

A special meeting of the Board of Aldermen was held Wednesday, May 30, 2007 at 6:30 p.m. in the Aldermanic Chamber.

President David Rootovich presided; City Clerk Paul R. Bergeron recorded.

Prayer was offered by City Clerk Paul R. Bergeron; Alderman McCarthy leading in the Pledge to the Flag.

The roll call was taken with 10 members of the Board of Aldermen present; Alderman MacLaughlin was recorded absent. Aldermen Cookson, Plamondon, Tollner, and Williams arrived after the roll was taken.

His Honor Mayor Bernard A. Streeeter and Corporation Counsel David R. Connell were also in attendance.

### COMMUNICATIONS

#### **MOTION BY ALDERMAN TABACSKO THAT ALL COMMUNICATIONS BE READ BY TITLE ONLY MOTION CARRIED**

From: Mayor Bernard A. Streeeter  
Re: Special Board of Aldermen Meeting

#### **MOTION BY ALDERMAN TABACSKO TO ACCEPT AND PLACE ON FILE MOTION CARRIED**

### NON-PUBLIC SESSION

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

#### **SECONDED BY ALDERMAN LAROSE**

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

Yea: Alderman Tabacsko, Alderman McCarthy, Alderman Flynn, Alderman LaRose, Alderman Dion,  
Alderman Bolton, Alderman Richardson, Alderman Deane, Alderman Teeboom, Alderman Cookson,  
Alderman Rootovich

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Nay:  
**MOTION CARRIED**

### President Rootovich

For the record, Aldermen Cookson and Williams have joined us. With us this evening we have Attorney Alan Reisch once again who is going to give us an update on our progress with respect to Pennichuck.

### Alan Reisch, Esq.

Good evening everybody. There has been a great deal of progress and a number of developments since I last appeared before the Board of Aldermen and Mayor. Let me try to take them in order. I will give them to you in summary form without going into enormous detail. As you may recall there was an issue involving the necessity of the city to dissolve Pennichuck Corporation if it acquired it, and that would have triggered a very very large federal and state tax liability. In the interim we prepared an amendment to the existing statute that would have neutralized that problem. It was introduced as an amendment to a senate bill, it was approved unanimously by a senate committee, it is now on the calendar for consent. It will be effective immediately upon passage and signature by the Governor. There is no political opposition and unless

something develops in the next 7 days and there is nothing that is anticipated, the amendment will become law and any legal impediment to the city continuing to own the shares of Pennichuck Corporation will be removed. This matter has been reviewed and approved by bond council. They have seen the statutory amendment, they have approved the form of it, and that would be sufficient based on that to support their legal opinion, which would be necessary to the bond offering.

In terms of the price negotiations, we have followed strictly the model that was laid out for you and that you prescribed for our negotiating position, which was \$30 a share and an aggregate of \$250 million in bond indebtedness. We have not deviated from that. There have been constant attempts to try to drive us above that price on a fixed price basis. We have told them no. Somebody compared the problem of convincing Pennichuck that is an absolute fixed number to hitting a mule with a 2 x 4, you have to do it a number of times to get the message across, but I think the message is understood.

You may recall that there are certain assets that Pennichuck owns that the city would not be permitted to retain after it acquired Pennichuck. Principally those are something called the HECOPs; they are the partnerships that were set up with John Stabile and the water service company, which is a non-regulated entity. Bond counsel had been clear those could not be maintained by the city following the closing. None of the financial results or the values of those entities were included in any of the calculations or assumptions that Mr. Sansoucy has made.

We have discussed with them disposing of those assets along with something called Parcel A and some cell tower parcels that are also extraneous to the city, and allowing them to take whatever net proceeds are generated from them and add them to the \$30 a share that the city has proposed. This has no financial affect whatsoever upon the city, it does not affect the Sansoucy models, the cash flows that were prepared, and no assumptions were made about realizing any values of those in terms of putting together the bond package.

We are going through some tax modeling right now to make sure that we understand what if anything the tax impact would be of Pennichuck selling those assets. We believe that there will be sufficient expenses, deductible items to completely shelter any tax generated by those transactions. As I understand it, they have already initiated discussions with Mr. Stabile about selling the HECOPs, the commercial partnerships. They have had an inquiry or two on the water service company, which they are pursuing and they have someone interested in the cell towers and the so-called Parcel A, which is the parking lot adjacent to the Fidelity property.

We are about a week away from being able to generate an acquisition agreement that sets forth the views that we would recommend to the city. As you know, the moratorium, the stay period was extended until July 17th. Despite a lot of protests from Pennichuck when we had submitted our proposal that the offer was inadequate, it was obviously sufficient to engage their attention and to continue them in the process of negotiating with the city and also to come out very publicly in support of the statutory amendment. They are now on record as having indicated that they were in favor of removing any obstacle to the city acquiring Pennichuck. There were headlines in the Telegraph and in some other newspapers indicating that they had publicly taken that position.

