC (CL 200)	4,000'	\$16.50/ft.	\$66,000.00	13,500'	\$222,750.00	\$156,750.00
2.	8" PVC (CL 200)	1,800'	14.50/ft.	26,100.00	600'	8,700.00	(17,400.00)
3.	6" PVC (CL 200)	7,000'	12.50/ft.	87,500.00	0	0.00	(87,500.00)
4.	4" PVC (CL 200)	100'	9.00/ft.	900.00	0	0.00	(900.00)
5.	6" Flushing Hydrant w/G.V. & B.	8	2,000.00 ea.	16,000.00	6	12,000.00	(4,000.00)
6.	10" Gate Valve and Box	2	1,150.00 ea.	2,300.00	4	4,600.00	2,300.00
7.	8" Gate Valve and Box	2	950.00 ea.	1,900.00	1	950.00	(950.00)
8.	6" Gate Valve and Box	2	850.00 ea.	1,700.00	1	850.00	(850.00)
9.	4" Gate Valve and Box	2	600.00 ea.	1,200.00	0	0.00	(1,200.00)
10.	Cut and Replace Asphalt Road	300'	17.00/ft.	5,100.00	300'	5,100.00	0.00
11.	Class "C" Stream Crossing	40'	80.00/ft.	3,200.00	270'	21,600.00	18,400.00
12.	Class "B" Stream Crossing	80'	80.00/ft.	6,400.00	80'	6,400.00	0.00
13.	Chainlink Fence	420'	30.00/ft.	12,600.00	0	0.00	(12,600.00)
14.	3/4" Polyethylene Service Tubing	100'	6.00/ft.	600.00	0	0.00	(600.00)
15.	Detectable Flagging	13,000'	0.30/ft.	3,900.00	15,000'	4,500.00	600.00
16.	Valve and Main Marker	10	340.00 ea.	3,400.00	0	0.00	(3,400.00)
17.	16" Highway 150 Casing	90'	160.00/ft.	14,400.00	120'	19,200.00	4,800.00
18.	6" Connection, Peking Road	1	2,200.00	2,200.00	0	0.00	(2,200.00)
19.	12" x 6" Connection, U.S. 150	1	3,500.00	3,500.00	1	3,500.00	0.00
20.	12" x 8" Greenville Tank Conn.	1	13,500.00	13,500.00	0	0.00	(13,500.00)
21.	10" x 5" Buck Creek Connection	1	3,000.00	3,000.00	1	3,000.00	0.00
22.	4" Brush College Rd. Connection	1	1,700.00	1,700.00	0	0.00	(1,700.00)
23.	6" U.S. 150 Connection	3	2,800.00	8,400.00	0	0.00	(8,400.00)
24.	Master Meter	1	15,600.00	15,600.00	0	0.00	(15,600.00)
25.	8" G.V. & B. in Exist. 8" Main	1	3,000.00	3,000.00	0	0.00	(3,000.00)
26.	2" Meter	1	2,600.00	2,600.00	1	2,600.00	0.00
27.	3/4" Service Tap	4	200.00	800.00	0	0.00	(800.00)
28.	5/8" Meter with IPRV	4	250.00	1,000.00	0	0.00	(1,000.00)
29.	Mt. St. Francis Tank Control Valve	1	18,500.00	18,500.00	1	18,500.00	0.00
30.	Greenville Tank Control Valve	2	17,000.00	34,000.00	0	0.00	(34,000.00)
31.	100,000 gallon Elevated Tank	1	194,900.00	194,900.00	0	0.00	(194,900.00)
32.	200,000 gallon Standpipe	1	148,800.00	148,800.00	0	0.00	(148,800.00)
33.	12" G.V. & B. in Exist. Main	-	No Bid	No Bid	1	2,500.00	2,500.00
1-1.	150,000 gallon Elevated Tank	-	\$216,900.00	-	1	216,900.00	216,900.00
	TOTALS			\$704,700.00		\$553,650.00	\$151,050.00

TOWN OF GREENVILLE, INDIANA

WATER UTILITY HYDRAULIC NETWORK ANALYSES

I. INTRODUCTION

The Greenville Water Utility presently serves approximately 1,100 residential and light commercial customers within its service area which includes the Town of Greenville, the community of Galena and surrounding rural areas of Floyd County located in southern Indiana along U.S. Route 150 West from Exit 119 on Interstate 64.

