

MINUTES
THE TOWN OF INDIAN RIVER SHORES
6001 North Highway A1A, Indian River Shores, FL 32963
WATER, WASTEWATER AND RECLAIMED WATER
UTILITIES WORKSHOP MEETING
Wednesday, November 10, 2010
2:00 p.m.

PRESENT: E. William Kenyon, Mayor
William H. Ahrens Vice Mayor
Frances F. Atchison, Councilmember
Michael B. Ochsner, Councilman
Gerard A. Weick, Councilman

STAFF PRESENT: Richard Jefferson, Town Manager
Laura Aldrich, Town Clerk
Chester Clem, Town Attorney

OTHERS PRESENT: Guest – Gerry Hartman, GAI Consultants
4 Residents
Representatives from the City of Vero Beach
Representatives from Indian River County

1. **Call to Order**

- a. Pledge of Allegiance
- b. Invocation (Councilman Ochsner)
- c. Roll Call

Mayor Kenyon called the meeting to order at 2 p.m., with the Pledge and Invocation performed and the roll call as reflected above.

2. **Presentation By GAI**

Mr. Gerry Hartman, Vice President of GAI Consultants, reviewed the history of their selection by the City of Vero Beach (COVB), Indian River County (IRC) and the Town to investigate the feasibility of consolidating the water utilities. During this process, the County withdrew from the group. Both the City and Town desired to continue.

Mr. Hartman addressed the potential conflict of interest relative to the franchise issue. The Town's contract was entered into first, and disclosure was verbally to the Town. The contract with the Town was attached to the agreement with the City, which shows three tasks that were being conducted on behalf of the Town. The City then hired GAI with full knowledge of their service to the Town, and to his knowledge the City and Town are working together in a cooperative fashion with mutual best interest at heart.

Continuing with the overview, he reviewed Phase I, Tasks 1 through 3 which have been authorized and completed. The Fairness Opinion meets ethical aspects with no conflicts associated. Another issue came up with response to the Town regarding billing the City. It was the City's bills, not the Town's bills that were in question. One typographical error on one word on one invoice was corrected. The cut and paste capability on computers led to the error.

Please Note: The Town of Indian River Shores does not routinely keep verbatim minutes. Any party interested in such an appeal relating to any decision made by the Council with respect to any matter considered at this meeting is responsible to record the meeting and include the testimony and evidence upon which the appeal is to be based.

There was a misunderstanding that the Town owns the majority of assets, and in actuality they own the minority, only about 10%, with the majority of owned by the COVB. Private systems own a large percentage of the assets in the Town. Assets and confirmation activities with the various parties have resulted in everything being reconciled. It was a major task, as the Town has been here quite awhile with various ownerships of the assets. He briefly addressed an article printed locally that contained technical errors. This activity is in compliance with all entities for disclosures and ethics, Mr. Hartman added.

The first of the three tasks is the Fairness Opinion for the equity that the Town owns in its water, wastewater and reclaimed water. The Town does not have equity in the reclaimed water systems, only in the water and wastewater water systems.

Task 2 is the Options Review Letter, which explains four different opportunities for the City and the County, with comparisons, advantages and disadvantages for each. Major aspects such as purchasing, regionalization terms and agreements, and assets were covered.

Task 3: The first part of this task was completed, and this presentation is the second (b) part. Comments from the Town Council as a fact finding session, which is open to the public and transparent, are solicited. Mr. Hartman then reviewed the future phases that are not yet authorized.

Back to the details of Task One, Mr. Hartman concluded in his Equity Assessment (Fairness Opinion) that the Town's assets for the water and wastewater portions of the existing system are valued at \$2,590,000.

In Task Two, four major options were explored. This Town uses a little more water than the average user in the State of Florida at 15,000 gallons per month of potable water. He showed a chart comparing the cost of water and wastewater from the City and from the County as a comparative example. There is \$1.19 difference – higher total cost from the County than our current costs with the City. In the draft agreements, if they were adopted as presented, there would be \$11.14 savings if we were to go with the City, or \$10.10 savings compared to our current bills if we contracted with the County. Less usage in the County would result in a lower rate structure. If the Town went with the agreements as sent to the County and City, it would be slightly more favorable to use the City.

