

# 'INACCURATE REPRESENTATIONS'

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TAUNTON — Did the city put the cart before the horse a year ago when it entered into an agreement with Aries Clean Technologies to build a sludge processing plant on top of the city's landfill?

A year-long back-and-forth between the city's law department and the state's Office of the Inspector General centers on what the OIG called missed steps and miscommunication — culminating in a scathing letter from the OIG on Feb. 15.

"We have been made aware of a letter from your office to Members of the Taunton Municipal Council dated February 10, 2022, in which you make certain inaccurate representations," the OIG wrote to City Solicitor Matthew Costa on Feb. 15.

The OIG says Costa inaccurately told the City Council on Feb. 10 that the OIG did not find any deficiencies with the bidding process for the gasification plant.

"Contrary to the representation in your letter of February 10, 2022, the OIG has at no point given tacit or express approval for the city's procurement issue here," the OIG wrote.

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But Costa has stood by his characterization of his communication with the OIG and the soundness of the bidding process: "I feel entirely justified it was positive communication. I don't think I was mistaken. I feel if you lay out the communication,

it was an accurate characterization. We were surprised with the next letter," Costa told city councilors at their Solid Waste Committee meeting on Feb. 22.

### **A promise of millions in revenue**

Back in December 2020 the city approved a site option agreement with Aries to construct a plant aimed at solving the city's sludge treatment needs.

In February 2021 the city approved entering a Host Community Agreement with Aries so it could begin the lengthy permitting and approvals process with all required state and local entities.

Aries' proposed gasification plant would convert the city and region's sewer waste into biochar. Aries has promised the project will net the city millions of dollars in revenue and savings a year, while also yielding little to no impact on noise, odor and emissions.

### **A year-long clash with the Inspector General over bidding process**

A letter from the city's law department to Aries dated Feb. 8, 2021 had the city assuring Aries it didn't have to go through the standard request for proposals (RFP) process due to the city's own special legislation in relation to procurement.

The state inspector general did not agree.

"It is my determination that Taunton must engage in a competitive procurement process prior to entering into a contract, including a lease agreement, for the proposed facility," said Inspector General Glenn A. Cunha in a June 4, 2021 letter to the city.

The OIG works as an independent oversight agency when it comes to government spending and programs.

At the Feb. 22 Solid Waste Committee meeting, Costa said the law department accepted the OIG's assessment back in 2021 and issued an RFP in July of last year.

Aries was the only one to respond to that RFP.

A letter from the OIG's office dated July 30, 2021 said the city's RFP did not meet numerous criteria and a new one had to be issued to conform with state laws.

Costa told the Solid Waste Committee on Feb. 22 the OIG's role here is "just to offer advice and technical assistance."

But Solid Waste Committee Chair Estele Borges told the Gazette Tuesday that while the OIG does offer technical assistance, it also has the authority to investigate if it feels laws weren't followed.

"They don't tell the city how to write the RFP. If Taunton moves forward and the law department is happy, then fine. If the city is at risk, we won't know until the end," Borges during the meeting.

The law department responded to the OIG on Oct. 5, 2021, indicating it was their legal opinion that all requirements were met with the RFP and a new one need not be issued.

"We disagreed with their points. We cited legal cases and our legal points," said Costa.

Following a videoconference in late January and post-video letter from the OIG, the law department wrote a letter to the City Council on Feb. 10 proclaiming that no new votes or RFPs had to be drafted.

And Costa defended that position at the Feb. 22 Solid Waste Committee meeting — rejecting the OIG's characterizations in their Feb. 15 letter slamming the law department.

But Councilor David Pottier called the OIG's Feb. 15 letter "scathing."

"The most recent review we have is the most scathing rebuke I've seen from a government entity in 20 plus years of government," Pottier said.

Said Borges on Tuesday: "The IG didn't give its good housekeeping seal of approval. They were saying if we were to proceed, we would be proceeding at our own risk."

### **Disappointment City Council was kept in dark; assertions of confidentiality**

Several Solid Waste Committee members expressed disappointment the back-and-forth with the OIG wasn't brought to the attention of the City Council until recently.

"We voted on this project twice. There was no communication with the City Council on a matter we're intimately involved in. That's completely unacceptable. The Council went almost a year without knowing all of this was going on behind the scenes," said Councilor Barry Sanders.

Costa explained he believed all letters and documents presented from the OIG were to remain confidential.

Pottier pointed out that nothing in letters provided on the record gave any indication they are confidential.

Sanders responded to the claims of confidentiality that everything could have been provided to the Council in closed session.

### **Sludge plant at the landfill?**

The city first began looking for solutions to its solid waste disposal and recycling of biosolids back in April 2019. Project developers either didn't respond to the city with anything feasible or an agreement couldn't be reached where the company could find it economically viable.

According to O'Connell, when she assumed office in 2020, "We approached this problem with a creative mindset, seeking to find a solution which is environmentally- friendly and cost-conscious," while also looking at ways to repurpose Taunton's landfill. In July 2020 Aries introduced itself to the city.

### **A red flag**

Borges said that Aries being the only bidder for the city's RFP back in July 2021 was a red flag for the Inspector General.

Borges said she is concerned whether the city followed proper procedure regarding the RFP process. "Maybe someone else was interested in submitting a

proposal. There could have been multiple bidders out there. Was this advertised properly?" asked Borges, emphasizing the potential for litigation and contracts to be declared null and void if this were the case.

### **\$1 million bill on the horizon in 2023**

Currently, the city transports its waste 150 miles to an incinerator in Connecticut. According to the mayor's office, the annual cost for transportation and disposal is just over \$1 million. Under the city's current waste contract the city pays 30% of that cost while the contractor assumes 70%. When the city's waste contract ends in June 2023, the city will assume the entire cost, in addition to any increases.

### **What's next for the gasification proposal?**

Aries spent 2021 completing its draft environmental impact report, released last month and currently being reviewed by the Massachusetts Environmental Policy Act Office (MEPA).

After this review and comment period from MEPA, Aries will begin seeking permitting and approvals from the state Department of Environmental Protection, as well as multiple Taunton entities like the Board of Health and Conservation Commission.

A third vote of approval from the City Council for a lease agreement will also be required.

The building's construction is still at least a few years away from reality.

Aries will be hosting a "science fair" like public meeting and forum on Thursday, March 24, from 5-8 p.m. at the Bristol Community College Taunton Center, 2 Hamilton St. Register for the forum at <https://www.ariestaunton.com/>.

Pottier said the city needs "a meeting of the minds" with the OIG, as well as a level of understanding between parties put into written form regarding what each agrees and disagrees on.

The Committee motioned to have Costa report back to the City Council in 30 days with a status update. The Committee also motioned to invite the OIG to a face-to-face meeting with the Council.

