

REPORT OF THE PENNICHUCK WATER SPECIAL COMMITTEE

April 27, 2004

A meeting of the Pennichuck Water Special Committee was held on Tuesday, April 27, 2004 at 6:50 p.m. in the Aldermanic Chamber.

Alderman Brian S. McCarthy presided

Members of the Committee present: Alderman David D. Lozeau  
Alderman-at-Large Steven A. Bolton  
Alderman Robert G. Shaw, Jr. (6:51 p.m.)

Members not in Attendance: Alderman-at-Large David W. Deane

Also in Attendance: Mayor Bernard A. Streeter (7:16 p.m.)  
Alderman-at-Large David Rootovich  
Alderman-at-Large Paula I. Johnson  
Alderman Kathryn D. Vitale  
David Connell, Esq., Corporation Counsel

Chairman McCarthy

Tonight we have an update on the state of the various pending actions with Pennichuck. With us are Attorney Upton and Mr. Sansoucy.

**MOTION BY ALDERMAN LOZEAU THAT THE COMMITTEE 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  
MOTION SECONDED BY ALDERMAN BOLTON**

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

Yea: Alderman McCarthy, Alderman Bolton, Alderman Lozeau 3  
Nay: 0

NON-PUBLIC SESSION

Chairman McCarthy

Rob do you want to bring us up to speed on where everything is?

Rob Upton, Esq.

Sure. A lot has changed since the last time I came and talked to you. I originally had hoped that this would be case fought on the issues, but the company has made it I think pretty clear that it is going to fight issues only as a last resort. I think what is happening is the company views this taking by the city as its death nail and I think what we are seeing is it is fighting for its life. It has made it very clear that it is going to do anything and everything that it has to do in order to try to survive. I think it is going to be a lot more unpleasant and maybe even more expensive than we originally thought. I think it is important for all of you to recognize what this kind of effort by the company is directed at, and it is you. Maybe to some degree it is shareholders, but I think the primary focus is the Board of Aldermen.

The company is going to try to beat the city not on the merits because I think its claims are in many instances almost laughable, but rather by delaying, trying to scare the public, and making the process more expensive in the hope that what it can do is wear down this board and cause you to throw in the towel. It is a very polished and active P.R. campaign that they are conducting and they have coupled that with I think questionable litigation tactics and in doing so I think what it is trying to do is to drive this board, drive your actions.

What is interesting is you are starting to see this kind of tactic all over the country in major kinds of litigation. Large companies are engaging in public relations designed to poison the well, looking at who their constituencies are, looking at who they have to try to convince whether it be possible jury pools, judges, regulators, and they try to turn the public opinion in their favor. It is really I think critical for the city to counter this both legally and in the public arena. By counter it I don't mean just respond and it concerns me that seems to be what the city's reaction to all of this has been which is just simply to respond. It is important to respond but I think it is more important to develop and advance our own positive P.R. campaign. We should regularly be telling the world how Pennichuck has changed as a water company I think for the worst, why the taking by Nashua is in the public interest, why the value is only \$75 million, etc., etc., etc.

With great respect for the abilities of your city staff, none of them are P.R. experts and they all have other jobs that they have to do. Skip and I have tried in the past to be of help but with all of the legal stuff that is going on right now I don't and Skip shouldn't have time, and you shouldn't be wanting to pay us to do it because neither of us are experts in that area and know very much about it. I think what you can see...I think you can probably see where I am going with this. The city is going to do...

Alderman Bolton

Seeing that Rob can I interrupt you briefly and ask...

Rob Upton, Esq.

Sure can Steve.

Alderman Bolton

...Alderman McCarthy, why isn't the Mayor here? If we are discussing this strategy it seems to me we discuss this strategy and then the Mayor goes off and holds press conferences without regard to any discussion of strategy.

Chairman McCarthy

The last press conference was based on a release that was written by Skip and Rob primarily.

Alderman Bolton

I understand that.

Chairman McCarthy

I don't ...

Alderman Bolton

Why isn't he here?

Chairman McCarthy

Because the intent was to bring the board up to speed and have them look at some of the issues that are in the board's province as a matter of policy one of which is a discussion of whether we want to engage a P.R. firm to conduct some of that.

Alderman Bolton

Excuse my interruption.

Rob Upton, Esq.

That is quite okay.

Alderman Bolton

I think it is important for him to be here and I don't really think we can make this decision unless we know where he stands on it.

Rob Upton, Esq.

My sense of this is the city is going to be doing a taking, we are probably going to pay \$60 million to \$90 million to acquire what it is we are trying to get and we are confronted with a company that is going to do whatever it takes in the public relations' arena, and I think we need a public relations expert on our side and the sooner it happens the better in my opinion. Just as an example, when I filed a pleading or a motion or some document with the PUC it would be great if I could give it to somebody who could put our spin on it rather than what has been happening which is we get in the public relations area we get the company's spin on what I file.

