

REPORT OF THE PENNICHUCK WATER SPECIAL COMMITTEE

SEPTEMBER 22, 2010

A meeting of the Pennichuck Water Special Committee was held on Wednesday, September 22, 2010 at 7:05 p.m. in the Aldermanic Chamber.

Alderman-at-Large Brian S. McCarthy presided.

Members of the Committee present: Alderman-at-Large Barbara Pressly
Alderman Michael J. Tabacsko
Alderman-at-Large Mark S. Cookson
Alderman Jeffrey T. Cox

Members not in Attendance:

Also in Attendance: Mayor Donnalee Lozeau
Alderman-at-Large Ben Clemons
Alderman-at-Large David W. Deane
Alderman Richard P. Flynn
Alderman Diane Sheehan
Alderman Richard LaRose

**MOTION BY ALDERMAN COOKSON THAT THE RULES BE SO FAR SUSPENDED AS TO ALLOW ALL MEMBERS OF THE BOARD OF ALDERMEN PRESENT TO VOTE FOR THE DURATION OF THE MEETING
MOTION CARRIED**

NON-PUBLIC SESSION

MOTION BY ALDERMAN COX 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

SECONDED BY ALDERMAN TABACSKO

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

Yea: Alderman Clemons, Alderman Deane, Alderman Flynn, Alderman Sheehan, Alderman LaRose,
Alderman Cox, Alderman Cookson, Alderman Tabacsko, Alderman Pressly, Alderman McCarthy

10

Nay:

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MOTION CARRIED

The committee went into non-public session at 7:11 p.m.

Mr. John Patenaude

First of all I would like to bring you up to date on the PUC filing. Both parties filed for an extension to November 30th to reply both to the letter that was issued on August 31st by the PUC and also we filed for an extension relative to the filing of the Veolia and Beck contracts. We got a letter back today from the staff and the staff is recommending to the commissioners that they extend our filing dates until November 30th. Both parties went in, the lawyers went in, on Tuesday to meet with general counsel and a few staff people from the

PUC, and the impression they got is they want us to work together so that they don't have to deal with these eminent domain issues. They are extending to November 30th, which is good for all parties.

Alderman Tabacsko

Is that public?

Mr. John Patenaude

I'm not sure the letter from the staff is public. It will be public when they issue the order I believe, which should be shortly.

Alderman Tabacsko

The order saying it is okay to delay as requested?

Mr. John Patenaude

Right.

Mayor Lozeau

Before we came in tonight it was one of the things that we were talking about, I had asked Attorney McNamee specifically is this public because one of the sentences in the letter says extending the deadline will allow the parties to continue discussions aimed at resolving Nashua's desire to take the assets of Pennichuck Water Works, Inc. Staff concurs with this relief sought in the motion. I thought well I don't think that is supposed to be out there. I would be surprised if the staff letter as John described would be public.

James McNamee, Esq.

As you read it, it actually talks about the assets of Pennichuck Water Works, Inc. not Pennichuck Corporation. It is our professed desire through the eminent domain proceeding to take them. My suspicion is that is a public document because it doesn't really say that we are engaged in negotiations, it somewhat implies it obviously.

Mayor Lozeau

We will find out whichever the public one is and get it out to all of you. If it is public we will put it on the Pennichuck website that we have been maintaining so people can get information.

Chairman McCarthy

On the other hand, if we weren't talking about something of what possible value would be a mutual request for an extension?

Alderman Pressly

Thank you Mr. Chairman. The Veolia and Beck is that only operative if it is eminent domain going the way we are talking about?

Mr. John Patenaude

Yes.

Alderman Pressly

What happens to those? Do those just become null and void?

Mr. John Patenaude

I don't think we have signed any contracts that I am aware of other than to provide services with Beck relative to due-diligence. Those services will end at the end of due-diligence. They are not required after this unless you deem them to be required obviously because we are looking at what we would call a plug and play utilizing the employees of Pennichuck to continue the business operations of the water company.

Alderman Pressly

Thank you. I have in the back of my mind that at one time there was a contract signed with Veolia and there was a kick-out clause of some sort. Is it fair to say going the route that we are talking about by buying it and keeping it as a corporation, all of the agreements with Veolia and Beck regarding operation of the company or operation of Pennichuck are null and void and we have no obligation to either of those?

James McNamee, Esq.

We don't have a signed agreement with Veolia. We do not have a signed agreement with Veolia. As a matter of fact that is why the commission as part of its final order required us to file signed copies of the contracts because certain pieces of information were missing from it because we didn't have all of the information we needed. Just a short-hand way of saying why they did that.

What we did have with Veolia was a signed Memorandum of Agreement for them to continue on. It was extended. The extended agreement has expired so right now we have no agreement with Veolia at all, and as John said the agreement that we have with Beck actually is for all services relating to this negotiation process. I am not sure we do have a signed agreement with them with regard to what they were going to do initially, which is oversee Veolia's operations. But even if we did have that signed agreement, well actually I know we don't because we had to obtain one early on last June to file with the PUC if we weren't able to reach an agreement with Pennichuck to extend the deadline. I actually have a signed contract, but it has not been approved at this point.

Alderman Pressly

Okay. Once this is announced that it is going to be a stock purchase will it also be announced that any association with Veolia is no longer out there? It goes without saying or it would be true to say?

James McNamee, Esq.

Yeah the DMA references intent doesn't it, or implies it at least.

John Patenaude

I think what we would represent as public information that we expect to use a plug and play therefore we don't need third parties to be involved in the running of the company. You could name them I guess, but I am not sure that does anything as long as you are saying we won't need third parties or third party management companies, whatever you want to call them, then I think you have taken care of that part of the presentation.

Chairman McCarthy

Is it worth us considering at some point whether there is value to the Beck contract in the plug and play model? Veolia we don't really need, but the same sort of oversight and recommendation service that Beck was going to give us for Veolia probably works equally well for us.

John Patenaude

I think you probably want to consider that, but I think what you have to do is after you are through the acquisition, there really has to be a strategic analysis and I think that Downer can help with that as well relative to what are you going to do with the parts that are not City of Nashua water users. I think that is a strategic analysis. They would be helpful I think and they will be helpful in the due-diligence process in identifying areas to us, and I think by having them do that for us that will raise issues of what can we do differently than what is being done today. We have also asked them in their due-diligence process to actually assess the next tier of management, the next tier down from senior management just to get a feel so that if somebody were to leave the company are we left naked or are they able to run the company or run their specific departments during a process where one would be looking for a new manager. That process is going on as well so they will be interviewing those folks and giving us their assessment of that.

Alderman Cookson

You mentioned strategic analysis as something that we would want to have done. I am assuming by the way you phrased it; it is not something that we currently have spec'd out as a role or responsibility to be done.

Mr. John Patenaude

I'm being very careful here because to get through the PUC we really want to keep 99% of the status quo or 90% of the status quo because as long as we are telling them that we are going to run the business as it is today I think we will get a better reception than if we say oh we have already decided to chop up the parts here and sell them off and you haven't so I think it is better to do that. As part of the strategy, there is a lot of strategy to be played...when you take things out you can't leave the cost structure the same right so you have to be able to assess can I do anything and take costs out at the same time so my ratepayers of the City don't suffer any harm as I am doing that. I would say be cautious of that as you are going through the process. What we are trying to do now is really just get through the PUC process as is with a plug and play and then work through the other issues with the land, the service company, and the other two utility companies.

Mayor Lozeau

Mr. Chairman can I add to that?

Chairman McCarthy

Sure.

Mayor Lozeau

Prior to John arriving remember when we went through the exercise with United Water and American Water we did do some analysis about that because one of the paths we were certainly traveling was could we partner with another water company that could operate for us in like a Veolia role and at the same time buy some of those other assets and what would that do to the structure and the numbers. We have some sense of that and what income they may generate into the corporation you know is it better to keep them or sell them. We have done a little bit of work there, but as John described, not enough to make a final decision on that and certainly not something that we would want to walk into the PUC this early in the plan and say and let's mix up all the parts too.

Chairman McCarthy

When we did that analysis that was as part of dissolving the corporation and keeping some set of assets and transferring others, which is not the case we are faced with.

Alderman Cookson

Thank you. Understanding where the explanation is coming from now, I guess I would ask as this moves forward and if we actually include a strategic analysis in the scope of the project, and to the Mayor's comments with respect to another water company or selling off and letting that company manage or run certain pieces, I guess I would ask, and I haven't had a chance to review the minutes, there was a large scope of the conversation that took place last week was with respect to the regional water district, and I guess I would just ask regardless of whether it is a company or if we decide to sell it off to a municipality eventually, does the same analysis hold true for the regional water district?

Mr. John Patenaude

I would say, without getting into a lot of detail just off the cuff here, that there is still a need for an analysis. When I talk about a strategic analysis I am not talking about hiring a large high-power firm to do that. I think the management of Pennichuck whoever you deem to be the management can do that. It is really making sure that whatever happens, if you are generating revenue or if you can transfer some of the debt over or whatever happens, you are not going to harm your current position. That is the key. I have seen people in the past in other positions say oh I can get rid of this unit and you say okay how much cost are you going to take out because I can take the revenue away, but the cost is still there and you have harmed the remainder of the entity whatever you want to define as the entity. That is what we have to make sure that people are thinking that way and thinking of how best to either manage the business or what are we going to do with this business going forward.

Alderman Cookson

Thank you.

Alderman Pressly

Thank you. I think my concern is along the same line. Let's assume we do as you suggest and which does seem to make a lot of sense, to get through the PUC approval and to get it into our hands as the owners that we make minimal changes to everything that they are doing now and basically just transfer the company from the shareholders to the city being the shareholders. What are our obligations after that? Do we sort of have a clean slate? Let's say that some people have been working with Beck, but after we own the company another consultant surfaces as a more appropriate one, can we feel that any previous commitment or obligation be it with Beck or be it with the regional water district that it is a clean slate, everything is void, and we sort of start all over based on what we learn once we own it?

Mr. John Patenaude

It is whatever your contractual obligations are. If your contract says it ends at a specific date then it ends. Your board who will have oversight of the business and the management of that business can then either hire somebody or run the business as is or look for strategic alternatives.

Alderman Pressly

Are we under contract for anything with anyone should we acquire it in the way we are talking about acquiring it, just taking it as is, transferring ownership?

James McNamee, Esq.

Not currently.

Alderman Pressly

Do we have a contract with Beck, do we have a contract with the regional water district, do we have contracts with anybody?

Chairman McCarthy

We have approved the Charter of the regional water district and joined. I don't know that encumbers anything other than we are members of the organization.

Alderman Pressly

How binding is that?

Chairman McCarthy

What do you mean how binding is it?

Alderman Pressly

Well let's say that after we have it for a while and the Federal Government passes the new law, gives us some more options, what if we would like to explore a regional water district, but would like to sort of start from scratch – in other words throw away what is there and take a look at what the choices are now?

Chairman McCarthy

I suspect that we have every right to do that. I suspect that the chances of success are at or below zero if you do it.

Mr. John Patenaude

You would still be subject to PUC regulation. You still have to deal with the PUC and whatever contracts the current company has you still have to honor those.

Chairman McCarthy

You need to understand the people who are members of that district are our friends in that, they are the ones who didn't object to us taking it, and they have spent between \$50,000 and \$100,000 on their legal entanglements for the district most of it in support of us at the PUC. If we then turn around and say the heck with you we are going to form a different district, you are not going to get anybody to the meetings.

Alderman Pressly

I fully understand that as I am sure you know Mr. President, but at the same time I do recall there were parts of the Charter that I think I might want to change. I support our acquiring it, but I would like to keep all of the options open. I think after we have it and have a chance to get used to what we have and what the choices are, we should be able to make changes that any governing body or any group before us has made. Is that operative? I don't want to get into a...

Chairman McCarthy

Those changes need to be originated by the regional water district. There is a process in the Charter for amending the charter, which consists of the board of directors voting on it and the member communities ratifying the charter changes. That is what would have to happen.

Alderman Pressly

You have to be clearer on this. So you are saying we are a member of the regional water district?

Chairman McCarthy

Yes.

Alderman Pressly

What does that obligate us to do after we acquire the company?

Chairman McCarthy

I said a few minutes ago I don't believe that it obligates us to do anything with regard to the company. I am just saying that forming some other regional entity is probably out of the question, and I also suspect that if that is brought up prior to the PUC hearings on the acquisition, we will have a much rockier time at the PUC because those communities that have supported us will stop.

Alderman Pressly

I am not suggesting that Mr. President. I think you have jumped to an erroneous conclusion there. I want us to buy the company, but I don't want us to be obligated...

Chairman McCarthy

We are not.

Alderman Pressly

...to something that has happened under different people and different decision makers.

Chairman McCarthy

We are not.

Alderman Pressly

So I want to make sure that we sort of have a clean slate, we can take our time, keep it running as it is now, and then make the changes that we feel we want to make; one of them might be to interact with the towns, but I can't imagine our saying this before we acquire it.

Chairman McCarthy

You are arguing against something that is not on the table as a proposal. No one is proposing that we do something with the regional water district until after we have had the company and it is operating.

Alderman Pressly

But what I need to know are we obligated to the charter that you and Kathy Hersh designed and put together...

Chairman McCarthy

Kathy Hersh had nothing to do with it...

Alderman Pressly

I know you worked very hard. Well she was there at the meetings most of them.

Chairman McCarthy

It was a proposal that was brought forth by ...

Alderman Pressly

You.

Chairman McCarthy

...the people who are now the current directors of the board of the regional water district. It was deliberated by this board at great length. We sent numerous responses back to the regional water district. The other players in the regional water district ultimately gave Nashua almost absolute control over the operation of the entity and that is when we signed the Charter. This board passed the resolution making us a member of the regional water district.

Alderman Pressly

So what does that mean? If we own the company and we've got this...

Chairman McCarthy

I think we have answered this 6 times now Barbara.

Alderman Pressly

Well it is sure not clear to me.

Chairman McCarthy

There is no obligation to do anything with the company. There is no obligation to do anything with the company.

Alderman Pressly

But if we do decide to become a municipal water district, the feds pass the law and we become that, are we then obligated to become a regional?

Chairman McCarthy

There is no obligation to do anything with the company. I can't state that more plainly. There is nothing that entangles us in any way, shape, or form other than the politics of what will happen if you propose anything else with regard to other communities. I believe that the regional water district will be okay with Nashua owning the utility, operating it the way it is, and rates being lower than they would have been otherwise. If we go out and say well we are going to throw out all of the work that has been done and try to do something else, I don't think they are going to be happy with that...

Alderman Pressly

I'm not...

Chairman McCarthy

...that is a political problem...

Alderman Pressly

I am not suggesting that. I am not suggesting that. I want us to go ahead, do what we are going to do with those few changes, get us past the PUC, get it under our ownership and control and then be able to sit back and say okay that is over now we can get used to it running as it is as a corporation and be able to consider all of the other options that are out there in whatever way we see fit given the circumstances.

Chairman McCarthy

There is nothing that stops us from doing that.

Alderman Pressly

Thank you.

James McNamee, Esq.