The negotiations have been spirited. We spend a long time in the room with them. We meet once or twice a week. We hammer away at the details. The other remaining issue of major significance right now is what happens if the agreement is signed but the deal cannot be completed because for instance the cost of money increases. You will recall that once the agreement is signed there is a whole separate PUC regulatory proceeding that needs to take place to approve the transfer of ownership from Pennichuck to the city. Other towns may or may not be interested in that. They may intervene and want to be heard. We don't know yet exactly what position they will take on that. This will take some time. Mr. Upton spoke to the PUC staff within the last couple of days and while they seem to be strongly in favor of this they anticipate

the hearings will take a while to be held and concluded, and during that interim period of time of course the cost of money can fluctuate and a significant fluctuation in the cost of money might make financing impossible based upon the model that we are talking about. I hasten to add that there have been no indications so far that the fed or any other authorities are anticipating major fluctuations, but anything or course can happen during a period of 4-6 months.

If this agreement is signed we are assuming the earliest it could be closed would be toward the end of 2007 and possibly early in 2008 again largely because of the regulatory process and the need to make sure that becomes final and non-appealable before the bonds are sold in the market place.

That I think is your global view of where we are. Just to reiterate very briefly while they are still attempting to push us north of the \$30 price we are absolutely adamant in refusing to go beyond there. We have told them that if they can ring a few extra dollars to add to their pot by selling off the assets that we know the city has to dispose of anyway that we will stand by and let them do that, but the city is not going to add anything more to the table itself either in terms of the per share price offered or in the aggregate amount of bond indebtedness that it will underwrite. I would be happy to answer any questions?

President Rootovich

Are there any questions?

Alderman Richardson

I am trying to figure out what the wisdom is of having Pennichuck be the one that disposes of the HECOPs and the service company. It would seem to me that they are not motivated to find the best dollar value for those properties. Could you talk to that?

Alan Reisch, Esq.

I'd be happy to. There are two issues; first of all bond counsel has made it very clear that from the moment of closing the city cannot own those assets. They are ineligible assets and continuing to own them after the closing would subvert the entire bond writing process and would affect their opinion. The second part of it is that since they would share in the proceeds on a formulaic basis, they have every incentive to try to do the best that they possibly can to the contrary. What they want to do is to have the first \$7 million in aggregate proceeds added to the pot plus 50% of anything over \$7 million. They have every incentive possible to maximize it within the time they have to do it.

Alderman Richardson

I'm sorry I missed that. Those are new numbers to me. Could you do that again?

Alan Reisch, Esq.

If they can realize \$9.5 million or \$10 million from the sale of these assets none of which were included in the city's calculations, they would take the first \$7 million and would add that to the purchase price. Our purchase price stays at \$30 they can generate \$7 million if they can declare a dividend to their shareholders they are free to do that. Anything over \$7 million in net proceeds would be divided 50/50 between the city and Pennichuck.

Alderman Richardson

I guess I am still confused by that.

Alderman Teeboom

Seven million goes to Pennichuck and the ...

President Rootovich

Alderman Richardson do you have any further questions?

Alderman Richardson

The \$30 a share includes those properties right? The \$245 million ...

Alan Reisch, Esq.

The \$30 a share acquires everything except the properties that we couldn't acquire in the first place. We could not own service and we could not own the HECOPs. The city simply couldn't own them. These are extraneous operations, companies that were set up by Pennichuck. None of them have any bearing whatsoever on the core water facilities on the treatment plan on any of the watershed properties. They are completely ancillary business ventures that Pennichuck entered into.

They have to be disposed of. They cannot be owned following closing.

Alderman Richardson

Okay.

President Rootovich

Are there further questions?

Alderman Teeboom

Let's go back to the legislation and then we will step forward. You started off with amendment to SB 460, that didn't fly, Mark Sousa was able to jump around and get to an amendment to SB 206. Last I checked there were 15 votes yeas in the House committee correct?

Alan Reisch, Esq.

Correct.

Alderman Teeboom

However, they amended it as well if I remember right although I wasn't there when they did the amendment. How did they amend it?

Alan Reisch, Esq.

Can I have Mr. Sousa answer that question he was directly involved with the legislation?

Mark Sousa

When we were in the hearing at the House, two issues came up. One was a sunset provision that they had discussed. We are not against a sunset provision. The problem we had with it was the timing of it because you don't know when this actual deal closes completely. They could do it one year and then in a year if the deal is not completed and the shareholders aren't completely sold and whatever Wall Street does it is out of our control and the whole deal dies in a year. Rob Upton mentioned ten years, which kind of made the House members sit back and say ten years is a little bit too long. That was the first issue. The second issue was that there was some confusion, and only in the testimony was there confusion. All along we have always said that this deal will have to go to the PUC for approval. We have said that and the company has said that. What happened is the PUC's general counsel went up and I think he confused the process a little bit for some of the House members and he made it sound like they didn't need approval, but he was talking about a business deal and not talking about a municipal deal. It confused the House members.

We knew there were two issues that were going to come up so what we did after is we drafted some language that put the sunset provision in there and put language in there for the PUC approval. The sunset issue, the Chairman was able to kind of put aside because it doesn't really matter, if the deal goes it goes, and no other entity can do this it is strictly a Pennichuck/Nashua deal the way the amendment reads so that provision went away. The second provision was the amendment for the PUC approval, and that was added into the amendment. That was the only thing added.