He then discussed that in the Franchise Only approach, comparing many facets to consider when choosing between the City and the County. The residents have a significant investment already paid for in capacity rights. The City is under no obligation to refund those dollars that he is aware of, although they may be negotiable. For wastewater, most situations are quite similar, with the County rates lower than City. For reclaimed water, John's Island Water Management may impact this as there are negotiations underway between the County and John's Island for reclaimed water.

Approach comparisons were reviewed in the next slide, with a Franchise Agreement with Purchase and Sale to either the County or the City as their recommended, most desirable option as stated in GAI's correspondence to the Town in August.

Task 2's Overview Letter with the proposed conditions to either the City or County was broken down in detail. He recommended that the irrigation or reclaimed water be increased to 2.8 million gallons per day (MGD) from 2 MGD. The implementation schedule will be revised.

Task 3A shows the letter GAI sent on September 13 to both the City and County water providers asking for response. The City returned a marked up contract. The County sent a letter stating that they felt they couldn't respond due to the existing franchise agreement between the Town and the City. He reviewed recommended changes to the proposed City's

returned agreement. If we give up the system in perpetuity, Town residents will expect to be treated like in-City customers in perpetuity.

This concluded Mr. Hartman's presentation of the major issues.

3. **Council Discussion**

Councilman Ochsner explained that he was under the impression that although the City had indicated they were interested in hiring GAI, the Town had contracted with him first, and was surprised that it was not an exclusive hiring. Mr. Hartman says he would not be negotiating on behalf of the City, as they have retained outside counsel for that purpose. Our contract, Councilman Ochsner continued, said that GAI would negotiate the franchise purchase and sale, which seemed to be predetermined even though three other avenues were explored. Mr. Hartman said he had asked the Council at that time if they wanted to look at all of the options and have a comparative document. If the Town entered into another franchise agreement for 30 years, the town assets would have de minimus value. The Town desires to minimize the costs and show options comparatively, which displays honorable due diligence.

Councilman Ochsner had another question about negotiations preceding the draft agreement, so when the agreement went out, it caught some by surprise. Mr. Hartman explained that he wanted to lay out something that could be viewed with fairness, side by side, as in Task 2, for the Town residents.

Councilman Weick said at the June or July 22 meeting when Mr. Hartman came before the Town Council, it was also his understanding that if the Town hired him first he would be the Town's consultant. Then on July 26 you met with Rob Bolton and the City and proposed a contract with the City of Vero Beach on August 17. Some of the items appear to be duplicate efforts, such as documentation of City assets in the Town. Mr. Hartman said that the Town asked them to document the Town's assets. He said in the July presentation that it would cost a lot of money, as they have more assets. Councilman Weick said it doesn't look good, working on both sides. Mr. Hartman said he was not under that impression, but was under the impression that he would serve us in the negotiations, and that was the exclusivity. The Mayor explained that the Council thought they were putting GAI under contract for us, and not that you would be doing a similar thing for the City. The Council felt a little blindsided, although they are not questioning your ethics, it's just a little misunderstanding. Mr. Hartman said it was not his impression, and agreed it was just a misunderstanding.

Councilman Ochsner questioned the strategy of using a draft franchise agreement with a January closing date, which seems to interfere with an existing contractual agreement, causing the County's unwillingness to offer a proposal. He asked if the City was asked for permission, and Mr. Hartman said that they did ask. The draft agreement with both parties and a date for signatories of an agreement was something he was told that the Town Council wanted. When the three parties (CCNA Committee) were exploring this, a similar date was shown for completion of the work. It was based on the programs that were going on, and if they could get to an agreement, they could resolve any issues that came up. GAI's intent was to get this resolved at a minimum cost.

Councilman Ochsner continued that due to this draft agreement we don't have anything back from one of the two providers, and don't know how one of them feels. The County is asking the City's permission to talk to us. Councilman Weick and Councilmember Atchison said they agreed that it seems to eliminate the County from being able to respond by the January date. Councilman Weick and Mr. Hartman discussed ending the existing agreement by 2011 when it doesn't expire until 2016, with Mr. Hartman stating it makes sense to end the agreement early to capture equity. If the Town wants to continue in the franchise agreement,

which is not his recommendation, then the Council certainly may choose to do so. The County could initiate service with terms and conditions stated in 2011 giving them five (5) years to implement and build the assets. Councilman Ochsner said we just need to ask the question, we need an option.