At the risk of opening the same thing again, just maybe it would help make it clear, this process that we are committed to is one where we are going to become, if we are successful at getting the PUC approval and we close on the company, we will have 3 regulated utilities; Pennichuck Water Works and the two satellites. We will be required by the PUC to continue operating them as regulated utilities until such time as if we decide at some point in the future to try and make the Pennichuck Water Works municipal and de-regulate it. We would have to go to the PUC to get that approval, but there is nothing with the regional water company.

Alderman Pressly

So there is no obligation that you know of that we have to do one thing or another?

James McNamee, Esq.

There is no obligation with the regional...

Alderman Pressly

So we can evaluate.

James McNamee, Esq.

...water district.

Alderman Pressly

I have been involved in this for a long time. I think it is a concern we have to...I think a lot of...

James McNamee, Esq.

We have no contract and no agreement with the regional water district.

Alderman Pressly

Thank you.

James McNamee, Esq.

The City is a member and could withdraw from that membership so you are not even bound to being a member of it.

Alderman Pressly

Okay. Thank you.

Alderman Tabacsko

I think you just mentioned it, the water district as it is comprised right now, the power rests with the Nashua representation correct?

Chairman McCarthy

Yes.

Alderman Tabacsko

It is not like the water district could even stage a hostile takeover of the newly acquired corporately owned water company of Nashua right?

Chairman McCarthy

Correct. The regional water district cannot even call a meeting to order if the Nashua representative is not there because a quorum is represented by a quorum of the connections to the system not just the member communities.

Alderman Pressly

Just to clarify, I have sat in on many of those, it is not so much that we have the power it is how it is drafted and how it is written. If I recall, and again I haven't re-read it lately, it allows for only one opinion coming from Nashua. It is not possible that there could be a competing opinion within the Nashua representation, which is a debatable thing that...

Alderman Tabacsko

I will just leave it at that.

Alderman Pressly

I will be happy to talk to you later and tell you where I am coming from on that.

Alderman Deane

Are you referring to R-04-57 when you speak?

Chairman McCarthy

Probably.

Alderman Deane

This did nothing more than establishing an interim representation to the board of directors of the Merrimack Valley Regional Water District.

Alderman Tabacsko

There has been a later one than that. That was in '04 David?

Alderman Deane

Yes. There is nothing else after that. There are three pieces of legislation...unless it was an ordinance. There are no other resolutions.

Alderman Clemons

At the risk of cutting the debate off, I guess I am concerned a little bit with some of the discussion this evening because it is my understanding what we are trying to get accomplished is ratifying or coming up with a draft of the governance of the corporation, and if it is corporation structure that we are having the water district is going to play very little if actually no role in that because it is going to be running as its own entity. I guess my request would be that we try to move forward with that. I have a lot of questions.

Alderman Deane

I respect your opinion, but some of us are looking into the future, not looking at today. I am one of those people. There may be some other ones here, but I won't speak for them. Alderman McCarthy we also had a piece of legislation endorsing and encouraging the creation of a regional water district providing for municipal acquisition of a public water works system and pursuing the possible city membership in a regional water district on mutually beneficial terms. That was 127 and then 142, this is back in 2002, adopting a memorandum of understanding among certain municipalities concerning their potential affiliation as a water district under RSA Chapter 53-a.

Chairman McCarthy

I think that was the resolution that empowered us to engage in the charter discussions. It is probably in the '04 resolution that we...do you know what the resolution in '04 actually says?

Alderman Deane

The body of this resolution, which is 02-142 is huge. It seems like a lot of mumbo jumbo to me, a lot of legalese in there, but it is just a memorandum of understanding, but when I go...

Chairman McCarthy

The R-04- whatever one that...

Alderman Deane

I will go into '04. R-04-14 nope that is just spending money. Adopting the proposed agreement and charter of a regional water district – R-04-12.

Chairman McCarthy

And that one passed?

Alderman Deane

Yeah.

Chairman McCarthy

That is the one where we joined. The one that you referred to later I believe that we passed something that made our representation just be by a member of the board with the intent that we would fix that when the actual transfer took place.

Alderman Deane

Okay so if I took this and put it next to the one that is on the Pelham, NH website it should read one and the same?

Chairman McCarthy

I am not entirely sure they are identical.

Alderman Deane

Why wouldn't they be?

Chairman McCarthy

They are different towns and may word things differently when they adopt such. You mean the wording of the Charter itself, yes. The Charter was just included by reference in that.

Alderman Deane

Okay.

Chairman McCarthy

Is the charter language in there?

Alderman Deane

Yes it is.

Chairman McCarthy

Then I would assume that is the same as what is on the Pelham site. Is there anything else Alderman Deane?

Alderman Deane

I am all set. Thank you.

James McNamee, Esq.

To follow up on Alderman Clemons' point because I think it is a good one, this thing that you need to be having the discussion about because we need it for the DMA because we need to attach what we intend for articles of incorporation and bylaws, and actually I think you might find that fairly satisfying Alderman Deane because that is the way that you control the future of this operation by how you draft the articles of incorporation and the bylaws. Part of the discussion, it is a useful discussion and we had it last week too, you may want to at some point in that discussion try and decide whether or not you want to allow the regional water district to elect a member to the board of directors, which perhaps would be then confirmed by this board.

That is really only part of the discussion. There is an awful lot of other stuff in those articles of incorporation to consider, particularly the makeup of the board and compensation, those issues.

Mr. John Patenaude

If any.

Alderman Pressly

Thank you. If I understood you I thought you said the last time you even suggested that many of the current board members just be carried over so what if we just took exactly what is there for the time being, bought it and then we are allowed to make the changes later?

James McNamee, Esq.

You could do that, but that doesn't answer the question of what you want the board of directors to look like ten years from now. The task that we need now to do is to figure out what you want that board of directors to look like regardless of who the individual people who are in it, what sort of skills do you want, how many do you want, what terms do you want them to have, do you want the regional water district to have a representative on it, those sort of questions. And what sort of compensation you want to give to them.

Mr. John Patenaude

The other issue you face is a lot of the current directors represent a subset of ownership. You might have a person representing Gabelli's interests and some other investment bankers of finance people who hedge funds and so they may not want to serve after the acquisition obviously so you have to deal with that as well. You may find some locals who are on the board that would be willing to stay, but my guess is those that are outside the local area may not want to stay.

Alderman Tabacsko

On that same point, those current directors that are kind of by virtue of their investment in the company, it is not like they bring a particular skill set from a technical standpoint or is that not true?

Mr. John Patenaude

They have different skill sets. They are looking out for their financial interest and their investments. They are not engineers or water people. Actually if you...

Alderman Pressly

You have a lawyer, you have businessmen.

Mr. John Patenaude

I didn't make copies, but if you go to their proxy you can see what their background is on each of the directors. You could get a good feel for who their current directors are.

Alderman Tabacsko

Following up on the question of compensation, as I read through the minutes from the meeting last week, I saw there was some discussion there and an unanswered question was the model of the Manchester system. Did we ever find out if, well I guess we know they are compensated but we don't know to what level?

Mr. John Patenaude

I think the Mayor checked that out today.

Mayor Lozeau

I did. I actually spoke with one of the members of the board, and they serve 2 three year terms and they receive no compensation.

Alderman Tabacsko

God bless them.

Alderman Deane

You spoke to one of the Manchester board members?

Mayor Lozeau

I did.

Alderman Pressly

So after the 2 three year terms they are no longer...

Mayor Lozeau

They are no allowed to serve.

Alderman Tabacsko

So it is a forcer term limit type of thing?

Mayor Lozeau

Correct.

Alderman Pressly

Then after one year can they return that sort of thing, is there a one year.

Mayor Lozeau

He did not speak that there was that opportunity for them to come back...

Alderman Clemons

I have the language of that actually with me this evening. It says members of commission shall serve for three year terms and shall be limited to two consecutive full terms on the same commission. It says no member shall take office for a term having served two consecutive terms, unless two years shall have elapsed since such member completed the second consecutive term. So two terms, two years off, then you can do two again.

Alderman Pressly

That is a common thing to do. If someone is really that outstanding they have a two year time off and the people say we need this guy back and they bring him back.

Alderman Clemons

And that is in Manchester's charter.

Alderman Deane

It is an ordinance right?

Alderman Clemons

No it is in their charter.

Chairman McCarthy

I was pretty certain it was an ordinance when I looked it up the other night.

Alderman Clemons

It is in their charter.

Chairman McCarthy

Is that on the water commission...

Alderman Clemons

On boards and commissions...

Chairman McCarthy

That is language under boards and commissions.

Alderman Pressly

Of the water company.

Alderman Clemons

But that is what they...

Chairman McCarthy

Right. I am just saying it is a provision they use for all boards not just the water.

Alderman Clemons

Yes.

Alderman Tabacsko

How many members on theirs?

Mayor Lozeau

I think 7 and the Mayor is an ex officio member.

Alderman Tabacsko

It is appointed by the Mayor confirmed by the Board?

Mayor Lozeau

Correct.

Alderman Pressly

And how many?

Mayor Lozeau

I believe it is 7.

Alderman Pressly

Including the Mayor?

Alderman Clemons

Including the Mayor.

Alderman Tabacsko

So three years, somebody is expiring every year?

Alderman Clemons

Yes.

Alderman Deane

51.42 Aldermen not to be commissioner. I think it is helpful to look back at some of this stuff to see where things went terribly wrong there and the adjustments that they had to legislate to correct them.

Alderman Tabacsko

How old is that piece?

Alderman Deane

That the Alderman aren't to be commissioners?

Alderman Clemons

1971.

Alderman Tabacsko

That may have been around the way back times.

Chairman McCarthy

Again, that is a general provision in the charter right or is that in the water ordinance?

Alderman Clemons

That is the water board.

Chairman McCarthy

Okay. We don't know that anything went terribly wrong we just know that they...

Alderman Deane

How long has Manchester managed its water company?

Alderman Pressly

Six years after ours, back in the 1850s.

Alderman Deane

And this happened in 1971 so something must have gone wrong.

Alderman Clemons

June 30, 1871. A hundred years later they decided no Aldermen were allowed to be on.

Alderman Deane

Probably for good reason too.

Alderman Pressly

I think another good public purpose approach to that is if we're going to be creating something for ours is that it be an Alderman or a city employee may not serve on the water board until two years or a timeframe has lapsed since they had that service or that job. I think the Federal Government does that. They may have a one year period that they can't serve. That covers I think a lot of good government where you can't have a city employee or a sitting Alderman be a water commissioner until two years after their term of office has expired.

Alderman Tabacsko

Would we ever want to have a city employee purposely appointed from an expertise standpoint? You would have to work around something like that in case you would want a...

Alderman Pressly

I prefer not.

Chairman McCarthy

When we hired Director Crombie, the runner-up for that position was a gentleman who had spent 20 years running water plants for the Department of Defense prior to applying for a Public Works Director job. I don't know would we want him on the water board had he been our Public Works Director? Hard to tell.

Alderman Tabacsko

I think that is just something that is at least conceivable to me that there may be a circumstance where we would want an employee. I don't have a problem with the time thing in general and the restriction certainly on elected Aldermen at least, but on the employees I think we just have to make sure we word ourselves around qualified public works people that we might actually want to be there.

Alderman Pressly

I think that really blurs the boundaries and that is one of the things that the people that I have spoken with over these 9 years have mentioned; they want the city's jobs and the water company jobs to be very separate. I think there are enough talented people to fill these jobs without having to have a city employee. I would also imagine that if there is someone that is that extraordinary that we could make an exception to the rule for that person. I think it is better to have the rule in place so that the temptation is not there.

Alderman Tabacsko

I disagree.

Chairman McCarthy

If we put the rule in place with a procedure for exceptions then it is not a rule...

Alderman Pressly

You can always...

Chairman McCarthy

...if we were going to do that I would not want there to be a procedure by which we could override that.

Alderman Clemons

Just as a follow up on that point as well is that we pretty much have to keep...the other thing from my understanding is we want to be very careful as to who we have from the city over working in the corporation because we don't want to blur those lines between the corporation and the public entity. I think to a certain degree we would need to find out what the line is there not to cross.

A lot of the things that we are talking about or the situations where you would have a city employee working is under the scenario where the city owns it as a municipal entity rather than the corporation. As the corporation itself I think the board of directors is basically going to run that and it is our job to make sure we have a good board of directors in place. The governance that we come up with is what is going to guide them for many many years I would imagine, at least in the next 3-4 years because we are going to have to get through the PUC and then if we want to restructure. Whatever we come up with is going to be in place for a number of years that is just my suspicion. I think we need to know exactly what the lines are as far as can we have anybody represented from the city in the corporation and what that boundary is.

Alderman Cookson

Thank you. Pardon the pun we are just splashing around here. We're going this direction and that direction. If we are going to accomplish anything this evening, this needs to turn into a guided conversation very quickly so that we can focus our attention on a particular point whether it is number of people, skill set...as John had put forward and Attorney McNamee had put forward, some of the things that we need to accomplish. I appreciate all of your input and concerns, but I think that they can easily be addressed and brought to the floor as we go forward speaking about specific issues that need to be decided upon. I am not sure who is going to lead that guided conversation, but it would certainly benefit our time here this evening if it were.

Chairman McCarthy

Thank you Alderman Cookson. I completely agree. I have been sitting here thinking we are debating who we don't want on the board and we haven't started to debate who we do. The first thing we need to do is come up with a structure so that we actually can run the company and then we can worry about who shouldn't be involved in it I suspect. I think we need to look at things like how many directors do we want and what terms do they serve. I think we had said we would go look at Manchester's and we know those answers now. Perhaps that would be a good thing to concentrate on is let's figure out what we want that part of the model to look like.

Alderman Clemons

If I could just throw out some suggestions from things that I have read specifically regarding the board structure; one of the things that I particularly liked in Manchester's Charter was the appointment process, which I think is a good place to start as far as how we are going to appoint the board members regardless of how many we have. In Manchester how they do it is the Mayor submits a nominee and that is basically approved by the Board of Aldermen up there. I think we should adopt a similar process because it is how we

do things now in general and I think it is a good way to start. I would suggest that we look at that and see if that is the process that we want to adopt.

Alderman Deane

I believe Alderman Clemons is referring to the section 3.14 – membership limitations, appointment, organizations, terms, and removal. What this does is, under (b), appointments and organizations – the members of all commissions of the City shall be nominated by the Mayor and shall not take affect until the appointment has been confirmed by a vote of 8 Aldermen. Unless the appointment has been made by the Alderman out of the provisions of section 3.14 (g) (2) each January all commissions shall choose one of its members to Chair the commission and one to serve as a Secretary. I think what we have to do is we have to start with revolving appointment dates; the first set would have different expiration dates of their terms of service and go out that way. I think you had alluded to at our last meeting you don't want to all of a sudden have the entire board being dumped off and you are re-appointing people that have a willingness to serve, but have no clue about what is going on or don't understand the process. I think that would be a dangerous situation.

I tend to agree with Alderman Clemons. I think we should also allow the Board President to do appointments. I don't think it is up only to the Mayor. I also agree with the fact that we should just be appointing people that live in this city period. We should not be appointing people that live in Milford and Amherst and Hudson and Litchfield. I think Alderman Clemons had alluded to the terms and limits too. I think that is good and should take affect, but I think we have to try to figure out some sort of timeline of the first set of appointees and then have that roll in after the fact so that you have a little rotation.