Alderman Teeboom

So that is a House Committee vote on a senate bill, now goes to the full House for a vote. If it is a consent ....

Mark Sousa

It was 15/0 out of committee on the consent calendar. The process is there are two separate calendars every day that the House goes in session; one is a consent calendar and the second is the actual calendar. When the votes become a 15/0 type vote or an 18/0 type vote typically there will be no opposition to it so the Chairman of the committee explains what they did and just puts it on the consent calendar, therefore, they don't have to stay there for 9 hours on bills that had a 15/0 vote, it is not necessary for them to vote on it because they typically listen to the Chairman's explanation. That is every session, every time they meet. It is on the consent calendar. Unless someone requested it come off the consent calendar, it will go through. Once they leave the consent part of the calendar and go to the regular calendar that passes so the consent is through.

Alderman Teeboom

Okay but any member can ask to take it off the consent calendar.

Mark Sousa

With a majority vote.

Alderman Teeboom

Oh it takes a majority vote to take it off the consent calendar alright. So now the House passes it, what happens then? Does it have to go to conference committee?

Mark Sousa

No. It does not go to conference committee. My e-mail to all of you I think mentioned that it was on the calendar for this week. What had happened was it was in committee late the day it was due and the calendar closed at 1:00 p.m. on the day they had the hearing. They didn't leave the hearing until 3:00 p.m. so it didn't get bumped onto this calendar for this week so it is actually on next week's calendar on the 6<sup>th</sup>. Everything has to close by the 7<sup>th</sup> so if it leaves the House consent calendar over to the Senate, all the Senate has to do is to agree with the amendment and it is done. There is no committee of conference.

Alderman Teeboom

And everybody in the Senate is going to agree?

Mark Sousa

Well with any luck. We will ask them to concur.

Alderman Teeboom

That is your job right?

Mark Sousa

Yes. I have spoken to quite a few of them and there is absolutely no opposition at this time.

Alderman Teeboom

Okay so you are a key guy to make that happen.

Alan Reisch, Esq.

He is absolutely the key guy to make that happen.

Alderman Teeboom

That is what I thought. I suggested to Mayor Street that he put a guard on him. Okay well now that we understand that part let me go back and ask you about the HECOPs. The last time we talked, HICUP is both the real estate and the non-regulated service companies right?

Alan Reisch, Esq.

HECOPs are actually a series of four partnerships of which we are talking about 3 that were set up with John Stabile. It is the Heron Cove properties. It is just an acronym for whatever they are. The service company is a separate entity.

Alderman Teeboom

Okay so now that is valued at this point at \$10 million?

Alan Reisch, Esq.

It was never valued at all. It has no value whatsoever for transactional purposes. It was never valued, never considered by Sansoucy, never part of the equation.

Alderman Teeboom

I know that, but still I remember last time you came here we talked about sharing that 50/50 so what is the estimated value of those HECOPs?

<The following highlighted material was previously removed as “REDACTION 1”>

Alan Reisch, Esq.

They hope to get something like \$9 million out of it before transactional costs.

Alderman Teeboom

What is the service company worth?

Alan Reisch, Esq.

I'm doing this from memory; I think they think they can get \$2 million or \$2,250,000 for that.

Alderman Teeboom

Let's say \$11.5 million and come back to Alderman Richardson's question are you telling us now the first \$7 million goes to Pennichuck and the remainder like \$4.5 million would be shared 50/50?

Alan Reisch, Esq.

That is what I am telling you. That is what I would recommend to you if I had a deal to bring in front of you tonight.

Alderman Teeboom

And that is a change from the last time you were here because the last time you said it was 50/50 down the line.

Alan Reisch, Esq.

That is what we had proposed to them. You may recall that was in my letter to them. The process of negotiation does involve a process of dialogue back and forth on the substance of the issue.

Alderman Teeboom

I understand. Now last time you were here we gave you a certain amount of money to do inventory. Where does the inventory stand?

Alan Reisch, Esq.

You mean the due-diligence?

Alderman Teeboom

Yeah the inventory, find out what all of the assets are all about, unless that is not appropriate any more.

Alan Reisch, Esq.

Many of the processes are completed. The one as I told you last time that we have held back on because we want to avoid the burn rate until we had a sense that there would be the prospect of a deal was the environmental. That is queued up and ready to go. There is some more work that Veolia wants to do, but that is really on the operational model as much as anything else. We have some further tax analysis that we have to do, but it really gets back to the question of the impact of selling these so-called extraneous assets because we need to know what the expenses and deductions are to see if there is going to be any net tax liability generated by that sale. That is a key calculation that we are going through.

Much of the other due-diligence has been completed.

Alderman Teeboom

One of the things you were going to check on was if there were any polluted area.

Alan Reisch, Esq.

That is the environmental.

Alderman Teeboom

Yeah.

Alan Reisch, Esq.

As I said, that is what we held back on because we did not want to incur the burn rate until we had a sense that the deal was taking shape and that there was something to bring to the table. That is ready to go.

