

MINUTES
ORMOND BEACH CITY COMMISSION
CROSS CONNECTION CONTROL WORKSHOP

May 1, 2012

6:00 PM

Training Room

I. Call to Order

Mayor Ed Kelley called the meeting to order at 6:00 p.m.

Present were Mayor Ed Kelley, Commissioners James Stowers, Troy Kent, Rick Boehm, and Bill Partington, City Manager Joyce Shanahan, Assistant City Manager and Public Works Director Ted MacLeod, City Attorney Randy Hayes, City Clerk Joshua Fruecht, Utilities Manager Dave Ponitz, and CEO and Chairman of Hydro Designs, Inc. Larry La Bute.

II. Presentation

Mr. Dave Ponitz, Utilities Manager, stated that Mr. La Bute, Chairman and CEO of Hydro Designs, Inc. ("Hydro Designs") had been assisting staff in enhancing the cross connection control program and performing surveys to identify hazards in commercial accounts in the field. He stated that Mr. Ken Russell, Water Distribution Supervisor, was present and had been with the city for 22 years; Commissioner Kent thanked Mr. Russell for his many years of service. He stated that Mr. Shawn Horsley, Environmental Regulatory Compliance, was also present, as well as Mr. Mike Dunn, Utilities Engineer.

Mr. Ponitz stated that the purpose of the workshop was to discuss the ongoing efforts to improve the cross connection control program throughout the city. He stated that the information provided in the memorandum and packet described the history of the program, as well as the proposed device test management program that would help improve the compliance of annual device testing. He stated that a draft cross connection control plan, approved by the Department of Health, was also included in the packet, along with a draft amendment to the city's code of ordinances regarding the cross connection control requirements for the city.

Mr. Ponitz stated that all utilities were required by the state to provide protection against cross contamination; whereby Mayor Kelley asked when that requirement had begun. Mr. La Bute stated that it had begun in 1975. Mayor Kelley stated that since that time, the regulations had gotten stricter and were enforced more heavily.

Mr. Ponitz stated that as a public water supply they were responsible for providing safe water to their customers. He stated that the Environmental Protection Agency (EPA) had adopted cross connection control standards which the State of Florida then implemented. He stated that a recent movement had made this a key subject area to improve nationwide.

Mr. La Bute showed a brief video on cross connection control. He stated that contamination from cross connections and back siphonage were found to cause the majority of outbreaks associated with distribution systems. He stated that the

number one reason to have a cross connection control program was for health and safety. He stated that staff's main priority was to ensure that those drinking from the Ormond Beach water distribution system were drinking water that was quality produced from the plant and had no contamination introduced somewhere in the distribution network. He stated that others reasons to have a program in place included avoiding risk and liability, as well as conforming to state requirements. He stated that there had been numerous cases where a facility had a backflow event and lawsuits ensued.

Mr. La Bute stated that they must comply with Florida Administrative Code Rule 62.555.360. He stated that the rule specifically referred to the American Water Works Association's manual and adopted it as the template for how the program should be put together. He stated that the city's current ordinance regarding cross connection control needed a few modifications. He stated that an article in the insurance industry magazine, *Risk and Management*, had stated that insurers have spent more than \$20 million in the past few years to settle with victims sickened by backflow.

Mr. La Bute stated that the proposed plan to develop a comprehensive cross connection control program for the city had been approved by the Department of Health. He stated that they were hoping the Commission would approve the implementation of the plan. He stated that the next step after planning would be to conduct a survey and evaluate both commercial and residential sites for potential hazards to the water system. He stated that commercial site evaluation involved going inside the property to evaluate. He stated that for residential properties the survey would be strictly external and focused on identifying secondary water sources.

Mr. La Bute stated that the subsequent step would be to test valves and devices. He stated that they would then document their results and put them into a report. He stated that they would assess the hazard level of a particular site to determine if there was any potential for that site to contaminate the water; and if so, they would make recommendations. He stated that they would determine if a site contained a high or low hazard and what type of devices may or may not be required.

Mr. La Bute stated that he had spent the last three years working with the city and that they had completed 1,052 commercial site surveys in that time. He stated that they had identified 46 sites as being high hazard and 1,006 as being low hazard. He stated that 307 locations required action and that 111 locations which currently had testable devices could be removed because they were low hazards. He stated that most all of the city's commercial accounts currently had testable backflow prevention devices on them. He stated that the regulation did not require that and that they only need be located where a high hazard was present.