A water utility improvement project has been initiated. This report examines the existing and proposed distribution network with respect to pressures and flows in the system.

II. EXISTING CONDITIONS AND DISTRIBUTION SYSTEM

The system network model has been developed initially from a preliminary map of the Town of Greenville Water Utility Improvement project prepared by Sieco, Inc. Additional information has been obtained from field investigation and discussion with the Town of Greenville Water Superintendent.

The distribution system has developed since its initial installation in 1963. Currently, it is made up of approximately 60% asbestos cement and 40% PVC pipe. The quality of the water supplied has not been examined under this report, but it is understood that no known red water or turbidity problems exist.

Currently, source water is supplied primarily from the Floyds Knob Water Company, the Edwardsville water system, and the Ramsey water system delivered through master meters. The table below indicates historical peak demand which was experienced from June 10 - 12, 1994.

Master Meter	June 10 GPD	June 11 GPD	June 12 GPD
Floyd Knobs #1 Old Vincennes	172,500	172,500	172,600
Floyd Knobs #2 Buck Creek	67,600	67,600	67,800
Edwardsville	104,000	104,000	104,000
Ramsey	51,900	51,500	51,700
Total Peak Demand	396,000	397,000	397,000

For purposes of establishing the hydraulic network model, the following supply and demand parameters were set:

1. **Baseline model data will equal historical peak demand of 397,000 GPD or 275.7 GPM.**
2. **Consumer demand at peak is estimated as follows:**

Floyd-Central High School - 2,012 students x 20 GPD = 40,240 GPD or 28 GPM, 14 GPM demand at Node 56, 14 GPM at Node 58.

Galena Elementary - 450 students x 15 GPD = 6,750 GPD or 4.7 GPM demand at Node 57.

Greenville Elementary - 375 students x 15 GPD = 5,625 GPD or 4 GPM, 2 GPM demand at Node 26, 2 GPM at Node 28

Remaining demand has been prorated among 1,100 users. U.S. Geologic survey maps were utilized to make a house count and distribute demands proportionately. After subtracting the unique school loads, the remaining system demand is 275.7 GPM - 36.7 GPM = 239 GPM or 344,160 GPD. Dividing the remaining flow among the system users yields $344,160 \text{ GPD} \div 1,100 = 313 \text{ GPD}$ per customer which is consistent with typical estimated flow rates.

3. The supply from Ramsey at the Greenville Road master meter was eliminated from the model. Also, the supply from Edwardsville was limited to a maximum of 70 GPM. The following table summarizes modeled source supply at peak demand.

Master Meter	GPM
Floyd Knobs #1 Old Vincennes	158.60
Floyd Knobs #2 Buck Creek	47.10
Edwardsville	70.00
Total Peak Demand	275.70

Attachment A provides the distribution network map, with pipe and nodes identified. Expanded subnets provide additional detail where necessary. Generally, specific pipe, node, tank and supply parameters are provided in the various simulation data. Elevations have been obtained from the base map where available and otherwise from U.S. Geological survey quad maps.

