

SECOND TAXING DISTRICT COMMISSIONERS  
Regular Meeting  
March 8, 2011

|                 |   |                                   |
|-----------------|---|-----------------------------------|
| Present:        | Mary E. Burgess<br>Al Ayme<br>Maria Borges-Lopez<br>Mary A. Geake<br>Sherelle Harris<br>Mary Mann | Chairperson<br>Vice Chair         |
| Also Present:   | John M. Hiscock<br>Candace Fox  | General Manager<br>District Clerk |
| Public Present: | None  |                                   |
| Absent:         | Cesar A. Ramirez  |                                   |

Call to Order

Chairperson Mary E. Burgess called the Regular Meeting of the Second Taxing District Commissioners to order at 7:01 p.m. on Tuesday, March 8, 2011. The meeting was held at South Norwalk Electric and Water, One State Street, South Norwalk, Connecticut.

Acceptance of the Minutes:

Commissioner Burgess: "I call the Second Taxing District of the City of Norwalk regular meeting of the Commissioners to order Tuesday, March 8, 2011 at 7:01 and I need a motion for acceptance of two sets of minutes."

Commissioner Borges-Lopez: "I make a motion to accept the regular meeting, February 15<sup>th</sup> minutes, and the special meeting, February 24<sup>th</sup>."

Commissioner Geake: "I second it."

Commissioner Burgess: "Are there any corrections or additions?"

[No remarks]

Commissioner Burgess: "All in favor?"

Commissioners simultaneously: "Aye."

Commissioner Burgess: "Opposed?"

[No opposed]

Commissioner Burgess: "Abstentions?"

[No abstentions]

Commissioner Borges-Lopez made a motion to accept the regular meeting minutes of February 15, 2011 and the special meeting of February 24, 2011. Commissioner Geake seconded and the motion passed with Commissioners Burgess, Ayme, Borges-Lopez, Geake, and Mann all voting in favor and none opposed [Commissioner Harris was not present for the acceptance of the minutes].

## CONSENT AGENDA

### Special Counsel

Commissioner Burgess: "Alright, now I need a motion to approve the consent agenda."

Commissioner Ayme: "So moved."

Commissioner Burgess: "Is there a second?"

Commissioner Geake: "I'll second it."

Commissioner Borges-Lopez: "Second."

Commissioner Burgess: "All in favor?"

Commissioners simultaneously: "Aye."

Commissioner Burgess: "Opposed?"

[No opposed]

Commissioner Burgess: "Abstentions?"

[No abstentions]

Commissioner Ayme made a motion to approve the consent agenda, special counsel. Commissioner Geake seconded and the motion passed with Commissioners Burgess, Ayme, Borges-Lopez, Geake, and Mann all voting in favor and none opposed [Commissioner Harris was not present for approval of the consent agenda].

## REGULAR AGENDA

### Pole Attachment Fees and Contracts

Commissioner Burgess: "Okay, that was quick. The regular agenda, you're on Mr. Hiscock."

Mr. Hiscock: "Okay, pole attachment fees and contracts. I've added some information to the packet for you, probably more information than you needed, or maybe even wanted, but I'm going to quickly summarize it. Sometime during the 90's, when cable TV became an issue and popular, we entered into an agreement with AT&T to manage what's called 'pole attachments'. In joint

poles we have another agreement with AT&T, which used to be SNET, which says that if we both have facilities on the pole we jointly own it. One's custodian and installs the pole, bills the other side, but that's almost, but not quite what we're talking about here, okay. But in the 90's, somebody had to regulate what the Cable TV guys did, because they were hanging on our poles. So we entered into an agreement with AT&T in which they said they would regulate cable TV attachments, they would charge us an annual fee; that fee is currently about \$1,200, and whatever revenue was leftover in excess of the \$1,200 they would pay over to us."

