" City on the Gulf "

City of Venice
Office of the City Manager

MEMORANDUM

TO: Mayor and Council
FROM: Michael Johnson, Fire Chief, and Acting City Manager
SUBJECT: Utilities Asbestos Concrete Pipe
DATE: July 13, 2004

During the morning of Monday, July 12, 2004, I received a phone call from Utilities Director John Lane advising of a scheduled test to be performed later that day. This was an air quality test to be performed by an outside contractor while cutting asbestos concrete pipe (AC Pipe). While concerns had been raised regarding this issue over the weekend, Mr. Lane assured me that this test was being done in accordance with all regulations.

It was later learned, while following this issue, the test and the cutting of the pipe had been cancelled due to the concerns previously raised. I had requested Chris Sharek to provide a summary of the incident, through John Lane, and it is attached.

The press has also been made aware of the incident, and a story may appear tomorrow. Please feel free to call me should you have any questions.

Cc: Martin Black, City Manager
John Lane, Utilities Director
Charter Officers
Robert Anderson, City Attorney

MEMORANDUM

UTILITIES DEPARTMENT
Utility Engineering Division

TO: John Lane, Director of Utilities
FROM: Chris Sharek, PE, Asst. Utility Director / Engineering
DATE: June 29, 2004
SUBJECT: Asbestos Training on 6/24/04

John, as you are aware the Distribution Division coordinated an Asbestos Awareness Training session at the Eastside WRF room yesterday. Bill Hopkins, a Certified Industrial Hygenist (CIH) with Professional Industrial Hygiene Services, Inc, led the 4hour presentation.

BACKGROUND
First and foremost, the information presented was from Title 29 of the Code of Federal Regulations, which is OSHA's Asbestos Standard for the Construction and General Industry. As the department administration is aware, the governor's dissolution of the Department of Labor in 2002 left municipalities "self-governing" and were therefore exempt from OSHA regulations. When I discussed this with Mr. Hopkins, his response was that this was a "weak argument at best". Although the governor clearly stated that municipalities were exempt, Mr. Hopkins referred to the governor's "directive" indicating that cities *should* comply with OSHA requirements.

PRESENTATION SUMMARY
During the presentation, various asbestos operations were defined into four classes. After we explained the type of operations performed by city personnel, Mr. Hopkins summarized our work as the following:

Class I: *None performed by city personnel*
Class II: Cutting, removing and disposing of asbestos-cement (AC) pipe
Class III: Repair and maintenance of AC pipe with minimal disturbance
Class IV: Custodial activities - clean up of Class I, II, or III activities

Another aspect of the presentation, which may have been confusing to some city personnel, was the discussion of precautions necessary for Class I operations -operations the city ***never*** undertakes. These types of projects are abatement programs, including the removal of floor tile, ceiling insulation, and wallboard and are typically inside a building. Discussing protection measures, risk exposure, and compliance methods added to the confusion, as it does not relate to our operations.

CITY PROGRAM COMPARISON

Additional deficiencies in the city's current program included the lack of appropriate signs, medical examinations and records, and competent person training/certification. If the city would like to meet OSHA standards at a minimum, our department must look to correct and improve these areas immediately.

Although we may have areas in which to improve, we are already conforming to some OSHA standards. With the water attachment to our power saw, we are significantly reducing employee exposure to asbestos fibers. We require the asbestos pipe to be double-wrapped in visqueen *at the jobsite* prior to transport, storage, or final disposal. We also provide a full-face respirator and tyvek bodysuit for personal protection equipment.

RECOMMENDATIONS

Before the city can or should implement any further policies or procedures for handling asbestos material, we should take air samples from various operations and have them analyzed by an accredited laboratory. Based on the results of this testing, and on these results alone, can we can evaluate the risk posed to our employees. My suggestion for collecting representative samples from our operations would include monitoring of three specific events: (1) cutting AC pipe with the power saw (2) cutting AC pipe wet with the power saw and (3) cutting AC pipe with the hand saw. I would suggest we take samples at the location of the event (in the hole) and possibly at 10 feet and 25 feet away to establish the distance from the "regulated area."

Although the city may not be required to adhere to the OSHA guidelines, perhaps we should consider meeting these at a minimum, for several reasons. Most importantly, abiding by these regulations will reduce risk to our employees by making a safer work environment. This work environment is created by federal standards (OSHA), not in the best opinion of city management. In addition, without a trained safety specialist administering the program, the city may be held liable for decisions in its "self-government" of these activities.

