

A special meeting of the Board of Aldermen was held Tuesday, November 9, 2010, at 8:15 p.m. in the Aldermanic Chamber.

President Brian S. McCarthy presided; Deputy City Clerk Patricia Piecuch recorded.

Prayer was offered by Deputy City Clerk Patricia Piecuch; Alderman Cookson led in the Pledge to the Flag.

The roll call was taken with 15 members of the Board of Aldermen present.

Her Honor Mayor Donnalee Lozeau and Corporation Counsel James M. McNamee were also in attendance.

COMMUNICATIONS

MOTION BY ALDERMAN CLEMONS THAT ALL COMMUNICATIONS BE READ BY TITLE ONLY MOTION CARRIED

From: Brian S. McCarthy, President, Board of Aldermen
Re: Special Board of Aldermen Meeting

MOTION BY ALDERMAN CLEMONS TO ACCEPT AND PLACE ON FILE MOTION CARRIED

NON-PUBLIC SESSION

MOTION BY ALDERMAN CLEMONS THAT THE BOARD OF ALDERMEN GO INTO NON-PUBLIC SESSION BY ROLL CALL PURSUANT TO RSA 91-A:3,II(e) TO CONSIDER A PENDING CLAIM OR LITIGATION WHICH HAS BEEN THREATENED IN WRITING OR FILED AGAINST THE CITY

SECONDED BY ALDERMAN LAROSE

A Viva Voce Roll Call was taken, which resulted as follows:

Yea: Alderman Clemons, Alderman Vitale, Alderman Craffey, Alderman Deane, Alderman Pressly,
Alderman LaRose, Alderman Tabacsko, Alderman Melizzi-Golja, Alderman Cox,
Alderman Sheehan, Alderman Wilshire, Alderman Chasse, Alderman Flynn,
Alderman Cookson, Alderman McCarthy

15

Nay:

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MOTION CARRIED

President McCarthy

Can I ask Mayor Lozeau to start off by running us through what the order of drill is for this evening?

Mayor Lozeau

Thank you Mr. Chairman. I thought it would be helpful like we have done at most meetings to just give you a sense of what is on the agenda for tonight so that you will know what to expect. Each of the folks that are here tonight have a different piece of this that they are going to take up. I think all of you know clearly that the point of tonight's meeting is that we were hopeful that we would have something to bring you, something that was acceptable to both sides. We have reached agreement with Pennichuck to bring something to you tonight, which is the good news. It was very much in play until not so long ago.

This evening's meeting is going to be in two parts. The first part is going to be a confidential part of the meeting, and we will explain that a little bit by talking about the confidentiality issues relate to due-diligence. Remember we had a conversation about what can be done in the minutes that can be released at some point

soon and what is not going to be allowed to be released in the minutes until the time that we own the company or until our confidentiality agreement expires in December of 2016.

The first part of the meeting is going to be a confidential meeting and Bill is going to talk a little bit more about the confidentiality issues and what the difference is between the two. During part 1 of the meeting, which as I said is the confidential portion of the meeting, we are going to talk to you about the results of the due-diligence; <REDACTION 1> and the change of control agreements, which include provisions for the staff that I made a slight reference to at the last meeting, which is I think there are many of us in this room that are going to have concerns about some of the contracts that have been negotiated with some of the key staff at Pennichuck and what their severance packages look like, what the triggers are that keep them in place or not in place, what the vesting pension plan agreements have been <REDACTION 2 >

There is one other piece of due-diligence in the part 1 meeting under confidentiality that we are going to discuss tonight, which is you know all along we have been thinking about Pennichuck Corporation having five pieces, well it really has six pieces, and the sixth piece is likely considered an asset, and that is the Salmon Brook LLC, which we will talk to you about what that is and when we found out about that tonight. I am trying to make sure you don't have any surprises after we do this work.

The second part of the meeting we are going to talk about the negotiations with Pennichuck and how that has gone and the modeling. Arthur is here. Arthur and John will work on showing you the modeling. We did a little bit of that at a few meetings looking at those lines and where this means we are. We are going to talk about the merger agreement, the settlement agreement, and the confidentiality agreement, which Bill Ardinger is going to do so the DMA and all of its component parts. And then John is going to walk us through the public steps. Remember we had talked about making sure that we have a public presentation on what we have here and then that public presentation that will be likely moved to other communities so that they have an opportunity to be exposed to it, and then how we plan on having information on the website prior to those presentations, and then talk about the bond vote, which has to take place within ninety (90) days of the vote of the signing of the DMA agreement.

Just so you know what the outside of that is, that would be if we and they took action and we sign tomorrow, that would mean by February 8, 2011 that bond vote has to take place. And of course leading up to that we want to talk about what those components are. Then Bill is going to talk to us a little bit about the PUC, what does that mean with what we are doing tonight and what will happen during that ninety (90) day period for voting on the bond. Remember that the ninety (90) days is just we can't go beyond it; nothing says we couldn't do something sooner.

Then after you have all of that information we are hopeful you are going to be prepared to vote on the DMA and its component parts; the settlement agreement and then the new confidentiality agreement and what that means. Bill and Jamie will walk us through that. Then after that vote, depending on how that vote goes, we will talk about what the immediate next steps are such as the unsealing of the minutes. Alderman McCarthy and Attorney McNamee have been working on a motion to present to you tonight about how that might work, the timeframe to get the information out to the public and the press release that we will be doing, and that press release we are trying to do a joint press release with Pennichuck and what that timing might be. It is their intention to have the announcement before the opening of business on Friday morning should everything be moving in the positive.

That is just the expectations of tonight's meeting. Hopefully as we go along questions and concerns you have we have the right crew here to answer things tonight. Thank you Mr. Chairman. I believe that Bill is going to take us out of the gate with the confidentiality.

Bill Ardinger, Esq.

Thank you and hello all. This is a significant point in the work of this Mayor's team and certainly the work of the Board of Aldermen as currently constituted and constituted before that in the City of Nashua. It has been a long standing process. It is a very unique process. There are no good examples out there of municipalities acquiring companies that are private and whose stock is traded on a public stock exchange. This has put you in a very difficult position. I need you to know that in all of the discussions that we have had in terms of the Mayor's team, she has consistently pressed for us to fight for as much public treatment as we can of the information that you have been evaluating and learning, and in many cases Attorney McNamee and I have been put in a position and not a good position of fighting back a little bit against the Mayor and saying there are obligations here that we have to live up to, this is very confidential material information that could have significant affects on the stock of this company and under the laws of the United States Government and the State Government, the SEC rules and things like that.

So we have been suffering through this confidential treatment of many of the deliberations of this public body. Right now up to this point and right now we are governed by a confidentiality agreement between the City and Pennichuck and that was signed, the more recent one was signed on January 14, 2009. That agreement requires everything to be kept confidential, the fact that we are negotiating with Pennichuck, the fact that we have talked about this price or that price, the fact that we have gotten communications from Pennichuck that haven't been positive at times, positives at others. All of that information is subject to that confidentiality agreement and has been kept confidential. We are still under that confidentiality agreement for this meeting.

The Merger Agreement has looked at it and we know that if we were to reach agreement on a merger proposal and if this board were to authorize the Mayor to sign the Merger Agreement, at that point we would need to have the public interest of this Board and the City take over this process. It is going to have to move into a public sphere for a debate on that vote that will come to authorize the bonds. And so the team negotiated very hard for a new confidentiality agreement that if we sign the Merger Agreement, if you authorize it and if the Mayor signs it, this new confidentiality agreement will take over for the January 1.

Now it is the goal in theory, in broad concept, is everything about the fact that we have been negotiating, everything about the fact about the give and take, about the timeframe that we have been negotiating, about considerations of how it is in the public interest potentially to control its water supply for the long run, how it may be in the interest of ratepayers, all of that stuff that we have talked about, which is currently confidential, the goal is to have all of that negotiation information will be completely public. That is why Attorney McNamee and I guess the Chairman have been talking about a motion that would unseal a great amount of minutes that have been collected over years in the deliberations protected under that old confidentiality agreement.

However, not everything that we have learned from Pennichuck especially during the last month of intense due-diligence can be made public. The new confidentiality agreement while it does not keep confidential any of the dynamics of for example even we are going to be able, Mr. Gottlieb is going to present model that try and demonstrate to you, and you have seen other models, the economic affect of this transaction on the City and on its citizens, there are some information that we have learned that is going to have to still be confidential. The way to describe it, and this is a very hard line to draw, is stuff about Pennichuck's organizational information, employee salaries and benefits except for those that are already public, and I will just touch on that in a minute, legal arrangements and plans that are specific, **<REDACTION 3 >**, this is all stuff that is traditionally known as confidential commercial information, and under the Right-to-Know Law as it exists now, confidential commercial information is allowed to be protected as confidential. We fought in the new agreement to get to that point.

What is the final thing? Tonight you are going to hear the final results of the due-diligence. Much of that information you will hear is very technical, very detailed. When you hear it you will know wow that stuff is not only confidential under the existing agreement we have, it is going to be confidential even if this gets publicly announced, it is about this person, it is about that contract and stuff like that. Our job is to be able to have you know what is confidential and what is not because when this goes public the public is going to ask you how did you make your decision yes or no, what was important. What you need to know is all of the deliberations you

can talk about, everything that is public already including for example, and John Patenaude will tell you, the severance agreements for Mr. Montopoli, which he will talk about, for Mr. Leonard, for Mr. Olivier, those are public documents they have to announce those to the SEC. Nothing about that is confidential. If it is already public it is not covered by this.

James McNamee, Esq.

<REDACTION 4 >.

Bill Ardinger, Esq.

And that is a perfect example of some of the difficulty. Tonight even is split into two parts as we mentioned; one is going to be the details, the other is going to be what I think will be probably a wide ranging discussion of the merits of whether or not this Board should consider a vote to authorize the Mayor to sign the Merger Agreement that we have reached in tentative, it is not binding obviously. I guess the goal is if you vote to authorize the Mayor to sign the Merger Agreement and we go into that phase say Saturday morning when the paper says City of Nashua agrees with Pennichuck after eight years or nine years to purchase the utility and acquire control of its water resources, if that happens, on that day you are going to be able to say a lot of things; why it is important, you are going to be able to talk about I think it is a good deal for ratepayers, you are going to get information that you can talk about.

