

COMMITTEE ON ADMINISTRATION AND FINANCE
(Probable or Imminent Litigation / XL Settlement Agreement
and XL Budget Amendment)

January 10, 1994

The Committee on Administration and Finance of the City of Urbana, Illinois met in closed session at 11:05 p.m. in The Mayor's office in the Urbana City Building to discuss Probable or Imminent Litigation/XL Settlement Agreement/XL Budget Amendment.

Members present: Hayes, Pollock, Ryan, Singer, Taylor, and Whelan. Staff Present: Waaler, Walden, Gray, P. Clark and Mayor Satterthwaite.

The Committee found that litigation is probable or imminent on the basis that Daly & Associates is out a considerable sum of money for their efforts and their attorney has promised to file suit if the matter is not settled.

Mr. Waaler explained a bit about the inception of the joint solid waste effort, it's history and the agencies/governments involved. Mr. Waaler advised that Daily & Associates actually began work on the project prior to the signing of the contracts. The local courts had ruled that the contract between ISWDA and XL were void. An appeal was taken to the Appellate Court and the decision was affirmed there. By the time the Appellate Court ruling had come down, and by the time the courts had voided the contract 90% of the work by Daily and Associates was completed. Based on a letter we received in April, 1992, XL advised that they had due to them \$682,000.00.

When Champaign withdrew from ISWDA, the City of Champaign, City of Urbana and the County, entered into an agreement to decide how to share the indebtedness (2nd Addendum). It was decided that the first 50% would be shared equally (1/3% each) and the second 50% would fall with Champaign paying half (1/2) and the City of Urbana and the County paying one fourth (1/4) each.

After lengthy discussion it was suggested that the settlement be structured so that anything not paid to XL, XL would have to get from Daily & Associates. Daily offered to pay to the two cities and the

county up to \$70,000.00 of any money required to pay XL.

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The purpose of this meeting is to get authorization from the council to offer a settlement of \$350,000.00 to be split as follows: \$102,500.00 - Urbana; \$102,500.00 - County; \$145,000.00 - Champaign.

Mr. Waaler said that the total billed amount in 1993 was \$450,000.00, XL paid Daily & Associates \$100,000.00, leaving a \$350,000.00 balance. With interest of \$62,000.00, the balance has gone back to the \$400,000.00 range.

Following discussion, Mr. Waaler advised that until the Court voided the XL contract, as far as he knew, they were performed. The problem arose because the Court said that their contract was void and that was on a technicality.

Alderman Pollock made a motion to accept the amount of \$350,000.00 with \$102,500.00 being Urbana's share contingent upon 1) release from Daily & Associates of any further action, and 2) a review by our engineering staff in conjunction with Jack Waaler, who is asked to review the work that has been done and make a determination that it has been done to the satisfaction of the City.

The motion was agreed upon unanimously by voice vote.

There being no further business to come before this Committee, this closed meeting adjourned back to regular session at 11:35 p.m.

Respectfully submitted,

Phyllis D. Clark
City Clerk