Councilmember Atchison agreed, we have widely variable responses. The residents and the Council need to have both sides of the story on the table in front of us.

Vice Mayor Ahrens said we are talking about water, and our mentality should be regional. Therefore, we should be looking at a broader scheme, and water should not remain in the hands of one community, one town, one city, it takes more time to bring in other parties. How do you do that? Mr. Hartman said since the County pulled out of the Committee, we only have two parties willing to pull together and that makes it a two-party situation. That is why this is the best option for the Town. Waiting a longer period of time before the franchise ends it impacts our leverage quite a bit, and there would not be the same Terms and Conditions.

Councilman Ochsner said it sounds like we are negotiating against ourselves. We know the County wants to regionalize, because it makes sense. If that is the ultimate goal, we need their input.

Mr. Hartman said this negotiation with the City would not stop the County and the City from combining into a regionalization effort. In the future, if 2,000 more customers from Indian River Shores are brought to the table, it's a different agreement than you would have with just the City.

Councilmember Atchison said that many Land Acquisition Advisory Committee (LAAC) acquisitions depended on the water, and future planning for water storage, desalinization plans and other issues revolve around water, and she understood that the St. John's Water Management District deals with the population of the County at large, not by municipalities. Even though our county may have water available, other counties could usurp our allocation from the aquifer based on need. She agreed with the Vice Mayor, that a mutually cooperative project was the objective. So, if we sign a contract with the COVB, we would be folded in automatically in an extension with the County if they regionalized. Mr. Hartman said that there is a window of opportunity for equity recapture, to reduce rates for our customers next year, and expand our reclaimed water system in our community and save water - all are plusses for this Town. The Council could tell the City to consider regional options for the City and the County. This is a business decision for this community, right now, and the Council has the ability to make a decision and capture some benefits that you may not have later on in the same fashion. Based on the recommendation in Task 2, having received no response that the Town did not agree, Mr. Hartman went on ahead with Task 3. He can serve all three parties to help them become regionalized.

Councilman Weick had questions about the contract. He asked if the City agreed that our assets are valued at \$2.5 million. Mr. Hartman said they did. Councilman Weick discussed water usage and rates. He questioned the 2.8 MG per day reuse water, as Mr. Hartman said that 15,000 gallons of water/wastewater is average, yet it includes commercial properties, which he thought was a little high. A lot more homes want to use reuse water. Mr. Hartman said those are minimum thresholds, which the Councilman did not see written anywhere. Mr. Hartman said that was a good point, and he will make sure it is in the response. Councilman Weick continued that he agreed with the service charge being eliminated, but had a problem with 90-day notice to raise the rates. There is no limit on how often per year the rates could be raised, and he would like to see the limit of once or twice a year. It typically is usually bi-annually or annually, Mr. Hartman said, adding these are great comments. Councilman Weick asked for it to specify annual increases, and the Mayor agreed. He asked if it would be eliminated as an

exclusive franchise for reuse water, and Mr. Hartman affirmed. Section 8.9 on page 13 of contract regarding non-potable water needs a language change, which Mr. Hartman said he had already written and would be carried several places where it is mentioned throughout the agreement to be non-exclusive for reuse water. If the Town waived the 10% surcharge for perpetuity, Mr. Hartman explained, it means that the Town will not get the system back in 99 years, as you are already getting that benefit. Councilman Weick also asked that it be clarified that there would be sufficient water pressure guaranteed for fire hydrants to meet state and local regulations. He asked if Baytree was to remain out of the system, that wording should show as exclusion. The title of the document doesn't specify water/wastewater/reclaimed water, and Mr. Hartman agreed to change that.

Mr. Jefferson had no questions.

Vice Mayor Ahrens asked Mr. Hartman to review the public hearing procedures, which he did.

Councilman Weick and Mr. Hartman discussed the quality of surficial versus deep well aquifers in detail, which Mr. Hartman surmised that both sources put out good quality water.

Neither Mr. Clem nor Mr. Cadden had any further questions.

4. **Public Comment**

County's Response.

Chairman of the County Commission Peter O'Bryan, introduced the staff with him as Alan Polackwich, County Attorney, and Erick Olson, Director of Utilities. The County had an issue with the closing date of the draft agreement being prior to expiration of the current agreement with the COVB. In order to close early, the City would have to agree to void the franchise agreement, and until then, the County can't move forward as they believe it would be a violation of the existing agreement. Mayor Kenyon asked about the suggestion that they try to get a waiver without canceling the agreement. Councilman Weick added that they could negotiate for 2016 without cancelling current agreement.