If someone says to you yeah but aren't there a lot of sweetheart deals for employees you can say Montopoli's is I think a little sweat but the overarching or whatever you say or this guy, <REDACTION 5 > You would have to try and control the need to focus on that detail. That is the example I can give you. What is public is public, and we will be available and Attorney McNamee will be available to continue to provide guidance during this time period. So I guess Mr. Chairman to finish up, I think the goal is to make as much of the public discussion fully public, the details are what you have to think is going to be confidential and if we go public under this confidentiality agreement, you would be required to keep that <REDACTION 6 > confidential until either if Nashua acquires the company, I think the first act you will probably take as the sole shareholder will be to terminate the confidentiality agreement in which case everything is open, it is a full public instrumentality at that point, if we don't reach a deal, if we don't close, if we sign the Merger Agreement but don't close, it would last until 2016 or until Attorney McNamee feels that the Right-to-Know Law requires earlier release. We are allowed to do that. So the Right-to-Know Law really governs this.

I think Mr. Chairman that is the sum and I apologize to all of you for the difficulty and the difference that you find yourself in as public officials here with this unique company.

Alderman Deane

Can you go over the last two minutes of your dissertation? I am a little confused and a little concerned about the release of the minutes. Will they be redacted? Will we wait until 2016 is there a reason for that? Will a vote of this Board release those minutes I would imagine?

President McCarthy

The plan is to release everything but anything which remains covered by the new confidentiality agreement, which is strictly those things we know about Pennichuck from inside that would materially affect its value on the market essentially. I don't think that covers very much. It may cover a lot more of the last month than it covered...I don't think there is anything prior to when we started the negotiations that would be covered by that at all because we didn't know anything through our agreement with them that was subject to confidentiality.

Alderman Deane

So there will be no need to redact anything then outside of this...

President McCarthy

There will be in this year's minutes and increasingly towards the end where we know things about...for example the things we learned in due-diligence are covered by the confidentiality agreement, the new one as well.

Alderman Deane

Are we going to review that the redacting process? Are we going to have an opportunity to review what is being recommended to redact out of the minutes or is that just going to be done?

President McCarthy

The intent is that Attorney McNamee will look at that. I think we certainly can review it. I guess I am not sure...I am willing to listen to what the Board thinks on it, I am not sure I would want to put to a vote overriding something our attorney has told us will get us in trouble, but I certainly think that it is reasonable for us to get...we will have both the non-redacted and the redacted ones, we can get a copy where it is clear what is being redacted, and I think we can discuss whether there are things that are being redacted that we don't think should be. We can certainly have that discussion with Attorney McNamee. Does that answer your question Alderman Deane?

Alderman Deane

As long as we have an opportunity to review the minutes before they are redacted. I respect Attorney McNamee's opinion on his review and what he would recommend to us.

President McCarthy

We can certainly have the Board get struck through copies where it is clear what information is going to be redacted so that we will understand what is going out and what is not.

Alderman Deane

The possibility of an explanation or a cross-reference? It could be pretty cut and dry with some of it but some of it might not be where perhaps we can have some sort of numbered explanations associated with why it was redacted. In most cases I don't think you are going to go beyond maybe 5 or 6 reasons for it. Perhaps I am wrong, but I would just like to see all of that. This confidentiality agreement where is that?

Bill Ardinger, Esq.

Alderman Deane you have the current version of the confidentiality agreement is in that package and we will point to it I think as we go through that. The exact definition of what is confidential is in it as well.

Alderman Deane

So this will be later on in the evening?

Bill Ardinger, Esq.

Yes.

Alderman Pressly

But once we close everything that has been redacted can be made public is that not true?

President McCarthy

Correct.

Alderman Pressly

So once we own the company...

President McCarthy

When we are the shareholder as Attorney Ardinger suggested we can undo the confidentiality agreement.

Alderman Pressly

Okay we can vote to open up everything. Would that include the minutes of their board of director meetings?

Bill Ardinger, Esq.

Once you are the sole shareholder the sole shareholder has complete control over all of the assets and property of the corporation, which include the minutes.

Alderman Pressly

Okay so everything that is redacted once we close can be made public?

President McCarthy

Yes.

James McNamee, Esq.

The redaction process just to either make it more confusing or clearer, there is only one thing that we are going to be redacting and that is material confidential information of the company. You now have a lot of inside information, which is when you are dealing with a publicly traded company very dangerous information to have. There are civil and criminal penalties attached to the leaking of that information or acting on that information. Clearly considering the level of confidentiality the Board has kept so far it is not a problem with this board, but it

is I guess we are driving the point home because it does expose individuals and the City to liability if any of that is produced. So the answer to the question is everything will be available and can be made public except for what is material confidential information, inside information, which as Alderman McCarthy said is for the most part the information that you have just received over the past month.

That information is the information that you should not reveal. If you get pressed on things and feel you need to explain something, before you give any specific information out unless you absolutely know it is not material confidential information I suggest that you contact me and ask me if it is or isn't, and I am happy to respond to those sort of things because you are going to be needing to respond to people as well.

That is really the sole thing that I am going through the minutes now for, and we are going to be talking about that later, that process, but I am going through the old minutes solely with the idea of identifying what the material confidential information is, the insider information that would be redacted. The answer further is yes once it no longer is a public company if we do acquire it and it no longer is a publicly traded company we can removed that prohibition and whatever information we want the company to reveal we can ask them to reveal. Being the sole shareholder they will do what we tell them to do.

President McCarthy

I think we had started before the due-diligence process began to work backwards through transcribing the minutes...

James McNamee, Esq.

Yes.

President McCarthy

...and Sue had provided them. How many of them have you had a chance to look at?

James McNamee, Esq.

Not many. I have had a busy month or two. But I have started going through them and frankly it is not taking that long in the process especially with the early ones. It is just a question of making sure I go through all of them and finding the time, which I actually was able to find today so I am thinking in terms of timing I may be able to get through them at least by the end of next week.

President McCarthy

For the ones that are not from the due-diligence period what is the percentage that is winding up redacted?

James McNamee, Esq.

None. I'm thinking that for the most part the stuff that happened before...the one area where it actually is going to be the most difficult is any minutes, and I haven't come across them yet so I am not sure how difficult it will be, but there was a period of time when we were having negotiations and there was a confidentiality agreement previously before this one, which I am not familiar with. I may be actually drawing on some of your memory of that. But aside from the current period, I don't anticipate that there really will be many if any redactions. Those minutes actually are fairly quick to go through and finding 15-20 minutes to scan...

President McCarthy

It was probably at the end of '03 that period took place.

James McNamee, Esq.

Unfortunately we were having, and I am following up with Sue on this to see, '03 you may have had meetings, but we don't have the minutes before 2004. That may be a question of just trying to locate them or it may be that they were lost or not even recorded, which would be an unfortunate circumstance. She is doing a very good job, she and Trish, of identifying what we've got. So the first ones we have are from February 2004 and they clearly reference earlier discussions with Attorney Upton and Rizzo and Sansoucy so there clearly are earlier minutes we just don't have them yet.

Alderman Deane

That is disturbing.

Alderman Cookson

Thank you. Attorney Ardinger your comments raise two questions for me. One was ...

President McCarthy

Before you...Alderman Pressly were you done? Okay. Alderman Cookson. Sorry.

Alderman Cookson

Thank you. I was curious about the process of how long Pennichuck would remain publicly traded or would they suspend activity on the stock exchange if for example I heard this evening they wanted to put out a release Friday morning before the exchange opened. Would they remain publicly traded until we closed or would there be some sort of suspension on the stock exchange?

Bill Ardinger, Esq.

Good question. They will remain publicly traded, their shares 4.6 some million shares will be continually available for trading on NASDAQ, their notice that they will give the markets say if this all works out on Thursday so before the Friday opening. Once the news is properly out in the marketplace then investors can process that news and decide whether to buy the stock or sell it. It is just the goal of getting the news out as equally as we can to all the market. So it will remain publicly traded right up until for nine (9) months if it takes, the PUC approves it, let's say no one appeals it, and the closing happens. It is when that closing happens all of those public shareholders sell their shares to the City.

Alderman Cookson

Thank you. And then you also made a comment about not sharing employees' salaries and I don't know how far down...some of that information is public through SEC filings, but other situations or other employee's salaries are confidential especially those that work on the line. If the City were to, if we close and this is a successful bid, would those employees' salaries that are part of a union would they continue to remain private or once the City owns the utility would that information be public as we negotiate union contracts?

Bill Ardinger, Esq.

You have asked a very interesting question because there are no good examples since generally it is illegal for a municipality to own shares of a private corporation, no real good examples, you have a special legislative authority to do it in this case, and I am going to turn to the guru on Right-to-Know Law. There is no clear precedent. I think that we have made or you have reviewed Bylaws and Articles that have assumed that the activities of this company even though a private corporation, there meetings would be subject to the Right-to-

Know law, your meetings discussing it would be under the Right-to-Know Law, I think in general the assumption would be and Jamie will correct me, is that this will be treated much like your own operations that you currently run as a city. The fact that it is owned to a private corporation shouldn't change the result after the closing.

James McNamee, Esq.

I think I agree with that. I think the company can be run...right now what you have done in the Articles and Bylaws one or the other or both, is you have made the activity of the board of directors subject to Right-to-Know or having them as open meetings. That doesn't necessarily mean that all of the operations of the company are subject to somebody walking in and saying I want to see your records for this, that, or the other thing. It would be difficult to do that. Your specific question about union contracts, I'm not as familiar with the National Labor Relations Board (NLRB). Under the Public Employee Labor relations Board (PELRB) in our state all of the union contracts have to be filed with the PELRB once they are entered. I am not sure that the NLRB requires them to be filed, but they may. They may already be in other words somewhat public already.

I wouldn't see any problem with us making them public once it was our company. We could say there is a company policy our contracts are going to be open for review, which probably would be a good balance to strike between being open and yet sort of drawing the line and saying but you can't come in here and ask us every day what we are doing on a day-to-day basis. But at least making the contracts available as well as the minutes of the board of directors meetings. I think you could do that.

Alderman Cookson

Thank you.