Alderman Teeboom

So in a stock transaction do you buy all of the polluted stuff and everything else with it?

Alan Reisch, Esq.

You buy everything.

Alderman Teeboom

I once bought a company and they wanted me to buy the name of the company and the stock. I refused to do it and found out they had a lot of obligation with that company. Fortunately I didn't do it.

Alan Reisch, Esq.

You were very well advised.

Alderman Teeboom

Right, but in the stock whatever is there is there polluted or not it is there.

Alan Reisch, Esq.

The other thing I would remind you is they are a public company they have a very strong independent duty under securities law to report all major contingencies including pollution. If they have any idea that they are sitting on a superfund site they can't just keep their mouths shut and sit there they need to disclose that probably in an 8K as an extraordinary event that is material to the marketplace.

Alderman Teeboom

But nothing like that is known at this point?

Alan Reisch, Esq.

No. We have reviewed the securities filings.

Alderman Teeboom

We are still sticking with the \$250 million and the Sansoucy model that shows after the first year I think Nashua ratepayer pays less under Nashua ownership than under Pennichuck ownership.

Alan Reisch, Esq.

Yeah as I recall, and again I don't have it in front of me, they were essentially flat lined for a couple of years and then there was a hockey stick deviation.

Alderman Teeboom

Now the PUC still has oversight. What would they consider strongly? It goes back to them and I understand because I heard the counsel speak to it at hearing and I was there and he talked about public interest.

Alan Reisch, Esq.

Yes absolutely.

Alderman Teeboom

That is still something they have to consider, value, I am not sure with the stock sale that is still appropriate, but he certainly mentioned public interest. What are some of the public interest triggers that might say we don't think it is in the public's interest?

Alan Reisch, Esq.

Well this is entirely speculative on my part, but I suppose if they took a look at the financial models and said look we don't believe for a minute that you can really support the viability of the rates that you are forecasting here and we think your rates are going to be exponentially higher than they would be under private ownership, that could be a factor. These numbers have been scrubbed by Mr. Sansoucy and analyzed and re-analyzed any number of times. We should bear in mind that the bond underwriters and the

financial consultant, First Southwest, has been examining these independently and while they have not gone through a tick in time, checked every specific entry that Sansoucy has made, that has been a very substantial reality check because these people have to go out into the market place and sell the bonds, and if the numbers don't have the support that they need they are going to have egg on their face at the very least.

Alderman Teeboom

Did they express concern like I have expressed concern about the fact that the bonds are continually renewed every 6 years, they are paid off and then there is a renewal, and then it is paid off and there is a renewal every 4 or 6 years. I forgot the cycling, but there is cycling and the cycling is such that that aggregate of the bond always keeps increasing and never gets lower than the initial so the \$250 million just keeps increasing...

Alan Reisch, Esq.

As I recall, that is because of repair and replacement, and the answer is no First Southwest has never expressed any concern about that.

Alderman Teeboom

They express no concern about that?

Alan Reisch, Esq.

No.

Alderman Teeboom

Thank you.

President Rootovich

Are there further questions?

Alderman Cookson

I have some questions about SB 206. As I review the draft that was submitted on May 3, 2007, I see provisions about the City of Nashua is authorized to purchase the stock of Pennichuck or one or more of its subsidiaries. The City may acquire and hold such stock as provided above. The acquisition of stock rather than the direct acquisition of plant and property...are we still going to dissolve the company or will we have shareholders based on this amendment?

Alan Reisch, Esq.

The city will be the sole shareholder.

Alderman Cookson

Will be the sole shareholder?

Alan Reisch, Esq.

What we are looking at Alderman mechanically right now is well the technical term for it is a reverse triangular merger, but setting up a transitory acquisition sub and having that merge into Pennichuck. The older Pennichuck shareholders will have their old shares converted into cash whatever the dollar amount is, and the shares in the acquisition sub, which are held by the city, will then be converted into new Pennichuck shares. When all of the dust settles and the magic wand is waved, the city is the sole owner of Pennichuck and its subsidiaries.

Alderman Cookson

Will that happen I believe a date that you gave the closing was to happen either at the end of 2007 or the beginning of 2008. Is that what you are indicating will happen at that particular time or are you saying that the PUC will potentially give approval for this transaction and we will be able to begin that transaction and have it take place or will everything be complete and the wave of the magic wand as you had indicated?

Alan Reisch, Esq.

Everything has to be complete. There is no way the bonds could be underwritten if the PUC approval was still pending.

Alderman Cookson

Thank you.

President Rootovich

Are there any further questions?

Alderman Teeboom

Even though the language in the law change doesn't say that, we contemplate 100% ownership.

Alan Reisch, Esq.

Yes.

Alderman Teeboom

Is there any contemplation of 90% ownership or 95% ownership if this thing falls through?

Alan Reisch, Esq.

Absolutely not. 100% ownership.

Alderman Teeboom

That wouldn't fly?

Alan Reisch, Esq.

No it wouldn't fly and to be quite blunt about it I wouldn't bring it into these chambers.