For example the petition that I filed with the PUC the PUC rules say you are supposed to file it with pre-filed testimony, well this is not the kind of a petition that lends itself to having pre-filed testimony it would have been testimony that largely something by the Mayor that said yeah this is a great idea and we think we should do it and these were the dates that the votes happened, all of which were in the petition. I had discussions with staff attorneys up there about the necessity of pre-filed testimony and we finally decided that if the commission wanted it they probably would ask for it at some point in the future. But instead the company picked up the petition and used it and said it is proof of the lack of serious intent by the city in its petition. They just spun it completely against us. If we had had a P.R. person who was going to take that petition when we filed it and put it forward in the best possible light that might not have happened.

I think what we ought to do if we come out of the shoot with a press release on the pleadings and stuff that we are filing and try to set forth our positive position we are going to find ourselves winning the battle of public opinion. I think it is important for all of you because you are the ones who are going to feel the public opinion if it starts to go against us on this thing. You are the ones who are going to get the calls. I can't recommend enough that you get a P.R. professional to guide and protect the board from that kind of an onslaught. I'm also conscious of the fact that you are spending money and nobody likes to be spending money. I am perfectly content if there is somebody in the city who can do it who doesn't have other work to do or at least doesn't have an overload of other work to do who could take it on. If that is what you decide to do that is fine. That is enough on that topic.

Let me try to run through what has happened.

Alderman Johnson

When you are saying a P.R. person so we can offset basically what the negative publicity is in the paper?

Rob Upton, Esq.

No it's not...see I don't want to just respond. I think the city...when you are put in a position where you are always responding to something that they have done it doesn't look good. I think what ought to be happening with a P.R. person is that we ought to be advancing in the public arena all of the positive things about this taking, not just responding to what they are saying. There is going to be some level of responding but if we are just responding we can just respond.

Alderman Johnson

I just have to interject if you don't mind Alderman McCarthy. There was a press conference yesterday and I was there and I didn't get to see any of the letters that were sent to Pennichuck in the response. I guess there was a letter sent by Alderman McCarthy and the Mayor. I don't know if anybody else on the board had a chance to see it or if it was given to us. Plus I know at the press conference it was positive up until one point when the Mayor went after Mr. Correll a little bit and it wasn't very pleasant, but I guess my point is that they hire a P.R. person to say all of the good things, that should be coming out of City Hall because I mean the bills are going to start mounting right now and I think between the attorney and Mr. Sansoucy who we have hired, that should probably be coming out of your office versus hiring someone else on top of someone else and then all of a sudden we are going to have this layer of bureaucracy to show how we are going to win this case.

It has been said before we can do a better job running the company than the company and that is what we really have to stay focused on. I can't see spending more layers of money for now a P.R. person that I think should be coming out of the both of you. Mr. Sansoucy is the best P.R. person we have.

Chairman McCarthy

We don't have anybody who is a P.R. person.

Alderman Johnson

...But you...

Chairman McCarthy

We don't have anybody whose skill is in that area.

Rob Upton, Esq.

I wish I could show you what Skip wrote to present at that press conference.

Alderman Johnson

I heard it was stronger than the Mayor's I guess.

Rob Upton, Esq.

No it was awful. I love Skip...

Alderman Johnson

But he has been in this business long enough he should have the skills down.

Rob Upton, Esq.

...and he has great ideas but he is not a P.R. guy and I am not a P.R. guy. I don't have a clue.

Alderman Johnson

Well we should send him to school for writing techniques.

Rob Upton, Esq.

I have absolutely no problem if you assign somebody from the city to do it if that person can devote some time to it. Mark Sousa spends all of his days up in Concord doing lobbying, Kathy who is another candidate has a full-time job with the city and doesn't have really a lot of time to devote to this, Brian who would be another good person is not in a position to do it because of his work. I understand entirely what you are saying. All I am saying is we're going to suffer in this battle if we don't do something to get ourselves out front and do precisely what you are saying, why does it make more sense for us to run this company than it does for Pennichuck to run the company.

Alderman Deane

I just had a couple of comments. I came in late, but you are an attorney right?

Rob Upton, Esq.

Yeah.

Alderman Deane

And Mr. Sansoucy he has his own little...

Rob Upton, Esq.

He is an engineer.

George Sansoucy

I am an engineer. We are supposed to be people who can't write.

Rob Upton, Esq.

You proved it.

Alderman Deane

I look at it like this, we hired these two individuals for their expertise in this field and if they are coming forward with recommendations associated with the taking then I would be more than interested in listening and perhaps agreeing with the process in which they want to move forward. If you look at the publicity that has been generated by the ad campaign by Pennichuck for the common Joe households that pick the paper up and read that if they are not in depth on the issue they are going to, you know the more and more propaganda that is spewed the more and more they are going to get thinking and they have somebody that is doing a good job at that. For us to sit idly by and have these random press conference where it was more of a bashing festival than anything else I don't think is productive from our standpoint.