President McCarthy

Alderman Melizzi-Golja did you have your hand up?

Alderman Melizzi-Golja

I did earlier. I actually just wanted to make a comment similar to the question Alderman Pressly had for clarification. Thank you.

Alderman Cox

You had stated in your earlier remarks that the current agreement that we have, confidentiality agreement, was January 1, 2009. I am wondering how can that be that many members here weren't even here then. I think we have a more recent copy that was presented for signature after January 2010.

Bill Ardinger, Esq.

I am not aware of that Alderman Cox. The agreement that I know exists because it was very hard to get it agreed to, was the one that was signed on the 14th of 2009. It didn't require every member of this Board to sign it. I didn't like that part of the old agreement and fought hard to avoid it, however, the City is just as bound to this contract and we the City as an entity has an obligation to ensure that its representatives do not breach this agreement. While you have not individually signed anything by virtue of your office you are obligated to observe the terms of that.

Alderman Cox

Thank you.

Alderman Deane

Whose signature is on that?

Bill Ardinger, Esq.

The signature on this confidentiality agreement is I believe it will be the Mayor and Duane Montopoli so the Mayor was on behalf of the City.

Alderman Deane

What is the date?

Bill Ardinger, Esq.

January 14, 2009.

Alderman Deane

Is there anything else that was agreed to by the administration that we are bound by other than that?

James McNamee, Esq.

The Confidentiality Agreement was authorized by this Board. The Mayor's signature appears on it because this Board authorized it.

Alderman Deane

Pardon me.

James McNamee, Esq.

The Confidentiality Agreement that was signed on January 14, 2009 was signed by the Mayor on the authorization of this Board.

Alderman Deane

There was a vote taken?

James McNamee, Esq.

Yes.

Alderman Deane

In a non-public session or...

James McNamee, Esq.

Yes.

Alderman Deane

Was there anything else other than that?

James McNamee, Esq.

There have been a lot of things Alderman Deane. I am not sure what your question is.

Alderman Deane

Was there anything else that we agreed to?

James McNamee, Esq.

You have agreed to, according to this, at least two confidentiality agreements.

Alderman Deane

Prior to the '09?

James McNamee, Esq.

The January of 2009 and there was an earlier one in August of 2006, which was the one that Pennichuck ...I think that is the one that Pennichuck required everybody to sign, which really was not necessary and somewhat mean spirited thing for them to do.

Alderman Deane

What was the date again?

Bill Ardinger, Esq.

Of the current agreement that is governing January 14, 2009.

James McNamee, Esq.

And the previous one was August 28, 2006. Those dates by the way Alderman Deane are on page 5, they are recited in paragraph 9 of the Confidentiality Agreement that you received tonight.

Alderman Deane

Those minutes, do we have access to all of those minutes or do you know has Sue finished typing all of those?

President McCarthy

All of them that we have on tape have been transcribed with the exception of tonight's.

Alderman Deane

And the minutes prior to 2004 and before are...

President McCarthy

There are I believe 5 that she cannot locate. We have checked everything in City Clerk's Office, everything over at 14 Court Street, everything that is in this office, and there are about 5 meetings from 2003 or thereabouts that we just cannot locate. It is not clear they were actually taped.

Alderman Deane

You are not clear if they were actually taped?

President McCarthy

Yeah. We may not have recorded the non-public session part of the meetings.

Alderman Deane

Thank you.

Bill Ardinger, Esq.

That is confidentiality.

President McCarthy

Okay. What is next?

Mayor Lozeau

The result of the due-diligence.

John Patenaude

Good evening. On due-diligence I just want to give you a brief update. <REDACTION 7 > if the PUC reviews this proposal and does not authorize customer rates sufficient to cover all of the operating costs of these utilities and the debt service costs including the financing, that we have the ability to say at that point maybe 9 months from now, we don't want to do this deal we don't want to go forward, that approval is not good enough for us because it creates a risk that we might have to dip into taxpayer funds as opposed to the cash flow from the operations. That is a very good addition and it gives a lot of discretion to the City out ahead if the PUC doesn't do what we need it to do we don't have to go forward and pay their shareholders. They fought that but they agreed to it.

Alderman Sheehan

I have a question that goes back another comment, but I am still kind of spinning in my head over Amesbury, MA. Do we have to deal with the Department of Public Utilities in Massachusetts because this is the New Hampshire Public Utilities Commission?

John Patenaude

No.

President McCarthy

That is a contract not a regulated utility.

Alderman Sheehan

Okay so we are okay.

John Patenaude

It is a service contract they read meters do billings...

Alderman Sheehan

Okay just checking.

Bill Ardinger, Esq.

It is a sale of water at retail, that is the PUC coverage and in fact Amesbury is subject to DPUC approval, regulation in Massachusetts but not the selling of services to them.

Alderman Sheehan

Okay because that is where my red flag went up.

Alderman Tabacsko

I think this month maybe these meetings are running together, but I thought this protection that has now been added for the idea that it is in the rate case so that it protects **<REDACTION 8 >** all the way across, I thought that was already here in the agreement.

John Patenaude

It was but not as a...it gave us some protection, this wraps it up. This is a burdensome condition. Before that it just said we will work together with the PUC to get rates that cover operating expenses and debt service costs. While they thought it was protecting both of us on the burdensome condition, it could have got squeezed so we got it in this part of the contract so it is explicit. They know it is a burdensome condition and we can walk. There is no yeah but that is not what we...we didn't really mean that. Now it is there and they can't take it away.

Bill Ardinger, Esq.

Alderman Tabacsko this is a long agreement and you have obviously read it quite well. It is much better to have it in both places than just the one where you read it. This was an extension of the same provision into this section where just like John says it is so clear not our ability to say we don't want to go ahead if we get a bad result from the PUC. Impressive.

<REDACTION 9 >

Bill Ardinger, Esq.

Absolutely.

President McCarthy

Some of these are things that it is likely are obvious enough that members of the public might ask about and we can in fact explain why it is not an issue we just can't explain that it might have been an issue in the first place.

<REDACTION 10 >

Alderman Deane

We are always at a financial risk though regardless correct? So if our revenues don't cover our operating costs and our debt we submit to the PUC for a rate increase and we don't get the rate increase we need then in order to make up the difference of the debt service and the operating costs, where would the money come from?

President McCarthy

In that case it would come from the rate because the PUC is required by statute to at least return the cost of the investment so if the PUC were to turn that down we would essentially appeal probably to Superior Court and say the PUC failed its rate making obligation under the statute and was required to give us a rate of at least X. The flexibility the PUC has is on what the return is that is paid to the shareholders in a publicly owned utility. We are not asking for any of that so what we are asking for is essentially the minimum obligation the PUC has to provide for by statute.

Alderman Deane

Which would be the debt service and the operations costs

President McCarthy

Yup.

John Patenaude

Yes.

Alderman Deane

So when the PUC issued all of these rate increases they didn't look at all of the lucrative deals that some of these people have gotten? That never crossed their desk?

John Patenaude

I can't answer that question.

President McCarthy

They don't in general question the operating expenses unless they look outrageous. The most obvious of those is when they moved out of Water Street so that they could take over under-utilized real estate of the parent corporation no question was ever asked about that when it went into the next rate case because it is not outrageous rent it was simply an unnecessary expense in the scheme of the corporation.

Bill Ardinger, Esq.

The PUC does look at operating costs and capital costs, but it is the big ones. So Seabrook was a big cost that they looked at for PSNH, but unless you have a real stunning out of line compensation arrangement, which in the private sector world that this company operates in they are not that out of line they are not that sweat of deals it is pretty customary and normal, not even the Consumer Advocate would raise that.

Alderman Deane

Thank you.

President McCarthy

Are there any further questions?

John Patenaude

The next issue is just to let you know what we found here so that you don't get blindsided. There are change of control agreements for the senior officers. They guarantee two year's salary upon termination. In those contracts there is also, for good reason, they can terminate the contract so in essence if there is lower pay change of position and one could argue where they are going from public to private isn't change enough to trigger those. Those are the kinds of agreements they have. They are adding a provision that says good reason will not be triggered for the first six months of this transaction, and that is so when people leave we want them to leave on our terms when we want them to leave and not day 1.

There may be some people leaving earlier than others, but in the plug and play concept we have to make sure again that we have qualified people in qualified positions and continually running the company. That is one aspect and again you will see these contracts added the top five will be filed with the SEC once their directors re-approve. We have had them add one non-competes. We don't want anybody to compete against us and that context is let's say for an example that we think we might want to sell the water service business, well the last thing we want is for somebody to come in to buy the water service business and to have somebody undermine us that used to work for the company to come in and compete with us. That is in there. There is a non-compete for a year. Typically you can't go beyond a year because then the courts would throw them out.

The other thing we have asked for is their contracts didn't have releases, we want a release from everybody that gets terminated so that they can't come back against the company so that for any malfeasance, anything so before you get paid a dime you have to sign a release waiving rights to bring action against the company. Those are the types of things that have been added as well.

Alderman Cookson

Mr. Patenaude are you referring to a specific document that we have?

John Patenaude

No you don't have the document.

Alderman Cookson

We don't have what you are reading.

John Patenaude

No this is just my notes.

Alderman Cookson

Okay. You made comment about two year salary being included. Is that something that we added or was that something they added?

John Patenaude

They had two year's salary. They all had a two year salary in there. The question was when did it get triggered. Does it get triggered for good reason day 1 or does it get triggered 6 months from now. There is clarification there that it can't be triggered for 6 months. The other thing that is in there is if they felt that they could be triggered day 1 they could hire an attorney, company pays the attorney, this is already in existing by the way, the company pays for their attorney for them to sue the company. You could become in a protracted litigation, which will get you nowhere and cost you a lot of money. The agreements that they are entering into now, the revised agreements, covers stuff like for instance there is a section in tax code 409(a) that if you meet certain conditions you can't pay them all up front, that language has been inserted there. It is required, mandatory language by the IRS. That language is in there. The other thing is what we had again they added the 6 month rule so nobody – I think Montopoli may have a 45 day rule or a 90 day rule, but he is the only one.

Alderman Cookson

But this language is being added as part of a negotiation between the two parties it is not being...