Alderman Teeboom

Okay we are going to be talking about a \$750,000 issue. Is this the right time to talk about that Mr. President?

President Rootovich

No, we will do that out of non-public Alderman Teeboom.

Alderman Teeboom

Is that going to be done in public?

President Rootovich

Yes.

Alderman Teeboom

Okay I want to talk to you about the \$750,000. We are asking for more money towards this I guess our investment of making sure this happens. Is all of the \$750,000 going to go towards review and consulting and attorney fees?

Alan Reisch, Esq.

Actually a relatively modest portion of it is going to attorney fees. Ms. Anderson I think can address the numbers much more clearly than I can, but as I understand the numbers, a substantial portion of that represents money that is budgeted for Veolia, the work that it is doing on the operational transition, there is some money in there for Sansoucy, but you will recall that Sansoucy is deferring a portion of his fees as are we and as is Mr. Upton. There are some other things in there as well, but if you don't mind I would like to defer to Ms. Anderson to give the details on that.

Alderman Teeboom

Well we can talk about this in public session or non-public, but I will want to know the details and the most important thing I want to know is is there going to be any more money besides the \$750,000 as we go forward.

President Rootovich

When we come out of non-public Alderman Teeboom Mrs. Anderson has some pretty detailed spreadsheet she is going to share with us.

Alderman Teeboom

The question I want to ask is is it going to be more spending than beyond the \$750,000. That is the question I would rather not ask in public, but if you want to do it I will ask it.

President Rootovich

Corporation Counsel do we have any issue with asking that in public session?

David Connell, Esq.

I guess it depends on whether the answer has to do with the discussion of the litigation strategy. If it is purely a...

Alderman Teeboom

Sure does.

President Rootovich

Alderman Teeboom ask your question.

Alderman Teeboom

The question is are we going to be asked to spend more than \$750,000 and this is on top of \$3.2 million. \$3.22 million has been budgeted so far. That came directly from the report that you gave us.

Carol Anderson

I have an updated one this evening too on those costs to date. What we are mostly focusing on because the original amount that was recently transferred, we have expended that or will be expending that and then we have worked on a budget with Alan Reisch's office, and with also Rob Upton's office trying to come up with some funding. Attorney Reisch is correct it is not so much with the attorney fees because we have that, but we have the environmental assessment that needs to be done, we have, as he has indicated, some more tax issues to work through. That has to be worked through with Vitale, Caturano. We have an actuarial we need to be working on. We have additional fees for Veolia that need to be incurred. There is still some more due-diligence work to be done on their part. There is also with Rob Upton, with Skip Sansoucy, and with Beck.

Alderman Teeboom

Okay. The sheet you handed out is very close to the sheet you gave us of the completed project, so \$3.22 million was budgeted. I won't quibble about \$20,000. But we are talking about \$750,000 more on top of this.

Carol Anderson

Right.

Alderman Teeboom

The question I have is is that the end of it?

Carol Anderson

What I would say is we are hoping that will get us through to a definitive agreement. That is the plan to get through that.

Alan Reisch, Esq.

If I may supplement that, Alderman Teeboom there are two significant additional processes that this transaction has to go through if and when the contract is signed. The first is PUC approval. We will not be participating in that in any material way except to comment on how things in the proceeding might affect the transaction. That would be presumably an Upton & Hatfield fee. I would not be in a position to even begin to estimate what that might be. The other of course is the issuance of the bonds is the other major transaction. I should add a third, the whole process of closing. But all of those expenses as I understand it in addition to others, can all be bonded up as part of the, and they are all budgeted as part of the \$250 million.

Alderman Teeboom

I understand that. The last time you gave us a breakout you had \$7-9 million of transition costs if I remember right. You had a fairly large number for the transaction costs.

Alan Reisch, Esq.

It was even larger than that I believe.

Alderman Teeboom

But that was all going to be part of this \$250 million bond. The price was not \$250,000 I just added it up to the total bond being no more than \$250 million when you did all of the addition. I am talking about the money here we are transferring from taxpayer funds, and my question is does that take us to a go ahead on the bonds or is there going to be another time to come back here again and we need more money to add from taxpayer money.

Carol Anderson

I guess what I would say is that we are hopeful that by July 16<sup>th</sup> if we have a definitive agreement then we will be coming back to you with that definitive agreement and then at that point in time then we need to begin the process of authorizing the bonds. Once the bonds are authorized then we wouldn't be looking so much for more current monies, we would be able to charge against the bond once it has been certified by bond counsel. That is going to be a critical point that when we get that definitive agreement we need to move on that because we also need to start planning on when we will be going through the rating process and the official statements. All of that needs to be moving and we will need the bond authorization at that point.

We may need, I am not saying we are not going to need any more money at that point. We may have an interim between the time that the definitive agreement comes through and the time that the bond is certified. We may need some cash. But at that point in time we will know and we will be able to reimburse once the bond is sold.

Alderman Teeboom

Okay so this \$750,000 sort of gets us to the definitive agreement, we know we have an agreement, we know we have a deal it is just a matter of closing the deal.

Carol Anderson

Right and...