Sending these two fellows up to the PUC with this having already transpired I think puts a little more of a damper on our chances. If we are going to invest a lot of dollars in doing this we ought to take the right road and if we have

to invest a few more dollars in actually hiring somebody to deal with the P.R. end of it I think it is a disastrous thought even taking anybody from this building and putting them in that situation. That just isn't a good idea. I think a separate entity who is not attached to this administration or to this board or to anything else I would feel more comfortable getting someone that is well versed and is a professional in the field because they have seen it, they have done it, they know how to deal with it and they can counter. I just think it would be in our best interest to partake on their suggestions.

Alderman Bolton

I don't think we are supposed to try things in the press. I think we are supposed to go to the PUC and put our legal arguments before the PUC and that is what we have hired Attorney Upton for and that is what we have hired Mr. Sansoucy for and if the Board of Aldermen and the Mayor are taking calls from members of the public who don't understand what is happening we are supposed to explain ourselves to them we are not supposed to hire public relation firms to do it with city money.

I don't think we ought to be able to dip into city coffers to hire people to put spin on the decisions that we make so that we can better justify it to our constituents, I don't think we ought to give the Mayor that authority. The Mayor has a staff, he can use that staff however he wishes to and if they want to issue press releases I don't have any way to stop them, but the idea that we are going to dip into the city treasury in order to hire a public relation persons to make us look good and make the Mayor look good it is just out and out wrong.

Chairman McCarthy

I don't think that it is so much to make us look good...

Alderman Bolton

Let me continue. Not only is it out and out wrong it is not litigation strategy, it is not appropriate to be discussing in non-public session.

Chairman McCarthy

I actually disagree with you on that point given the current situation we find ourselves in in the press. I believe it is part of Pennichuck's litigation strategy and needs to be a part of ours. I ...

Rob Upton, Esq.

Steve I agree with you, I abhor trying stuff in the press. We have gotten it smashed into our face by this company though and I don't view it as trying the case in the press all I am trying to do is to take the heat, what I think is going to be inevitable heat, on this board unjustifiably on this board because of the outrageous things that they are saying in their press releases and the outrageous stuff they are saying in their pleadings, I think it is critical that you guys get protected. I don't like being in the press, I don't go to the press conferences I am not going to do that. I am not good at it, I speak my mind, and I get in trouble. It just doesn't make sense...I agree with you but I think you need protection. What I don't see is I don't see anybody on the city staff who can do it. If there were I would be recommending that they do it.

Maybe I am wrong, maybe somebody like Kathy Hersh could do it easily and if she had the time and was willing to do it somebody like that could do it, but they need to be free of some of their other responsibilities so that they can do it timely. The press release or the press conference that they had on Monday the stuff that was going to be used at the press conference started being disseminated late Monday morning. That isn't going to do it.

Alderman Bolton

The first negative press will be when we go out and hire for public relations flack.

Rob Upton, Esq.

Oh I am sure. Brian and I talked about that and I know exactly what you are saying. There is a simple answer to that, the simple answer is we're talking about spending \$60 million to \$90 million to buy this company and if we spend \$20,000 to respond to the outrageous stuff that the city is doing that is money well spent on behalf of the city.

Chairman McCarthy

I actually agree with...

Alderman Bolton

If we can't explain ourselves I don't think we have the right to hire a professional to cover our butts for us.

Chairman McCarthy

I agree with you that I want to see the case tried at the PUC. I think the problem is getting the opportunity to do that, which Pennichuck is going out of their way to...if you look at it Pennichuck is clearly trying to avoid having the PUC make a decision I suspect for reasons that should be good news to us.

Alderman Bolton

But we're not ...what is going to happen? Later some time next year there is going to be a whole slate of candidates running against us on this issue? That is what the public has a right to do; they have a right to put up candidates to run against us. What we don't have a right to do is to use city funds to engage in a public relations campaign to protect the incumbents in office. We don't.

Chairman McCarthy

I don't think it is to protect the incumbents I think it is to protect public opinion on what we are doing so that it makes it as far as the Public Utilities Commission.

Alderman Bolton

What that means is we want to convince the public that the incumbent office holders are doing the right thing. I think we are on the hook ourselves for that. I don't think we can use city money to convince people we are doing the right thing.

Alderman Rootovich

I just want to reiterate Alderman Bolton's comments because I think he said it eloquently. I don't think we should be using city money for this whatsoever. I am not worried about being protected. If a constituent asks me or a group of people ask me what I think of Pennichuck and where the city stands on it I would be glad to answer them. I don't have an issue with that. I don't think I need special protection.

Rob Upton, Esq.

What about using somebody on the Mayor's staff or that is employed by the city to try to...