Mr. La Bute stated they also needed to educate the public. He stated that a significant number of people in the Ormond Beach area were unaware of what backflow prevention was about. He stated that he had submitted some items to Mr. Ponitz that could be used for newsletters and they were preparing a cross connection control website for Ormond Beach. He stated that they would also do door hangers and articles in local newspapers.

Mr. La Bute stated that in 2009 they began commercial device testing in the city. He stated that the way the device testing had been managed previously was to send a letter to all of the commercial accounts to let them know that it was time to test, and the customer would hire a contractor to perform the testing and give them the test results, and then the customer would be responsible for submitting the data. He stated that in 2009, out of the city's 1,600 commercial accounts, only 4% were in compliance. He stated that in 2010 after they began sending multiple notices, compliance rose to 22%. He stated that in 2011, they had nearly 46% compliance and that compliance rate had risen strictly because of the multiple notices. He stated that the compliance rate was still rather poor, and that several customers were simply ignoring the requirements and not complying.

Mr. La Bute stated that the proposed program was based on programs that were being run all across the state. He stated that model took the responsibility of getting the device tested out of the hands of the property owner, as the city would manage all of the device testing and go out to bid to establish a low rate for the testing. He stated the average test cost in the city currently was \$77.00, with the highest being \$120.00 and the lowest around \$45.00. He stated that they contacted some contractors and felt that a \$40.00 average price would be good. He stated that the customers would no longer have to hire anyone and that they would just be notified that the device testing would be done for them at a cost of \$40, and they could opt in or out of the program.

Mr. La Bute stated that if they did not opt out, the device would be tested and the \$40 would be added to their water bill. He stated that if they opted out, they would get a notice like they normally received; and if the testing was not completed within 30 days, the city would test it anyway and the customer would be charged \$55.00, \$40.00 for the test plus a \$15.00 administrative fee. He stated there would be people who knew plumbers or vendors who did the testing and would not need to pay to have it done. He stated that with the implementation of this program there would be 100% compliance. He stated that in the vast majority of the cities he was working with to implement this program, the commercial accounts loved it because they did not have to hassle with the testing anymore.

Mr. La Bute stated that the most common cross connection was an ordinary garden hose. He stated that a typical example would be a hose that was used to prime a well pump. He showed a photograph depicting a splitter with a line going into an underground sprinkler system and with another line containing city water going into a house. He noted that the hose was looping around through the grass and into the well. He stated that when that well kicked on there would be no protection and it could be pumping water right into the city water supply. He stated that the photograph had been taken in southwest Florida and that a few years ago a community in that area had a situation where a similar shallow well was pumping E. coli bacteria into the city water supply for a little over two weeks. He explained that the city had a hard time locating the source. He stated that people needed to be educated about that type of connection, as well as some others, that presented risks.

Commissioner Kent asked how those problems could be located; whereby Mr. La Bute stated that they would walk around each home and look for them. Mayor Kelley noted that would mean walking around 22,000 homes; whereby Mr. La Bute

stated that it would probably take five to six years to complete. He stated that Mr. Ken Russell, Water Distribution Supervisor, had already identified the areas with the highest likelihood of hazard; whereby Mr. Russell stated that they had already located a few of those types of problems at those locations.

Mr. La Bute stated that it was a slow process of systematically inspecting each account. He stated that by the end of next month all of the commercial accounts would be fully inspected, which had taken three years to accomplish.

Mayor Kelley asked whether the residential customers would also be charged \$40.00 for the inspection; whereby Mr. La Bute stated that the city would be paying for the site inspections for residential customers which would cost \$25.00 per site.

Commissioner Kent asked to whom the \$25.00 would be paid; whereby Mr. La Bute stated it would be paid to Hydro Designs.

Mr. Ponitz stated that the city had an annual budget of \$55,000.00 for the program. He stated that staff would be prioritizing by location when they moved into residential inspections. He stated that he did not personally feel it was necessary to walk around every home that had a well or re-use. He stated that there was no sense in inspecting every one of those homes as they would know whether the devices were needed or not based on if it was located in a re-use area.

Mr. La Bute stated that there would be no inspections on homes with reclaimed water because they would not need it; whereby Mayor Kelley stated that accounted for less than 5% of the residents in Ormond Beach.