John Patenaude

Between them and their employee not us. The two years is already existing by the way.

Alderman Cookson

Understood. Is it their current board of directors that is establishing this new language?

John Patenaude

Yes.

Alderman Cookson

So if this were to go through and a new board of directors were established could that new board of directors would they be able to make any judgment to contradict what is currently being...

John Patenaude

The change of control also says that if you have a change in board, a new board, then you could trigger good reason. All of these agreements have those controls today that if you have a new board they can't change it they are contractual obligations. They are not perpetual. The change of control is a two year from the date of control. If there is no change of control it is a one year termination.

Alderman Cookson

Okay.

John Patenaude

The other thing that happens is they tend to be evergreen so unless you say no I am not going to give you this contract, on the anniversary date they automatically renew, and that is the way they are written today.

Alderman Cookson

Sounds familiar. Thank you.

John Patenaude

<REDACTION 11 >

We talked the last time about the SERP for former CEO. There is a former CEO that receives a SERP amount and the SERP was agreed to when the individual was hired back in I will say the '93, 94 timeframe.

Mayor Lozeau

Explain what SERP is though.

John Patenaude

SERP is a Supplemental Executive Retirement Plan. Typically the way it is triggered is under a qualified plan there is a dollar limit on your salary. I think in '92 it was like \$100,000 or '91 it was \$100,000 so if your salary was over the amount, \$100,000 let's use that for an example, you could only accrue benefits on that \$100,000. Most companies had plans where the executive they would have a non-qualified plan that they would fund for the pension benefits on the incremental piece of the salary so if somebody made \$200,000 they have \$100,000 in the qualified plan as a max salary that the benefit is computed on plus another \$100,000 in a non-qualified plan that was included in the company's balance sheet that would be paid when the person retired over a period of time over the person's lifetime. Just like a regular pension plan except it is not an IRS qualified plan because the rules don't allow that. So that is what we have.

<REDACTION 12 >

Bill Ardinger, Esq.

Only to the extent parts of it were public.

John Patenaude

Only if it was public right.

<REDACTION 13>

Alderman Tabacsko

Do we have a dollar amount for this particular instance of what that affects the annual operating budget?

John Patenaude

It is accrued on the balance sheet and also it is insured so on one side you have a liability of roughly \$780,000, I am using round numbers now from my memory, and on the asset side you have an insurance policy which has a cash surrender value of \$670,000 but has a face value of over a million. If the person were to pass away tomorrow the company would bet \$1.1 million I believe or \$1.2 million and the SERP would end.

Alderman Tabacsko

Am I right to think of that as a known...there has got to be a net cost.

John Patenaude

It is a very small net cost though.

Mayor Lozeau

Isn't it like \$14,000 a year is the payment for the policy?

John Patenaude

Yeah.

Alderman Tabacsko

The premium.

John Patenaude

It is the premium of the policy right.

Mayor Lozeau

I think that was what we were looking for.

John Patenaude

The benefit has already been accrued it doesn't...it may vary a little because life expectancy tables and interest rates govern what you accrue for a pension liability so if interest rates go up or down that has a small

impact and also mortality tables right. I think mortality tables typically in this calculation go up to age 85 so if the person goes to age 86, 87, 88 there are always those small increments.

Alderman Tabacsko

Thank you.

<REDACTION 14 >

John Patenaude

<REDACTION 15 >.

The last item is Salmon Brook LLC. It is a company that owns property rights for lack of a better term in Salmon Brook, and I think you can tell me where Salmon Brook is. It is over there somewhere.

Mayor Lozeau

That is the dam at Rotary Common.

President McCarthy

This is the dam on Main Street.

Mayor Lozeau

So Rotary Common that dam we have been looking at we get to own it too now.

John Patenaude

In the capital improvement program that they gave us there is some money in there in 2012 I believe for repair of that dam with about a \$350,000 estimate of costs. That was in there.

President McCarthy

This is probably a blessing in disguise at some point because the dam actually needs repair and what happens at Salmon Brook is as it comes over that dam it drops about 15' to the culvert that goes under Main Street and then it is culverted through the Globe Plaza site. At some point something has got to get done with it anyway and this will give us the right to take care of the last piece of it when we decide what.

John Patenaude

Again it was in their construction plans they gave out and they gave the same plans to the PUC from what I understand, not as far out as we want, but a couple of years, and that is one of the items in that plan.

Alderman Tabacsko

Will it also open us an opportunity to expand that park into a water feature?

President McCarthy

What it does it removes the requirement to negotiate with Pennichuck for what happens to the dam when we decide what to do with the park because it had an encumbrance for the easement for the dam, which we now own.

Mayor Lozeau

We did negotiate, actually it was one of the last things this afternoon was to make sure that we had them represent, take responsibility if there was something we didn't know there that we wouldn't carry that burden. It was an interesting...

Alderman Tabacsko

Are those asbestos gates that are...

Mayor Lozeau

Well you just never know. None of us know what is under there. You can environmentally test but when the time comes we didn't want to basically give a free pass to them, which is what they were interested in having.

John Patenaude

They put it as a subsidiary so it covers; the whole contract covers that company.

Mayor Lozeau

Exactly. So it was important.

John Patenaude

That is all I have on due-diligence. Those are the major items. There are a lot of nits and nats but those are the major items.

Mayor Lozeau

Now is where we point into Part 2 if you are ready.

John Patenaude

Just on the negotiations what we tried to do is really protect the interest of the City on any downside, and we talked about the rate protection that was one of the things that we tried to do is protect, make sure that PUC at least from the get go that we're covered relative to rates that allow us to service our debt and cover our expenses. The other thing is on the interest rate out, which is in the contract we originally had in that out a 7% interest rate assuming a bond, which would have a call provision after five years. We have negotiated that to a 6.5% rate, which gives us more flexibility on a ten year call provision, but between now and the time we finalize this contract interest rates who knows. If anybody knows what they are going to be I would like to know because my portfolio is mainly fixed income and you can change it around.

We're betting that it is not going to be above 6.5%. That doesn't mean that you kill the deal at 6.5%. You have the opportunity that is what it gives you. You may decide you can go further than that you may decide that 6 ¾ is okay, but it is your call not Pennichuck's they can't force you.

Mayor Lozeau

It is really more of a insurance policy is how we have looked at it to give us that extra breathing room that we frankly couldn't get on the stock price that I wanted to have. It gives us that breathing room in the interest rate and it really makes a difference on these numbers compared to the 7% where we started. You will see that as Arthur walks you through some of the modeling.

Alderman Sheehan

I was wondering is one all of the companies and one of them just one or what is...

Arthur Gottlieb

In both cases these are all of them. These are all of the companies presented in a few different ways for purposes today. The graphs are very similar have not moved much in fact moved very little from last week. We have some new information some was positive information and some was negative information they tended to balance each other out.

Overall the projections going forward have been pretty consistent all along, which is that there appear to be reasonable expectations of some rate savings under City ownership both at the individual utility level and in aggregate, and that there is also obviously a long-term benefit in terms of having paid down the debt as you can see from the first graph just to say and then I will come back and explain them in more detail, the big drop in the solid black line once you have paid off all of your debt.

Just to say again the table of numbers is the exact same information that is also shown graphically and some people like to see tables with numbers and some people like to see graphs. You are getting the same information two different ways. Let's just focus on the graphs because they are easier to describe. The very first graph is looking at **<REDACTION 16 >** the solid black line is our reasonable projection of what the City would need in terms of revenues from these utilities to cover as we have described all of its operating costs and all of its debt service. The reason the black line if you look at it, has those bumps in it because there are particular years along the way when there is a bond becomes due and so there is an additional amount of principle payment that has to be made that year and therefore the revenue requirement is higher for that year because the debt service is higher for that year. The other lines are all very smooth because you are just looking at percentage increases over time, the black line really tracks in a very interesting way tracks how the principle is being paid down over time and so you notice with the black line there is that very big drop in the year 2041 because that is the year that the bonds are fully paid off.

And then finally the last line that I want to draw people's attention to is the purple line or I guess it is plum if you are using excel. The purple line is just a reasonable one way to think about how you might actually do rates if you were running the utility. You would probably try to smooth out that black line because it is a very strange path to follow and so the purple line is a way of smoothing out the black line where it stays a little bit below the black line in some years and then once you get to 2041 is above the black line because you haven't been able to make, you had to borrow a little bit of money along the way to make some of the principle payments in those bumpy black years, and then you pay it down more gradually than you do when you have that sudden drop in 2041. It is just one way to think about it and it is much more likely that if the City were to own the water utility and were to be asking to have rates set that you would try to have the curve be smooth over time rather than have very strange changes on a year-to-year basis simply determined by which bonds became due that year. That is the purpose here.

This graph is done at 6.5% interest, which is the ceiling interest rate that is in the DMA so from an interest rate point of view it is a worst case. The next graph is really the exact same thing except done at a 6% interest rate, which is what in fact if you were able to borrow this money today if you could if the deal were to close tomorrow and you had already borrowed the money you would be paying 6% interest rate, and if you look at

them closely you will notice that the Pennichuck lines don't change at all because they are not borrowing money to buy the company but the black line and the purple line do move down a little bit when you think about a lower interest rate. That is what the next graph is showing and that is what it would be today if you could do this deal today.

The next two graphs really are just focused on the first ten years of ownership and so it is the exact same data that is in the first graph, but it is just looking at the first ten years because in fact there is so much uncertainty once you get beyond year ten, what is inflation really going to be in 2025, how much operating efficiency can you have within ten years. There is so much uncertainty there that it makes sense to at least pay some real attention to the first ten years and there you can again see that the blue line in particular, which is what Pennichuck has asked for, that is the publicly available data they have asked for almost a 20% increase that will come into full effect next year and be retroactive to much of this year, that line we are I believe under City ownership you would be comfortable below that line and this is what your ratepayers would have to pay, what the utility customers would pay.

And again the last graph is the exact same thing, however using a 6% instead of a 6.5%, and you will notice that the black line moved down. I didn't really change the purple line. For smoothing purposes it wasn't worth changing, but you will notice the black line did move down when the interest rate went down. I hope that is helpful. It is always complex and difficult when you are trying to say what will happen over the next 30 to 40 years for anything, but based on this analysis our belief is that this has every indication that it will be a good deal for the ratepayers of these utilities.