Alderman Teeboom

But the \$750,000 is still risk money. We have no way of knowing this deal will close. This \$750,000 I consider that to be a taxpayer risk money. Correct?

Carol Anderson

Yes I guess I am just more hopeful that we will get to that definitive agreement.

Alderman Teeboom

Well I am hopeful too, but I consider that risk money because if the deal does not go through that money is all sunk.

Carol Anderson

Right. But if you don't do this now, the money that we have expended to date is sunk.

Alderman Teeboom

I understand that.

Alderman Bolton

The fact is most of this would have to be expended anyway because the alternative to making this deal is going forward with the PUC process and I presume we don't go through with the idea that we are going to come out unsuccessfully so we would do the environmental evaluation at some point in any event, we would do the issuance of the bonds at some point in any event, we would have the legal fees to Upton & Hatfield for going through that PUC process as opposed to the other PUC process. It is not as if we can say if the deal doesn't go through you have wasted this money. The same work would have to be done even if we followed the other path. The fact is all of this is part of including the \$3.2 million that has already been expended, including the outstanding \$135,000 approximately, including this \$750,000, and including whatever else gets us to the completion of the transaction, all of that is part of the \$250 million.

Carol Anderson

Right.

Alderman Teeboom

I was okay until Alderman Bolton spoke up.

Alderman Bolton

I don't think that is true.

Alderman Teeboom

Are we saying that the environmental impact is... does the \$750,000 take care of the environmental impact?

Alan Reisch, Esq.

Ms. Anderson I believe the number is included in there isn't it?

Carol Anderson

Yes the number is included in that for Phase I environmental assessment.

Alderman Teeboom

I understood you to say that this takes us up to that definitive agreement.

Carol Anderson

Yes.

Alderman Teeboom

That definitive agreement steps us into the PUC. We go from a definitive agreement to the PUC.

Carol Anderson

Right.

Alderman Teeboom

There has probably got to be some expenditure during the PUC. Is that covered within the \$750,000?

Carol Anderson

No.

Alderman Teeboom

While Upton and Sansoucy are out doing their thing?

Carol Anderson

No.

Alderman Teeboom

So there could be extra money coming in for that.

Carol Anderson

Yes.

Alderman Teeboom

And we don't know how much that could be because we don't know how much testimony the PUC will take and the interveners could come in, the whole thing could pick up.

Carol Anderson

I think what we are going to need though, by the time we get to the definitive agreement we are going to have to have a bond authorization because we can't even go for the rating agencies without a bond authorization. It doesn't mean you are going to issue the bonds at that point. If something happened in the PUC and it fell through it would be my understanding that we wouldn't issue the bonds if the deal fell through. You as a board would rescind those bonds, but you are going to need to have a bond authorization in order to get this whole process started because once you have that definitive agreement we are on a fast track, we need to move very quickly through this process.

Alderman Teeboom

See I didn't know that.

Carol Anderson

So that is running simultaneously with the PUC process.

Alderman Teeboom

So we have to vote on this bond and approve this bond with 10 votes in this chamber before we walk into the PUC and ask for their approval.

Carol Anderson

I am not saying that it necessarily has to be because of the PUC, it is just to start the whole process to be even able to get the rating and prepared to go to market. That is not something that we do in a months. It takes months to get through that process.

Alderman Teeboom

Well we could make the approval contingent on...obviously make the bond approval contingent to PUC approval.

Alan Reisch, Esq.

Absolutely.

Alderman Teeboom

Mainly I am concerned about the spending of money. I am just saying is it sounds like you have a definitive agreement there can be more expenditure of money and we don't know how much more that is and we could have an additional transfer resolution on top of this \$750,000.

Carol Anderson

I would say and Attorney Reisch can certainly correct me if I am wrong on that, I would say that the amount that you will be expending for that period will be far less than this \$750,000 because you are more focused at that point on the PUC process.

Alan Reisch, Esq.

The wild card, and there are always wild cards in these things, I wish transactions could be controlled in a laboratory fashion, is the possibility however remote of one of the other towns coming in as an intervener. There is no indication so far that will happen. I don't believe that we have heard anything from any of the towns that indicate that they oppose this and there has been enough in the papers now I think to start to raise some hackles. Anheuser Busch as an example was, as you know, at the committee hearing and we have heard nothing from them that I know that would indicate any objection to this.

Alderman Teeboom

The attorney for Anheuser Busch sat next to me and I asked him if he is going to object and he said I am just here to listen.

Alan Reisch, Esq.

Well that is a lawyer's answer isn't it?

Alderman Teeboom

Alright. I think I understand the situation.

Alderman Cookson

CFO Anderson you mentioned something about the bond rating process, and I am curious as we looked at Mr. Sansoucy's models, he used a specific bond rating in his models did he not?

Carol Anderson

The interest rate that he uses comes from First Southwest and they are actually using that interest rate based on an investment grade rating. They are anticipating that is what we will receive. It is not really coming from Mr. Sansoucy at that time; it is coming from our financial advisors.

Alderman Cookson

He presented it within his model.

Carol Anderson

Yes.