When you look at some of this and how they can serve no more than a few years, I served on the Public Works Pension Plan for about 8 years and we had a gentleman there by the name of Bob Hussey that served over 20 years on that board and he made that pension plan millions of dollars. If it wasn't for his guidance and leadership that pension plan...I got on the pension board. I don't know anything about investments. I learned an awful lot. Alderman Flynn has served on that. You deal with employee issues, but you get somebody like that who is absolutely dedicated – he treated that money like it was his own. I would hate to end up having an individual like that and end up losing him due to a term limit. That is just one example that I am aware of. He eventually did retire because his Wife forced him to. That is something that we really have to look at.

I know Alderman McCarthy stated earlier that he didn't want to have exceptions to the rule or make rules that will break the rules. I just think we should be really careful about doing something in that area. I don't know how we would go about doing it, but if you have someone that is really of benefit and is serving with no compensation and have him run out on a term limit I think is kind of a shame that happens. That is one thing that really needs to be looked at is how are we going to form the first board and what goes into the makeup of the terms and the way the terms drop out afterwards.

Chairman McCarthy

I have been writing down the things that we need to decide so that we can try to take them one at a time. What I have so far is the method of appointment, the number of directors, the terms that they serve and whether there are terms limits, the stagger for the initial directors so that we get that set up correctly, whether or not the Mayor is an ex officio member of the board, restrictions on the membership as to people who can't be members, and whether or not we should have some set of qualifications that we enumerate for board members. Do we know of other dimensions to that part of the charter or...

Alderman Tabacsko

Excuse me. Did you say who does the appointment?

Chairman McCarthy

Yes.

Alderman Tabacsko

Because at some point there was ...

Chairman McCarthy

The method of appointment.

Alderman Clemons

The only other thing and I don't know how this would work on a corporate structure, and this is definitely for the bottom of the discussion, but removal in a case of abuse or something like that whatever the case may be and vacancies. We need to figure out vacancies as well.

Alderman Deane

It is interesting it takes 8 to appoint and 9 to remove. I guess they want to make sure that you have 9 people that are convinced there is an issue.

Alderman Pressly

What size is their board?

Alderman Deane

Seven.

Alderman Pressly

No the...

Alderman Deane

Oh their Alderman, 15.

Alderman Clemons

It is 14 Aldermen and the Mayor votes.

Alderman Sheehan

Whether or not they are compensated should be on that list.

Mr. John Patenaude

Just a clarification on the removal. The current articles allow the shareholders who are here to remove any directors. When you are doing the articles I don't think you want to get so specific. You have to give yourself some leeway so when you talk about for instance numbers; the current one has 3-13. You want to keep a spread there so that you are not tied into a specific number so that if somebody drops off you are not in violation of your bylaws...I would just caution you to sort of be open to that concept.

Chairman McCarthy

Are there other items we need to have on here?

Mr. John Patenaude

One thing that is in the current bylaws is really the age limitation, which would be within your term limits I guess, but you may do away with that, you may want to keep it. I am not sure.

Chairman McCarthy

Age limitations are sort of contrary to the philosophy of New Hampshire government, but...

Alderman Deane

There is also another section about the appointment process and the holdover. It would have been great about 5 years ago. After their term expires they are allowed to sit for 90 days. That is it, then they fall off and they are no longer there anymore.

Alderman Clemons

That is consistent with our language isn't it?

Chairman McCarthy

Yes that is exactly what we did.

Mayor Lozeau

Planning and zoning.

Alderman Deane

We changed that a few years ago when...

Alderman Tabacsko

Yeah it wasn't always like that.

Alderman Deane

...when people's terms would expire but no appointments would come forward that way they would remain on the boards and commissions and there was no way to remove them.

Chairman McCarthy

Let's go back and look at those then. Are we comfortable with appointment by the Mayor and confirmation by the Board?

Alderman Deane

I think the Board President should have the ability to appoint as well.

Chairman McCarthy

And how would we divide that up?

Alderman Deane

Well how do we divide it up today? You have the authority to appoint to boards and commissions.

Chairman McCarthy

There are specific positions that are Board President appointees and I have to tell you it is tough to fill them. The only ones that we get to do is we have a position on the Ira Harris Lecture Fund and one or two others that...

Alderman Cookson

Don't you do zoning?

Mayor Lozeau

No.

Chairman McCarthy

No. We changed that back.

Alderman Tabacsko

It was at one time.

Chairman McCarthy

I am comfortable with Mayor and Board confirmation the way we do for the other boards.

Alderman Clemons

I feel the same way, but I think one thing that we may want to have is that an appointment by the Mayor, Board confirmed however with the caveat that the President of the Board may offer into consideration re-appointment of someone that is existing on the board. In other words, if the Mayor were to have a difference of opinion that someone new ought to come in, but it was the feeling of the Board President that the existing member ought to be there for whatever reason, they could re-appoint.

Alderman Tabacsko

As a trump card type thing?

Alderman Clemons

No because both...

Alderman Tabacsko

That the re-appointment would override the new appointment?

Alderman Clemons

No. Both nominees would come before the board and whoever wins the nomination wins the nomination.

Chairman McCarthy

I think it is awfully complicated. I think that situation works itself out in that pragmatically when we have appointments that are going to come to us that are not palatable to the board they typically don't wind up coming to us. It is sort of better to solve that one up front.

Alderman Clemons

Or we could just vote no I guess.

Chairman McCarthy

Yeah that is the general way that...

Alderman Clemons

The only thing that concerns me about that is the discussion of the 90 day period where if that is the will of the board and within 90 days no new nominee comes then we have a vacancy because there is a standstill. The way that the Manchester Charter is right now it says that in the event that the Mayor makes a nomination in said 90 days and the nominee is not confirmed, the Mayor shall be entitled to nominate a new candidate within 90 days, but also it says or if there is no nomination within 90 days the position shall be filled by the Board of Aldermen, which shall be entitled to nominate someone.

Alderman Pressly

That is fair.

Alderman Clemons

I just think maybe we should...

Chairman McCarthy

I think that is a more reasonable escape that if...

Alderman Tabacsko

I like that actually.

Alderman Pressly

I do too.

Chairman McCarthy

If no nominee is submitted within 90 days then...

Alderman Tabacsko

There is another out.

Chairman McCarthy

I don't know what you want to do in a case that there was a nominee who was rejected. Ultimately that says the board can simply take it over themselves by rejecting whoever is nominated.

Alderman Clemons

Yeah. The 90 day expiration of the ...

Alderman Cox

Do we reject it by 2/3?

Alderman Clemons

The 90 day expiration after the term has expired may be where we are having the issue. Maybe we extend it to 180 days.

Chairman McCarthy

We are sufficiently down to the detail. Let's try to put that one aside for the moment.

Alderman Clemons

Then I will just state for the record I generally agree with the appointment by the Mayor and the Board confirms.

Alderman Cookson

Thank you. I would agree with that. I also would add to the conversation that I believe in the previous administration's term we dealt a lot with nominations not coming before the board, terms expiring, and them continuing. I thought that we added language at some point that said rather than extending, rather than adding a 90 days past their end date, I thought we added some language that said something has to happen 90 days prior to or that a nomination has to be identified 90 days prior to the expiration of somebody if they are not going to be reappointed. I thought there was some language about that. If not, it would certainly be something to consider. Rather than letting a term expire and letting someone sit there, I think it would behoove us to be proactive and say 90 days prior to the person's expiration date either we should know that person is going to be reappointed or we should have a few candidates in mind for consideration.

Mayor Lozeau

Let's just hope it is easier than the Zoning Board.

Alderman Cox

That would give us the 180.

Chairman McCarthy

I think that is a reasonable...

Alderman Tabacsko

I think that sounds pretty good.

Alderman Pressly

Thank you. One thing I would like to suggest is that there be an advertisement for these jobs. The reason I say that I think there might be a lot of really ...

Chairman McCarthy

Let's put that off until we talk about qualifications.

Alderman Pressly

Okay, but it has to do with the appointment. That before the Mayor appoints somebody that we open it up. I know you do that with some positions already, but I think particularly something like this it might be important to open it up to people. There might be people that have all sorts of skills related to this that we don't know about and they would have to read about it in the paper or advertise. I would like to see that as one of the steps for the Mayor's selection or the proposed...

Chairman McCarthy

It gets complicated in the following; 90 days before a person's term expires we have to submit to the board either their reappointment or the appointment of their successor, if before that we advertise for the position that is sort of...tells the person through the newspaper that they are not going to get reappointed...

Alderman Pressly

I think it is really...

Alderman Cookson

Unless that is the process. Unless that individual on the board already knows that is the process that is going to take place.

Chairman McCarthy

The process that we do every time yeah.

Alderman Pressly

It seems to me that we all sort of have our own little sphere of influence and friends and we have to realize there are lots more people in the city that a lot of us don't know that are very talented.

Chairman McCarthy

Because I don't know any who are willing to volunteer for these positions.

Alderman Pressly

This is it, and yet there are a lot of people that feel very passionately about this. I think advertising should be part of the selection process.

Chairman McCarthy

So we would normally just advertise at some point before the position is likely to be vacant.

Alderman Pressly

Right. And I know that this Mayor interviews a lot of people, and I think it would add to the search for good people. I would like to also recommend that the people should be ratepayers. They are the people that have the most interest in this. I would like to see that be one of the... I think Alderman Deane mentioned Nashua citizens, but I think they should be people that actually use the water, pay the bills, and know how it is run. I would like to bring up just a related issue. When you put together sort of some rules, would it be wise to have sort of some general goals? It seems to me general goals for a board would be that you have an uneven number. Let's say we have three to thirteen...

Chairman McCarthy

We will get to that in a minute. I have that number as a...

Alderman Pressly

Okay, but that also would apply to your appointments just some general appointments.

Chairman McCarthy

What we are talking about is the process by which an individual is appointed.

Alderman Pressly

Okay.

Chairman McCarthy

I am trying to break this down into single sentences of the charter...

Alderman Pressly

I am blurring the boundaries. I am thinking more of the qualifications, but I do think the board should be a reflection of the general population that pays the bills.

Chairman McCarthy

I think what we will come up with for the qualifications are they should be a ratepayer and they should be a citizen of Nashua. I am not that interested in an absentee landlord who pays a big water bill being a member of the board of directors.

Alderman Pressly

I would like to toss out something and I hope I don't get tossed out. I think it would be good that someplace in the charter we indicate that we would like to have the membership have gender balance and maybe even ethnic balance. I think it would be wise to have that. I don't know how the PUC would feel about that. Pennichuck has that by the way. They have always had good female representation and one of their new members that came from the new shareholder was a person of color. They have sort of done that automatically. I would imagine that would be something that would appeal to the PUC.

Alderman Tabacsko

Thank you. I will start with that first. I think if we want to do something like that it is commendable and it would be a good goal. I would like to avoid codifying that because a good example is recently a member of the MWRA board had to step down, a sitting member that had 2 or 3 years left on their term because they were the last one in because they have such crazy appointments; the Mayor of Boston appoints so many, the Mayor of Quincy appoints so many, the Governor, so many have to be minority, so many have to be this, and it turned out that when it was all shuffled out because somebody who was in one of those gender or some other qualification thing wasn't met, someone had to step down and resign their position. To get yourself into that kind of a position to create something that is going to put you there is something I would like to see us avoid.

Chairman McCarthy

I think it is very difficult to do with a ...**audio inaudible**...

Alderman Cookson

Point of Inquiry...what was the acronym that you used?

Alderman Tabacsko

MWRA.

Alderman Cookson

And that stands for?

Alderman Tabacsko

Mass Water Resources Authority.

Alderman Cookson

Thank you.

Alderman Pressly

But if we just have one person that appoints we don't have that complication.

Alderman Deane

Massachusetts Water Resource Authority.

Alderman Tabacsko

I was going to if I may on the appointments, I was wondering, the point I was waiting to make was that since this is a water district that does incorporate other towns, I know this is probably not a very popular thought, but I think we at least ought to give some consideration to a ratepayer from some other community either appointing or having an appointment or being appointed as a member of the board. I think that representation certainly if we are going to be a 7, 9, or 11 member board that 1 or 2 ratepayers from the other districts might be something to consider. I missed the discussion last time and I know there are other subsidiary boards and that may be addressed there, but I think it is something I didn't want to lose as we are capturing possible points here.

Mr. John Patenaude

I think that you are correct in that the PUC it would be easier on the PUC to make a decision if they saw some membership on the board being from outside of Nashua. Not the majority obviously, but you want to keep the majority because it is your nickel, but it would help the process, let's put it that way.

The other thing is it would also help with the IRS issue because you have a harder time saying that you have created a municipal corporation when you have outsiders participating on the board.

Chairman McCarthy

We are sort of mutating now into the number of board members discussion. Let's finish up on the appointment. Is there anything else we want to put in there for the moment?

Alderman Sheehan

If we are going, and I know this was touched on the last time. I haven't finished reading the minutes either, but if we are going to have separate boards for the other corporations could they not amongst themselves nominate one person and then we confirm as an appointment process?

Chairman McCarthy

What happens, the discussion had had last time in a nutshell is we need to deal with the membership of the board of the holding company and then each of the separate subsidiary companies has a board. We are likely to constitute that as the officers of the holding company for simplicity sake. We could think about doing the diversity of representation there. That is probably easier to take on after we have got things in place and working and to just go with the board of directors of the subsidiary is the officers of the corporation to start with. Otherwise we have 6 sets of articles of incorporation to worry about rather than 1.

I think given that there may be competition between the subsidiaries, it may make sense and I think the PUC would look more favorably on it, if whatever we did we did at the corporate level. We can come back to that discussion.

Alderman Pressly

I would like to make just another point on the gender issue. Having served in the Legislature the only way we ever got a woman to serve on the State Financial Authority was to put in there that they had to seek gender balance. We just had 8 appointments for the city, all 8 were guys. Unless you have it in the law somewhere that is a goal that there be balance, that is a true representation of the ratepayers, unless you have it in there people just don't think of it. That doesn't mean you are bound by it but that means we wouldn't have any of the problem that you have referenced because...

Chairman McCarthy

We ought to just state that as a goal...

Alderman Pressly

This is what I am saying a goal should be have an uneven number, a goal should have it that the makeup represent the gender and the ethnicity of the ratepayers...I know you guys find that so difficult to deal with.

Chairman McCarthy

Gender balance is one thing because it is fairly easy to accomplish and it is fairly easy to measure. Ethnic balance is much more difficult to metricise.

Alderman Tabacsko

And I would point out that we are in New Hampshire.

Alderman Pressly

I would settle for gender.

Alderman Tabacsko

I have been to NAACP meetings where their president is not a minority.

Alderman Pressly

Okay. Well gender is a little bit different.

Alderman Sheehan

My own professional experience, the company I worked for before my last one had diversity goals and it hand tied me a lot and as a female manager if somebody anywhere within 800 miles hired a man the minute the thing was open where we could allow for some diversity to allow for a white man to be hired, I couldn't hire and I had an opportunity to hire a competitor's best salesperson, I couldn't hire them because of the wrong gender. Sometimes we think we are doing a good thing by putting up these rules, but they can, if you put them in writing, it can be difficult to manage after.