Alderman Deane

Can you define smoothing purposes please?

Arthur Gottlieb

Sure. Basically what we did was instead of having the black line, instead of just tracking exactly what you need, if you said well rates will go up at 2.5% in this particular case roughly 2.5% a year for ten years and then go up at roughly 2% a year for ten years and then go up roughly 1.75% a year for ten years and then actually 1.25% thereafter you will get that, that is sort of how you get the purple line, and the reason why the purple line mostly works is that you are going to not be retiring all of the principle, the principle payments will not be as great as they would be, since the purple line is below the black line, you will be running a deficit against principle payments so you won't be retiring debt as quickly in the years where it is below the black line, but by the time you get out to 2050 you will have retired all of the debt and in fact also built up a surplus of cash to have a certain comfort level at that point. So the smoothing is really a way of saying can I get to a reasonable end point where I do have a cash balance and I have retired all of the debt, got into a reasonable cash balance without having quite such a bumpy year to year change in rates.

Alderman Flynn

At the very last meeting that we had we talked about this \$1.5 million gap I think it had to do with the estimate of the cost of Pennichuck at its, I thought it was at its 10.81 and us at our expected cost, which two lines represent that \$1.5 million?

Arthur Gottlieb

That is not something that is on this graph. I think what you are talking about and correct me if I am wrong, was what the operating cost savings would be to the City.... if Pennichuck were no longer a public company, what money if any could be saved in operations. That was I think the \$1.5 million we were talking about last time.

Alderman Flynn

What is the dollars between the black line and the I guess in the green line.

Arthur Gottlieb

In some years and you can see it in the opening years it is lower than the green line. On a cumulative basis if you go out to 2050, on a cumulative basis it is lower, and there if you want to see it on a year by year basis that is back to the table of numbers so if you go down the green line is at 10.81% is the first column in the table of numbers so the green line is the first column in the table of numbers and the 6.5% black line is that one that says City ownership 6.5% and then RR, if you just track that down those are those two lines. There are years where the black line is above the green line for example. Am I helping?

Alderman Flynn

I am only looking at the first ten years.

Arthur Gottlieb

I am now looking at the table of numbers though, which is really...

Alderman Flynn

I'm looking at the table of numbers and I am looking at the graph for the first ten years.

Arthur Gottlieb

Okay so if we are looking at the graph of the first ten years and you are looking at the black line versus the green line, in both cases you will see \$36,171,000 versus \$34,825,000 lower, the next one lower, the next one lower, next one lower, when I get out to 2021 because there is a pretty big principle payment that year, that is the first year where the black line crosses the green line.

Alderman Flynn

So how does that affect a water bill, the difference between \$36,171,000 and \$34,825,000?

Arthur Gottlieb

Feels like it is probably about 3% or 4%, small.

Alderman Flynn

Is what their water bill would be compared to City ownership and Pennichuck operations?

Arthur Gottlieb

It is a matter of opinion. If you are saying City ownership versus Pennichuck ownership you are probably looking at either you are almost definitely looking at either the red line or the blue line. You are almost definitely not looking at the green line. If Pennichuck remains the owner of this utility they are going to get more than a 10.8% permanent rate increase. They are almost definitely going to get a 15% rate increase and there is at least a reasonable risk they will get a 19.9% rate increase.

Alderman Flynn

Is this the data the City has to present to the PUC to convince them that this is a good move for the ratepayers?

Bill Ardinger, Esq.

Absolutely. The whole case in an acquisition of this kind, issuing debt like this, the whole case under PUC standards is whether the rates that result from this transaction would be reasonable under a reasonable projection and estimate. This kind of graph will be the story of that case. The other thing they will check is the City able to properly manage the governance and operations of the utilities and with those two things I think you can prevail.

Alderman Flynn

Could I ask again that \$1.5 million we were talking about last time, how does it tie into these numbers again?

Arthur Gottlieb

It ties in very directly to the black line. The black line is the sum of operating costs under city ownership plus debt service under city ownership. It is exactly in that black line and it ties into for example the blue line. The blue line is operating costs under current ownership plus return on capital under current ownership plus depreciation under current ownership. It is not exactly apples to apples, but it is pretty close. The key point here is that in fact under city ownership operating costs will be lower than they are under current ownership because it is very expensive to be a small public company. That is the good news. The bad news is that

obviously debt service costs will be much higher under city ownership because there will be this additional large amount of debt to do the acquisition.

President McCarthy

For the first thirty years.

Arthur Gottlieb

For the first 30 years. When you true up all of those numbers what Pennichuck is entitled to, that is the comparison here and unfortunately it is not easy to do because we are in a regulated world but if you compare what Pennichuck is entitled to to what the City needs what the City needs is less than what Pennichuck is entitled to. There is a different table and I am very happy to share it with anyone who would like, which shows the actual operating expenses and debt service, it shows the detailed components that make up the black line. I am happy to print it out even in real time, but all it is going to do is be two numbers or three numbers I guess; interest, principle, and operating expenses that add up to the numbers you are seeing in the City ownership or our columns.

Alderman Flynn

Is there anything on this chart that is confidential?

<REDACTION 17 >

Alderman Tabacsko

That is I guess comforting that all of them are comparing the same and we're not necessarily going to capitalize at the same rate at the same pace as they would because we may not have the same needs for generating revenue over the periods of time, but I guess my ...

President McCarthy

The capitalization is pretty much independent of that. If you go back and look at their model, until building the plant, what they used to do because they had the original plant built was they would wait a very long time accumulating new customers and then do a big spurt of capital investment and apply for a rate case. The reason they do that is when the rate gets true'd up it makes the system whole with exactly the set of customers who are there now. In the case where you are expanding where you know Merrimack and Bedford are building lots of houses and attaching them, all of that revenue is essentially additional profit, and if you go back to the PUC too quickly they are going to set your rate back down because you now have a bigger customer base without any more capital investment.

So they used to avoid rate cases. This is why they used to brag that they only asked for a rate case every five years. Yeah because they were making more money without one than they were with it, it wasn't all that magnanimous. When they got to the point that they had to build the new plant because the Clean Water Act required they to do a lot more treatment than they used to then they had a tremendous need for capital over about a five year period of another \$50 million to \$60 million and they got used to just asking for rate cases as quickly as they could to get on that. That is coupled with the fact that growth in the area is down well below where it was in the time when they weren't asking for rate cases so they have essentially fallen out to there.

The investment they will be making is in additional plant increases as the water standards ratchet up over the next few years and the replacement of pipe and plant that needs to be replaced. The change in the revenue requirements basically they get by when there is expansion, but they don't pay for that somebody puts the pipe in the ground and gives it to them. It is in the rate base but it doesn't count because it was contributed.

Just a reasonable number of in the range of where they've got it, which you can basically figure out by looking at the real depreciation of the system and how much they have to reinvest to keep it up over time. It comes out with a number about where we are in this model.

Alderman Tabacsko

The charts that we looked at at the last meeting, what is the difference? I don't have that with me. Do you recall what...that was showing some date...I think on a more limited...it wasn't the full set ...**audio inaudible...**

Arthur Gottlieb

It was actually both. You actually might have them in front of you. We showed the company as a whole as well as the individual.

Alderman Cookson

Thank you. To Mr. Patenaude as part of the due-diligence, I am going back a significant amount of time, as part of the due-diligence, was there an assessment of the pipes within the city and the quality of those pipes and then the quantity of pipes that would need to be replaced and at what level?

John Patenaude

R.W. Beck looked at that and I can't remember of the old pipe I want to say there was 50 miles if that much, but it was in there. They looked at it; they told us how much was left of old pipe to replace. They also looked at the quality of the pipes and looked at the projected capital expenditure out the next four years and it was in line with what they told us. This was Beck looking at it from their engineering aspect. They did look at how much and I just can't remember how many miles were left.

Mayor Lozeau

The majority of the 50 miles of unlined pipe are in Nashua. That was the number.

John Patenaude

Right but most of it had been replaced. They still had some to do and there was some capital expenditure in there for that as well as there was capital expense for PEU and PAC for projects there. Our model is around \$8 million to \$9 million per year roughly or \$7.7 million and it was in that ballpark. That I feel is a number that can be controlled as well. Just because you have it on a sheet of paper doesn't mean you are going to spend it that year. You can move items around. What Don Ware told us was that he actually does that he you know at the beginning of the year he sets out a 2 or 3 year capitalization program and as the needs may require he may take something out and substitute it for something else, but their board approves a capital expense amount so there is some substitution, but they can do if a pipe breaks and they have to get to it immediately something else suffers and it moves around that way.

Alderman Cookson

Okay. I was just curious if that variable added anything to our line that was above or beyond what assumptions were made that Pennichuck was using. The answer to that question is no it basically falls in line with what they have done. Mayor that due-diligence report is in your office?

Mayor Lozeau

Yes.

Alderman Cookson

Okay. Thank you.

Mayor Lozeau

Do you want me to grab it and ...

Alderman Cookson

No not at this time I think I would like to come in and just peruse.

Mayor Lozeau

What I was looking at as I am looking through some of my notes to find the 50 miles of pipe, I found that the deferred comp insurance plan is \$28,000 annually. I thought it was \$14,000, but I wrote down \$28,000.

<REDACTION 18 >

Alderman Sheehan

When is rate day again just because it escapes me at the moment, when do they get their answer?

Bill Ardinger, Esq.

It is mid May. I don't have the exact date, but if I remember it was around the 19th or 25th.

James McNamee, Esq.

I think it is May 18th.

Bill Ardinger, Esq.

Final.

Arthur Gottlieb

When the rate decision will

Bill Ardinger, Esq.

It was in May, but I just don't have the exact date memorized.

James McNamee, Esq.

That is the hearing date. The decision will be after that.

Bill Ardinger, Esq.

Right.

Mayor Lozeau

And then the rate will be retroactive.

Alderman Sheehan

I understand that.

President McCarthy

Is there anything else on the model?

Alderman Cookson

Thank you. Just referring to the column of numbers, the headings RR is for rate relief?

Arthur Gottlieb

Revenue requirement.

Alderman Cookson

Revenue requirement. Then under the City ownership the RR is revenue requirement and one scenario refers to...