III. HYDRAULIC ANALYSIS MODEL OUTPUT

- A. The existing conditions are examined under the following steady state scenarios - Attachment B:
1. **Peak Demand** - 275.7 GPM as discussed in II. above. With line 13 closed the area covered by pipes 1 through 12 supplied by the Buck Creek master meter is isolated.
 2. **Peak Hourly** - Peak demand multiplied by 1.52.
 3. **Minimum Hourly** - Peak demand multiplied by 0.17.
 4. Fire Demand of 1,000 GPM to Greenville Elementary during peak system demand.
 5. Fire demand of 1,500 GPM to Floyd-Central High School during peak system demand.
- B. The proposed water utility improvement project is examined under the following steady state scenarios - Attachment C:
1. **Peak Demand** - 275.7 gpm as discussed in II above. Line 13 is open to allow the entire system to benefit from the proposed improvements.
 2. **Peak Hourly** - Peak demand multiplied by 1.52.
 3. **Minimum Hourly** - Peak demand multiplied by 0.17.
 4. **Peak Demand** Line 13 closed.
 5. Fire demand of 1,000 gpm to Greenville Elementary during peak system demand.
 6. Fire demand of 1,500 gpm to Floyd-Central High School during peak system demand.
- C. This scenario examines system results if a new 250,000 gallon elevated storage tank is constructed to replace the 100,000 gallon Galena tank and the 100,000 gallon Greenville standpipe. The overflow elevation on this 250,000 gallon tank is set at 968.80 feet which is 15 feet higher than the existing tanks - Attachment E:
1. **Peak Demand**
 2. **Peak Hourly** - Peak multiplied by 1.52.

3. **Minimum Hourly - Peak multiplied by 0.17.**
4. **Fire demand of 1,000 gpm to Greenville Elementary during peak system demand.**
5. **Fire demand of 1,500 gpm to Floyd-Central High School during peak system demand.**

IV. CONCLUSIONS

Existing Conditions

1. No low pressures.
2. No high line velocities.
3. Adequate domestic line capacity.
4. Inadequate system storage.
5. Unable to provide fire flow.

Proposed Improvement Project

1. No low pressures.
2. No high line velocities.
3. Adequate domestic line capacity.
4. Supplies adequate system storage.
5. Unable to provide fire flow.
6. Places unreasonable O & M burden on the system.

New 250,000 Gallon Elevated Tank

1. No low pressures.
2. No high line velocities.
3. Adequate domestic line capacity.
4. Supplies adequate system storage.
5. Unable to provide fire flow.
6. One centralized facility to operate and maintain.

DISBURSEMENTS

FUNDS

	AMOUNT BUDGETED	DISBURSED THIS MO.	TO DATE	BALANCE IN BUDGET
GENERAL:				
Salaries: Councilmembers	\$ 1,920	\$ 160.-	\$ 1710.-	\$ 210.00
Clerk Treasurer	1,080	90.-	970.-	110.00
Employees	1,680	140.-	1,520.-	160.00
Marshall/Deputy	4,200	350.-	550.-	3,650.00
FICA/Med Taxes-Employer	700	56.61	363.38	336.62
Stationery & Supplies	2,800	1423.70	2,598.71	201.29
Garage & Motor	600	-	28.77	571.23
Legal	2,200	-	1,800.00	300.00
Communication & Travel	400	59.98	247.48	152.52
Printing & Adv. - Legal	600	-	418.57	181.43
Insurance - Property	1,700	-	1,252.00	448.00
Utility Services -Electric	4,000	-	-	4000.00
Trash Removal	800	-	391.80	408.20
Repairs/Maint - Auto	600	-	-	600.00
Hydrant Rental	5,470	-	1,653.68	3,816.32
Indemnities	3,700	-	-	3,700.00
Bond Premiums	300	-	-	300.00
Organization Dues	650	-	507.00	143.00
Fire Protection	3,000	-	1,500.00	1,500.00
Education	-	-	-	-
TOTALS - GEN. FUND	36,400	2,280.29	15,611.39	20,788.61
LOCAL ROADS & STREETS:				
Engineering	1,000	-	-	1,000.00
Repairs-Streets/Alleys	24,000	-	-	24,000.00
TOTALS- L.R. & S.	25,000	-	-	25,000.00
MOTOR VEHICLE (MVH):				
Salaries	1,000	-	-	1,000.00
FICA/Med Taxes-Employer	80	-	-	80.00
Clothing Allow. - Marshall	320	140.84	140.84	179.16
Supplies - Garage	500	63.65	132.72	367.28
Supplies-Materials	500	-	-	500.00
Supplies - Other	500	-	33.75	466.25
Legal Services	1,000	-	500.83	499.17
Engineering Services	1,000	-	-	1,000.00
Comm. & Trans. Travel	500	93.70	237.90	262.10
Adv. - Legal	300	-	-	300.00
Insurance	700	-	-	700.00
Utility Services - Electric	5,000	286.78	2,580.87	2,419.13
Trash Removal	300	-	-	300.00
Repairs - Auto	300	-	-	300.00
Repairs-Streets/Alleys	30,000	-	-	30,000.00
Snow Removal/Right of Way Maint.	3,000	-	661.00	2,339.00
TOTALS - MVH	45,000	584.97	4,287.91	40,712.09