Alderman Rootovich

I mean the Mayor has his staff, whoever is available to respond to that that is fine. Again I can't dictate what the Mayor's staff as well whether it is Mrs. Hersh's office or from the Mayor's office, but again I would not be in support

of spending any further money. I am looking at this as kind of getting out of control now. It really is turning into some severe dollars; we are talking about public relations firms. I can see where some side is going to say something and we will get some slanderous lawsuit going on. This is going to spindle out out of what we originally filed for. It has really become almost a nightmare now. I also can't support that. I think we need to respond ourselves on any issues that come across.

Alderman Vitale

I agree with what Alderman Deane has said and I do understand about spending money out of the city funds, although I do think that we have to come up with a way to be proactive in how we present the information that is going to be out there, and that we are doing it before the next step is almost taken so that everything is presented in a positive light and shows how we are moving forward and whether we do it with somebody on staff whatever, we do have to make sure that is done. I agree it hasn't been done up to this point. That is what I hear people say that I talk to they say why are we always hearing their side first instead of our own side.

Alderman Rootovich

We have a city website. There is a section there from the Mayor's Office about Pennichuck. That has not been updated in about a year. The last document put on there I believe was January of last year. We haven't put anything on that website for almost a year. That is where we should be having our information laid out.

Rob Upton, Esq.

That would be a big help that alone.

Alderman Rootovich

We haven't updated it in a year.

George Sansoucy

That alone would be...

Rob Upton, Esq.

To be able to put our pleadings be able to put our stuff up there...

Alderman Rootovich

Everything should be on there.

Rob Upton, Esq.

...it should be absolutely.

Alderman Rootovich

There is a whole section on Pennichuck and the documents that are in there are the original documents from Philadelphia Suburban.

Alderman Bolton

As I said where is the Mayor when...

Alderman Johnson

When you need him?

Alderman Bolton

...he ought to be running this effort and he doesn't even come to the meetings.

Alderman Rootovich

I think to be fair I think you should...I had a conversation with Mr. Sousa today to be fair let the committee know the conversation you had with the Mayor where the Mayor stands on this so there is full disclosure.

Chairman McCarthy

I will have a discussion with the Mayor on the feedback from the committee and ask him to attend these meetings in the future.

Alderman Rootovich

Alderman McCarthy if I may I believe you already had a conversation with this. Maybe I am...

Chairman McCarthy

With the Mayor?

Alderman Rootovich

...with the Mayor on this and where he stands or...

Chairman McCarthy

We talked briefly yesterday about the possibility and basically concluded that we wanted to bring it to this committee to get an opinion of....

Alderman Rootovich

And what was his opinion when you...

Chairman McCarthy

I don't think he had a strong opinion either way on whether we ought to do it or not until we heard from...

Alderman Bolton

What else is new?

Alderman Dion

He just came in 5 minutes ago. Do you want me to go get him?

Chairman McCarthy

Yeah if you would.

Alderman Johnson

Why don't you go get him?

Chairman McCarthy

There have been some ongoing discussions and the Mayor's opinion yesterday was the same as one that I held, which is if we do that we are going to get beat up in the press for the fact that we went out and spent money on a P.R. firm. Attorney Upton feels strongly that we should consider it anyway that the up side outweighs the negative.

Alderman Vitale

Has the city never hired a P.R. firm before or who does our advertising for us, who does our positive public relations for us? Who does that now?

Chairman McCarthy

We have hired P.R. firms for specific things; the economic development department hired one last year to do brochures for the economic development department. We don't as a matter of course do it on anything of this nature because we rarely have things of this nature other than Charter amendments and things where we are clearly prohibited from spending any money on public relations.

Alderman Deane

I just wanted to reiterate, I am not looking for protection from the public but if we don't have the ability to put a plan in place and counter to the comments and articles being printed by Pennichuck then we have a problem, and if there is nobody available or that has that expertise...and I agree with Alderman Bolton it should be tried in front of the PUC and not in the press, but we have to look out for our best interests as well.

Chairman McCarthy

While we are waiting for the Mayor...

Rob Upton, Esq.

Let me go on and just tell you what has happened at the PUC while we are waiting for him to come in. I filed the petition. Now I understand that you all have gotten copies of the pleadings okay so I don't have to go through what is in the Petition. They moved to dismiss as you are aware. What they are primarily concerned about in the motion to dismiss is the taking outside of Nashua the fact that we want to acquire property outside Nashua. They have also moved to stay the proceedings while they challenge the constitutionality of the statute in the Superior Court. We filed a fairly specific and lengthy objection to all of that. I think it is ultimately unlikely that the PUC is going to dismiss any part of the petition or stay it.

I expect that there will be a pre-hearing conference on this some time in the middle of May although my last communications with the staff attorney at the PUC that is assigned to handle it were that nothing had happened,

that they were just in a holding pattern and they were going to wait and see for a while. But she thought something would be happening sooner rather than later.