Chairman O'Bryan continued with comments to Mr. Hartman about the about the conflict of interest with specific dates of agreements and correspondence and time charges between the Town and the City, as well as concern that the City had prepared a memo saying they were ready to accept the agreement the day they were mailed. How it was handled and steered toward the City without giving the County a fair opportunity to be a competitive bidder also troubled him. He mentioned the rate study from last year whereby the consultant said the City had to immediately increase the water and wastewater rates followed by incremental increases over the next five years in order to cover the capital needs, then rescinded that by saying they had stopped all capital project spending to avoid raising the rates. Without capital improvements, how good of a service would be provided to the Town? It's clear that whether the Town chooses to go with the City or the County, they will not be renewing the existing franchise with the City. The recommendation from GAI is not to renew, so if a letter is sent to the COVB stating the intention not to renew the existing franchise agreement that would open the door and allow time to explore the best regional options and eliminate the January 2011 deadline.

Mayor Kenyon asked Mr. Hartman to answer the questions raised by Chairman Solari, who said that all of the information can be provided to Mr. Jefferson regarding the time cards that would prove the accusation of mischarging to be false. This activity is a continuation of what was begun by the CCNA Committee, which was initiated by the Town, the County and the City, and when the County dropped out of it, the Town and City continued independently with the effort. Mayor Kenyon said that the perception was that somehow the City received their

copy of the draft agreement a long time before the County did. Mr. Hartman explained that when GAI was selected by the Town, the City had requested copies of public information and therefore had the Task 1 and 2 with Terms and Conditions a long time prior to the draft agreement being sent. Mr. Hartman said that the Town had the documents and they were readily available for anyone who asked for them, and the City was just on top of the situation. Mayor Kenyon asked him about the comments by Chairman O'Bryan about notifying the City about the intent not to renew the franchise agreement, and Mr. Hartman said that the action of sending the draft agreements to the City and County very well stated that fact. Of course the Town could send the letter if they wished, saying the consultant's recommendation is an early renewal of the franchise agreement with a purchase and sale agreement in the near term. But if you say you are not renewing the franchise agreement, the Town would be put at risk. This was not his recommendation. Mr. Clem said this is not the appropriate forum for discussing this; it should be taken into account for future reference.

Councilman Weick asked Mr. Hartman about the value of the City's assets in our Town, and Mr. Hartman said that they had not finished this part of the evaluation, but will have it shortly. Councilmember Atchison asked him to explain what referred to as private ownership is, and Mr. Hartman said there are gated communities such as John's Island who own their own assets and have dedicated them to the Town or the City.

Commission Chairman O'Bryan said that at one point this Council did not even know the document existed, it was a private document held by a private consultant, and had not been delivered to the Council as a public body.

Commissioner Solari discussed that the proposed agreement mentions the value of the City assets, which are not known and is one indication of the problem. He said that Mr. Hartman sees the 2-way process as a continuation of the 3-way process, and yet he heard three Town of Indian River Shores Council say they today they thought it was a one-way process. The County does see this as a conflict of interest. Both sides can't save money if there is not overlapping work, he continued, asking how can anyone can say it is a level playing field? There has been no real discussion about the COVB rates, and the financial condition of both entities should be part of the discussion, Commissioner Solari concluded.

Mayor Kenyon said that we have not made any commitment to anyone at this point. Our intent was to be extraordinarily fair, but these are two different entities. Commissioner Solari said if the Town would send out an RFP with specified needs, not a draft agreement, they could begin with an open and transparent dialogue. The draft agreement is usually the end of the process. These two continued with general discussion about the process.

Alan Polackwich, County Attorney, spoke next. He hoped that someday, maybe five years down the road, we will say that this meeting is when we got back on track. About the perceived conflict, it has become such a problem because when Mr. Hartman sent out the agreements, he framed the process that the Town is choosing between the City and the County. He thinks this was a mistake as it preempted the whole larger question of the possibility of regionalization. This process today is just for a winner and a loser. Is there some local approach where there is a winner-winner-winner? Mr. Polackwich spoke briefly about the County pulling out of the CCNA Committee with concern about the cost that the consultant was going to charge each of the three committee group members separately, but it was not a decision to be excluded from the local solution.