[Commissioner Harris arrived at the meeting]

Mr. Hiscock: "...About every six months we'd get a check for about \$1,200, because there's not a whole lot of money in this, which kind of surprises us because we think it should be more, but nonetheless it's a bear. It's tough to audit this. About two and a half years ago now AT&T sent us, the other municipal electrics, UI, and CL&P a notice, because we all signed the same agreement; other than Third Taxing District, which never signed an agreement with anybody, sent us all a notice saying that they were in essence, under the contract, and with terms and conditions, giving us notice that they would no longer be going to manage pole attachments; sort of an interesting statement. We went back and forth with them. CMEEC negotiated on our behalf. We delayed it for about one year and a half or two, but they have billed for the last time in January of [20]11 for the first six months of the calendar year, which means in July of [20]11 we need to bill. The issue has gotten a little bit more complex because not only now is it Cablevision, but it's AT&T, their cable company, their fiber system. We have fiber of the City for the fire alarms and the street lighting, and the City fiber ring. We have fiber that's owned by Fibertech, which is a fiber company that strings on poles and sells services to various parties. So sometimes when you go down the street today, if you're used to looking at what's up on utility poles, you'll see at the bottom of the pole as many as five sets of communication. That's usually the fat stuff in a single strand with all sorts of connectors, and telephone poles essentially look like crap today. There's so much stuff hanging, and it's so poorly installed. Why did AT&T do this? We're not sure. Awhile back there was a fight over the double pole issue which some of you might remember. We don't know if AT&T did it because they didn't think they were making enough money. We don't know if AT&T is trying to spin off a business like they did before with a one-call system. We're really not sure, but it's left everybody in a funny position because on jointly owned poles they want to have an application fee, which they do now. They want to have a rental fee, which they do now. And then they want the other party to the pole, joint pole agreement, to do the same. So from here on out we need to adopt a set of fees and charges, rules and application. That's in this package, and you probably skimmed through that and took a look at them. We decided that the best way to deal with this is, from a strategic viewpoint, is to simply charge exactly what AT&T is charging now, which means they will get paid half of the current fee from the attachers, and we will get paid half of the current fee. We will both have an application fee, so the attachers will have to apply in two places. We will both have to come out and evaluate the pole and decide what needs to be done or doesn't need to be done. Nobody's ever explained what we're going to do if there's ever a dispute. There's no resolution mechanism. So while I don't want to openly and publicly criticize AT&T, it's very, very, very hard to understand their motives here, and to me their motives don't look like they'd be in our interest anyway, and certainly the other electric utilities. What we plan to do in the long run is to hire a consultant who does this kind of analysis to design a set of rates for us. CL&P designed a new set of rates and they were significantly higher than AT&T's rates. They moved those through the DPUC and have gotten approval. I would expect once we go through with the study our rates will also go up, but we don't have time to go through this study and to figure out the appropriate rates, so we're... and all of the other Muni's are doing the same thing except for Groton, falling

back on ‘whatever the AT&T rate is for now, we’ll charge’. Are we going to jointly share in the cost of a rate consultant? We haven’t decided that yet. The other complicating factor to all of this is the rules for pole attachments, while they’re not dictated by the FCC, the Federal Communications Commission, in their entirety, there are some basic formulas that you can’t alter for calculating. Now you take the information out of your books, and your accounts, and all of that, but there’s a procedural way FCC says to do it. And the reason for all of this is they’re trying to promote communications, obviously, and they’re trying to do it in a way that the communications companies don’t have to front a lot of money to hang a wire, and it’s on the back of the phone companies and the electric companies. It’s not a disaster, but it’s the way it is. So essentially what I’m asking you to approve tonight are the rates that are in the book, right after the explanation, and it’s the Proposed Schedule of Rates for Standard Pole Attachments. Without the Commission approving a rate, we can’t charge a rate, because we’ll then be challenged by all of the attachers saying ‘Well you have no approved rate, therefore you can’t bill us’. So in order for us to bill, we must approve a set of rates. The easiest way to do it, as I said, is to just approve these which match AT&T’s rates, and then go through this rigorous process for setting new rates sometime before the January 1<sup>st</sup> [20]12 billing. I can answer any questions you might have. I’m not asking you necessarily to approve the application form, or any of the four pages related to that. And the other information that’s in here is simply informational, you know, AT&T’s rates, CL&P’s rates, and if you look at the two you’ll see that they’re almost twice as much. And there’s one outstanding issue that we haven’t dealt with yet, and I only provide this to you as information. The DPUC regulators, the DPUC regulated companies, are required to allow the municipality one gain, which is one attachment, for free. That’s a DPUC docket. It does not apply to us. The interesting problem is other than Third Taxing District in East Norwalk, and Jewett City, all of the other Muni’s are part of cities and towns, so charging themselves would make no sense whatsoever. That’s not true of us. So we’re having counsel review whether or not we can establish a rate that involves the City. Now we all know that that will be a crisis when we try to (inaudible), so I’m not suggesting here that that’s what we’re going to do, but I’m suggesting to you that our rate consultant will take that into account when they do the calculation, and then you’ll have the information and we’ll decide if that’s worth pursuing. So really what I... I will answer any questions you have about this. This is a fairly innocuous little thing. It’s just a matter of we have to do it otherwise we can’t bill.”