At the Superior Court level, remember that they had filed a petition for declaratory judgment when we first decided we were going to go ahead with the taking and the purpose of that is to try to declare RSA 38 or portions of it to be unconstitutional. They then filed a motion to amend it. I thought it was very important from a strategical standpoint to get a Judge to start reading what we thought about it so I filed an answer to the original petition before I filed an answer to the amended petition because I just wanted to make sure that earlier rather than later there was some awareness of what the city's positions were in response to that petition. Now in their amended petition they also sought an injunction to prevent us from taking anything outside again of Nashua. I filed a fairly again specific objection to that.

The important things for you to know about are that David is working on a motion to dismiss the entire petition and that should be ready and filed within the next couple of weeks I am guessing. We have been working together. He has been doing a lot of legal research and I think it is coming together pretty well.

Then there is the infamous lawsuit for \$5 million, which I think shows just how low the company is going to go in all of this. As you know it accuses city leaders, which I guess includes you, of using an unconstitutional statute to deprive the company of its civil rights because you hate the company and because you hate its shareholders. That is in essence what that lawsuit says. I have to tell you when I read that thing I flipped, I went right off the top, and I wrote their attorney. I don't know if you have seen my letter to him. I will read some of it to you. I said that the purpose of the letter was to express the city's outrage and disappointment at the course of action that they had chosen, that as he well knew the city had followed RSA 38 in every step and even though we might disagree over what RSA 38 means to convert that disagreement into this lawsuit for civil rights deprivation and unfair business practices in which you allege a motivation by local government officials to oppress the rights of Pennichuck and its shareholders I thought was an impermissible stretch. There were no facts that supported such a conclusion and for good reason because none exist. I thought that the local government officials, the "local government officials" had been defamed by that kind of pleading and that I thought that when the true facts were revealed they would show that this lawsuit was filed in anticipation of its shareholder meeting, which it was, it was three days later was their shareholder meeting, and that it was filed in anticipation of the mounting criticism by shareholders of the way management has dealt with this taking.

If you go on to Yahoo and go into the finance section of Yahoo and peg in this company there is a chat room and there are shareholder messages asking is anybody going to bring a lawsuit against the company based on the way it is handling this taking. There are disgruntled shareholders and I think that what this lawsuit was about was to bolster those shareholders up and to bolster up its stock price, and I told him that. I concluded by saying if the result of the lawsuit is as we expect it that Nashua will not only seek the payment of its costs and expenses incurred in defending the action but also any other damages to which it may be entitled from all potential defendants. The purpose of saying that is the lawyer himself was the endorser of the writ, which exposes him to paying costs if costs get awarded.

I sent that letter. He called the next day ironically to ask if I would accept service of the Writ. During that conversation I told him that it was really too bad that this was going to go nasty, that it was going to get nasty, and that he needed to remember in all of this that he fired the first shot because the city was going to respond, the city was going to deal with the company the same way the company was dealing with the city. What was interesting was his response, which was that he wasn't surprised that I was upset. What that tells me is that the company has decided that the facts are not going to get in the way of this thing, they are going to go ahead and do whatever it takes to try to put pressure on your guys to change your mind and they are going to do it however they can possibly do it.

There is good news. There is great news in fact. We have some ability to apply some, other than what I have talked about, some pressure of our own. I think maybe this will get them to finally focus on what I think is the inevitable conclusion out of all of this and that is that Nashua is going to be permitted to acquire all or some of the Pennichuck assets that we have requested the right to purchase, and when that happens Pennichuck

shareholders I don't think are going to be very happy with management about what happens. But anyway the pressure I am talking about is I went on the PUC website because I wanted to see what takings if any were going on or had gone on in the last 3 or 4 years and I was paging my way through the year 2003 and I discovered that the Town of Ashland has filed a taking petition under RSA 38 at the PUC to take property from the New Hampshire Electric Coop, take three miles of distribution property.

George Sansoucy

And that Ashland has their own ...

Rob Upton, Esq.

Ashland has its own, it is a municipal...

George Sansoucy

They are cleaning up their...

Rob Upton, Esq.

...it is a little municipal electric company. They petitioned to take this property from the New Hampshire Electric Coop and guess who is representing Ashland, the McLane law firm including one of the lawyers who is representing Pennichuck in this case. So in the Ashland case they are relying on Chapter 38 and saying it is in the public interest and we are going to do this taking under 38 and in our case they are saying RSA 38 is unconstitutional.

Chairman McCarthy

Consistency is the ...

Rob Upton, Esq.