Mr. Polackwich said that there is time to explore regionalization issues. Chairman O'Bryan was talking about sending a notice not to renew this existing franchise, and Mr. Polackwich said that the Town is not intending to renew this 1986 Franchise, it will be a new Franchise, so no harm is done by sending a notice. Earlier this year, Mr. Polackwich continued, the

Commissioners asked him to look at water, sewer and reclaimed water agreements from the 60's and 70's, and over the years the possibility of the City serving an area and using the County's facilities, and vice versa has been addressed in these agreements and discussions. The formulas back then are not the same as shown as today. It usually was book value minus grants or external funds. The price in these agreements is very expensive. No equipment purchase is mentioned in the 1986 agreements for water or sewer. This path is different; it is not following the historical process. He also questioned that Mr. Hartman said that the Town only owns 10% of the assets in the Town. In the event the 1986 franchise is terminated, it states that the entire wastewater system lying within the Town limits will revert to the Grantor, which is Town, with the exception of the facilities required by the City to serve customers South of Fred Tuerk Drive and outside and south of the Town limits on the barrier island.

Also, this agreement hit them by surprise, they had no idea it was coming. It left them in a significant state of uncertainty. The old agreements show an evolutionary process. We are at a point in the process today which will likely inevitably lead to regionalization. Mr. Polackwich had already provided a copy of all of the agreements he researched in a notebook to the City, and would give the Town one as well.

Tom Cadden said he still has a problem with why the County didn't ask for a waiver. Mr. Polackwich said the issue was that they were asked if they were ready to start in January 2011, to sign an agreement to do that, which concept he believes is fundamentally flawed. The County would have to ask the City if they wanted to give up their service. He thinks the consultant made a flat out mistake, and he was confused by the entire thing.

Mr. Clem said that Mr. Polackwich is an excellent attorney, and when an attorney sends out something, they expect a response. As he reflects on the draft that was presented, it was couched in the terms and format as a proposed contract, which caused confusion. A memo that would have led to a contract may have been a softer approach. The County could have responded by saying they could not start this in three months, there is work to do first. Then we could set this draft aside and go to a more comfortable format. We have time, he agreed, to discuss this with the City and the County.

Councilman Weick agreed that when the consultant sent this directly to the County with a closing date in it, it understandably caused the County's apprehension. It should have been done as Mr. Clem suggested, more informally first. Councilman Ochsner and Councilmember Atchison agreed.

The Mayor thanked the County, adding our intent was to be fair, honest and straight forward.

City's Response.

Monte Falls, the Interim City Manager for 26 days now, said he had worked for the City for 20 years and has been a resident for 30 years. He is speaking as not only the City Manager but also as a registered engineer since 1985. In October 2009 the CCNA Committee formed and hundreds of hours were invested, and unfortunately the process broke apart when they could not answer the regionalization questions. The Town has been great customers with the COVB for 40 years, and they value that business and would like to continue. The County needs information to move forward, and the (Vero Beach) staff says they will recommend to the Council to provide anything the County needs to further that task. They want to see this move forward as the Town would. Mr. Hartman from GAI is doing things for the City that they would have asked for if the three groups were still involved. They chose to use GAI as a certified appraiser while he is doing the Town's research. If they used a separate appraiser, they may have faced allegations of unfairness. The City Attorney Charlie Vitunac, Water

Sewer Director Rob Bolton, new Mayor Jay Kramer and Vice Mayor Pilar Turner are here to answer questions.

Councilman Weick asked if the City would be willing to extend this deadline or clarify what has to be done by November 2011. Mr. Falls said that there are 7 or 8 months for everyone to be ready, but will consider recommending to the Council if need be.

There was no further comment from the City.

Other Public Comment

Debra Ecker, 550 Rio Mar Drive, Vero Beach, is the author of a book on the County's water resources. She has been researching Indian River County water for more than two years, and thinks the Indian River Shores Council would most want to pay attention to is the long term capital needs of the City and the County. She said that the consultant passed over those numbers, and the (cost comparison) numbers shown looked very close. She wondered how he arrived at the numbers, asking to see the documentation if it is public, and respectfully added that they should pay attention because it is apparent that we do need new water resources.