Commissioner Burgess: “Are there any questions?”

Commissioner Harris: “Through the Chair?”

Commissioner Burgess: “Yes [acknowledging Commissioner Harris].”

Commissioner Harris: “Basically we’re approving something just for now, and then later we’ll go back and restructure, or what we’re approving is basically, this is it?”

Mr. Hiscock: “This is it until we change it. Like any rate, it’s the rate in effect...”

Commissioner Harris: “Okay.”

Mr. Hiscock: “...and anytime you go through the process to change it, you can change it. So I’m suggesting this will be the rate for the July 1 billing, and before we get to the January [20]12 billing we will have a correctly established rate in accordance with the FCC rules, which we’ll bring back to the Commission for adoption.”

Commissioner Harris: "Got it."

Commissioner Burgess: "Are there any other questions?"

[No remarks]

Commissioner Burgess: "Okay, a motion to approve the proposed SNEW schedule of rates for standard sole attachments."

Commissioner Borges-Lopez: "So moved."

Commissioner Harris: "Second."

Commissioner Burgess: "Second. All in favor?"

Commissioners simultaneously: "Aye."

Commissioner Burgess: "Opposed?"

[No opposed]

Commissioner Burgess: "Abstentions?"

[No abstentions]

Commissioner Borges-Lopez made a motion to approve the proposed SNEW schedule of rates for standard pole attachments. Commissioner Harris seconded and the motion passed with all six Commissioners present voting in favor and none opposed. There were no abstentions.

Receive and Recommend to the Electors the Proposed Consolidated District, Water, and Electric Budget for Fiscal Year 2011-2012

Commissioner Burgess: "Okay. Alright, Item five."

Mr. Hiscock: "Okay, item five is simply the budget that you approved at our last meeting. After the tab, second page in, there is a resolution, and I'm going to read it because it's kind of important with respect to the budgetary process. It's 'Be it resolved that the Commissioners of the Second Taxing District hereby 'receive and recommend' to the electors', so this will be your first time officially recommending to the electors to approve the budget. And this is the way we do it every year. There's nothing specific in the Charter that says that this resolution is necessary, but we have always thought that it's a good idea for the Commission to stand up via resolution and say to the electors 'We're requesting that you approve this budget'. And I can't remember anytime that we haven't done it this way since we put the budgetary procedure in in 1995 with Charter revision. There have been no changes obviously to this budget since we last had a meeting, so... we wouldn't do that, obviously. So that's..."

Commissioner Burgess: "Does anyone wish to move the resolution forward?"

Commissioner Ayme: "So moved."

Commissioner Mann: "Second."

Commissioner Burgess: "Okay, do you want to...? Now, would you want to read it, or do you want the maker of the motion to read it?"

Mr. Hiscock: "Somebody should actually read it. I was just trying to emphasize receive and recommend, and the recommend point I guess, I really didn't read the whole thing, so somebody should."

Commissioner Ayme read the following resolution for the record:

"BE IT RESOLVED that the Commissioners of the Second Taxing District hereby receive and recommend to the Electors the proposed consolidated District, Water, and Electric Budget for the fiscal year 2011-2012."

Commissioner Ayme: "Certification – The undersigned... Well I don't have to read that...?"

Mr. Hiscock: "No, you don't need to read that."

Commissioner Burgess: "Alright, all in favor?"