It is worse than that, we have rules of professional conduct and that is a conflict under Rule 1.7(b) and I think the fact that it is going on simultaneous makes it even more offensive. I called their lawyer yesterday and said tell me why I shouldn't file a motion to disqualify you because unless you can tell me that there is a good reason I shouldn't or unless you can tell me something else about why I am wrong, that is just what I am going to do. His reaction was not well you have it all wrong his reaction was how do you have standing? Under the rule, I have standing on your behalf to do it, I have standing as a lawyer to do it, and that is probably why I would do it is I think this is just an outrage. But even Nashua as an opponent under the rule has the right to do it. It is inconceivable to me that this law firm could think that could reasonably expect that its representation of either one of those would not be materially adverse to the other. If it is successful on behalf of Ashland it screws Pennichuck, if it is successful on behalf of Pennichuck it screws Ashland.

In fact, it already has screwed Ashland because I called the Coop's lawyer and said are you aware of this and he said it is Mark Dean who is a well known lawyer in the state and he said I wondered when I was going to hear from you. He said he is dammed if he is going to be the last utility lawyer who has a taking against him under Chapter 38 if it is unconstitutional so he is going to raise it in his opposition to the taking by Ashland. So Ashland has already been damaged by this. It is an outrage. In some ways I have to tell you I will be surprised if that firm doesn't withdraw.

George Sansoucy

From where? Which one?

Rob Upton, Esq.

People have said don't you think that they will withdraw from Ashland rather than Pennichuck because there is so much money involved. That is a crass thought but it happens all the time. If they could I am sure they would withdraw from representing Ashland. The problem is there is a final hearing in the Ashland case scheduled for next month so the PUC is not going to let them withdraw. They are going to be stuck with Ashland and probably if this motion is successful or if they do it voluntarily they are going to have to withdraw from representing Pennichuck.

I hope the question is are we going to get somebody even worse. I don't think we could get anybody any worse quite honestly at this point.

Alderman Rootovich

I was going to say for the sake of time can we hear from the Mayor with respect to his opinion on the public relations firm?

Chairman McCarthy

Mayor Streeter could you join us?

Mayor Streeter

What is the question?

Chairman McCarthy

The question is we had the discussion about engaging a public relations firm and Attorney Upton feels strongly that we should and I know...

Mayor Streeter

I feel strongly that we shouldn't. I don't think we should pay taxpayer dollars, I think the city in the newspaper would be criticized severely and ... **audio inaudible – speaker away from microphone...** we have talent up there now, we have expert lawyers, we have Skip, we have you Rob, we have ... **audio inaudible...** they are people who have been in the business. I think we would be severely criticized.

Alderman Bolton

Can we ask the Mayor to speak into a microphone please?

Chairman McCarthy

Can you come forward to a microphone?

Alderman Dion

Your chair is vacant there Mayor.

Mayor Streeter

I wasn't invited to this meeting Alderman Dion. I am here as your guest.

Rob Upton, Esq.

What I had hoped for was if there was somebody on your staff that could do it, it really is desperately needed. What I am worried about is they all have other jobs and neither Skip nor I are P.R. people. I kidded the board earlier that if you could have seen what Skip sent to me that he proposed handing out at your press conference on Monday it was awful, and it should not have been. We need to get a ...

Mayor Streeter

Everything that goes out under my signature I review.

Rob Upton, Esq.

Oh I know that.

Mayor Streeter

And whether it is done by you or Rob. In fact your letter we massaged it a bit and we sent that under Alderman McCarthy's signature and mine to the President of Pennichuck Water Works. I thought your letter was excellent. In fact, it was better than what we did.

Rob Upton, Esq.

I can write pretty good when I am mad.

Mayor Streeter

I understand Skip's role is not in the public relations business but I think it would be a grievous error on our part to appropriate city funds for this purpose.

Rob Upton, Esq.

I can accept that and other people have made the same expression.

Alderman Bolton

I am pleased that the Mayor is taking the same position that I expressed before he arrived that it is inappropriate for elected officials of the city to be spending city money in what is essentially a publicity campaign justifying our own actions, however I think we are in a great position that the Mayor himself has had previous public relations and communications experience and I think we should vote to have him personally take charge of any public relations efforts needed in this area.

Mayor Streeter

With all due respect Alderman Bolton I don't think you need to take a vote. I think that if I use what we call the in-house water committee extensively everything that we respond to publicly is passed by them and particularly legal counsel. We have tried to respond to the scarlet stuff that Pennichuck has done. We haven't responded not every ad. That would be ridiculous on our part, but I think we had it as a result of the latest ad that appeared Sunday and certainly we need to respond as we have to the media relative to the different lawsuits that have been filed and all of our responses are on the website. We have a good relationship with the Telegraph and not as good with the Union Leader because they appear to be a house organ for Pennichuck. But certainly I think the best thing that we can do is to continue to tell the truth and I don't think we need a professional to tell us to tell the truth.

Alderman Rootovich

I am just curious, what website is that on Mr. Mayor?

Mayor Streeter

On the city's website.

Alderman Rootovich

That website has not been updated in over a year.