(Total 23,800)

Tot. and. < 2,500 >
3,700

D I S B U R S E M E N T S

<u>FUNDS:</u>	<u>AMOUNT BUDGETED</u>	<u>DISBURSED</u>		<u>BALANCE IN BUDGET</u>
		<u>THIS MO.</u>	<u>TO DATE</u>	
<u>VEHICLE INSPECTION:</u>				
Travel & Trng.	\$ 75	-	-	75.-
<u>ACCIDENT REPORT:</u>				
Travel & Trng.	300	-	-	300.-
<u>GUN PERMIT:</u>				
Travel & Trng.	60	-	-	60.-
<u>CUMULATIVE CAPITAL IMPROVMENT:</u>				
Transfer to Gen. Fund				
TOTAL BUDGETED & ACTUAL	\$ 106,835	\$ 2865.26	\$ 19,899.30	\$ 86,935.70

R E V E N U E

<u>Bank Balance @</u>	<u>CASH</u>	<u>INVESTMENTS</u>	<u>TOTALS</u>
<u>11-30-94</u>	\$ 117,218.61	\$ 4,000.00	\$ 158,218.61
<u>FUNDS:</u>			
General	7,383.26	10,000.00	17,383.26
L. R. & S.	46,413.06	10,000.00	56,413.06
M.V.H.	59,112.88	21,000.00	80,112.88
Vehicle Inspection	75.81	-	75.81
Accident Report	314.33	-	314.33
C.C.I.	8650.18	-	8650.18
Gun Permit	30.00	-	30.00
E.D.I.T.	1,239.09	-	1,239.09
<u>TOTALS</u>	\$ 117,218.61	\$ 41,000.00	\$ 158,218.61

LAW OFFICES

KIGHTLINGER & GRAY

PINNACLE CENTRE, SUITE 200

3317 GRANT LINE ROAD

POST OFFICE BOX 6727

New Albany, Indiana 47151-0727

TELEPHONE 812-949-2300

TELECOPIER 812-949-8555

INDIANAPOLIS OFFICE
MARKET SQUARE CENTER
SUITE 600
151 NORTH DELAWARE
INDIANAPOLIS, INDIANA 46204
TELEPHONE 317-638-4521
TELECOPIER 317-638-5917

EVANSVILLE OFFICE
ONE RIVERFRONT PLACE
SUITE 210
20 N.W. FIRST STREET
EVANSVILLE, INDIANA 47708
TELEPHONE 812-464-9506
TELECOPIER 812-464-9511

MARK E. SMY
ROBERT J. HANPLER
JOHN R. THOMPSON
DONALD L. BAWSON
PETER B. TAMPLINIS
RICHARD A. YOUNG
J. RANDALL AIKMAN
MICHAEL S. BROWN
MARN S. BERTH
STEVEN E. SPRINGER
JOAN FULLAN TRICK
RICHARD T. MULLINEAUX
ROBERT M. KELSO
BRENT R. WEIL
PHILIP LINNEMIER**
JOHN S. GRUMNEY
JAMES W. ROENRODANZ
SAMUEL A. DAY
PETER A. VELDE
THOMAS S. BLACKWELL