Mr. Ponitz stated that the current city ordinance fell short of the Department of Environmental Protection (DEP) rule. He stated that the ordinance was written to required all commercial and only re-use residential properties to have backflow prevention devices. He stated that the state ordinance mandated that all facilities showing the potential hazard and all facilities with a secondary water source have them. He stated that would also include wells and systems augmented with surface water, like in Hunters Ridge and Breakaway Trails. He stated that to conform to the DEP rule, the city's ordinance must be changed and he noted the city had been asked to do that by DEP for many years.

Mr. Ponitz stated that he did a canvassing of three nearby utilities to learn about their cross connection control program: Palm Coast, Port Orange, and Daytona Beach. He stated that the City of Palm Coast owned all of their devices, commercial and residential. He stated that they charged a \$50.00 annual fee to all commercial facilities and that all device installation fees were paid up front by the owner. He stated that he felt that their policy of adding the installation fee to the connection fees would work well. He stated that for residential properties the cost of the backflow prevention device would be included with the installation fee. He stated that currently they utilized a double check device on all residential properties and did all of their annual testing in-house with two employees.

Mr. Ponitz stated that in Port Orange each residential home was charged \$1.70 a month and a contractor, to whom the city paid \$17.00 per home annually, was hired to test residential backflows. He stated that commercial customers were

responsible for their own devices. He stated that their staff sent letters out, but customers had to get the testing performed on their own. He stated that Port Orange had good compliance but that was because their code enforcement department was totally inundated with the program.

Mr. Ponitz stated that in the City of Daytona Beach, the customer was responsible for the device testing commercially and paid to install the device when they were connected. He stated that their staff managed that in-house. He stated that for residential properties they paid an outside contractor to manage the program and so far had limited it to only their re-use areas, which was not a large area. He stated that the Utilities Director in Daytona Beach would be making a presentation that week to that Commission regarding a proposed \$5.00 fee on residential water bills in order to perform residential device testing.

III. Discussion

Ms. Shanahan asked what would happen if the cross connection control program was not implemented; whereby, Mr. Ponitz stated that it would show as a deficiency on the city's annual water distribution treatment facility review. He stated that he did not know when fines would begin to be assessed; whereby Mayor Kelley stated that fines had been threatened about three years prior. Mr. Ponitz stated that occurred shortly after he began his employment with the city and that had prompted staff to find a company like Hydro Designs to help develop a program. He stated that they had come a long way, but still had a long way to go.

Mayor Kelley stated that his problem was with the ordinance and the law. He stated that the lobbyists had lobbied EPA to have the law created. He stated that while no one wanted E. coli to enter the water system, it happened so infrequently that regulations were primarily introduced for monetary reasons. He stated that at property he owned in Holly Hill, he was required to put on devices and charged \$40.00 to have each of the devices checked. He stated that he held no personal ill will against Mr. La Bute or Mr. Ponitz and that he just did not like the regulations. He stated that he was outspoken on this issue and had complained about it before, but he knew that they would have to comply. He stated that the State of Florida would end up paying more for costs associated with compliance than for the \$20 million in damages that were paid out over six years.

Mr. La Bute stated that the way Mr. Ponitz had instructed the program to be put together was primarily to fact find and that no money was currently being spent other than to go out and find where the real problems were. He stated that currently there were 46 high hazards at commercial properties in Ormond Beach; whereby Mayor Kelley stated that they should not punish the properties that were not high hazards. Mayor Kelley stated that once the device went on there would be a fee for the residential home owner to pay every year for an inspection, even if they had backflow prevention and their well was not connected to their home.

Mr. La Bute stated that the law stated clearly that if you had a secondary water system you must have a reduced pressure backflow preventer. He stated that he was told that a dual check device would be sufficient and that DEP would loosen up on their residential testing requirements from one year to every three years. He stated that the next step would be more fact finding to identify situations out in the

field, and then in a few years they would determine how many locations needed devices and would be able to present different options for costs to the Commission. He stated that as this point in time they would not be charging customers or forcing device installation.