Mayor Kenyon said that they are very cognizant of the water issue, as everything else comes and goes while our water has to be of good quality and available. She said that both the City and the County could give quantity and quality, and is concerned about the cost most of all. Mayor Kenyon said that one source for water should be used. She said that the Mayor had stated the situation very well.

Dick Haverland, 14 Sea Court, Indian River Shores, said his question had to do with the proposals, whether the numbers are right or wrong at \$2.5 million. The depreciated value on the balance sheet of that asset today concerned him, along with determining the financial consequences. If recapture means we get cash at the time of the transaction, what are the consequences of recapturing that amount?

Mayor Kenyon said that we will get a response to him, as the figures were not readily available.

Jim Moller, John's Island Water Management commented on Commissioner Solari's reference to the level playing field. There is no level playing field. The City would only have to sign a piece of paper, while the County would have to put out millions of dollars in infrastructure. Is the County willing to commit to put this infrastructure in? Commissioner Solari said yes, without speaking for all of the Commissioners, he believes they could offer the infrastructure and not charge any more, and recapture all of the capital improvement costs and still be less. They are AAA rated in their utilities and could borrow the money at a 30-year cost effective rate.

Erik Olsen, Indian River County Utility Services, said they had already mapped out a distribution system and have looked at what would revert back to the Town and bypass the City's infrastructure. What Commissioner Solari said is correct; the County would still have lower rates than the City. They have had an extreme interest in working with the Town and the City from back at the very beginning of the process. Mayor Kenyon asked if the rates would be the same for Town residents as County residents. Mr. Olson said that the rate study that was put together by PRIG a year ago is valid. Ask what the rates would be a year or two from now. If the 2009 rate study projected the need for an increase with a 10% surcharge, what will it be without the 10% surcharge? The County's latest rate study was in 1999 by Mr. Hartman. The rates are stable, with no visualization of them changing or increasing in the future. They have a cash balance for capital investments with no borrowing. How high the rates would be if the City raised the rates annually was questioned. The County, even with infrastructure costs, will have better rates. Mayor Kenyon asked if our rates for the Shores

would be equal to what the County rates would be, which Mr. Olson did not answer directly, instead mentioning the opportunities with regionalization, future methods of water treatment and the CCNA Committee.

Chairman O'Bryan added during the recent political campaigns, he had posed that question to the candidates in the COVB, if they would be willing to discuss regionalization of the water system, and all four did say they would.

Mayor Jay Kramer, COVB, said Chairman O'Bryan is right, the City is very anxious to work with County on exploring options to combine the water systems and find methods to drive the costs down. This will be discussed very soon. Mayor Kramer offered the City's assistance with mechanisms needed to help us. He needs to get with the City Attorney and staff about the current contract to ease the pain of having to make a decision in a rush. Mayor Kenyon welcomed the open attitude about this whole issue by the COVB Council.

Mr. Jefferson, the Town Manager, asked if the terms of the contract could be changed to state that we are looking for a proposal not a contract. Mayor Kenyon agreed, adding it should be more open and not demanding.

Mr. Hartman said that nothing in this agreement preempts regionalization in the future. Each year you wait it costs your citizens \$40,000-\$50,000 per month. This is a step on behalf of the Town to get to the first step towards regionalization, and it doesn't preempt City and County regionalization.

Councilmember Atchison asked if the City released the Town, and they said not yet, but they will recommend so to their Council.

Vice Mayor said this doesn't go into effect until 2016, so there would not be immediate savings to the Town. Mr. Hartman said if there was early renewal, it would. Then the City and County could go forward and enter into a regionalization agreement.

Rob Bolton, City of Vero Beach Water/Sewer Director, said the Town would save money starting February 2011 with this document. Mr. Hartman explained that the costs we are seeing right now to the Town residents is almost \$360,000, plus the \$111 to \$100 including 10% surcharge, multiplied over the number of residents is \$360,000. Hydrant rental payment funds would also be available.

Mayor Kenyon asked Mr. Polackwich if we make the first step, and the reply was that we are very close to making the first step.

5. **Adjournment**

The Mayor adjourned the meeting at 4:43 p.m.

Respectfully submitted,

/s

Laura Aldrich, Town Clerk

(Approved by the Town Council at the 12-16-10 meeting)