Arthur Gottlieb

The smoothing of the revenue requirement.

Alderman Cookson

That is your plum line?

Arthur Gottlieb

Exactly.

Alderman Cookson

And that is true for the 6.0% interest as well. Alright. Thank you.

President McCarthy

Anything else on the model? What is next?

Bill Ardinger, Esq.

The Merger Agreement Mr. Chairman. This part I think of the presentation will just have you look at the materials that were handed out. Someone might ask the question well we have reviewed this Merger Agreement and all of you have read it very carefully so that they know that some provisions in one section are in another section, and that is the Merger Agreement itself. But this agreement contemplates a series of other documents so that when this agreement is signed, in other words if there were to be a motion to authorize the Mayor to execute this agreement maybe with a condition, it would be to sign this document, but there are other documents that are required.

If we put together the package right now just to get familiar with it, you have the Merger Agreement on top and then the Merger Agreement refers to two exhibits first; Exhibit A, which is the Articles of Incorporation and you may have shuffled the paper around, but you have two versions of the Articles of Incorporation in your package, the final version and clean version and some markups that were made since the last time that you all looked at this. In the Articles of Incorporation, there are a couple of little changes made for words and then a change made that I think was recommended at the last meeting that I missed about immediate family member.

Exhibit B will be the Bylaws so you've got two versions of the bylaws; clean and a markup version of the Bylaws. Now we are building our stack that if you were to authorize the signature the Mayor will look at a stack.

The next item in this will be the Settlement Agreement. Now in the past meetings we have talked about, and the settlement agreement is in your package, the Settlement Agreement if the agreement that this Merger Agreement contemplates. It says if we go and sign this deal with Pennichuck it means that we are agreeing with them to settle the eminent domain case. We have talked about that. That is that agreement. The Settlement Agreement in fact will need to be signed at the same time the Merger Agreement is signed; it is both an exhibit to the Merger Agreement and it is expected to be signed.

Similarly the Confidentiality Agreement is in your package. That is also contemplated by the Merger Agreement. It hasn't changed at all since the last time it was handed out, the Settlement Agreement same thing. The key thing on the Confidentiality Agreement we have already talked about it today that is what is going to replace and govern how we go forward with any of this confidential information.

The final two items you have in there, there is a disclosure schedule and disclosure schedule is in your package. I want to make sure you have that, okay. This is where in this Merger Agreement they say we don't have any problems with any of our contracts except what we list in the disclosure schedule so the schedule lists all of the things that they say we should list. It also says in the Merger Agreement it goes attached in schedule X is all of our material contracts. In other words the disclosure schedule is really due-diligence. It reflects the due-diligence. It has helped us go through. That is now final and that will be part of the Merger Agreement.

Now the disclosure schedule what you haven't gotten is all of the contracts that are attached to that; the pension agreement the FEBA, all of that stuff we have reviewed and it is going to be attached to the disclosure schedule, but that ends up about this thick when it is done so you haven't gotten copies of those, but they have been examined by the responsible person in the due-diligence team. Those include things like the pension agreement and the 401K agreements, things like that. And you see that there is a list of material contracts in your package. That is part of the disclosure.

When this stack is done you will have the Merger Agreement. That is the governing document that is the key one; we spent the most time on that. That one says when it is signed what happens, what are the risks, when do you have to pay the money basically. It is no different than a house purchase and sales agreement it has the same stuff. We have talked about it. It is the exact same as you have looked at in the past except for the changes that John has already discussed and we have discussed. We have gotten a little bit of extra language to deal with **<REDACTION 19 >** a little better protection on rates, and a little better protection on, and I have to tell you I have worked with a lot of clients, a lot of tough folks who were CEOs of companies, it was impressive to see your Mayor put a bottom line on the 6.5% today. There was no negotiation left. That 6.5% is a very important rate. That means if interest rates, we have talked about some terrible scenario like an international bombing or something that could destabilize markets, if rates were to pop up this deal, those lines, are no longer good and you do not have to close. That was negotiated as late as 5:00 p.m. today.

So that is the status of the pile. If you all get to the point through this presentation that is going to come now to the next steps; the public steps and the PUC condition and to a point where you are going to consider a motion to authorize the Mayor to sign, it will be that stack that she would sign.

President McCarthy

Any questions on that?

Alderman Chasse

Is that where we are at right now for the vote or is there more stuff to do?

President McCarthy

I think there are a couple more things we are going to hear about before then.

Alderman Chasse

Should I call work right now and tell them I am going to be late tomorrow morning? I think if we have to do this again we should take it in pieces.

Mayor Lozeau

We just wanted to make sure you knew everything you need to know. The only two items before the vote left are to talk about what the public steps might be so just that you have a sense of how that is going to play out and then what goes before the PUC and then we are ready, and those should be relatively brief you have heard them before.

Bill Ardinger, Esq.

I think on the public steps we have already mentioned tonight's meeting if you approve, I would say that Jamie will talk to you later because he has to report the number of votes under a contract that came through tonight. Their board will vote tomorrow and they expect to release earnings Friday morning before they open the market. We are working on public presentations for the Nashua residents and other communities, and would expect them to start the first week of December and one might say why not before then because we are into Thanksgiving and I don't think the public would have a lot of...they would have a lot of interest, but Thanksgiving is a time when you really don't want to engage people, let them have their fun, and you would start December 1st.

We would also plan on putting the information relative to those meetings on the website before that so people could look at it. When they come to the meetings they will be engaged and ask questions. Then as the Mayor said the bond vote has to take place within ninety (90) days, which is February 8, 2011 assuming that the items are signed tomorrow. That is it from the public steps before what I call the "ninety (90) day vote".

Alderman Pressly

Thank you. Did I miss something? I thought this Saturday something was going to happen.

Bill Ardinger, Esq.

The press release on Friday.

Alderman Pressly

Press release on Friday.

Bill Ardinger, Esq.

Right.

Alderman Pressly

So these other steps are just more explanation?

Bill Ardinger, Esq.

The next steps are really meant to educate people on the transaction and allow them to ask questions and...

Mayor Lozeau

Alderman Pressly it is one of the things that we talked about to be able to present to the public in this Chamber an opportunity for them to come in, see us talk about what the different points are, what our action means to them, let them give us their feedback on what they think, and then go to some of the other communities to get their input too. So during that process between what we are doing here to move us to the next step and that vote on the bond some time in January, we want to be able to give people input. There may be things that change your opinion on whether or not you want to go forward, there may be things the public brings to our attention that we may want to consider. It is just an opportunity for them to understand what we are doing.

Alderman Pressly

So what is going to happen between Friday and those steps? That is a big gap of time isn't there?

Bill Ardinger, Esq.

Well there would be a press release out there...

Alderman Pressly

On Friday and so you think...you don't think some people are going to ask questions?

Mayor Lozeau

No no no, it is not preventing people from asking questions and us talking to them it is just also being able to say to them there will be a public presentation, the Board of Aldermen will host something on such and such a date, but we are trying to avoid Thanksgiving and trying to...

Alderman Pressly

I'm just thinking I would think there would be a rather significant flurry of interest between that timeframe...

Mayor Lozeau

I...

Alderman Flynn

There will be at 12:30 p.m.

Alderman Pressly

What?

Alderman Flynn

There will be at 12:30 p.m. Saturday when you are at that senior dinner you will get a lot of questions. That is what they read in the paper before they left.

Mayor Lozeau

Last year they got their tax bill right before I walked in the room.

Alderman Sheehan

Could be worse, could be Wednesday and we would be answering it walking down Main Street in a parade.

Alderman Cookson

Thursday.

Alderman Sheehan

I know, but if it happened Wednesday they would ask us on Thursday.

Alderman Cookson

Thank you. It seems to me that something which might be helpful to us especially when we are faced with this, if there is a frequently asked document, frequently asked questions. I will just leave it at that since the Mayor is shaking her head yes.

Mayor Lozeau

Yes I agree it would be helpful to us all. I have to tell you between talking to the advisory group, you as individuals, Pennichuck, senior management, those sorts of things sometimes I get worried that I am losing track of who I can say ...it is overwhelming for somebody that is working with it all the time so absolutely it would be great if we all had a sheet that said these are things that you can talk about and so we will work on that.

Alderman Melizzi-Golja

Just to Alderman Pressly's comment about Saturday, I think as Alderman Cookson or Alderman Flynn alluded to although the press release is coming out Friday it won't hit the paper until Monday because it is not going to come out until Friday morning so it won't hit the paper in print until Saturday morning, that is where we talked about Saturday, but that is where we were talking about...

Alderman Pressly

You've got the Internet. It is going to be out there so...

Alderman Melizzi-Golja

...Right but in terms of hard copy and people who don't watch as closely...

Alderman Pressly

I'm just thinking that I would expect after this period of time that it would be quite a news item.

Alderman Melizzi-Golja

...Right and I...

Alderman Pressly

I think it will be quite national news item quite frankly.

Alderman Melizzi-Golja

...and I guess my concern is that I don't want the public to think we are not trying to move things along in terms of getting information to them so I would hope that in that press release there would be something about we are planning on issuing a schedule and just giving people a timeframe...

Mayor Lozeau

Public hearings.

Alderman Melizzi-Golja

...like within the next week we will have ironed out the public hearing schedule or something so people have a sense of what to expect because I think we all know what our calendars look like in December and January especially December so people will just have a little sense of what we are planning on doing.

Mayor Lozeau

I agree and we could potentially look at the first public hearing in Nashua being next week and see if we can pull that off. We might be able to do that instead of making people wait without banging up against the holiday week and certainly to let them know ahead of time what to expect is a reasonable thing.

Alderman Melizzi-Golja

I guess my only other comment would be that as we go forward we look at scheduling public hearings at times that are convenient. It may be a Saturday like we did for our vision planning and we look at different times and locations. Thank you.

Alderman Tabacsko

I was just going to throw out there for whatever it is worth, I understand the press release will be thorough, but I would think it would be a good idea for somebody to sit with the Telegraph editorial board and make...

Alderman Pressly

Pretty soon.

Alderman Tabacsko

...sure they fully understand before they start writing headlines that start sinking this before we have had a chance...