Alderman Pressly

The last 8 appointments that we had in one meeting were all men. If you take a look at the two most important land use commissions that we have, they are primarily men. It is the natural thing to do because the men are more interested in doing these things and they may have the experience. If you don't have it someplace that you have gender balance, that leaves it up to...all it does is remind the person who is making the appointment that if we don't have any women on here maybe we should look for a woman.

Alderman Cox

We have talked a lot about Manchester. One of the places that John provided us was the South Central Connecticut Regional Water Authority and it seemed to marry up a lot with the Pennichuck structure if you will and they have 10 board of directors; Susan S. Adiss former Commissioner of Health State of Connecticut, Richard Bell, Authority Member, Regional Water Authority, Claire C. Bennett, former chair Regional Water Authority, Thomas P. Clifford, Representative Policy Board, Regional Water Authority, John Crawford, Stratagem LLC, Gordan Gabelli, Yale School of Forestry and Environmental Studies, Carolyn Hughes, Elizabeth Moore, Robert Olijack, so it is a mix as you stated, and Brian M. Stone, and then they have their officers are president, vice-president, secretary, and treasurer, and then they have four committees; investment committee, distribution committee, audit committee, and development committee. And then as you read into it they seem to handle it pretty much as we have brought out in discussion.

Alderman Deane

Thank you. I didn't want to go in reverse, but I must say since we have had a woman in the corner office, we have had many, many, many women brought forward for appointments. I attended the Planning Board meeting a couple of weeks ago and there are many many many women on the Planning Board who have been there. The Zoning Board had Kathy Vitale was on it at one point in time; Cindy Overby was on it – together at one point in time. I understand where Alderman Pressly is coming from and I understand where Alderman Sheehan was going with the fact that if you paint yourself into a corner you have some issues. I think whether they be men or women or whatever we should be looking at being able to garner the best group of individuals to put on the board that are going to oversee this resource. We had grave concerns about what went on in the past and there were plenty of men and women involved with some of what happened to the Pennichuck property, the Pennichuck ponds, all of the watershed. I think the gender thing is kind of a moot point. I don't have an issue with it, but I don't think we should be carving it in. I think that when appointments come in they should be weighed on their knowledge period.

Alderman Cookson

I think the way that you address that is saying discrimination will not be based on sex, origin, all of the different components. I have to agree with Alderman Deane and Alderman Sheehan in saying that I am looking for the best person regardless of male or female, regardless of black, white, Hispanic, Asian, it doesn't matter to me. I want the best person in this position and I want to provide us enough flexibility to not paint us into a corner to say we have to have this type individual. I want the best person period. That is the only thing that I am looking for. I have been strongly opposed to Pennichuck from day one and the City acquiring Pennichuck through eminent domain from day one. To get me to this point I want to make sure that we have the most capable people in place and that is the only way that I am going to support this moving forward is to make sure that we have the best people that are on the board of directors, that are on the committee, and that is the structure, the governance, everything. It has got to be dotting your Is and crossing your Ts at every juncture. That is how I feel about it.

Alderman Clemons

If I could, I would propose that we adopt, I don't know if I make this in the form of a motion or what, but I guess I would move for the appointment process that we move to adopt appointments by the Mayor and confirmed by a majority of the Board of Aldermen as the appointment process.

MOTION BY ALDERMAN CLEMONS TO ADOPT APPOINTMENTS BY THE MAYOR AND CONFIRMED BY A MAJORITY OF THE BOARD OF ALDERMEN AS THE APPOINTMENT PROCESSON THE QUESTIONAlderman LaRose

My question is, once the Mayor appoints someone, does it go to the Personnel classification or does it go from the Mayor's appointment right to the Board of Aldermen?

Alderman Tabacsko

I think that is a detail we can deal with...

Alderman Deane

Why would it not go to a committee for an interview?

Chairman McCarthy

You are not talking about the Aldermanic Committee you are talking about the city Personnel Classification Committee?

Alderman LaRose

Yeah. Like all appointments go through them, they make a recommendation to the full board.

Chairman McCarthy

Oh no you are talking about the Aldermanic... yeah it would come to the Board and be referred to committee the way any other appointment is.

Alderman LaRose

Okay.

Chairman McCarthy

The proposal is that we appoint it the way we appoint the Planning Board and the Zoning Board.

Alderman Tabacsko

Is this the motion in which to capture if we want to have this board expanded to the point where we have some of the outside ratepayers? Does that need to be here or...

Alderman Clemons

No.

Chairman McCarthy

No. This is just...

Alderman Tabacsko

This is just the appointments...

Alderman Clemons

Just the process.

Chairman McCarthy

Here is what I would like to achieve for this evening. Let's try to get some basic agreement on things like the number of directors and who appoints them and then what we will try to do is get some language crafted that expresses that that we can then make motions to change at our next meeting. We need to start getting something concrete down so we can...

Alderman Clemons

If I could clarify...

Alderman Deane

You want to agree on something tonight so we can change it at the next meeting?

Chairman McCarthy

Absolutely. I think we can get through enough to get some language drafted for next time.

Alderman Clemons

Just to clarify, my motion is just the basic process of whatever it is that we agree on to get to that point of okay this is who the Mayor is...

Alderman Tabacsko

We don't know the...

Alderman Clemons

We don't know those steps yet, but this is sort of the final okay I followed all of the rules and this is who I am appointing.

Chairman McCarthy

Does everybody understand the motion?

Alderman Deane

Could you repeat it please?

Chairman McCarthy

The motion is that the basic process is the Mayor appoints and the Board confirms as we do with most other board appointments.

Alderman Deane

Then we can go into sub-sections of this motion next week?

Chairman McCarthy

Yes. Is there any further discussion?

MOTION CARRIED

Chairman McCarthy

The next item I had on the list was the number of members of the board. As a working proposal people can throw rocks at, I would suggest we start with numbers like the ones we have seen of 6 and then think about whether we want to make that variable from 6-9 with the 7th, 8th, and 9th ones being from other communities.

Alderman Tabacsko

The variable I think is important. I like that, but I also think it should always be odd numbered. I think Alderman Pressly said that earlier and I kind of think that makes sense.

Alderman Pressly

Say uneven instead of odd.

Chairman McCarthy

In that case, there may be another issue that we need to resolve first, which is whether the Mayor is an ex officio member of the board of directors. Why don't we figure that one out first and then come back to the number of directors.

Alderman Clemons

My opinion if the Mayor is appointing people to the board he or she should not be on the board themselves. In other words not an ex officio. I would say no to that.

Chairman McCarthy

Okay.

Alderman Deane

It is kind of contrary to the way we operate today. Remember the Mayor does appointments to all of these boards and the Mayor is an ex officio member, planning board, you go right through the whole city.

Alderman Clemons

My opinion I think it should be a separate entity.

Alderman Pressly

If you do decide that she should be an ex officio then there should not be any chance of the public works director being on.

Alderman Tabacsko

That just might solve that...

Alderman Pressly

If you do that you can't have anybody else related in any way, but I think this water has to be dealt with and thought of differently and I think it really does have to be kept separate because the general public is so accustomed to having an independent entity that I think with all due respect Madam Mayor, I think it would be best that it be totally without any input from anyone connected to any decision making role with anyone in a decision making role of the City.

Alderman LaRose

I disagree. I think the Mayor should be ex officio. I think we should have a member that represents the voters of Nashua. I think that should be the Mayor.

Alderman Tabacsko

I think somebody in this room needs a seat at that table. Whether that is the Mayor as the ex officio or maybe the way we word it is that the Mayor or the Mayor's designee as the ex officio person and that the Mayor could designate any member of the Board of Aldermen for example. Limit it to something like that.

Alderman Pressly

Or public works.

Alderman Tabacsko

Or public works, but that be the Mayor or Mayor's designee to the board. We own the company; we ought to have a seat at the table.

Alderman Sheehan

I am going to agree. Somebody at that table needs to understand the impact decisions will have on a very intimate level on the city, on the city's budget, infrastructure, how it relates to say waste water, other issues. I think that is critical and I think it would be good governance to make sure that somebody who understands this side of the business as well as the water side of the business is in that room when those decisions are made.

Alderman Clemons

I would just say that it is not going to affect our budget...

Alderman Pressly

At all.

Alderman Clemons

...because it is a separate entity that is not related to the city budget. I guess in some ways it connects back, but to the same extent that it does today in that if you are tearing up a water line or something like that and you need to replace pipes and you might want to coordinate with the City. They do that anyway. My concern is that if the Mayor whoever it may be at the time, can appoint all of the members and be a member themselves, I just think that is too much concentrated power in one person. I understand that for the city governances so like the Board of Public Works and other things you know the Finance Committee for example or things like that, those types of boards I think are an exception and the reason I feel that way is because those folks are elected. Everybody on those boards are elected by the voters of Nashua whereas this is something entirely different.

Chairman McCarthy

The Planning Board is not.

Alderman Clemons

I understand that. That is a charter issue as well though. I think we ought to set this up in a different way, in a way that doesn't look entirely like everything we do in the city, and I understand wanting to have a seat at the table. I understand that argument. However, I feel that our seat at the table is making sure that we appoint the right people to that board.

Alderman Sheehan

My only point would be that if we do revolve the terms they shouldn't all be appointed by the sitting Mayor with the exception of the first theoretically.

Chairman McCarthy

Depends on the length of the term.

Alderman Sheehan

Correct.

Alderman Tabacsko

To go for a compromise on what Alderman Clemons was just saying, maybe we could consider that our seat at the table be a separate appointment by the board president, that each two-year term of this board the board president appoint someone to and I don't know maybe you could exclude that and make that a non-voting member or not...I don't like that, but if that is what it takes to...

Chairman McCarthy

If we are going to do it, it should be a voting member.

Mayor Lozeau

Can I weigh in just for a second? I guess I'm just saying I can understand all of these points especially in Nashua because things are a little bit sensitive especially considering that a former Mayor ended up being the CEO of the water company. Manchester's Mayor takes the same approach that we are discussing here; that Mayor makes the appointments, that Mayor is an ex officio member. We have the check and balance here of this board, whoever that board is going to be at the time, so that the power doesn't get concentrated. So if the Mayor brings somebody in that the board thinks as I say doesn't pass the icky test, you don't appoint them. You ask those tough questions. In Manchester, the Mayor has a vote on the Board of Aldermen. That extra check and balance isn't even there.

I guess when I think about it I think you have the power to make sure that doesn't happen Alderman Clemons, and maybe it doesn't affect the budget quite the way that you might think, but I can tell you the things that I have learned in the few years that I have been working on this, I think it is a perspective that needs to be represented at the table. I can tell you making appointments in the city is a lot of work. I could spend almost half of my time trying to find people for...even when I do advertise and announce that I am looking. I am looking at the Telegraph trying to do a story on the Zoning Board right now because I am having such a hard time finding members. I have not gone to my sphere of friends for any appointments and I purposely haven't done that.

I just think that there is certainly a place for the government perspective to be represented at that table and I would hate to not have that. As probably the only person here that would be working full time at this job it just seems logical that be the one.

Alderman Pressly

Thank you Mr. Chairman. Madam Mayor I do want to commend you. I have heard from many people and I have told many people I think you are the first Mayor that I am aware of that has really taken the time to select your appointments and to screen them and to make sure that they are qualified. What concerns me is what happens when you move on and other people come in. We have had many Mayors that just appoint their friends. Although I would be happy to have you be that person on the board I don't know that I would be that

happy with other Mayors that we have had or future Mayors. I don't really know what the answer is. I would trust you to do it but there are a lot of other people that have been Mayors in the past that have not done too well with blurring the boundaries.

Mayor Lozeau

I just think the answer is the check and the balance. You are the check and the balance.

Alderman Cookson

I think I would concur with Mayor Lozeau's statement. We are the check and the balance. We have to rely on our Personnel/Administrative Affairs Committee to be prudent with their judgment on whether a candidate is appropriate for the board or not. I think I am in favor of having the Mayor be an ex officio member. I think the other part of the answer is that if we don't like what we see in future years, with enough flexibility in the bylaws and the articles, we will be able to change that if we see something happening that is inappropriate. I think I would like to move forward with having the Mayor be an ex officio member to make that odd number of the number of appointments that we have on this water commission. The Mayor would be that odd person.

Chairman McCarthy

Is that in the form of a motion?

Alderman Cookson

I think it could be cleaned up a little bit, but the idea is there.

MOTION BY ALDERMAN COOKSON THAT THE MAYOR BE AN EX OFFICIO MEMBER OF THE BOARD

ON THE QUESTION

Alderman Deane

Not basically pertaining to this article we are going to vote on, but how do we change this after the fact? This is the incorporated part of it? John, say we find out that we have an issue with some portion of what we want to adopt?

Mr. John Patenaude

The article allows the shareholders, and you are the shareholders, to amend the articles. That is where you have the power to change anything you would like to relative to articles. If it doesn't work a year from now or two years from now you can review the articles and change the articles because the shareholders have that right given within the articles today. As far as the bylaws go, the directors have the right to change the bylaws, but you also have a right to vote on that as well. You could change the bylaws to allow the bylaws to be amended by either the directors or the shareholders with some kind of a ratification. While it is not there today you can make that change.

Alderman Deane

But if we give the directors the authority to set the bylaws or we will set the bylaws prior to the directors being appointed or will the ...

Mr. John Patenaude

The bylaws you are setting today will be...they will become the corporate bylaws. To change those the directors could change them, but what you might want to do is put a caveat in there that they can only be changed by either the directors or the shareholders and if they are changed by the directors they need a shareholders' vote to be changed.

Alderman Sheehan

Write that down.

Alderman Deane

What he said was if the directors are going to change the bylaws that they also have to be approved by the Board of Aldermen.

Mr. John Patenaude

In this case we would call it the shareholders.

Alderman Tabacsko

Of which there are only 15.

Alderman Deane

But the shareholders could do away with that process as well right?

Mr. John Patenaude

The shareholders can change the articles and could make that change. It could change any...

Chairman McCarthy

The bylaws provision is essentially in there now in the language that says the shareholders can repeal changes to the bylaws right?

Mr. John Patenaude

Correct.

Alderman Deane

So the motion is to make the Mayor a full time compensated ex officio member...

Chairman McCarthy

Is there any further discussion?

MOTION CARRIED

Chairman McCarthy

Back to the number of directors.

MOTION BY ALDERMAN DEANE THAT THE TOTAL NUMBER OF DIRECTORS BE NINE (9) INCLUDING THE MAYOR

ON THE QUESTION

Mr. John Patenaude

Can I ask you to make that a range because the...

Alderman Deane

A range of 5-9 including the Mayor?

Mr. John Patenaude

You could do that right, but just give yourself...the only reason I say a range is that if you get one director that passes away or gets sick and has to resign then you have that flexibility in the numbers that gives you time to hunt for somebody else you are not stuck and saying oh my God I have to have 6 or 9 or whatever it is.

Alderman Pressly

He said 3-13.

Chairman McCarty

What precludes that...this board has 15 members. If there is a vacancy we still meet we just meet with 14 members instead of...

Mr. John Patenaude

In here and the bylaws what you want to give yourself is...the bylaws don't say you have to have 9 or 6 or whatever they say the number of directors is a range between X and Y so that...if your bylaws say that you will have 9 directors and if you have 8 technically you could be in violation of the bylaws...

Chairman McCarthy

Because the concept of a vacant position is not recognized?