Mayor Streeter

Well if you look under the Pennichuck...

Alderman Rootovich

That is what I am looking under. The last document that was placed in there was some filing with respect to the Philadelphia Suburban. There are no responses on there from the city at all with respect to this acquisition against Pennichuck.

Mayor Streeter

I was told that everything that we have done to date is on there. I stand corrected Alderman Rootovich I will rectify that error of omission tomorrow.

Alderman Bolton

I can confirm Alderman Rootovich's statement on that there is nothing on there that is more current than over a year.

Mayor Streeter

Okay.

Alderman Rootovich

The only thing that is on there if I may is the minutes of the Pennichuck meeting are available on the Aldermanic website as all of the other minutes of the committees are, but other than that that is all that is available to the public.

Mayor Streeter

That will be corrected tomorrow. I am glad you brought it to my attention because I was informed that we are up to date.

Alderman Johnson

Mr. Sansoucy said this evening he was going to go over the list of companies the ten companies that were interested in putting out a bid to run Pennichuck and I see we are running out of time. I think we ran out of time, but I was just kind of curious or maybe he can give us any confidential information in our packets or whatever.

George Sansoucy

Do you want me to take the time?

Chairman McCarthy

Is it something written that we can distribute?

George Sansoucy

Yes. I have my first...

Chairman McCarthy

Why don't we just distribute it ...

George Sansoucy

I have my first task that I want to distribute as part of my update and I do want to give you the companies.

Chairman McCarthy

While you are distributing that I am going to recognize Alderman Vitale.

Alderman Vitale

Mayor Streeter was just talking about responding on our website. Again, what I am hearing Attorney Upton say is not to be responding to everything but to be proactive in advance. Maybe that is where we can work with the Mayor to make sure that we are being proactive in what information we are letting out.

Rob Upton, Esq.

I will talk with the Mayor and with Brian. I can certainly live with what you are talking about. I just want to try and make sure there is a person who will deal with these kinds of things and knows what I think the approach ought to be.

Mayor Streeter

Mark Sousa is my legislative and business liaison and he has been handling the media contacts. The content of what we send out I let the committee particularly our legal counsel look at it before it goes out.

Alderman Plamondon

Thank you. Regarding the website, I think it is important to be proactive but I also would like to see responses to their ad campaign. I also would suggest on the scroll of TV 16 to address people for current information regarding Pennichuck go to the gonashua.com and maybe those without internet access see Mark Sousa or something to that affect. Thank you.

Alderman Bolton

I think it is somewhat unfortunate that the Mayor was not here earlier because the professionals we have hired recognized that we have fallen behind in the public relations aspect of what has been going on at least that is what I have heard, and they have been so distressed at how far behind we have fallen that they thought we ought to hire outside professional expertise in order to try and deal with that aspect of things. While I am against doing that, I think it is important to recognize that what has been done up to now is not sufficient and that is why I am particularly distressed to hear the Mayor decline to take personal responsibility for this. I think that is a great disappointment.

Mayor Streeter

You did not hear me decline Alderman Bolton. I think we may be treating on the Charter question and I would rather not go that way. Certainly we can't control what the Telegraph says and we are not in the position to buy advertising the way Pennichuck has been, and I think if you talk to the reporters of the Telegraph they will tell you that they bent over backwards to give each side a fair shot. The Union Leader is another situation; however the readership of the Union Leader from Nashua is less than 1,000.

Alderman Bolton

I don't think paid advertising is the issue. I think presenting our side of the story by issuing press releases at appropriate times; by making statements simultaneous to the time we take action in getting our side of the story out none of that has happened, none of that. Things that occurred during the time where you were away from the city Mr. Mayor you may not be as aware of as you might have been had you been here, but the fact is our paperwork was filed with the Public Utilities Commission and the story got generated by Pennichuck not by us. Pennichuck files documents and pleadings in Superior Court they generate the story. It is unfortunate you were not here to be on top of that. I would hope that you would commit yourself to being on top and exercising that role as we go on.

Mayor Streeter

Alderman Bolton within the last 5 days we anticipated two instances and we issued press releases and I think we were certainly on top of the shareholders meeting as well as the press conference we held yesterday, and these were two instances where we were proactive rather than after the fact.

Rob Upton, Esq.

I think in fairness to the Mayor none of us anticipated that the company was going to engage in this kind of gutter sniping. I think what we have to do is be prepared to go forward. Skip and I can work with the Mayor and anybody on his staff and having got your lead. I am going to have to engage in some P.R. I am going to have to do some of it myself. I don't like doing it and you risk having somebody who is not an expert doing it, but I am going to feel like I should have a free rein when I file something to call the dam newspapers and tell them what I am filing.

George Sansoucy

Just remember what you said earlier, you get in trouble when you do it.

Mayor Streeter

What you really need to do Rob is that when you file something ...