Alderman Cookson

A particular percent and it was from First Southwest.

Carol Anderson

Yes.

Alderman Cookson

And that is accompanying which bond rating?

Carol Anderson

The bond rating I know it is investment grade, it is a very high rating I know that. I can't tell you exactly off the top of my head what...

Alderman Cookson

Is it a conservative number or is it...

Carol Anderson

Definitely it is a conservative number, but as Attorney Reisch had indicated, it is certainly sensitive to the market. But I think anyone who knows First Southwest knows that they try to always air on the side of being conservative.

Alderman Cookson

Thank you very much.

Carol Anderson

You are welcome.

President Rootovich

Are there any further questions?

Alderman Flynn

In terms of how these bonds work, I don't know if you would answer this Mrs. Anderson, but my understanding is that at some point we are going to negotiate and go out and get bonds to cover this deal, get money to cover this deal. But that deal is going to include this \$4 million that we have already done as up front money correct?

Carol Anderson

Yes.

Alderman Flynn

So we're going to be allowed to create a bond knowing that we really aren't going to use all of that money, at least \$4 million of that is going to come right back into the city into some account either a general fund or something to replenish the \$4 million that we paid right?

Carol Anderson

Right. That is the norm when you have a transaction like this is that you can reimburse the city, the municipality for the costs it incurred to acquire.

Alderman Flynn

And where will that go into? Into like a general fund account?

Carol Anderson

Yes, it actually unless the board takes some sort of action it would go back to fund balance and then if you needed, you as a board wished to appropriate it to some other fund you could do that. But that is what would happen to that.

Alderman Flynn

And how is the \$250,000 that we put up as good faith money in the beginning, how is that going to work?

Alan Reisch, Esq.

That value all comes back. It basically comes back to the city when the city acquires the company.

Alderman Flynn

So in other words the sale price is going to be what it is now, whatever you have negotiated, less \$250,000?

Alan Reisch, Esq.

Well it will be what it is now period, but when you get the company back you will get the \$250,000 back. Remember you are acquiring the company lock, stock, and barrel including cash and receivables.

Alderman Flynn

So that \$250,000 we are going to have to get that money back through the bond?

Carol Anderson

Yes.

Alderman Flynn

The good faith money that we put through?

Carol Anderson

Yes. All of the costs that we have incurred here we would get through the bond. That is the intent.

Alderman Flynn

Which would be the full \$4 million, at this point \$4 million probably plus something.

Carol Anderson

Right.

Alan Reisch, Esq.

The other thing to bear in mind is that you may recall a breakdown of the numbers when they did a source and application of funds analysis, there is a \$10 million figure budgeted for payment in lieu of taxes, and that is kind of this notional number that we dropped in knowing that we might have to try to strike a deal with the

state to replace the lost taxes that they don't collect because we are not liquidating the company. That is the amendment that allows us to avoid liquidating the company and we avoid a state tax. There is no indication that we are going to have to do anything like that now. Now there may be some taxes generated because of the way we have to configure this in order to complete the transaction, but right now we believe there will be far less than the \$10 million that is carved out of that \$250 million for taxes. Hopefully there is a very significant buffer there because let's bear in mind that the whole financial model is based upon assumptions concerning future operations. We need to try to keep as much protection for the city as we can in some of these reserve accounts.

Alderman Cookson

Thank you. CFO Anderson I had a question about Veolia. It has been a while since I have looked at that contract. I am wondering what services they are providing the city at this point in time, are they working under a current contract, and who is providing the direction?

Carol Anderson

Actually it is Attorney Reisch's office that is providing the direction on that. What they are working on is various aspects of the due-diligence from customer service, asset management to the H.R., I.T., they have gone out and viewed the plants. They have been very active.

Alderman Cookson

Are they working under a current contract?

Carol Anderson

The current contract would be through...

Alan Reisch, Esq.

Yes.

Alderman Cookson

And you are subbing them?

Alan Reisch, Esq.

Basically sub them yes.

Carol Anderson

I have shown the costs that we have incurred there, but normally it would go through Sheehan, Phinney, Bass & Green, but I have allocated it out.

Alderman Cookson

You have put a line item in for Veolia even though they are being subbed through the law firm?

Carol Anderson

Yes. I thought it was important to show where those costs were.

Alderman Cookson

Thank you.

Carol Anderson

You are welcome.

President Rootovich

Are there further questions?

Alderman Williams

For CFO Anderson, there was some discussion earlier from Attorney Reisch about not knowing where rates are going to be. I don't want to waste too much time on this, but the modeling we looked at last time and if I remember correctly was a 32 year bond, two years interest only and then 30 years principal and interest?

Carol Anderson

Yes.

Alderman Williams

And that was based I believe at the time somewhere in the 4.8% range?

Carol Anderson

Yes.

Alderman Williams

These bond rates they are not tied to what Attorney Reisch said, he said something about the fed, that is short-term rates right? They are tied to ten year treasuries which are tied to mortgage backed securities?

Carol Anderson

Yes.

Alderman Williams

What is the threshold that we have to hit that we can no longer afford? What is the rate? Someone has done that calculation right?