Mr. John Patenaude

Right. You want to give yourself some flexibility.

Chairman McCarthy

So we want to make that 5-9 then?

Alderman Tabacsko

Is that Alderman Deane's motion?

Alderman Cox

Seven to nine.

Chairman McCarthy

Six to 8 appointed directors and the Mayor and...

Alderman Clemons

Five to nine is I think what...

Alderman Deane

Could he amend my motion without my permission/

Chairman McCarthy

I'm asking you if you want to make it 5-9.

Alderman Deane

Alderman Clemons can. It doesn't matter to me how many people. I think you should put it up to 13. It doesn't mean the Mayor has to run out and fill the entire thing, but it can operate with 5 for a quorum. You are going to need 5 for a quorum if you go 5-9. Say I f you go up to the 13 and there is some expansion in some areas of...

Mr. John Patenaude

You can always change the bylaws to go higher.

Alderman Deane

We want to try to think a little bit of the future. They wouldn't have to go back and do that they could look at it and say oh we can appoint one more person to handle this or whatever.

Mr. John Patenaude

I would just say 13 is a lot to get consensus and...

Alderman Deane

Just because the number is 13 doesn't mean the total number is going to be appointed.

Alderman Pressly

I thought that was John recommendation 3-13.

Alderman Cox

We feel that pain weekly.

Alderman Cookson

Thank you. I wanted to come about this number from a different perspective and that is the idea of making sure that other communities are represented in that number that we ultimately choose. What I would suggest or for your consideration is I am looking at page 6 of one of the documents that was passed out at the September 8th meeting, and it is called the Pennichuck Corporation Regulated Water Company's Community & Customer Count as of May 31, 2010, and it shows Nashua with 22,000 customers or 66% of the customer count, Litchfield with 5.4%, Londonderry with 5.3%, etc. etc. all the way down, and I am wondering if there is a

way that we can use the number of connections within a community to help drive the number of directors that we would ultimately have. If there is a community with excess of 1,000 connections that they would be considered having a role on this director board.

In this particular case on this table you would see Nashua, Litchfield, Londonderry, and Amherst, but you would see Derry has 999 connections so if Derry ever got another connection or more connections than the 999 they would also be considered as being able to have a role on this commission.

I like the idea of ranging. I like the idea of 5-13. Then I would also say 4 of those seats might be from other communities because they have excess of 1,000 connections. Or one of the ideas that Alderman Pressly had mentioned earlier was the idea of rotating so maybe they do not all have a seat at the same time, but at least each one of those communities would be considered because they have excess of so many connections.

Chairman McCarthy

What exactly was your motion Alderman Deane?

Alderman Deane

I am withdrawing my motion so it is nothing. I look at the havoc and turmoil it created and I apologize for that.

MOTION WITHDRAWN

Chairman McCarthy

Havoc and turmoil is good if it ultimately results in an agreement.

Alderman Cox

I concur with Alderman Cookson's suggestion. I would just suggest to take a look at it, and we don't have that information, but by volume. Volume of the communities because that is how they pay their rates.

Alderman Tabacsko

A word of caution; before we get too number centric here that we make sure that the clear majority is with us. Inviting some others to the table is a great idea and one that I think is very important, but I think if we are going to have whatever that is, if we're going to say 5-9 I would say we should set a minimum that at least 5 or 6 of those seats have to be from Nashua. The others can be from any of the other rate paying communities and maybe that leaves 6 and 3, and it gets to that same metric, but it is also giving us some protection in the vote.

Alderman LaRose

I think as Alderman Tabacsko said, the majority needs to be from Nashua. I would suggest that we have 2 members from outside of Nashua. We have toyed with the idea of they have to be Nashua residents, they have to be ratepayers, but some of these other communities we are excluding them from participating because you may have somebody who lives in Merrimack or one of the other larger communities that has the expertise that we could use. By saying it has to be a Nashua resident we lose that expertise. I think at the same time it gives the minority water users a say in what is happening with the water.

Alderman Sheehan

Thank you. I would like to make the suggestion that we use language that says a minimum of 70% must be from Nashua. That way if we needed to we could have 100%, but in no way could it go over 30% being from elsewhere. That way we have flexibility remaining, but there is room for others at the table.

Chairman McCarthy

If I could just give a concrete suggestion, if we were to pick a number of say 5-6 who are ratepayers residing in the City of Nashua and 2 others who are ratepayers in the system, which allows us to make those from any of the communities that are members, if we can't find somebody from the outside we can make then Nashua residents, but basically that would allow us to – if we said 5-6 who are Nashua residents and up to 2 who are simply ratepayers in the system that would give us a range of 5-8 plus the Mayor, which might achieve what we are trying to do.

Alderman Clemons

I think that is a good suggestion. My concern is with what Alderman LaRose was saying and that is that if you have somebody who is going to bring a lot of value to the table we don't want to exclude it too much. In other words, I actually think going a little bit further into that we may want to say that the majority of appointees be ratepayers but not necessarily all of them and not necessarily all of the folks who are appointed to this from Nashua necessarily have to be ratepayers either. As long as a majority of appointees on the board are ratepayers, and that could include the Mayor. In other words if the Mayor is a ratepayer and if we do 9 so if there are 4 others who are ratepayers we can still appoint another 4 that are maybe not necessarily ratepayers.

I just think we should make sure that we give ourselves the opportunity to appoint people to this board that have the expertise and we don't limit ourselves. Just to add to the numbers I guess.

Alderman Tabacsko

It occurs to me as Alderman Clemons is using the term ratepayers I have been throwing this around myself without really thinking what that means. Do we know how many residences in Nashua are exclusively on their own wells as opposed to being connected to this system?

Alderman Deane

There are a lot of them.

Alderman Tabacsko

I know there are a lot out in my part of town.

Alderman Pressly

There are very few, but there are some.

Alderman Clemons

There are a lot.

Alderman Cox

There are more than you think.

Alderman Tabacsko

I'm starting to wonder if ratepayer...

Chairman McCarthy

There are 22,500 connections in Nashua and there are about 28,000 parcels. There are about 6,000 who are not connected to...

Alderman Tabacsko

So what if we have a guy who is a resident, voter, taxpayer of Nashua that is also a geological engineer who wants to volunteer for this board, why wouldn't we want him on the board because he has a well?

Chairman McCarthy

I don't have a problem with that. I will say that at least one experience I have had with a person who was a major shareholder in Pennichuck and did not want them to expand in that person's community leads me to believe that there is a problem with the frailty of experts sometimes based on their geography. I am a little sensitive to it after seeing some of the arguments that were made there.

Alderman Sheehan

I think we need to be very careful with the term ratepayer because if I lived in say an apartment building but lived in Nashua, my landlord is the ratepayer, I am not. Conversely people who own a lot of property in Nashua and pay the rates don't live here. Both of those are situations we might look at a little bit differently. I think our language should be either or, a ratepayer or resident and we can...

Chairman McCarthy

I think you can use the term consumer or customer of the system instead of ...you can use language instead of ratepayer, which indicates the end consumer, which is I think what we are looking for.

Alderman Sheehan

I think we need to be careful.

Alderman Pressly

I think we do have to remember that there is only a certain group that pays for this and there will be citizens of Nashua who don't pay for this because there is not going to be a blurring of the boundaries. I also believe there are a lot of talented people and I think also there will be roles, once we get started on this there will be committees set up to assist the different water groups, and that people that have specific skills will have an avenue to be useful. I like what Alderman McCarthy has suggested and I do feel that even those who are outside of Nashua should go through the same selection process, through the Mayor and the Board.

Alderman Cookson

I'm just going to try to summarize my statements in saying I think five is too small of a committee to be made up of something so important. I think a minimum number that I would be comfortable with would be seven, including the mayor as the ex officio. I would like to see that number go up to 11 or 13 members. I think I'd feel more comfortable with 13. I absolutely concur with what Alderman Clemons was stating about the individual being cognizant about the term ratepayer. A person on a well should absolutely be considered for an opportunity with this board if they have the expertise. So I know we're concentrating on number, and we will get to skill sets and expertises and things like that that we would like to consider, but I think they should be

considered for an opportunity. Just because, and the case that I'm familiar with is Pennichuck chose not to extend the line so that they were forced to have a well. But the individual that I know is very competent and might be somebody that we would recommend to this board. In summarizing, I think seven would be a minimum number that I would feel comfortable with and maybe 11 or 13 members as that maximum number. I think we should have other communities participate in this. I like Alderman Sheehan's idea of setting a minimum standard, whether it be 70 percent or two-thirds of the board be comprised of Nashua citizens or ratepayers or whatever the ultimate terminology is going to be. A minimum of two-thirds be from the City of Nashua, and the other third of the board be made up of other communities surrounding.

Chairman McCarthy

Listening to your numbers, Alderman Cookson, and just thinking about it a little further, suppose we said the board consists of the mayor, as an ex officio member, up to nine Nashua residents – and we won't make the distinction that they be ratepayers which allows us to bring in other people – and three who are ratepayers in the system which would allow for three people from other communities who are in fact customers of the system.

Alderman Tabacsko

What were the numbers again?

Chairman McCarthy

The mayor, up to nine Nashua residents – and we'll make that seven to nine – and up to 3 ratepayers in the system.

Alderman Tabacsko

So you could have eight and three at the worse case in and out of Nashua.

Chairman McCarthy

You could have nine Nashua residents and three other communities for 12 plus the mayor would be the 13 that Alderman Cookson suggested.

Alderman Cookson

That would be the maximum. The minimum number would be if you had six ...

Chairman McCarthy

That would be the seven Nashua directors and none of the ratepayers, which would actually give you eight.

Alderman Deane

That would require seven for a quorum?

Chairman McCarthy

A quorum can be defined in the bylaws as half the number of directors, plus one.

Alderman Tabacsko

Half the number of filled directors?

Alderman Deane

You've got 13 people, so half the number is 6 ½ plus 1. That's 7.

Chairman McCarthy

In our Charter and our laws, we deal with the positions whether they are vacant or not. We say a quorum is eight because there are 15 positions. In this language when there is only eight directors appointed, a quorum is five because that's half of eight, plus one.

Alderman Clemons

Not to be contrary, but it's my opinion that 13 is too high of a number. Myself, I'm more comfortable with the seven to nine range, nine being the maximum including the mayor. The reason I feel that way is because I think more can get done in a smaller group. Conversely, that would put the due diligence on our part and the mayor's part to make sure that we top notch people in there. Not to say that that wouldn't happen anyway, but I think you dilute the field a little bit if you have a higher number – just in general.

Chairman McCarthy

If we allow the range of up to 13 then we can adjust it over time with the appointments and elect not to fill positions if we think it's burdensome.

Alderman Clemons

Sure.

Chairman McCarthy

I'd actually like to air on the side of caution in the beginning and get them to make good decisions instead of quick ones.

Alderman Cookson

Your response was similar to what mine would have been.

Alderman Pressly

I'd like to bring up an item related as to why I think it is important that everyone on this board should be a ratepayer. All the people on the current incorporation that are water specialists or geologists are hired. They are in the field. They are doing the actual work. The people in the corporation board are the ones that have a financial interest. Unless someone actually uses the product, pays for the product, they don't have a financial interest. So if we're structuring ourselves as a corporation, I know a lot of people too that say they are water specialists. There is one man that came to the regional every time. He presented himself as an expert. But I don't think he had well. I mean I think he did have a well, and he did not pay the rates.

Chairman McCarthy

The gentleman that you are referring to is the one who was the runner up for director of public works in Nashua, who had 20 years experience with the department of ...

Alderman Pressly

The man from Hollis?

Chairman McCarthy

Yes. Mr. Woodbury.

Alderman Deane

George Woodbury?

Chairman McCarthy

Ya.

Alderman Pressly

So he's sort of in that type of business. What I'm saying I think the corporation should be a different thing from a water expert because water experts are going to be hired. On the corporate board you want people that have a vested interest.

Chairman McCarthy

I want people who have expertise to make good decisions.

Alderman Pressly

I agree with that, but I also think having a vested interest is also important. They have a stake in the game. I think everyone who pays the rate would identify with that. I think with 22 hook-ups we've got some good decision-makers in the group.

Alderman Sheehan

I would just like to add that I don't think paying the bill is the only interest that someone has in a vested well run water company. There are a lot of people that live in Nashua that don't pay their water bill because their landlord does. There are people who have rented the same place for 20 years who don't want to be a homeowner, and as such they are not a Pennichuck ratepayer and we're precluding them if we say you have to be the one to write the check even though in their rent it's included because it's part of their rent. I think if we're going to define it as a ratepayer, we are severely limiting ourselves because of those 22,000 people, I could point to the road that I live on and I would say maybe 30 percent of the people that live on my street are ratepayers.

Alderman Clemons

And to follow up with that, just to add one more point to what Alderman Sheehan was saying, when you have a situation where somebody is a renter or maybe has a well but has family that lives in the city, whatever the case maybe, the quality of the water is certainly something that they are going to care about. That is something that the board is going to have to consider from time to time. To the point that was made that writing the check is not always the sole interest that is absolutely true.

Alderman Deane

I tend to disagree with all of this because whether you rent or own, that's like saying you're not a taxpayer but you take advantage of the city services because you rent. By God, the money that you give to the person who owns the house pays the taxes which provides services. Same with the water.

Alderman Sheehan

I understand. That's what we're saying.

Alderman Deane

I agree that we shouldn't limit it to people that rent. Indirectly they are a ratepayer with the fees that they pay to the landlord. There was discussion made earlier about the budget and having people that understand a budget. The operations of our enterprise accounts have gone, in some cases, terribly wrong. Wastewater Treatment Facility is one of them. They're an enterprise fund which is suppose to operate on the revenues that they derive, and their actions do affect my budget at my house because my sewer rates went up. It's the same with this water district. I think what this group has to do now is just decide on a number. Decide on a number, get it over with and then figure out who you're going to decipher, other than the mayor being an ex officio member – what that total number of people is going to be. If you're looking at down the road, I would go with 13. You don't have to fill the 13. Just go out there and if you go out to expand it, future boards aren't spending time debating whether they should add one position, three positions, five positions. We should just do it because if they are out there, it doesn't mean they have to filled. They have the availability if the board sees that there's a need for expansion in some area, they can appoint another person to the board. Thank you.

Alderman Cookson

I think a future exercise is exactly what Alderman Deane has stated. I think we need to apply some operational definitions to some of these terms that we are throwing around and really decide what term we're going to use and what it actually means. I agree with that. That's certainly something that we can take up at a future meeting. Alderman Clemons had suggested something a bit earlier which was again using the terminology "ratepayer" but saying that a majority of the make-up of that committee would be ratepayers so not excluding the other people that we may consider. I certainly would concur with that – that a majority of at least 51 percent of the people that make up this board, whether it be Nashua or the board as a whole, should be ratepayers so that you don't exclude an expertise from somebody that who necessarily isn't. And we will define "ratepayer" at a later date.

Alderman Tabacsko

I agree with that. The other point I was going to make is that I think then that the reality is that as we start trying to fill these appointments, we're going to find – particularly because I assume we're going to be looking at this as a volunteer board, or very low compensation – that we're probably not going to have many people who are not classic ratepayers or at consumers of the system that have enough interest in it to become involved. I think that kind of would take care of itself, but I do like the idea of stipulating in this initial setup that at least the 51 percent or some number of seats would be that way and then that kind of takes care of that from both ends. On the question of the number, I think let's do the range. My thought personally would staff it at the minimum to get open and grow into the bigger number or not depending on what we think how that is working.