Commissioners simultaneously: "Aye."

Commissioner Burgess: "Opposed?"

[No opposed]

Commissioner Burgess: "Abstentions?"

[No abstentions]

Commissioner Ayme made a motion to receive and the recommend to the electors the proposed consolidated District, Water, and Electric budget for fiscal year 2011-2012. Commissioner Mann seconded and the motion passed with all six Commissioners present voting in favor and none opposed. There were no abstentions.

#### Select Auditors for FYE June 30, 2011

Commissioner Burgess: "Alright, item six."

Mr. Hiscock: "Okay, the other item of business that we handle at the annual meeting, the annual budget meeting, is the selection of auditors. I think most of you remember the process, but I'll quickly go over it. Once every three years we solicit proposals from auditors. We create a list. Candace [Ms. Fox] sends the list out to a whole pile of auditors. We get responses. And it spells out what we want for an audit, and what's necessary, and all of the rules with respect to the Secretary of State's office, and OPM, and Single State Audit, and all of those things that we're required to do in our audit. Candace [Ms. Fox] gets back responses from I don't know, two, three, four, five firms. Unless you specialize in municipal auditing you probably aren't interested in this account. From there we pick a firm. We make a recommendation to the Commissioners. The

Commissioners make the choice, and it has to be put before the electors for ratification. In other words the electors don't choose, but they get, essentially, to veto if they don't like the choice. They can say to the Commissioners 'No, we will not ratify, you've got to do something else'. And the process basically says it's for one year. However, we also make it known in the process that if the auditor wishes to continue, and the Commission wishes to continue with the auditor, that we will use the same auditor for the next two years. So while it's a one-year engagement, we go through this three-year cycle. For quite a few years it's been Hope and Hernandez. We've been happy with their work. I think this is the third year of the cycle?"

Commissioner Burgess: "Yes [responding to Mr. Hiscock]."

Ms. Fox: "Yes."

Mr. Hiscock: "Right, so next year we will go through the bid process again. There's one change in the engagement this year, and it certainly wasn't enough to really even talk about. Last year it was \$29,175, and this year it's \$29,475."

Commissioner Mann: "\$300."

Mr. Hiscock: "We didn't consider that a significant enough change in price to even think about changing auditors, okay. The auditor wishes to continue, and staff has no problem with the current auditor and has never, but it is a Commission decision. So, staff is recommending that we engage Hope and Hernandez for the current fiscal year's audit."

Commissioner Burgess: "Are there any questions?"

[No remarks]

Commissioner Burgess: "Well does someone wish to move the resolution on the choice of auditors?"

Commissioner Ayme: "So moved."

Commissioner Harris: "Second."

Commissioner Burgess: "Do you want to read it?"

Commissioner Ayme: "Oh, another... okay."

Commissioner Ayme read the following resolution for the record:

"BE IT RESOLVED that the Commissioners of the Second Taxing District hereby approve the firm of Hope & Hernandez, in accordance with their March 4, 2011 letter of engagement, to perform auditing services for the Second Taxing District for the fiscal year ending June 30, 2011, and request that the electors, in accordance with the District Charter, ratify the choice of Hope and Hernandez as the auditing firm for the fiscal year ending June 30, 2011."

Commissioner Burgess: "Thank you. And there was a second, correct?"

Commissioner Ayme: “Yes.”

Commissioner Burgess: “All in favor?”

Commissioners simultaneously: “Aye.”

Commissioner Burgess: “Opposed?”

[No opposed]

Commissioner Burgess: “Abstentions?”

Commissioner Ayme made a motion to approve the firm of Hope & Hernandez to perform auditing services for the Second Taxing District for the fiscal year ending June 30, 2011. Commissioner Harris seconded and the motion passed with all six Commissioners present voting in favor and none opposed. There were no abstentions.

#### Public Participation

Commissioner Burgess: “Well believe it or not we’re at public participation and we don’t even have Michael Geake.”

[Laughter]

Commissioner Ayme: “I move to adjourn.”

Commissioner Burgess: “Okay.”

#### Adjournment

The meeting adjourned at 7:21 p.m.

Attest:

Candace Fox  
District Clerk