Mayor Lozeau

Alderman McCarthy and I have agreed that we will make ourselves available together to have a discussion and we have some thoughts about how to do that.

Alderman Tabacsko

One of my concerns is that sometimes a little bit of information can be twisted so far from reality that we are going to be behind the 8 ball before...

Mayor Lozeau

It is clearly important. I agree it is clearly important to make sure that this is understood completely before things are written about it. We have had those discussions and we will ensure that we will do the best we can to make that right.

Alderman Cookson

Thank you. I would like to encourage you to speak with our I.T. Director, Barker, to see if there are some opportunities to engage in either a voice over IP or some sort of WebX presentation to the point where something might actually be able to be recorded and replayed so that people on demand can come and visit without actually have to participate or if their schedule doesn't permit, come to one of the public hearings, that the information might also be available in a different format.

Mayor Lozeau

That is a great idea. We actually have been talking to a company and getting prices to be able to stream the Aldermanic meetings online. I will check on the progress of that because that might be helpful too.

Alderman Cookson

You could check into UStream because they could probably do that without very much of an expense.

President McCarthy

You could in fact given that we want quick turnaround and that it is a one shot thing, film something and put it on UTube and then put a link on the city's website.

Mayor Lozeau

I'm sure we can come up with something that makes some sense.

Alderman Flynn

Something that came up a little while ago and I was trying to remember what the other side of that was, when we were talking about the property over there, Salmon Brook properties, how is that other property thing being resolved in this, that Heron Cove property, how is that...isn't the City taking control of that as well? Are we getting that as part of our acquisition of Pennichuck?

<The following highlighted material was previously removed as "REDACTION 20" >

John Patenaude

That parcel F.

Mayor Lozeau

That's the parcel. It is right across from the existing Heron Cove and there was an agreement between Pennichuck and the developer of Heron Cove and I think...

John Patenaude

What it is the developer has basically a right to purchase all of the property subject to approval of development by the City, and I'm trying to remember from memory here, but what governs the price is the number of lots that are approved by the City so I think at 47 lots I could be off 1 or 2 here, but at 47 lots it was \$2.1 million that the sale had transpired. I think that is the property...

Mayor Lozeau

There actually are two properties in some form of development agreement; one is a property right behind their land that they own on Concord Street that abuts Pennichuck School, which is an agreement the way Mr. Patenaude is describing. The other one is in Merrimack across from Heron Cove a Heron Cove II where there is an agreement with a developer. I can't recall if...it had been I think a 50/50 split with, it is the...

John Patenaude

It is the HECOP five with John Stabile.

Mayor Lozeau

...right, and I can't recall if the developer bought out Pennichuck's share or if it is still a 50/50...

John Patenaude

It is still a 50/50, and the developer is the general partner on that one and they are a limited partner. It is still under development.

Alderman Flynn

So what transfers to the City under this agreement here?

Mayor Lozeau

Whatever the deal is that they have right?

John Patenaude

Under that deal?

Alderman Flynn

Under the agreement that we have are we assuming the same position as Pennichuck had?

John Patenaude

We get 50%, we are the same position.

Alderman Flynn

What value is there to that?

John Patenaude

Pardon me.

Alderman Flynn

What monetary value is there to that?

John Patenaude

I can't remember, I really can't remember that.

President McCarthy

Depending on the time we either get the interest in the property that Pennichuck currently has or if they have transacted a deal by the time we close we will get the cash that comes from it as part of the cash reserves of the corporation.

Alderman Flynn

That is anticipated to be \$2 million or \$3 million?

John Patenaude

No that was the F lot, the one in back of the Pennichuck School that the Mayor talked about.

Mayor Lozeau

Right.

James McNamee, Esq.

Those two agreements are confidential.

John Patenaude

Yes they are confidential.

Alderman Sheehan

Is that part of the watershed that we might be looking at making conservation?

President McCarthy

It is downstream of supply pond. Neither of them as I recall is critical to the Pennichuck Brook Watershed.

Mayor Lozeau

That piece that we are looking at meaning the airport mitigation dollars is that what you are referring to Alderman Sheehan that I had mentioned?

Alderman Sheehan

I was hoping...we had spoken quite a bit about doing more conservation and that is my interest I guess more so than the airport was...

Mayor Lozeau

But remember we had talked about the mitigation fund that the airport is looking at...

Alderman Sheehan

Absolutely yes.

Mayor Lozeau

...a piece...

President McCarthy

I think the question was are these two properties of interest to us from a conservation standpoint.

Alderman Clemons

They could be.

President McCarthy

Not with regard to the watershed they are not.

Alderman Clemons

Right.

Alderman Sheehan

Okay. Thanks.

President McCarthy

What else do we need?

Bill Ardinger, Esq.

The last part on this is the PUC. The PUC doesn't officially know about our negotiations. They have seen strangely that we have filed motions that both sides have agreed on and so someone might wonder. The plan is if this were to become publicly announced on Friday through a press release we would be at the PUC immediately with a phone call to let them know we're thinking of you, we know we are coming your way. During the period between the signing and your ninety (90) day vote, the vote where you authorize the bonds, which will be fully public, in some ways you can look at that vote as giving you a lot of flexibility. You can authorize the signature of the Merger Agreement and if things develop you get another bite at the apple. Although, as you all know, if this goes forward you are saying something pretty strong to the public that you believe this work is in the best interest although subject to not only that vote, the PUC vote.

The PUC will scour this. It will be a very different proceeding than the one that went in the eminent domain case. There may be some overlap, but we will present the case, it will be filed on the day of or after when the ninety (90) day vote happens, and then that will be the critical path to closing. We will try and drive that as fast as we can, but that would be the plan. That is the PUC process. They will be informed and they will examine every aspect of the graph that you have examined and that data.

James McNamee, Esq.

Just to give you a sense of timing on PUC process, the rate case that is scheduled for May 18th was filed in September so their scheduling from the time that you file to the time you actually get scheduled for a hearing there are a lot of steps along the way and it is a number of months before you even get to the hearing.

Bill Ardinger, Esq.

That is why the Merger Agreement has so important protections for developments that could happen over a 9, 12 month period.

Alderman Cookson

What is the date that we have to be concerned about in the new year for adopting a bond?

Mayor Lozeau

February 8th is the last possible day.

Alderman Cookson

Thank you.

Alderman Tabacsko

When would we schedule that vote?

Mayor Lozeau

Anywhere up to that ninety (90) day period just can't be beyond that.

Alderman Tabacsko

Okay we just have to look at a calendar and figure out when...

Alderman Flynn

We have to have a public hearing.

Mayor Lozeau

Yes you have to do the public hearing that is required, but I think we also want to be able to do some reasonable public presentations outside of our own community and that sort of thing so whenever is most practical that makes sense. I think you want to avoid the end of December and the beginning of January. I would like to see us do it sooner in January rather than later. I think we will have to look at that as you are moving...

Alderman Tabacsko

I am really concerned about people thinking this is something that is trying to be pushed through quickly. We have two things going on here, we have to vote within ninety (90) days so that early February date, but then that is to hurry up and wait for the PUC for what could be a fairly protracted period, and we're going to need to be able to explain that.

President McCarthy

I think we should get the bond resolution in front of us fairly quickly, hold a hearing, perhaps hold the informational meetings...we may want to schedule the hearing for some distance out so we can have the informational meetings first.

Alderman Chasse

Maybe we could call a special meeting.

President McCarthy

There you go. Okay so are we all set on the PUC process? Jamie you want to talk about the ...

James McNamee, Esq.

I had prepared this proposed vote for you so that you at least would have in front of you exactly what it is you are considering tonight. There are three documents that require the Mayor's authorization.

Alderman Pressly

May I ask a silly question? How come the one Merger Agreement is so much thinner than the other?

President McCarthy

Because that one is just the changes since the last one you saw.

Bill Ardinger, Esq.

Alderman Pressly that only includes pages from the big document where the changes are noted. There is a ton of the big document that wasn't changed at all.

Alderman Pressly

I am trying to figure out which ones we are not going to be using, that one we are not going to be using.

Mayor Lozeau

It was just to make it easy for you to see those changes.

Alderman Tabacsko

The big document is the final...

Alderman Pressly

The final one. That is what I figured, but just thought I would make sure.

James McNamee, Esq.

If I can walk you through there are three agreements the Mayor needs authorization to sign in order that we can report to the Pennichuck board that we are moving forward if that is what you want to do. Then tomorrow Pennichuck will take their vote. So the agreements are the agreement and plan of merger with all of its attachments and then the two attachments, which also require a separate authorization which are the settlement agreement and the confidentiality agreement so this authorizes the Mayor to execute all of those agreements. It also makes it clear, and I put it here to make it clear for you as well as anybody who receives this ultimately when it becomes public, that the obligation to acquire the stock at this point is subject to certain conditions.

The first is of course the approval of the agreement and the plan of merger by the Pennichuck Board of Directors, the second is something of a catchall, it is just all of the terms and conditions of the agreement and plan of merger, which have as you have seen a lot of different conditions in it, but those all need to be met before we actually would have to close, and then the third item here are the specific statutory requirements that we have. There has to be a finding, you would have to within ninety (90) days take three votes; two of them would be findings, which I have in small i and ii there that the acquisition of the plant and property will provide an orderly method for the City to establish, own, and operate a municipal water utility consistent with the purposes of the statute and the second vote is, these are two separate votes that you have to take, you can take them at the same time, but you have to make both findings, a finding that it would be financially beneficial to the City and its customers and will, therefore, be in the best interests of the City and provide a public benefit.

Then finally of course what we have talked a great deal about is the third vote you have to take is a vote authorizing the issuing of bonds, which is your final ratification of this agreement to move forward, which then still will move forward and as you have seen there are burdensome condition clauses, there is representations, there are a lot of other conditions that have to be met, but as you are standing here right now over the next ninety (90) days this is what has to happen.

To the extent that Alderman Clemons said he wanted to have additional language in there, I would suggest the following that you would add "The Mayor's authority to execute the agreements is contingent upon receiving authorization from Pennichuck Corporation to disclose its projected revenue requirements through 2050."

That might get what you wanted.

Alderman Clemons

Yes.

President McCarthy

It is almost exactly what I wrote down.