Mayor Kelley stated that a building with backflow preventers outside would prevent water from being forced back through the system if there was a low pressure on the line somewhere else. He stated that there would have to be a source of water inside, and if the water pressure was gone or low, it would not put water back in; whereby Mr. La Bute stated that it would drain back in through back siphonage. Mayor Kelley stated that it *may* drain back in. Mr. La Bute stated that it definitely would drain back in if there was a main break and no backflow prevention and stated that the water would flow out as soon as someone opened a valve. Mayor Kelley asked how much of the water would do that; whereby Mr. La Bute stated that a lot would.

Commissioner Partington asked if the water would flow right through the main that broke; whereby Mayor Kelley stated that it would affect only the water in the building. Mr. LaBute stated that if the water was connected to a dishwasher or a chemical tank it would also flow back and comingle so that when the city water was reconnected all of the contaminated water would go right back up into the building.

Commissioner Boehm asked if they were being asked to adopt the program; whereby Ms. Shanahan stated that they were not asking them to do so at this time but that staff was trying to get feedback from the Commission regarding how they should proceed. Commissioner Boehm stated that he read the program and felt it gave the city the ability to go to anyone's home, test their water, and charge them on their utility bill without restriction; whereby Ms. Shanahan stated that they had not discussed actually charging at this point. Commissioner Boehm stated that fees were in the program description in the packet.

Mr. La Bute stated that the device test management program was strictly for commercial properties and had nothing to do with residential ones. He stated that all of the commercial accounts were required by law to have their devices tested and many were not complying.

Commissioner Boehm stated that he did not disagree with the worthiness of the aim but when he read the program he did not see that it referenced only being for commercial properties. He stated that he felt that if the Commission adopted it they would be forcing it on all properties, now or in the future. He stated that the program would give the city the right to enter anyone's yard and charge them for services and the residents would have no recourse to say anything about it.

Mr. La Bute stated they were speaking about two different things. He stated that if they were to walk onto a customer's property for a site survey, the resident would not be charged for that as the city was already budgeted for that expense.

Commissioner Kent asked if he was referring to the \$25.00 fee per home; whereby Mr. La Bute stated that would be the cost charged to the city to do the on-site survey. Commissioner Kent asked what the procedure for performing the survey entailed; whereby Mr. La Bute stated that they would first cross check their data on

the location and the meter number, and then they would look for secondary water systems and underground irrigation and identify the sour, if any were present. Commissioner Kent asked if a home that did not have a hose on the well to prime it would be deemed compliant; whereby Mr. La Bute stated that it would not necessarily be and that they would note the existence of the well. Commissioner Kent asked whether they would notify the residents prior to the inspection; whereby Mr. La Bute stated that letters would be sent out. Mr. La Bute stated that they would identify other potential areas of contamination, as well, such as solar panels and things that could contaminate internal water supplies in order to educate the residents.

Commissioner Kent stated that he felt that \$25.00 per home was too costly for that service. He stated that he would rather see the city hire two employees to perform the surveys; whereby Mr. La Bute stated that they spent on average a half hour to forty five minutes.

Ms. Shanahan stated that the price could be worked out and that they were trying to focus on the overall picture.

Commissioner Partington stated that he agreed with Mayor Kelley that the program seemed intrusive and would be forcing compliance without justification. He stated that he did like Mr. Ponitz's idea of focusing in on problem areas. He stated that the city was bringing in \$16.7 million in water revenue and that they should use some of those funds to hire a couple employees to perform the surveys that were needed, as Commissioner Kent suggested. He stated that he was not sure how the city started paying \$55,000 per year to do the inspections, but he wanted the program to be as minimally intrusive as possible.

Commissioner Partington stated that he was on a church committee that covered building and grounds and they had received their testing notice. He stated that he called a contractor, paid \$75.00 to have the annual inspection done, and sent the paperwork in to the city. He stated that it took ten minutes for the inspection to be performed and he did not think the church was a high hazard but they had to get the inspection performed every year anyway. He stated that every year the church had to pay to have the device tested and had paid initially to have it installed.

Mr. La Bute stated that there were 111 devices they had located that could be removed from properties that had them. He stated that several churches were included. He stated that a lot of properties were currently paying \$75 for the testing and with the device test management program they would only pay \$40.

Commissioner Stowers stated that he had some comments to make that would not be supportive. He stated that he questioned any presentation with fear factors injected into it, such as risks, liabilities, and ultimatums. He stated that he heard that the statute was put in place in 1975 and yet they managed to make it to 2012 without a serious incident. He stated that showed him that the city had processes in place that were working to prevent issues. He stated that made him think this matter was not as urgent as some of the language he saw portrayed it to be.