George Sansoucy

... audio inaudible – multiple speakers speaking simultaneously...

Mayor Streeter

...you let our office know and we will...

Alderman Bolton

Point of order.

Chairman McCarthy

Is there other business before the committee at this point?

Alderman Johnson

Yes we got the letter but we didn't get the names of the ten companies. That is what I wanted. If you could indulge me?

George Sansoucy

This is the first of many documents that I will bring to you for your input. Very quickly and I guess with the hour what I would like is comments if possible what directed to you Brian?

Chairman McCarthy

The right procedure is for people to send comments to our legislative assistant who will forward them.

George Sansoucy

To me?

Chairman McCarthy

Yes.

George Sansoucy

Okay. The first document is a draft of our expression of interest to go out for requests for contract for the operation of the water system. This is an expression of interest from vendors that we would like to bring the list of vendors to you. I have the preliminary list with me tonight, which I will read to you. There is nothing confidential about this document at all. What we are trying to do we would like to mail this out within the next 7-10 days and get the initial response, the request of interest from vendors, to operate the water company. This would be going out from the Mayor's Office on behalf of the city. Areas that I would like specific comment back on...

Alderman Bolton

I apologize for interrupting but this is inappropriate to be being done in non-public session. This is a violation of the law to be discussing this in non-public session. I am sorry to interrupt you Mr. Sansoucy but it is...

George Sansoucy

Oh okay that is fine.

Alderman Bolton

...but I abhor having to do so but I also abhor having to break the law by discussing something that clearly should not be in non-public session particularly not under the exception that we went into non-public session for.

Chairman McCarthy

Thank you for bringing that up Alderman Bolton. Is there anything else that needs to be discussed in the non-public session?

Alderman Dion

Mr. Chairman I hope Attorney Upton keeps on staying mad.

George Sansoucy

Don't worry McLane will keep him mad.

Chairman McCarthy

If he starts slacking off we just won't pay his bill that will get him mad again.

**MOTION BY ALDERMAN LOZEAU TO COME OUT OF NON-PUBLIC SESSION, RETURN TO THE MEETING OF THE PENNICHUCK WATER SPECIAL COMMITTEE, AND TO SEAL THE MINUTES OF THE NON-PUBLIC SESSION BY ROLL CALL UNTIL SUCH TIME AS THE MAJORITY OF THE COMMITTEE VOTES THAT THE PURPOSE OF THE CONFIDENTIALITY WOULD NO LONGER BE SERVED**

George Sansoucy

Do you want me to continue?

Chairman McCarthy

Is there discussion?

Rob Upton, Esq.

Thank you for doing that to the minutes because the last time I came down and spoke to you it ended up in all of their pleadings.

**MOTION SECONDED BY ALDERMAN DEANE**

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

Yea: Alderman McCarthy, Alderman Deane, Alderman Bolton, Alderman Lozeau

4

Nay:

0

**MOTION CARRIED**

Chairman McCarthy

In light of the time, unless you need to give further clarification, the board is encouraged to get your comments on this document?

George Sansoucy

Yeah all I want to do is take two minutes and mention the paragraph under the two bullets if you read it is intended to intimate that any company looking to hire the existing employee base should express that interest. This I would like to get out in the next 7-10 days to have responses back...

Chairman McCarthy

Could we ask the audience to remain quiet, we are trying to conduct a meeting at the same time. Thank you.

George Sansoucy

Our goal is to get expressions of interest back by the end of May to bring forward to the Board. At such time, by the end of May, we would like to have a proposed work session regarding the proposed draft operating contract that we would like to send back out to a selected group based on the review. At this time, we have done a telephone survey on behalf of the city and some 10 companies have responded positively and would like to respond to the expressions of interest; American Water Services out of NH, Aquarium Services has opened an office here in Londonderry, they are a national firm, Camp, Dresser & McKee the Manchester office with the engineering firm that operates water systems, Connecticut Water Company out of CT, Earth Tech out of Manville, NJ, Operation Managements, Inc. out of Granby, CT, Severn Trent Services out of Brewster, NY, United Water Company out of NJ, U.S. filter out of Warrendale, PA a division of Philadelphia Suburban they operate the City of Indianapolis for the city's water system and Woodland and Curran out of Portland, ME. This is only a third down our list of companies that we know have contract operation services.

I have also personally asked Steve Densberger as the President of Pennichuck Water Services Corporation if he would be interested that I would be sending this notice to him also and I would certainly hope that independently as a separate corporation of Pennichuck Corporation that he would respond forthrightly. Questions please comments to Sue Lovering and then I will draft up a final and we will get it out.

ADJOURNMENT

**MOTION BY ALDERMAN DEANE TO ADJOURN  
MOTION CARRIED**

The Pennichuck Water Special Committee meeting was adjourned at 7:50 p.m.

Alderman David D. Lozeau  
Committee Clerk Pro Tem