Chairman McCarthy

I want to make one comment and then I'm going to restate mine as a motion. When we looked at the number of connections in Nashua, one of the things I don't know is how many connections a condominium

development counts as. If that is one or many. Because if it counts as one, that means the number of properties with wells is actually quite small.

Alderman Pressly

I think it's by hook-ups. Some condos have one hook-up. The newer ones have each unit hooked up.

Chairman McCarthy

I would be surprised if the number of wells in Nashua is more than 2,000 – 3,000 at the outside. Remember we have those primarily only in the R40 zone, although there are some from older properties. What I'm going to move is that we the number of directors be the mayor plus seven to nine Nashua residents and three ratepayers.

Alderman Clemons

Can you say that again?

Chairman McCarthy

Seven to nine Nashua residents and one to three ratepayers.

MOTION BY ALDERMAN MCCARTHY THAT THE NUMBER OF DIRECTORS BE THE MAYOR, SEVEN TO NINE NASHUA RESIDENTS AND ONE TO THREE RATEPAYERS

ON THE QUESTION

Alderman Tabacsko

That just allows those seats to be from outside of Nashua?

Chairman McCarthy

Correct.

Alderman Tabacsko

They could all be Nashua.

Chairman McCarthy

They all could be Nashuan's if that's what worked out.

Alderman Cookson

Can you just state the minimum number and the maximum number based on what ...

Chairman McCarthy

The minimum number would be seven Nashua residents, one ratepayer and the mayor, so that would be nine. The maximum number would be nine Nashua residents, three ratepayers and the mayor would be 13.

Alderman Clemons

So if I understand your motion then that would make it not in fact 50 percent or more ratepayers but rather Nashua residents.

Chairman McCarthy

Correct, and I thought about that. In the confirmation process, if we're worried about that, we can enforce it there. It allows us to pick on expertise from Nashua. I think you are going to be hard pressed to find people who are not ratepayers that will serve.

Alderman Clemons

Or at least consumers of the system.

Alderman Cookson

Why was it, if you could explain your reasoning, to have a minimum number of nine committee members and not a number smaller than that?

Chairman McCarthy

Because that's a reasonable, odd number.

Alderman Cookson

I thought five or seven were reasonably odd as well.

Chairman McCarthy

There's a comma in there. It's "reasonable, odd" not "reasonably odd." Because I didn't want to complicate the language much on the number of ratepayers. If we let the number of directors drop to five, then you have to worry about do we have only two Nashua residents and 3 other people on there. So if we do that, even with seven Nashua residents and the maximum number ratepayers, we still have 70 percent representation on that board. If we want to do that as the minimum number of Nashua residents to be six or five, I'm comfortable with that as well. That would make for a board that was seven to thirteen.

Alderman Clemons

If we did five to nine, is this what you just suggested? Five to nine Nashua residents, and one to three ratepayers. At five Nashua residents, plus the mayor, you've got six.

Chairman McCarthy

It's still 6 to 3. So I will change to five to nine.

AMENDED MOTION BY ALDERMAN MCCARTHY THAT THE NUMBER OF DIRECTORS BE THE MAYOR, FIVE TO NINE NASHUA RESIDENTS AND ONE TO THREE RATEPAYERS

ON THE QUESTIONAlderman Tabacsko

Then you've got a bigger range.

Alderman Sheehan

It was when you were discussing the number of hookups. I was just going to remind you that most businesses have a hookup, so yes; I think our numbers are skewed. I don't think that represents residences.

Chairman McCarthy

But I think the number of business properties are all represented in that 22,000. There's a discrepancy between that and the number of parcels. I think they may have to do to a large extent with condominiums and multi-families. We have 28,000 parcels and dwelling units.

Alderman Deane

I thought we weren't going to use the word "ratepayer."

Chairman McCarthy

I used ratepayer in that case because that's the language that allows someone who is outside of Nashua but must be a ratepayer of the system.

Alderman Deane

Why? Don't we get back to the smart guy that's drinking well water, and he'd be an asset.

Chairman McCarthy

We do.

Alderman Deane

I would get away from that.

Alderman Clemons

One to three...

Alderman Deane

I was trying to see how Bell California set up their water district, but the whole city is in jail. I don't think you should have ratepayer in there. I don't know who said it earlier, I think it might have been Alderman Sheehan, that you don't want to limit the Mayor's ability or a town's ability to say hey we have this person that doesn't drink your water, but has an interest in the future of the system that may be coming to our community some day who wants to serve on this board, and you will say well since the pipe doesn't run to his house he is not qualified, he is not allowed to serve. I would just have it as three ...

Alderman Cookson

Three representatives of communities serviced by?

Alderman Clemons

Yes.

Alderman Tabacsko

Okay because that is what I...

Alderman Deane

The pipe might run there, but it might not run far enough up the street to get to the person's house.

Alderman Cookson

Might not get to them, but if their community is serviced by Pennichuck then they should be considered.

Chairman McCarthy

Okay so do we want to make that 5-9 Nashua residents and 1-3 who are residents of communities serviced by the system?

Alderman Clemons

Yes.

Alderman Tabacsko

Yeah. I like that because can't forget that what we are trying to do here is be somewhat inclusive for the PUC so we need to make that reference to the other towns in the system.

Alderman Pressly

That seems like a lot to me. We started out with 1 and now we are up to 3. They have 3 and we have 5?

Alderman Tabacsko

Six. The absolute worst case is 6-3. More likely at the high end it is

Alderman Clemons

The worst case is 5-3, but even still...

Alderman Sheehan

In answer to your concern, one of the things we have to consider is if it looks palatable that we are inviting everyone to the table there is less likely to be resistance because there could still be challenges to this purchase if people feel like they are not going to have a voice in other communities.

Alderman Pressly

I think the challenges that are going to come have already decided what they are going to do. We can pretty much identify which towns.

Mayor Lozeau

It doesn't preclude the PUC from looking at this negatively, and that is the balance I think that Alderman Sheehan is talking about and that John mentioned earlier...

Alderman Pressly

I am just thinking it seems like I think we are being very generous and as long as we realize I think we are, if that is what you want fine, but you look at the percentages.

Alderman Tabacsko

Alderman McCarthy the motion that you just presented, at the one extreme the lowest number...

Chairman McCarthy

The lowest number would be 5 Nashua residents and the Mayor versus the highest number on the other side is 3 so we would have 2/3 of the board...

Alderman Tabacsko

So 6-3 is the worst case ...

Chairman McCarthy

Correct.

Alderman Tabacsko

And 10-3 is the maximum fill.

Chairman McCarthy

Correct. And in terms of number of connections, Nashua has just about exactly 2/3 of the connections so it is not giving potentially 25-33% of the seats is not overly generous it is approximately generous.

Alderman Tabacsko

It actually kind of fits. I like the way the makeup that we are talking about fits this chart.

Chairman McCarthy

Is there further discussion of the motion?

Alderman LaRose

Who made the motion?

Alderman Deane

Alderman McCarthy did.

MOTION CARRIED

Chairman McCarthy

Terms.

Alderman Tabacsko

Staggered.

Alderman Clemons

I would propose a staggered term as Alderman Tabacsko just said, but a staggered four year term. That would be my suggestion. I think three years kind of makes it odd. At least four years is kind of more...

Alderman Cookson

Even?

Alderman Clemons

I guess it is predictable, but...the other thing is I would not suggest term limits, and term limits meaning that not in the sense that obviously it is a four year term, but not limiting the number of consecutive terms that one can ...and my reasoning behind that is this board and the Mayor have the power to, if we feel that someone has been on there too long or someone is not doing an effective job, then we can just not confirm them or the Mayor can not re-appoint them.

Chairman McCarthy

We have term limits in voting because we vote. In the abstract they are always proposed as a way to control the other guy. I would suggest if you want to make that as a motion of four year terms that be four year terms with no more than three terms ending in the same year, which works out with our maximum of 12 appointed directors.

Alderman Clemons

That was the other thing I was going to say, which is why I kind of picked four because they had 12 plus it concurs with the Mayor's term as well although I don't know that will match up depending on the timing of the thing, but that is not really too big of any issue.

MOTION BY ALDERMAN CLEMONS THAT THE TERMS BE FOUR (4) YEARS WITH NO MORE THAN THREE (3) COMING DUE EVERY YEARON THE QUESTIONAlderman Sheehan

I would just like to suggest that I would prefer it not match a political season and that it is a longer range because a business often needs to take a longer range goal. I would prefer a term of 6 years actually and staggered still, but I would prefer 6 years.

Chairman McCarthy

The problem I think we will have with that from my experience with getting people to serve on these is it is very difficult to get anybody to sign up for a 6 year commitment.

Alderman Sheehan

So noted.

Alderman Tabacsko

I agree and in fact I am concerned about that with the four year suggestion. I think that you suddenly knock a whole lot of people out of consideration when they see that it is a four year term just because human nature being what it is, it just seems to me people are going to say oh 4 years that is a tremendous commitment, I don't know that I could make that. I like the continuity, but I think that we are recruiting, again I am assuming we are recruiting volunteers, that a shorter period and maybe, and I don't know how the math would work, but to do the staggered but you have out of all of these seats you have some at 4, some at 3, maybe even some at 2 so that you can say to somebody we will bring you in on a two year term and make sure you get acclimated and then your re-appointment maybe is on a four year term or something like that and give some flexibility there. It could be a nightmare to manage I'm not thinking through the math on this. I am looking at it from a recruiting standpoint that this is going to be a recruiting effort that is going to take some doing.

Chairman McCarthy

I think that gets complicated and may be worrying too much about...I would really like to start out with a simple term and see how that goes. The term is long. If people won't sign up for it that is one problem. If people get into it and resign that is actually no different than if the term were shorter.

Alderman Clemons

Right.

Alderman Tabacsko

My point is I think that there are people that would not even consider having the discussion with the Mayor knowing that it is a four year commitment where they would if it were a two or three year commitment. We're all here because we are nutty enough to sign up for these things.

Chairman McCarthy

The numbers work if you reverse the three and the four and we make it a three year term and no more than four per year. We can consider that.

Alderman Tabacsko

For whatever it is worth, I would prefer at least knocking that 4 down to a 3, 3 year term.

Alderman Deane

For the record I am not a nut.

Alderman Tabacsko

I didn't say we are nuts I said we are nutty.

Alderman Deane

For the record I am not nutty. If you want to put things in perspective, I can't get people to sell hotdogs once a week for 3 months in a concession building for an hour and a half a night. I think pushing people out into a 6 year term...I agree with Alderman Tabacsko you are not going to get people to commit to that. They will be committed somewhere else before they will commit to that although I respect the idea. I think we should go out in staggered terms of appointment. I think we should lay out how those terms are staggered; if the first person had a two year, the second person had a three year, the third person had a four year...

Chairman McCarthy

That is what the motion that is on the floor ...

Alderman Deane

But it doesn't explain that.

Chairman McCarthy

Well it says they are staggered to set that up so we would basically, the day it started we would have...assume there are 12 directors on that day, 3 of them would have 4 year terms, 3 of them would have 3 year terms, three 2 years, and three 1 year so that the appointments happen at 3 per year after that.

Alderman Tabacsko

And then after that they would go into that cycle of either four per year at...

Chairman McCarthy

The initial terms are set to be different from the four year term they serve otherwise.

Alderman Deane

So you still have the ugly sweater hanging on the rack syndrome where the Mayor might end up finding people that will do 1, 2, or maybe 3, but 4 year terms nobody has an interest.

Chairman McCarthy

Correct.

Alderman Deane

So why would we not just make it at a three year term, that way...

Chairman McCarthy

Because we would have 3 years to correct it if we found that to be the problem with the staggered terms.

Mayor Lozeau

With Manchester's two 3 year terms doesn't that still accomplish what we are talking about so if somebody does ...

Alderman Deane

Let me ask you this Mayor what is the longest appointment that you give to someone for anything else that you appoint them for like planning and...

Mayor Lozeau

Three years.

Alderman Deane

Three years. That is the longest.

Mayor Lozeau

If I am right....

Alderman Deane

I thought everything was two years..

Chairman McCarthy

The boards are almost all three.

Alderman Deane

Okay so I wouldn't exceed that. I would stay within that privy of 3 and then do as Alderman Clemons had stated.

Mayor Lozeau

There are a couple that still have, you will have 1 at 3 years, 1 at 2...there is still some of that.

Alderman Sheehan

I think Alderman Deane brought up a good point when we ask people to volunteer it is very hard to find, and I think that very few corporate boards are served and filled by volunteers. I think we are putting the cart before the horse perhaps in not having first the discussion is this a paid or non-paid board position. I don't know any corporate boards that have unpaid board members.

If we want to look like a corporation, act like a corporation, walk like a corporation, we might need to pay like a corporation. If we want to have good fiduciary responsibility, if we want people to actually show up and do the work, if we want people with high levels of expertise, those aren't generally the people who have a lot of free time. I think we might be doing this out of order. You are right recruitment revolves around what is in it for me. There needs to be a value placed. We are looking for a high value to be brought to the board, but what are we looking to give in return? The honor of coming here and shaking hands when they are appointed to the board does wear thin after three years I am sure, but I think that is a very important discussion that perhaps needs to come before this one because it does change I think our candidate pool.

Chairman McCarthy

I would like to finish this one and then we will come back to it after that if we need to.

Alderman Sheehan

Okay.

Alderman Tabacsko

I have to agree with Alderman Sheehan. All of my thinking at this point has been that this would be a volunteer board, but that doesn't look very corporate at all, and I would imagine that there must be... we will bring this up when we get there. As it stands right now if we need to just establish the terms at 3 or 4 years I would vote for 3, but whatever the majority says...

Alderman Cookson

Is there a motion on the table?

Chairman McCarthy

The motion was to make it four year terms no more than 3 per year and the initial terms would be staggered.

Alderman Cookson

I think, based on this conversation that we have had, I think I would suggest switching it to a three year term with no more than four expiring at a time on initial staggered terms of 1, 2, and 3 years.

Chairman McCarthy

I will ask that maker of the motion if he is willing to substitute that language.

Alderman Clemons

Sure. Well before I do that I hesitate in doing that only because actually no that is perfectly acceptable. It is perfectly acceptable to me if there are no term limits. I can agree to that if there are no term limits. If there are term limits I think it should be a four year term.

AMENDED MOTION BY ALDERMAN CLEMONS THAT THE TERMS BE THREE (3) YEARS WITH NO MORE THAT FOUR (4) COMING DUE EVERY YEAR AND THAT THE INITIAL TERMS BE STAGGERED

ON THE QUESTION

Chairman McCarthy

So everybody has heard the motion, three year terms, no more than 4 per year, and staggered initial terms.

Alderman Deane

No more than four appointments per year.

Chairman McCarthy

Correct.

Alderman Deane

What if we have...

Alderman Clemons

With the exception of the first year.

Chairman McCarthy

Yeah and vacancies. Vacancies...

Alderman Deane

So you added that to the motion?

Alderman Clemons

I just added it, with the exception of the first year.