Therefore, I recommend we contract with an accredited laboratory for the sampling and analysis of our next operation involving cutting AC pipe, as outlined above. Based on the results of this testing, we can then develop a protocol abiding by the OSHA standards. We may reduce the potential risk to employees while reducing the liability to the department and city administration.

cc: Pat Wilson, Asst. Utility Director / Operations
Dave Adinolfi, Distribution Superintendent
Alan Bullock, Risk Analyst

MEMORANDUM

UTILITIES DEPARTMENT
Utility Engineering Division

TO: Brenda Digges, SPHR, Director of Administrative Services
THRU: John Lane, Director of Utilities
FROM: Chris Sharek, PE, Asst. Utility Director / Engineering
DATE: July 2, 2004
SUBJECT: Asbestos OSHA Standards & City Compliance

As outlined in my Memo dated 6/29/04, the city must correct several deficiencies in our asbestos program in order to comply with the Code of Federal Regulations Title 29, Part 1926.1101 and Part 1910.1001. These are the OSHA standards for the Construction Industry and General Industry, respectively. Due to their volume, I would not recommend printing these standards, but I have a copy of each. If you are receiving this memo electronically, I have attached the file for your information.

Based on the presentation of OSHA standards made by the Certified Industrial Hygienist Bill Hopkins the city needs to review current practices in several areas. As I understood, we need to address the following items in this order of priority:

1. **Air sampling -** Air sampling and analysis of a "typical" operation involving asbestos cement pipe should be conducted. We cannot determine the actual risk posed to our employees without sampling an event. I have already contacted two companies and solicited proposals from each.

2. **Determine required PPE -** Based on the results of this testing, appropriate personal protective equipment (PPE) can be determined and purchased if not already stocked. As discussed by Mr. Hopkins, the goal is to limit the amount of PPE necessary while maintaining a safe work environment.

3. **"Competent" person training/certification -** In order to conduct Class II or Class III operations (as defined in 29 CFR 1926.1101) we must have a "competent person" on the jobsite. We have contacted two agencies (TREEO and META) to schedule this training and obtain certification for two employees of the Distribution Division. The Pollution Control Division will utilize these employees as they have significantly less AC pipe to maintain in the city.

4. **Signs and Labels** - Appropriate signs and labels for storage of asbestoscontaining material are needed. This will include a mobile sign for the field crew performing the work. Signs must be posted around the perimeter of the regulated area, or work zone where the AC pipe is being disturbed. After the pipe is wrapped in visqueen at the jobsite, it should be labeled appropriately. Our intent is to purchase a dumpster from Public Works for storage of the material at the Eastside WRF. On 6/29/04, the Solid Waste Division of Public Works confirmed that they have the authority to haul this waste to the county landfill.

5. **Regular medical examinations** - Annual medical examinations are required for employees engaged in Class I, II, and/or III operations. Therefore, we need to schedule these examinations as soon as possible. With these examinations, information provided to the medical examiner should include a description of the employee's duties as they relate to exposure, representative exposure level, description of PPE used and information from previous medical examinations. These medical records must be kept for 30 years after employment has been terminated with the city.

Based on the comprehensive nature and magnitude of these federal requirements, the city may wish to consider designating or creating a safety officer position, as we once had. By abiding by the OSHA standards, we will reduce the potential risk to our employees while reducing the liability to the city administration.

Cc: Martin Black, AICP, City Manager
Alan Bullock, Risk Analyst
Larry Heath, Director of Public Works
Pat Wilson, Asst. Utility Director / Operations
Dave Adinolfi, Distribution Superintendent

MEMORANDUM

UTILITIES DEPARTMENT
Utility Engineering Division

TO: John Lane, Director of Utilities
FROM: Chris Sharek, PE, Asst. Utility Director / Engineering
DATE: July 13, 2004
SUBJECT: AC Operations Suspended

John, I wanted to summarize our situation and the direction the Distribution Division is proceeding in with regard to AC handling, practices, and training. Currently, we have suspended all scheduled AC operations.

CURRENT STATUS

First and foremost, our operation yesterday on Gibbs Road was not delayed due to improper equipment or personal protective equipment (PPE) - despite media allegations. Early Monday morning, I found that our training was deficient in two areas: we do not have a "competent" person on staff, nor does our 2-man crew performing the cut have the necessary 16-hour Operations & Maintenance course required. I learned this from discussions with Paul Bouffard, EPA - Tampa and our sampling firm, EE&G. Although the person taking the samples for EE&G was a certified "competent person", he felt it could be viewed as a potential conflict of interest. To add to the discomfort level, EE&G staff did not feel comfortable with our partially trained crews performing these operations.