Commissioner Stowers stated that in this program he saw an all inclusive approach of systematically going to every single property, commercial or

residential, throughout the community to inspect. He stated that he would equate that to if the state legislature passed a law that said no stains on carpets and their reaction was to hire someone to look at every single knot on the entire carpet or else they would be in violation of the law. He stated that he felt the proposed program was overkill. He stated that he had a well at his home. He stated that if he connected a hose to the city's water system from his private well on his property and somehow pumped water through the system that hurt someone, it would not be the city's liability but his as a private property owner. He stated that he would expect in the situations where there were cases against cities that those cities were not even discussing cross connection control at all and had no program in place. He stated that it sounded to him like there was a program in place in the city, even if it was not the most effective program. He stated that the state could not implement a law that would bankrupt the city to adhere to it. He stated that he was not entirely opposed to the concept of the program and he felt that the city was doing the best it could but while he understood the need to do better, there were aspects of the proposal that gave him cause for concern.

Mr. Ted McLeod, Assistant City Manager and Public Works Director, stated that if they wanted to make the program sound urgent they would be coming up with ways to charge full speed ahead and spend thousands and thousands of dollars. He stated that was not what they were proposing, and that they were proposing to start the program and to keep up with the Department of Health requirements since they were noting the city's deficiency in doing so. He stated that they wanted to tackle the commercial areas first, because they were where the biggest issues were and then the re-use areas as the next priority because it was something that should be done from a health standpoint.

Mayor Kelley asked why the commercial areas were first because it was not affecting the residents. He stated that they were picking on the commercial properties and that the commercial property that he owned and leased was no more dangerous than his home; whereby Mr. McLeod stated that he understood but they had to start somewhere. Mr. McLeod stated that he would not want to be the Public Works Director in the Florida town that had the E. coli breakout because of the backflow issue.

Commissioner Kent stated that he looked at the photograph of the hose connection that caused that problem and did not understand how that happened. He stated that if water only ran one way and the pressure was kept up, he did not understand how the well water would get in there.

Mr. McLeod stated that it would occur when the pressure dropped, for instance if a main would break. He asked the Commission to remember when they almost ran out of water at the water treatment plant and it caused the pressure in the city to drop down to under 20 psi and there was a huge boil water notice. He stated that would be when you would get a contamination from a backflow.

Mr. La Bute stated that you could also have a contamination with back pressure. He directed the Commission to the photograph and stated that the line which was the city water connection had a little over 40 lbs of pressure and the pump was putting out close to 70 lbs. He stated that if you did the math there would be 30 lbs of affected back pressure.

Mr. Ponitz stated that it would allow a migratory path into the distribution system; whereby Mayor Kelley stated that the pump would have to be operated at exactly the same time. Mr. Ponitz stated that was correct but wells could come on and off anytime on private property; whereby Mayor Kelley stated that they also could not control when something might break.

Commissioner Kent stated that even if they went and looked at set-ups on a property, a new homeowner could buy it and change it.

Mr. McLeod stated that in the town he referenced it took weeks to find the backflow problem. Mayor Kelley asked if the issue had been residential or commercial; whereby Mr. La Bute stated that it had been residential. Mr. McLeod stated that it may not happen that often, but when it happened once it would be disastrous.

Mayor Kelley stated that he understood that and understood that they would be forced into compliance but he was venting because he was frustrated.

Mr. McLeod stated that they had tried to come up with the least obnoxious compliance schedule for the problem. He stated that it would be a five- or ten-year program and not done all at once. He stated it was the right way to proceed to get the issue under control.

Mayor Kelley stated that the reason they picked on the commercial properties to start with was because if they did not comply they would shut them down, whereas with residents they could not kick them out of their homes.

Commissioner Partington stated that he felt that the direction of the Commission had been made clear and that was that they were not in favor of the plan as presented. He stated that they would be amenable to hearing another version that would not cost residents more than the \$16.7 million that was already collected from them every year in water fees and that focused on lowering the highest level of risks to satisfy the Department of Health.

Ms. Shanahan stated that they would go back to the drawing board.

Commissioner Stowers stated that he wanted to thank Mr. McLeod for stating his position.

IV. Close the Meeting

The meeting was adjourned at 6:54 p.m.

Transcribed by: Colby Cilento