Alderman Deane

I pity the person that is going to try to figure out what these motions were. I think we should read the motion in its entirety with the exceptions as Alderman Clemons just stated with the vacancies and...

Chairman McCarthy

I think somebody, probably Mr. Patenaude is going to try to adopt language that expresses this and I think he has been here for the discussion enough to understand it.

Mr. John Patenaude

Plus you will get the review of the past. I would view this as a vote to give me directions on how to get these changed and you will get to review the final drafts.

Alderman Deane

What are you going to be reviewing the minutes once they are typed?

Mr. John Patenaude

Notes going through here.

Chairman McCarthy

He knows what we meant.

Alderman Deane

We are going to have minutes transcribed for the public to review too. I think they should be pretty solid on exactly what our intentions were and not leaning on what we meant, but what we actually voted upon. I think we should have a formal motion. It is kind of sloppy.

Alderman Clemons

Can you repeat the motion please?

Chairman McCarthy

The motion is that the terms be three years with no more than four per year, the initial terms will be staggered so that they expire at no more than four per year. That is all we need right?

Alderman Deane

I thought you added an exception prior to...

Alderman Clemons

I would add to that with the ...

Alderman Tabacsko

That is covered in the way he worked it...

Alderman Clemons

Yeah it is.

Chairman McCarthy

Initially 12 directors would be appointed or up to 12 directors would be appointed for staggered terms.

AMENDED MOTION BY ALDERMAN CLEMONS THAT THE TERMS BE THREE (3) YEARS WITH NO MORE THAN FOUR (4) PER YEAR, THE INITIAL TERMS WILL BE STAGGERED SO THAT THEY EXPIRE AT NO MORE THAN FOUR PER YEAR

ON THE QUESTION

Alderman Sheehan

Shall we put terms to expire no more than four year because we could have defections and people's terms are automatically going to expire? If someone had to step down or someone was deceased and their term wasn't going to expire for another two years...

Chairman McCarthy

Oh the terms of no more than ...

Alderman Sheehan

Right because if we lost 7 in a year and we couldn't replace but 4 of them.

Alderman Tabacsko

That is right because we are dealing not with the positions, but with the filled spots.

Chairman McCarthy

Yes, so we will change that to terms of no more than three years.

AMENDED MOTION BY ALDERMAN CLEMONS THAT THE TERMS BE NO MORE THAN THREE (3) YEARS WITH NO MORE THAN FOUR (4) EXPIRING PER YEAR, THE INITIAL TERMS WILL BE STAGGERED SO THAT THEY EXPIRE AT NO MORE THAN FOUR PER YEAR

ON THE QUESTION

Alderman Cookson

I just have to ask based on that language does it address the concern of a seat being vacant? I didn't hear that being resolved by this motion.

Chairman McCarthy

Yes because the person who is appointed to fill it would be filled for a term of less than three years such that it met the stagger requirement for ...

Alderman Cookson

But if there can be no more than four appointments per year...

Chairman McCarthy

No more than four appointments expiring per year.

Alderman Cookson

Okay so that was the language you added the term expiring?

Chairman McCarthy

Right.

Alderman Cookson

Then there is another piece of the motion that says someone can be appointed for a term no longer than...

Chairman McCarthy

Three years.

Alderman Cookson

In the instance of a vacancy or...

Chairman McCarthy

In general and we would set the terms up so that they expire in the right order.

Alderman Cookson

Okay.

Alderman Cox

Just to fine tune that, if someone has three years and they resign and they have two years remaining someone will be appointed for the two years remaining.

Chairman McCarthy

Correct.

MOTION CARRIED

Chairman McCarthy

Restrictions on who can be members – we wanted to exclude members of the Board of Aldermen or city employees correct or municipal employees of other communities in the service area.

Alderman Cookson

I think with the caveat that after a certain period of time once they sever ties with that body or municipality that they are certainly able to be considered for an opportunity should it arise.

Alderman Tabacsko

What is a reasonable timeframe?

Alderman Pressly

I think the feds have 1 year.

Alderman Cookson

One year, two years.

Alderman Cox

I think two years.

Alderman Pressly

Manchester has two?

Alderman Cookson

Two. I think Manchester has done it well for over 100 years and their language says three year terms. They have term limits, but we didn't adopt that, but they also state that there should be a two year severance before applying for that position. I would be comfortable just adopting that language.

Chairman McCarthy

What was the language?

Alderman Cookson

I believe Alderman Clemons can make direct reference to the two-year severance.

Alderman Cox

I believe the language he stated was specific to board members. That is their term limit; no more than 2 unless you leave for two years and then come back for consideration.

Alderman Tabacsko

I think it was worded something to the affect of until at least two years has passed since the last whatever and we would...

Alderman Cookson

That was in the original charter language right Alderman Clemons?

Alderman Clemons

I don't know if it was in the charter language or if it was an ordinance that was passed after the fact. I think it was actually an ordinance that was passed.

Alderman Deane

Three fourteen I believe.

Alderman Sheehan

Is that the June 30th '71?

Alderman Deane

Three one four.

Chairman McCarthy

I have some language that I think will do it because we have an additional complication it appears to me. Let me make this as a motion and then we can discuss it.

MOTION BY ALDERMAN MCCARTHY THAT NO PERSON SERVING AS A MEMBER OF A GOVERNING BODY OR MUNICIPAL EMPLOYEE OF A COMMUNITY SERVICED BY THE UTILITY SHALL BE ELIGIBLE FOR A POSITION ON THE BOARD OF DIRECTORS UNTIL TWO (2) YEARS HAVE PASSED SINCE THE END OF SUCH SERVICE

ON THE QUESTION

Alderman Tabacsko

That seems to address ...so this is elected or employed...

Chairman McCarthy

Governing body covers our Board of Aldermen and the Boards of Selectmen in the towns.

Alderman Clemons

What about like on the Board of Public Works or something like that? Would that include those boards as well? Obviously if someone is on the Board of Public Works we want the same thing to happen. That board particular I think.

Alderman Cookson

Boards and elected bodies?

Alderman Clemons

If it is the Board of Education I don't really think that is going to have too big of a role, but the Board of Public Works I think is a little bit different. The Board of Aldermen whereas we are the shareholder that is different.

Alderman Cookson

Could we say elected members of the governing bodies of

Alderman Clemons

Maybe we just spell it out and just say...

Chairman McCarthy

The problem with elected members in general is in Nashua that cuts out the Selectmen, the Ward Clerks, the Moderators, the Board of Education, and God knows what elected positions in the towns...

Alderman Cookson

But if you said boards made up of elected officials it would not exclude those people that you just mentioned, the Selectmen, the Moderator, etc. etc. If you have boards of elected officials it would include the Board of Education in Nashua, but it would also include the Board of Public Works. I am not sure how that would translate to other communities...

Chairman McCarthy

I don't think the problem for the most part exists anywhere else because our Board of Public Works is somewhat unique so I guess what I would do is just add that language.

AMENDED MOTION BY ALDERMAN MCCARTHY THAT NO PERSON SERVING AS A MEMBER OF A GOVERNING BODY OR MUNICIPAL EMPLOYEE OF A COMMUNITY SERVICED BY THE UTILITY OR AS A MEMBER OF THE BOARD OF PUBLIC WORKS IN NASHUA SHALL BE ELIGIBLE FOR A POSITION ON THE BOARD OF DIRECTORS UNTIL TWO (2) YEARS HAVE PASSED SINCE THE END OF SUCH SERVICE

ON THE QUESTION

Chairman McCarthy

We can add the fire commission and the police commission if we want to. Seems unnecessary.

Alderman Tabacsko

Same way with the library trustees and the ...

Alderman Deane

Don't forget about the Hunt Building Trustees too.

Alderman Clemons

We may want to add the Mayor on that list as well or do we not want to add the Mayor to that list?

Chairman McCarthy

The Mayor is an ex officio member so...

Alderman Clemons

But after they serve their term and their term is done...

Mayor Lozeau

Well ex officio means by virtue of your position.

Chairman McCarthy

His point we don't want you taking a cushy job at the board of directors...

Mayor Lozeau

Oh you are in that part, I am sorry.

Alderman Clemons

This is after...

Mayor Lozeau

This is about as cushy as I can stand.

Alderman Tabacsko

We don't want you lining up the retirement job while you are ex officio.

Mayor Lozeau

I get you.

Alderman Clemons

Are there any other cities that may have Mayors?

Chairman McCarthy

Not art the moment.

Alderman Pressly

They are all towns.

Chairman McCarthy

However, some of them have Town Managers.

Alderman Clemons

That would be a city employee though wouldn't it?

Chairman McCarthy

Yes.

Mayor Lozeau

There are no other Mayors. We only have 13 Mayors in this State.

Chairman McCarthy

We will put another sentence in there that says the Mayor shall not serve as a member after the expiration of the Mayor's term for at least two years.

Alderman Deane

Here is a simple sentence that might work Alderman McCarthy: The Mayor and Aldermen shall seek broad geographical representation for membership. Right you get rid of all of that crap. You are writing the bible over there now.

Chairman McCarthy

There is a specific set of people we don't want to give these positions to and I am simply trying to represent the will of the board.

Alderman Deane

If you look at it though the will of the board is going to be the majority of the board. What we are trying to do now is stifle the attempt to bring any of these individuals forward for confirmation?

Chairman McCarthy

Yes.

Alderman Tabacsko

For two years after you are off the board or out of...

Chairman McCarthy

Your point being that the confirmation process can achieve that without any additional language in the articles of incorporation?

Alderman Pressly

But that is good language to put someplace in there.

Alderman Tabacsko

What does it say again?

Alderman Deane

I guess if you do the votes in public it depends on who has....

Chairman McCarthy

You are suggesting we don't need this exclusion to be codified at all correct?

Alderman Deane

My suggestion is you would hope that the Mayor whomever it may be wouldn't be doing stuff like that and whoever the board is that is sitting here says hey look this is wrong. I think laying all of this stud out ...then again maybe you need to have it in there.

Alderman Pressly

It is a good safeguard.

Alderman Clemons

I would say that you need to have this type of language. An example that may come to mind would be that okay a Mayor retires or the Mayor is done with their term and the next Mayor comes in and says well gee you know who would be really good to serve on the board is the Mayor that was just here for the last four years. That I think although that may be true and in the case of a private citizen that would be an exception that we would probably want to make, in this particular case it becomes a political issue, and I think that we want to make sure that two year period is there for anybody that has served on the Board of Aldermen, the Board of Public Works or in the Mayor's Office or a city employee.

Chairman McCarthy

Let's just decide whether to put this in or not so I will give you the language that I have down right now.

Alderman Deane

I wonder if they were a union president representing a union and they retired and the same union is now part of the water district, do we allow that person to go in?

Chairman McCarthy

No because they would have been a municipal employee.

Alderman Deane

Any former municipal employee is not eligible to serve?

Chairman McCarthy

For two years.

AMENDED MOTION BY ALDERMAN MCCARTHY THAT NO PERSON SERVING AS A MEMBER OF A GOVERNING BODY OR MUNICIPAL EMPLOYEE OF A COMMUNITY SERVED BY THE UTILITY OR AS A MEMBER OF THE BOARD OF PUBLIC WORKS IN NASHUA SHALL SERVE AS A DIRECTOR UNTIL

TWO (2) YEARS HAVE PASSED SINCE THE END OF SUCH SERVICE. THE MAYOR SHALL NOT SERVE AS A MEMBER OF THE BOARD AFTER THE EXPIRATION OF THE MAYOR'S TERM FOR AT LEAST TWO (2) YEARS

ON THE QUESTION

Alderman Sheehan

With the exception of the Mayor, which I think makes sense to leave it two years, I am curious as to why we are using a two year standard when in most industries there is a one year non-compete. I just think that we might have or other communities might have somebody who retires that after a year it might be enough time where they still have some value.

Chairman McCarthy

Because Manchester's said two years.

Alderman Sheehan

I think industry standard is generally a one year non-compete.

Alderman Tabacsko

Now that you say that I think one year for employees and board members and two years for the Mayor kind of makes that distinction that ...I could support that. I think that would make sense.

Chairman McCarthy

Okay.

Alderman Cookson

In that first sentence, I think after you identify the government official or the municipal employee I think it should state somewhere shall be considered or shall not be considered for a position on the board of directors until whether it be a year or two years whatever is ultimately decided, but I think it is the consideration of their appointment versus being appointed.

Chairman McCarthy

What is the distinction?

Alderman Cookson

Depending on what the process ultimately is for having them be appointed by the Mayor and be adopted by the Board of Aldermen, I think the distinction is that, based on their retirement date, you have two years before they are considered or one year before they are considered.

Chairman McCarthy

What is the difference between consideration and service though?

Alderman Cookson

I think it is just the timing of when it comes before the Board of Aldermen and the Personnel/Administrative Affairs Committee.

Chairman McCarthy

I'm not understanding what it is you want to change in the sentence.

Alderman Cookson

The change that I am suggesting is that they should not be considered for that appointment until two (2) years have passed rather than being on two years they have a position on that board.

Chairman McCarthy

I see. So their name can't be considered...it basically makes it two years and three months under...okay.

Alderman Deane

At least is not less than is that what we are saying?

Chairman McCarthy

Yes. They can't be in the confirmation process while the two years is being...

Alderman Tabacsko

So that three month window before the expiration keeps that person out of that until the full two years...

Alderman Clemons

It depends on when the terms are.

Alderman Deane

Look I think John has it written down, let's change it again.

Chairman McCarthy

So it now reads as follows; no person serving as a member of a governing body or municipal employee of a community served by the utility or as a member of the Board of Public Works in Nashua shall be considered for board membership until a year has passed since the end of such service. The Mayor shall not serve as a member after the expiration of the Mayor's term for at least two years. If we want to make that same change shall not be considered ...

Alderman Flynn

If I am an elected official I can't be on this board correct?

Chairman McCarthy

Correct.

Alderman Flynn

But if I am on this board can I run for an elected position and keep my position on the board?

Chairman McCarthy

I believe you would have to resign were you to be elected.

Alderman Flynn

Does that say that there?

Alderman Clemons

We should clarify that.

Alderman Flynn

Didn't we have some kind of controversy with Mayor Streeter? I was thinking when he was serving at the State level and he was the Mayor of the City of Nashua. I think he was allowed to do that.

Chairman McCarthy

He was still an Executive Councilor. Actually the way this is written with changing it to consideration you are right the person could stay on the board after being elected.

Alderman Flynn

Especially if it is a paid position. I would think he would argue that he could, with that wording he would argue that he would want to keep that position and serve the public as well.

Chairman McCarthy

I think that is an argument for going back to shall serve as rather than...

Alderman Clemons

We could also do a separate section if you will or a separate paragraph after that and keeping Alderman Cookson's suggestion and then another identifier that says no one ...

Alderman Cox

Any sitting board member.

Alderman Clemons

Yeah.

Alderman Deane

You could put it in under conflict of interest.

Alderman Clemons

Right.

Chairman McCarthy

Let's take care of this one first and we will come back to that.

Alderman Sheehan

If I could just make a quick comment I think this has already come up before, with zoning boards because people on zoning boards have been appointed or elected here and then dropped so it might be easier just to look at that language and adopt similar. But it would need to also be for if they got a job with one of the municipalities not just if they got elected so if they got a job with that city of X, Y, Z.