Alderman Clemons

Could you repeat it though so I can get it down?

James McNamee, Esq.

I have added it to the end. "The Mayor's authority to execute the agreements is contingent upon receiving authorization from Pennichuck Corporation to disclose its projected revenue requirements through 2050."

President McCarthy

So what is the actual form of the motion we need? Is this the text of the motion we would want to use or...

James McNamee, Esq.

I tried to write it so that it would be the text of a motion. It could be the text of a motion.

President McCarthy

Okay.

Alderman Tabacsko

How would you like to ... do you want this to be read into the record or is the document we're all looking at sufficient to reference?

Alderman Clemons

We should read it.

President McCarthy

It is probably best to read it.

Alderman Tabacsko

Then I will go ahead and ...

President McCarthy

If you want to move it by reference, I will read it into the record and...

Alderman Tabacsko

I will do this as a motion.

MOTION BY ALDERMAN TABACSKO THAT THE BOARD OF ALDERMEN AUTHORIZES THE MAYOR TO EXECUTE THE AGREEMENT AND PLAN OF MERGER, THE SETTLEMENT AGREEMENT AND THE CONFIDENTIALITY AGREEMENT, EACH IN SUBSTANTIALLY THE FORM PRESENTED TO THE MEETING OF THE BOARD OF ALDERMEN. THE CITY'S OBLIGATION TO ACQUIRE THE STOCK OF PENNICHUCK CORPORATION AS OUTLINED IN THOSE AGREEMENTS IS SUBJECT TO THE FOLLOWING CONDITIONS: 1) APPROVAL OF THE AGREEMENT AND PLAN OF MERGER AND RELATED DOCUMENTS BY THE PENNICHUCK CORPORATION BOARD OF DIRECTORS; 2) THE TERMS AND CONDITIONS OF THE AGREEMENT AND PLAN OF MERGER; AND 3) VOTES BY THE BOARD OF ALDERMEN, WITHIN NINETY (90) DAYS OF THE DATE OF THE AGREEMENT AND PLAN OF MERGER, ON EACH OF THE FOLLOWING MATTERS: A) FINDING THAT THE ACQUISITION OF STOCK, RATHER THAN THE DIRECT ACQUISITION OF PLANT AND PROPERTY WILL: PROVIDE A MORE ORDERLY METHOD FOR THE CITY TO ESTABLISH, OWN, AND OPERATE A MUNICIPAL WATER UTILITY CONSISTENT WITH THE PURPOSES OF RSA 38; AND BE FINANCIALLY BENEFICIAL TO THE CITY AND ITS CUSTOMERS AND WILL, THEREFORE, BE IN THE BEST INTERESTS OF THE CITY AND PROVIDE A PUBLIC BENEFIT; AND B) AUTHORIZING THE CITY TO ISSUE BONDS AND NOTES FOR THE PURPOSE OF DEFRAYING THE COST OF ACQUIRING THE STOCK OF PENNICHUCK CORPORATION. THE MAYOR'S AUTHORITY TO EXECUTE THE AGREEMENTS MENTIONED ABOVE IS CONTINGENT UPON RECEIVING AUTHORIZATION FROM PENNICHUCK CORPORATION TO DISCLOSE ITS PROJECTED REVENUE REQUIREMENTS THROUGH 2050

A Viva Voce Roll Call was requested, which resulted as follows:

Yea: Alderman Clemons, Alderman Vitale, Alderman Craffey, Alderman Deane, Alderman Pressly, Alderman LaRose, Alderman Tabacsko, Alderman Melizzi-Golja, Alderman Cox, Alderman Sheehan, Alderman Wilshire, Alderman Chasse, Alderman Flynn, Alderman Cookson, Alderman McCarthy

15

Nay: 0

MOTION CARRIED

Alderman Pressly

Unanimous that is wonderful.

President McCarthy

The only two things I think we have left to talk about are unsealing the minutes. I am going to ask Corporation Counsel had provided a model motion for unsealing the minutes with the right conditions so I am going to ask Alderman Clemons to make that motion.

MOTION BY ALDERMAN CLEMONS TO UNSEAL THE MINUTES OF NON-PUBLIC SESSIONS OF THE NASHUA BOARD OF ALDERMEN AND THE PENNICHUCK WATER SPECIAL COMMITTEE PERTAINING TO THE ACQUISITION OF PENNICHUCK CORPORATION OR ANY OF ITS SUBSIDIARIES. THE MINUTES WILL BE UNSEALED ONLY ONCE THE PENNICHUCK BOARD OF DIRECTORS HAS VOTED TO APPROVE THE AGREEMENT AND PLAN OF MERGER. THE MINUTES MAY BE RELEASED AFTER REVIEW BY CORPORATION COUNSEL, WHO SHALL REDACT PORTIONS CONTAINING THE MATERIAL CONFIDENTIAL INFORMATION OF PENNICHUCK CORPORATION

ON THE QUESTION

Alderman Deane

I would like that read again please.

President McCarthy

Sure.

Alderman Deane

If you don't mind. Thank you.

President McCarthy

The motion is to unseal the minutes of non-public sessions of the Nashua Board of Aldermen and the Pennichuck Water Special Committee pertaining to the acquisition of Pennichuck Corporation or any of its subsidiaries. The minutes will be unsealed only once the Pennichuck Board of Directors has voted to approve the Agreement and Plan of Merger. The minutes may be released after review by Corporation Counsel, who shall redact portions containing the material confidential information of Pennichuck Corporation.

Is there any discussion of that motion?

Alderman Deane

I think we should roll call this as well. I think we should roll call all of these votes. Thank you.

A Viva Voce Roll Call was requested, which resulted as follows:

Yea: Alderman Clemons, Alderman Vitale, Alderman Craffey, Alderman Deane, Alderman Pressly, Alderman LaRose, Alderman Tabacsko, Alderman Melizzi-Golja, Alderman Cox, Alderman Sheehan, Alderman Wilshire, Alderman Chasse, Alderman Flynn, Alderman Cookson, Alderman McCarthy

15

Nay: 0

MOTION CARRIED

President McCarthy

Lastly the vote to seal this evening's minutes.

Alderman Pressly

Where and at what time is this announcement going to take place on Friday?

President McCarthy

Pennichuck will release the announcement to the press through whatever mechanism it does.

Alderman Pressly

Okay.

President McCarthy

That has to happen first.

Alderman Pressly

Okay.

Alderman Tabacsko

And then does the Mayor's Office release a press release later that day or...

Mayor Lozeau

Right now the plan is that the joint press release will go out after Pennichuck does what it needs to do for their purposes. Once that is done, that has to happen first, then we will do a joint press release that will then go out. I will make sure that you all get a copy of that joint press release and we will work on the frequently asked questions and get that to you. Hopefully it can join that press release.

James McNamee, Esq.

Mr. President on this last motion given the amendment that was offered by Alderman Clemons to the draft that I had put in; I have amended what I proposed to you earlier. I can read it for you if you like.

President McCarthy

Sure.

James McNamee, Esq.

And the reason for this by the way is that in the Merger Agreement itself it requires, even though you are sealing these minutes, we did agree that we would report the votes for and against the approval of the Merger Agreement to the Pennichuck Board, and I will do that tonight after the meeting. When you seal this it also has to authorize me to do that and since the message that you wanted to send is that it is contingent upon their releasing that information or disclosing that information, I have added that into this motion as well. So that is why it is worded this way, and it would be worded something like this "a motion to seal the minutes of the

November 9, 2010 Special meeting of the Board of Aldermen, except that Corporation Counsel may report to the Pennichuck Board of Directors the number of members voting for and against approval and also the fact that approval is contingent upon Pennichuck's permission to disclose its revenue requirement projections through 2050.

MOTION BY ALDERMAN CLEMONS TO SEAL THE MINUTES OF THE NOVEMBER 9, 2010 SPECIAL MEETING OF THE BOARD OF ALDERMEN, EXCEPT THAT CORPORATION COUNSEL MAY REPORT TO THE PENNICHUCK BOARD OF DIRECTORS THE NUMBER OF MEMBERS VOTING FOR AND AGAINST APPROVAL AND ALSO THE FACT THAT APPROVAL IS CONTINGENT UPON PENNICHUCK'S PERMISSION TO DISCLOSE ITS REVENUE REQUIREMENT PROJECTIONS THROUGH 2050. THE REASON FOR SEALING THE MINUTES AT THIS TIME IS BECAUSE DIVULGENCE OF THE INFORMATION CONTAINED THEREIN WOULD RENDER THE PROPOSED ACTION INEFFECTIVE.

ON THE QUESTION

Alderman Tabacsko

Could you repeat that Alderman Clemons?

Alderman Clemons

I would defer.

James McNamee, Esq.

Do you want me to repeat it?

Alderman Clemons

Yes.

James McNamee, Esq.

Motion to seal the minutes of the November 9, 2010 Special meeting of the Board of Aldermen, except that Corporation Counsel may report to the Pennichuck Board of Directors the number of members voting for and against approval and also the fact that approval is contingent upon Pennichuck's permission to disclose its revenue requirement projections through 2050. The reason for sealing the minutes at this time is because divulgence of the information contained therein would render the proposed action in effective.

A Viva Voce Roll Call was taken, which resulted as follows:

Yea: Alderman Clemons, Alderman Vitale, Alderman Craffey, Alderman Deane, Alderman Pressly,
Alderman LaRose, Alderman Tabacsko, Alderman Melizzi-Golja, Alderman Cox, Alderman Sheehan,
Alderman Wilshire, Alderman Chasse, Alderman Flynn, Alderman Cookson, Alderman McCarthy

15

Nay:

0

MOTION CARRIED

**MOTION BY ALDERMAN CLEMONS TO COME OUT OF THE NON-PUBLIC SESSION AND RETURN TO THE SPECIAL MEETING OF THE BOARD OF ALDERMEN
MOTION CARRIED**

ADJOURNMENT

**MOTION BY ALDERMAN LAROSE THAT THE NOVEMBER 9, 2010, SPECIAL MEETING OF THE BOARD OF ALDERMEN BE ADJOURNED
MOTION CARRIED**

The meeting was declared adjourned at 11:15 p.m.

Attest:

Patricia Piecuch, Deputy City Clerk