Carol Anderson

We're close. I think it is 4.83% or 4.85% is what we are working with right now, and then they have had Pennichuck has had some rate increases so we have more revenue and that is basically what we are

working out right now. That is what we are working on. For me to tell you it is 5% or it is 5.1% I can't tell you precisely, and I wouldn't want to state a percentage this evening on that.

Alderman Williams

But there is a point where it is no longer...

Carol Anderson

Yes.

Alderman Williams

Viable.

Carol Anderson

Right.

Alderman Williams

The PUC wouldn't approve the deal anyway at some point.

Alan Reisch, Esq.

I think that is correct because they would take a look at the financial structure and if they felt the cost of money had driven things to the point where the city inevitably would have to increase rates then they would make a finding of no public interest.

Alderman Williams

I guess my question is there must be a line in the sand. There has to be a number whether it is 5.1%, 5.2% or 5.3%. Would anyone want to tell us what it is at this point?

Carol Anderson

I don't know exactly what it is. I wouldn't be able to tell you. I could check with Stephen Adams again to give you that number, but I can't offhand tell you precisely what that is. Like I said we are still tweaking the model right now.

Alderman Williams

If we get to a point where the cost of money is too much are we just done at that point?

Alan Reisch, Esq.

There are one or two things that you can do because of course the hip bone is connected to the leg bone in all of this. You can take a look at the \$250 million and you can find that certain allocations contain fat or buffer as I was trying to explain in another context a few moments ago, and say I don't think we need the full \$10 million in buffer as an example. We could reduce the bond amount by \$5 million I will say hypothetically and come out in the same place in terms of the forecasting your cash flows.

Alderman Williams

So you are not to this line in the sand of a number because of those other points you just brought up?

Alan Reisch, Esq.

No I mean if the cost of money...certainly you could sit down right now and I think Ms. Anderson is right we need Steve Adams to run the numbers to tell us at what point Sansoucy's model would become non-viable. Then your alternative is to look at it and say we can go back into the source and application of funds and decide that there is a category here that calls for \$10 million that isn't going to require \$10 million and we can reduce the bond amount even at the higher cost of money and still wind up in the same place in terms of the rate analysis. So you will have that flexibility should that arise.

Alderman Williams

Thank you.

President Rootovich

Are there any further questions?

**MOTION BY ALDERMAN BOLTON TO COME OUT OF NON-PUBLIC SESSION, RETURN TO THE SPECIAL MEETING OF THE BOARD OF ALDERMEN, AND TO 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 Tollner, Alderman Tabacsko, Alderman McCarthy, Alderman Flynn, Alderman LaRose, Alderman Dion, Alderman Bolton, Alderman Richardson, Alderman Deane, Alderman Teeboom, Alderman Cookson, Alderman Williams, Alderman Plamondon, Alderman Rootovich

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Nay: 0

**MOTION CARRIED**

NEW BUSINESS – RESOLUTIONS

**R-07-204**

Endorsers: Mayor Bernard A. Streeter

**RELATIVE TO THE TRANSFER OF \$750,000 FROM ACCOUNT 592-85993 "BONDED DEBT TRANSFERS" INTO ACCOUNT 699-07 "WATER SUPPLY ACQUISITION"**

Given its first reading;

**MOTION BY ALDERMAN MCCARTHY THAT THE RULES BE SO FAR SUSPENDED AS TO ALLOW FOR THE SECOND READING OF R-07-204**

**MOTION CARRIED**

*Division Taken*

*Resolution R-07-204 given its second reading;*

**MOTION BY ALDERMAN MCCARTHY FOR FINAL PASSAGE OF R-07-204**

ON THE QUESTION

Alderman Richardson

Before I vote in favor of this I would like to have a spend plan; timeline versus expenditures for all those different tasks that Mrs. Anderson laid out - the 11 different tasks. Thank you.

Alderman Teeboom

I have a simple question – just observation – the budget sheet for current expenditures we were handed was \$3,321,710 currently budgeted. That is very close, within \$115, of the financial report we got a few weeks ago. I know what we have spent. This \$750,000 is going to make this total \$4.07 million if this gets approved. I just want people to know if they are listening and understand this that we are now spending \$4.07 million with the takeover attempt of the Pennichuck water company, and there is no guarantee that this will succeed. That is just a statement I want to make. Thank you.

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

Yea: Alderman Tollner, Alderman Tabacsko, Alderman McCarthy, Alderman Flynn, Alderman LaRose,  
Alderman Bolton, Alderman Deane, Alderman Teeboom, Alderman Plamondon, Alderman Rootovich

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Nay: Alderman Dion, Alderman Richardson, Alderman Cookson, Alderman Williams

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**MOTION CARRIED**

Resolution R-07-204 declared duly adopted.

ADJOURNMENT

**MOTION BY ALDERMAN BOLTON THAT THE MAY 30, 2007 SPECIAL MEETING OF THE BOARD OF ALDERMEN BE ADJOURNED**

**MOTION CARRIED**

The meeting was declared adjourned at 7:27 p.m.

Attest:

Paul R. Bergeron, City Clerk