Alderman Deane

I am kind of lost with what you are saying.

Alderman Sheehan

When Alderman Vitale won her seat she gave up her seat on the Zoning Board of Adjustment, but we don't only have to consider whether someone is elected we would need to consider whether they were hired by one of the municipalities if they enacted something that was a qualifying event.

Chairman McCarthy

If we just changed the language to say no person serving shall be eligible for a position on the board of directors for a period of two years after I think that covers the case of someone who becomes an employee or an elected official during their tenure on the board.

Alderman Sheehan

Okay.

Alderman Deane

Is that part of your motion?

Chairman McCarthy

Let me change the wording back.

Alderman Deane

Are you following that John?

Mr. John Patenaude

The wording in the articles won't be this precise trust me. Your intent will be reflected.

**AMENDED MOTION BY ALDERMAN MCCARTHY THAT NO PERSON SERVING AS A MEMBER OF A GOVERNING BODY OR MUNICIPAL EMPLOYEE OF A COMMUNITY SERVED BY THE UTILITY OR AS A MEMBER OF THE BOARD OF PUBLIC WORKS IN NASHUA SHALL BE ELIGIBLE FOR BOARD MEMBERSHIP UNTIL A YEAR HAS PASSED SINCE THE END OF SUCH SERVICE. THE MAYOR SHALL NOT BE ELIGIBLE FOR BOARD MEMBERSHIP AFTER THE EXPIRATION OF THE MAYOR'S TERM FOR AT LEAST TWO YEARS
MOTION CARRIED**

Alderman Deane

Are we going to go over the veto process with these appointments too?

Chairman McCarthy

No that is already covered. We have a flowchart in the back. Compensation might be a good thing to talk about next. It is getting late. Do we want to continue?

Alderman Tabacsko

The first question I would have is that in the existing model, the existing board of directors, there is a level of compensation currently that is probably a lot bigger than what the number is popping into my head.

Chairman McCarthy

Best described as handsome.

Mr. John Patenaude

Actually I have those from the proxy next year. I don't have it right at hand, but ranges between \$18,000 and \$21,000 for the year.

Alderman Tabacsko

And then does that also include travel expenses?

Mr. John Patenaude

That includes everything.

Alderman Tabacsko

I know in some cases there is a stipend for being on the board and for the travel and other... The different question to that is what we are contemplating here is definitely not a full time position. How often does this board ...

Chairman McCarthy

The Pennichuck board I believe meets quarterly if not on...

Alderman Tabacsko

If the current budget for a similarly sized board is averaging \$15,000 per year per member and we made this board I don't know pick a number. Is it \$1,000 just so there is something there or do you try to make it so that you are attracting talented people and compensating them at \$10,000 for education?

Mr. John Patenaude

If you have a minute, I have the schedule in front of me here and each non-employee member of the board of directors receives a \$10,000 annual fee. In addition they get \$600 for each board meeting and committee meeting they attend whether in person or in telephone. They get an additional fee of \$1,500 if they serve on the audit committee. The chairman of the board receives an additional \$5,000, and that's about it.

Alderman Deane

That sounds like enough to me.

John Patenaude

That's their structure

Alderman Deane

That doesn't include the food and everything else, right?

John Patenaude

Oh no, it doesn't.

Alderman Tabacsko

But the point is that we're running a company now, and we need people that can do that. That would seem to be the market rate, what we just heard. So what do we think we can do in the city is the question.

Alderman Pressly

Maybe we should take a look at what the different boards in the city are paid and sort of tie it in with that.

Alderman McCarthy

I can answer that. Nothing.

Alderman Pressly

What about this board?

Alderman McCarthy

This board and the board of education and the elected boards are the only ones that are currently compensated.

Alderman Pressly

Okay, so I'm just thinking that we can maybe relate to that, maybe tie it into something that the city has.

Alderman McCarthy

I think the point is that it doesn't relate to that. It's the question of we are running a corporation. If we're trying to hire directors based on their qualifications that that is more likely to happen in a compensated board. From my part, I don't have a strong opinion on it one way or another but I don't know that I would support \$1,000. If

it's close enough to volunteer, it should be volunteer. If we're trying to attract people for their qualifications we should put a number out there that will attract qualified people.

Alderman Clemons

I think that we should be trying to attract obviously the most qualified individuals that we can find. At the hazard of throwing out a number and having it eaten alive, I guess I would propose that maybe \$1,000 per quarter since there are quarterly meetings. At the 12 appointees that would be \$60,000 a year that we would be expending for that, which is not a lot of money.

Alderman McCarthy

Forty-eight thousand, but whose counting.

Alderman Clemons

I'm sorry, \$48,000. I was thinking the \$5,000 that we get. I'm sorry.

Alderman McCarthy

I'm feeling better about that prohibiting aldermen on the board.

Alderman Clemons

It's getting late.

Alderman Deane

Is the mayor getting compensated as well?

Alderman Clemons

Well that was the other thing. I would say that we would exclude the mayor from that compensation.

Alderman Deane

There are four meetings a year.

John Patenaude

Minimum.

Alderman Deane

How many meetings did they have last year? They were paid "x" per meeting, right?

John Patenaude

They have a base plus they receive \$600 for each meeting. They would have had at least four meetings. What happens a lot of times is in these acquisition processes is that if you have a phone call that lasts ten minutes, they won't collect their fee. If you have a phone call that lasts three hours then you are paying their fee: \$600. It depends on how many meetings you want to have.

Alderman Sheehan

Is it feasible that we will be taking highly qualified professionals away from their normal day-to-day activities for hours at a time for meetings or would this be something nights and weekends such as we operate?

Alderman McCarthy

I think that's up to the board.

Alderman Clemons

Just to clarify the number that I threw out there was \$4,000 a year total, \$1,000 per quarter, not per meeting. Just to clarify.

Alderman Tabacsko

I'm looking at it more from there's "x" amount of dollars spent last year. I'm sure we can figure this out prior to this stuff. What has been their average board compensation – probably a number something on the \$100,000 level I would guess.

John Patenaude

Over that.

Alderman Tabacsko

Over that?

John Patenaude

Roughly \$150,000.

Alderman Tabacsko

We could be looking at a much more attractive number going for qualifications and still be under that and still be frugal. This is a cost that is coming out of the rate. It's going to be less costly if we manage it properly than what they are spending right now. I'm sure we can do that. I'm afraid that if we go to this low end, comparable to what this board is doing, we're just not going to get the people that we need there.

Alderman McCarthy

Choose your words really carefully, Alderman Tabacsko.

Alderman Tabacsko

Well, we want to make this work. I would rather air on the side of finding out that maybe we were a little too rich initially and we can scale that back over time than to go the other way and find out that we can run the darn company because we don't have the right people on the board of directors. I would rather go towards something on that higher end, certainly manage it to something significantly percentage – 10, 15, 20 percent even less than what their last several years of spending has been and back into even deeper from that.

Alderman Cox

I would much rather see it be set up, and I don't know exactly how John listed the stipends, but \$7,500 a year. A stipend for the officers on the board, those that commit to be the chairman, the treasurer, the secretary, however we structure this, and then a stipend for whoever is going to be on the committees. That adds up to a meaningful, but it's also the people who are getting more are willing to do more and commit extra time in going over and above.

John Patenaude

Just as a clarifications. The officers are not directors. They are management.

Alderman Cox

Chairman of the Board?

John Patenaude

The chairman is. The chairman is an officer. He's the only director.

Alderman Cox

Officer of the company.

John Patenaude

In a lot of companies that chairman is not a management officer of the company. He's an officer of the board. The officers typically in a lot of new "governance" officers are not required to serve on the board. It goes back to the old Disney and everything else going back to officers and directors being intermingled. Here, the officers aren't paid a stipend here. First instance, Montopoli is not paid any additional funds from his salary for being a board member. He's on the board but that's it. He's not paid any incremental dollars.

Alderman Cookson

I don't think we should make any decisions on compensation this evening. I'm glad you guys threw out some numbers, but we basically have one set of data. We have one data point and that is what Pennichuck paid their board of directors. I think if we're going to do our due diligence that we should look at other board of directors, other comparable companies, whether it be American Water, other utilities, and get some more data points so we can make an accurate decision. None of us know what a board of director should be paid. Therefore, I think we're going down a road that we shouldn't be going down this evening. I think we can get the data and we make an educated decision at a future meeting.

Alderman Deane

I was going to make that motion. I don't think we should be discussing compensation any longer. John, I don't know if you have any suggestions for compensation.

John Patenaude

I can get some comparable data.

Alderman Deane

That would be my request, Alderman McCarthy. John, if you could prepare us something to look at obviously with some little explanation behind how you came about. I would appreciate that anyways so we have an understanding and we move off this compensation. I don't think we should spend anymore time discussing it.

Alderman McCarthy

I'm going to get Alderman Sheehan's comments.

Alderman Sheehan

I was going to suggest the same thing. It's late and we might want to think on this one.

Alderman Cookson

I just wanted to do a process check. I know we're working on this information trying to come up with some direction on this so it can be incorporated into the DMA which will ultimately be adopted. What's that timeframe now? What is that date that we're driving toward completion so that you have the information that you need to.

John Patenaude

I would say we want to complete this no later than October 14th, 15th because that only gives us a week to incorporate everything back. That's the time when we are looking to complete due diligence as well.

Alderman Cookson

Thank you. So that just gives us a couple of weeks to really solidify. So again based on one of the first comments that I made this evening, I think we need a guided discussion so at future meetings when we pull this group back together, we've got an outline of what it is that needs to be addressed. While we flushed out the points this evening and Alderman McCarthy did a good job of saying this is the point that we're talking on now, I think we need to have a lot of that stuff down ahead of time to say this is the discussion that we are going to have for the next hour.

Alderman McCarthy

I have about a dozen more on the list. I will talk to John and see what else there is that's going to be big topics, and we will try to have an outline for the next time. You're correct. We did do much better after we started going through it item by item.

Alderman Cookson

It still took a half hour to make every motion though.

Alderman Sheehan

Sometimes that happens.

Alderman Cookson

I understand.

Alderman McCarthy

That's the efficiency of a 15 member board.

Alderman Cookson

We were very efficient after we got it written down, but still it took us a half hour to make every single decision that we made this evening.

Alderman Pressly

That's okay.

Alderman Sheehan

It's important.

Alderman Cookson

I absolutely concur with that, but that also speaks to we may not be able to accomplish what we need to by the 14th or 15th of October if we meet once a week. I'm just concerned about the timeframe.

Alderman McCarthy

The problem there is if we didn't do it that way, on these topics because they are fairly broad, it was important to get some idea of where individual members came from before a straw man vote got put on the table. I think on some of the ones that are coming up like removal there are some concrete proposals that we can just put down as do you agree with this or not. I'll work on trying to get those in place. Don't string us up if you don't like what's on the paper that gets handed out.

Alderman Cookson

I think it will be helpful to have that conversation and have it guided.

Mayor Lozeau

I think that the plan that we came in with last week was meant to provide that structure. I really thought we were going to start with that tonight because people took it home. It just didn't work out that way.

Alderman Cookson

We just didn't use it. It was there. We didn't use it.

Alderman McCarthy

We had gotten through that at the last meeting. The issues that we did tonight are ones that are nebulous to whether we wanted to go in the direction.

Alderman Clemons

What else was on the list for this evening that we didn't get to? I'm just curious

Alderman McCarthy

What's on the list this evening are: qualifications, removal, vacancies, compensation, age limitations, holdover at the end of terms, advertising for openings, other communities, bylaw change approvals and what to do when somebody is elected. I think we actually did knock a bunch of those off. I think the language we just did covers the elections.

Alderman Pressly

I think we did okay.

Alderman McCarthy

The holdover we need to put language in, but we had that discussion. Other communities, we actually covered. And we talked a little bit about compensation.

Alderman Clemons

Can I make a motion to remove any mention of age limitations?

Alderman Tabacsko

I agree. I'd be happy to support.

Alderman McCarthy

Okay.

MOTION BY ALDERMAN CLEMONS TO REMOVE AGE LIMITATIONS ON BOARD MEMBERS

ON THE QUESTION

Alderman Deane

Have they been suggested and recommended? Has a motion been made to add them? Your list there is nothing more than a hit list. It's nothing we've..

Alderman Clemons

But they are in ..

Alderman McCarthy

They are in the current articles of incorporation.

Alderman Deane

But we're writing our own, are we not?

Alderman McCarthy

No, we were basically going to apply changes to those at some point.

Mayor Lozeau

That map that we just mentioned that was handed out.

Alderman McCarthy

We're not starting from whole cloth. We're trying to figure out what things are important to us. If we want to decide that there aren't age limitations, I think that's a good thing to have a decision on.

Alderman Deane

So basically we're taking their bylaws and we're amending them with our suggestions and then removing what they have there that we don't agree with.

Alderman McCarthy

Yes.

Mayor Lozeau

And then adding anything you want to add that they haven't covered.

Alderman Sheehan

You could put an age limitation on the other end, and say they must be at least 21.

Alderman Deane

I wouldn't do that. It's discrimination.

Mayor Lozeau

The girls and the boys?

Alderman Deane

If you're old enough to drink, you're old enough to serve on the water committee.

Alderman McCarthy

I think we should do that in the confirmation process. If Doogie Howser comes in, we may want to it out.

Mayor Lozeau

You can be a state legislator at 18.

Alderman Tabacsko

It could be prodigy.

Alderman Sheehan

That's why I brought it up.

Chairman McCarthy

So the motion is to remove age limitations. Is there any real discussion of that?

MOTION CARRIED

Alderman Deane

We don't have to close this meeting, do we?

Alderman McCarthy

We do.

Alderman Deane

Why?

Alderman McCarthy

When you continue it to another night, it really should be convened as another meeting.

Alderman Tabacsko

We can do the non-public motions in and out again. So we have to come out of non-public.

Alderman Sheehan

Attendance could change at the next one.

John Patenaude

What's in there is the negotiated DMA, settlement agreement, and schedules relating to the settlement agreement that we got to ... Those are the documents if you want to go through them.

Alderman Deane

Are we going over this tonight, too?

Alderman McCarthy

Why not!

MOTION BY ALDERMAN DEANE THAT THE COMMITTEE SEAL THE MINUTES OF THE NON-PUBLIC SESSION BY ROLL CALL UNTIL SUCH TIME AS THE MAJORITY OF THE BOARD VOTES THAT THE PURPOSE OF THE CONFIDENTIALITY WOULD NO LONGER BE SERVED

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

Yea: Alderman McCarthy, Alderman Pressly, Alderman Tabacsko, Alderman Cookson, Alderman Cox, Alderman Clemons, Alderman Deane, Alderman LaRose, Alderman Sheehan, Alderman Flynn

10

Nay:

0

MOTION CARRIED

**MOTION BY ALDERMAN DEANE TO COME OUT OF THE NON-PUBLIC SESSION AND RETURN TO THE
REGULAR MEETING OF THE PENNICHUCK SPECIAL WATER COMMITTEE
MOTION CARRIED**

ADJOURNMENT

**MOTION BY ALDERMAN TABACSKO TO ADJOURN
MOTION CARRIED**

The Pennichuck Water Special Committee meeting was adjourned at 10:30 p.m.

Alderman Jeffrey T. Cox
Committee Clerk