BRIANE M. WOOD
THOMAS J. JACZYNSKI, JR.**
JEFFREY A. BERTY
THOMAS S. WINKLER, II*
RODNEY L. GERTY
C. MICHAEL WOODARD
TROY A. REYNOLDS**
JILL REIFINGER HANERUM
MARY M. NOOD
JOHN R. BAIRD
WILLIAM L. O'CONNOR
VAN T. WILLIS*
SCOTT L. TYLER*
LAURA E. HOENNING
PAUL F. LOTTES
CHRISTOPHER C. HASENOW
ROGER M. SCHMELZER
DAVID R. SAUVEY
ERIC D. JOHNSON
JOSEPH M. PERKINS, JR.
TIMOTHY A. KLINGLER
DIRCK H. STAHL

ERLE A. KIGHTLINGER
OF COUNSEL

*ALSO ADMITTED
IN KENTUCKY
**ALSO ADMITTED
IN ILLINOIS
†ALSO ADMITTED
IN MICHIGAN

November 21, 1994

Mr. Irvin H. Sonne, III
TACKETT, TAURMAN & SONNE, P.C.
201 West Main Street
Post Office Box 95
New Albany, Indiana 47151-0095

Mr. George W. Gesenhues, Jr.
506 State Street
Post Office Box 1343
New Albany, Indiana 47151-1343

Mr. James B. Hancock
413 West First Street
New Albany, Indiana 47150

Re: Charles Ollis, Sr. v. Greenville Water Company,
Town of Greenville, Gary W. Getrost and Ronald L.
Lamb
Cause No. 22D01-9302-CP-022

Dear Counsel:

The mediation in this action has been scheduled for January 9, 1995, at 9:00 a.m. at my law office. My office is located on the second floor of the NBD bank building located at 3317 Grant Line Road in New Albany. At that meeting, each party should be present with an attorney and a person who possesses full settlement authority. In those instances where a party may be entitled to indemnification by an insurance carrier or a third party, a representative of the indemnitor should be present. In those instances where a private party litigant has a family member or friend who acts as an informal counselor, that counselor should also be present.

In extraordinary cases, it may be acceptable for the individual with final settlement authority to be readily available

KIGHTLINGER & GRAY

Mr. Irvin H. Sonne, III
Mr. George W. Gesenhues, Jr.
Mr. James B. Hancock
November 21, 1994
Page 2

by telephone. It is strongly recommended to the parties, however, that the actual decision makers be present throughout the mediation. ADR 2.7(B)(2) formally requires that the trial Court excuse the presence of the decision maker. If it appears that the progress of the mediation was thwarted by the failure of a party to appear with a decision maker, an aggrieved party may make application for sanctions pursuant to ADR 2.11.

Submissions in advance of the mediation may be helpful but are not required. Each interested party will be permitted to fully state the nature of the claims, defenses and positions in the dispute. The mediator acts only to facilitate the negotiation and not as a decision maker on substantive issues. Therefore, it is neither necessary nor particularly helpful to persuade the mediator of the correctness of your position. We are seeking a negotiated settlement which is satisfactory to all parties.

In that theme, ex parte contacts with the mediator are permitted, in advance, during and after the mediation. During the course of the mediation, we may divide into private caucuses if it appears it may be helpful. Any information divulged to the mediator during any ex parte contact is privileged and may not be disclosed by the mediator without the express permission of the communicator. This will be strictly observed.

I anticipate the initial mediation to take three to four hours, though, again, flexibility and informality of the process will control. If progress toward a settlement is being made, we will continue until it is completed. If circumstances warrant, we may go for a relatively brief time in the initial mediation and schedule a subsequent session.

My rate for mediation is \$125.00 per hour. The division of responsibility for the mediator's fees is also subject to mediation. If no agreement is reached, the trial Court's determination as to the division controls.

Please give me a call if you have any questions or comments concerning the process. I look forward to seeing you on January 9, 1995, at 9:00 a.m.

Sincerely,

KIGHTLINGER & GRAY


Samuel A. Day

SAD:cad