I spoke with a list of experts shown in the table at the end of this memo regarding our current procedure and practices. The use of a wet saw to keep the cut area "adequately wet" is a standard of practice outlined in EPA Document 340/1-90-019, "Asbestos NESHAP Adequately Wet Guidance." The Clean Air Act of 1970 listed asbestos as one of the regulated hazardous air pollutants. "Adequately Wet" is defined to "sufficiently mix or penetrate with liquid to prevent the release of particulates. If visible emissions are observed coming from asbestos-containing material (ACM), then that material has not been adequately wetted."

Our operation includes pumping water from a 55-gallon drum through a garden hose and sprayed directly on the cut area while the cut is being made - as suggested by Section 6 of the Adequately Wet Guidance Manual. "Wetting agents may be applied with garden sprayers or hoses. Garden sprayers are hand-held, portable, and have one- to five- gallon capacity. Water hoses are usually attached to a faucet tap, fire hydrant or water tank."

Within this EPA Guideline, "soft" language leaves much to the inspector's interpretation. Specifically, "The determination of whether RACM [regulated asbestos-containing material] or ACWM [asbestos-containing waste material] has been adequately wetted is generally based on observations made by the inspector at the time of the inspection." However, water vapor or mist generated from the water sprayed on the saw is not considered a visible emission. As this determination is based solely on observations by the inspector at the time, it is very subjective.

The entire purpose of sampling our operation is to obtain representation of the city's operation, using our tools, following our protocol. To hire a specialist every time we have a water main break involving AC would not only reduce the level of service to our citizens, but also significantly impact our operating costs. We need to retain this service in house - with the appropriate level of training for our personnel.

As outlined in my memo to Brenda Digges on 7/2/04, I suggested that we meet or exceed all OSHA standards. At that time, we were unaware of any other standard the city was to be held accountable. Scott Halyard of the Tampa EPA Office reiterated the fact that the city was only required to have "Awareness Training" on his visit to our water plant on April 22, 2004. We were told that a report would summarize his findings and that it would be forwarded to our office. To date, we have yet to receive anything.

According to several experts [2,3,4,5] with whom I spoke yesterday, we are required to comply with Title 40 of the Code of Federal Regulations, Part 763, Subpart G, "Asbestos Worker Protection." According to 763.121, "If you are a State or local government employer and you are not subject to a State asbestos standard ... you must follow the requirements of this subpart to protect your employees from occupational exposure to asbestos." Furthermore, it states, "If you are a State or local government employer whose employees perform (a) Construction activities identified in 29 CFR 1926.1101, you must (1) comply with the OSHA standards in 29 CFR 1926.1101." In summary, *if* ***our state does not require us to meet OSHA standards*** (the dissolution of the Department of Labor classified Florida in this category), ***the federal regulations require us to meet OSHA standards.***

Therefore, before we conduct any further scheduled operations involving AC pipe, we intend to have the distribution technicians (8) and management personnel (4) complete the 16-hour Operations and Maintenance training session within 2 to 3 weeks. This training will include a respiratory fit test. In addition, we plan to have two managers attend a 40-hour training session in Tampa for "competent person" certification.

Once this has been completed, we can reschedule the air sampling with EE&G to determine the necessary level of personal protective equipment (PPE).

In addition, we need to schedule an initial and annual physicals for the personnel comprising this asbestos team. This physical must include a pulmonary function test (PFT) in accordance with the OSHA standard. I have requested the assistance of the Administrative Services Department to have this scheduled as soon as possible.

Once we obtain the required training, we will review, and if necessary, revise our asbestos handling and procedures. This document will then be forwarded to the EPA for review and concurrence. Based on extensive research, several logged telephone conversations, and fact-finding in the OSHA Standards and Code of Federal Regulations, we now know exactly what needs to be done.

Ref. #	Name	Agency – Location	Phone Number
1	Paul Bouffard	EPA – Tampa	813.274.6498
2	Pam McIlvaine	EPA – Atlanta	404.562.9149
3	Matt McCaine	Pinellas County Asbestos Bureau	727.464.4422
4	Frank Damato	P.I.H.S., Inc. – Jacksonville	904.399.2877
5	Rick Butler	FDEP – Tallahassee	850.921.9586

Cc: Mike Johnson, Acting City Manager
Martin Black, AICP, City Manager
Brenda Digges, SPHR, Director of Administrative Services
Alan Bullock, Risk Analyst
Pat Wilson, Asst. Utility Director / Operations
Dave Adinolfi, Distribution Superintendent