

SECOND TAXING DISTRICT COMMISSIONERS

Regular Meeting Minutes
August 20, 2013

Present:	Maria Borges-Lopez Mary Geake Mary Mann Cèsar Ramirez David Westmoreland	Vice Chairperson
Also Present:	John M. Hiscock Lisa Roland Frank Zullo Allan Friedland	General Manager District Clerk Tierney, Zullo, Flaherty & Murphy Jackson Lewis LLP
Absent:	Mary Burgess	
Public Present:	None	

Call To Order:

Commissioner Borges-Lopez called the Regular Meeting of The Second Taxing District Commissioners to order at 7:05 p.m. on Tuesday, August 20, 2013. The meeting was held at South Norwalk Electric and Water, One State Street, Norwalk, Connecticut.

Acceptance of the Minutes:

Commissioner Borges-Lopez: “Good evening. I am going to call the meeting to order at 7:05 p.m. and the first item on the Agenda is acceptance of the minutes. Can I have a motion?”

Commissioner Geake: “I make a motion that we accept the minutes.”

Commissioner Borges-Lopez: “Ok, a second?”

Commissioner Mann: “I will second.”

Commissioner Ramirez: “For the record I would like to be excused because I was not here at the last meeting.”

Commissioner Borges-Lopez: “One abstention. All in favor or any discussion?”

Commissioners Unanimously: “Aye.”

There was no public present so there was no public participation.

Consent Agenda:

Commissioner Borges-Lopez: "Consent Agenda. I need a motion to pass the Consent Agenda."

Commissioner Ramirez: "I will make a motion to accept the Consent Agenda."

Commissioner Westmoreland: "I don't want to do this on Consent."

Commissioner Borges-Lopez: "Which one?"

Commissioner Westmoreland: "2, 3 and 4."

Commissioner Borges-Lopez: "2, 3 and 4."

Commissioner Westmoreland: "So, we aren't going to discuss them?"

Commissioner Geake: "If you want to."

Commissioner Mann: "No, you are going to have to take them off of the Consent Agenda."

John Hiscock: "Would you like to take them off? It is certainly your choice."

Commissioner Westmoreland: "I just have a couple of questions. I can ask you offline, just comments more or less."

John Hiscock: "It is certainly your choice."

Commissioner Westmoreland: "Its fine."

Commissioner Borges-Lopez: "Ok. Motion to second? Are you going to move it to the Regular Agenda or can we go ahead with the, I'm sorry, I didn't quite follow? You said you have questions but...?"

Commissioner Westmoreland: "I do have a couple of questions on Items 2 and 3."

Commissioner Geake: "Then we will take it off."

Commissioner Westmoreland: "I don't have any on 4. I am happy to leave 4 on Consent."

John Hiscock: "If you want to take it off then let's go."

Commissioner Mann: "Take 2 and 3 off."

Commissioner Hiscock: "You might as well."

Commissioner Borges-Lopez: "What is that again?"

John Hiscock: "I said you might as well take it off the Consent Agenda and let's answer the questions."

Commissioner Borges-Lopez: "So I need a motion to take it off the Consent Agenda?"

Commissioner Westmoreland: "So moved."

Commissioner Ramirez: "I will second it."

Commissioner Borges-Lopez: "All in favor?"

Commissioners Unanimously: "Aye."

[Commission moved Items 2 and 3 to the Regular Agenda]

Regular Agenda

Commissioner Borges-Lopez: "So we go to Item...it was 3 and 4 right, that you had questions?"

Commissioner Westmoreland: "2 and 3."

Commissioner Borges-Lopez: "2 and 3...ok let's move onto item 2."

Commissioner Westmoreland: "So on the write-offs my only question...well two questions, how old are these, when do we write these off?"

John Hiscock: "Six years."

Commissioner Westmoreland: "After six years."

John Hiscock: "After six years and we do that for two reasons, I would suggest to you that for the most part they are not collectable after a year or two anyway but some of these individuals will come back into the District at a later date and when they do, it goes back on their bill as an opening starting balance so we do transfer from one location to another so counsel has indicated to us that six years is at the point in which they are no longer legally collectable."

Commissioner Westmoreland: "When somebody doesn't pay their bill, do we report that to the credit bureaus?"

John Hiscock: "No."

Commissioner Westmoreland: "Is there a reason why we don't?"

John Hiscock: "It is not very effective because most of the people who do not pay our bills..."

Commissioner Westmoreland: "Don't have good credit anyway."

John Hiscock: "Have no credit."

Commissioner Mann: "Right."

John Hiscock: "Or they are an entity that is essentially defunct and we will do our best to chase them if we are aware but for the most part, we used to use a credit agency years ago and the yield was insignificant."

Commissioner Westmoreland: "It wasn't effective. Ok fair enough. That is it."

Commissioner Ramirez: "I do have, with that in mind, a question. I just need to know how it is possible to reach over \$9,000 on 15 North Main, which is also the same person who owns and I don't know if it is business but they own 15 and 17, it appears she has two bills here and one for almost \$9,000 and another one for \$1,000. Is this the same person or does the person happen to have the same name?"

John Hiscock: "I couldn't answer that question specifically, when you go through the process for collections of customer there is a whole series of barriers both self-imposed and imposed by regulatory agencies. These numbers, while you are seeing two, that are significant in size and the rest rather small, I would suggest to you and we are going to have a comment about it at the next meeting or two or three, that we are running into a severe problem with medical certificates and we have medical...I am not going to give you any names because that is not appropriate as it is a violation of collection practices and rules. We have accounts now in the \$3,000 to \$9,000 range for people who have medical exemptions and the process is simple. They take a form to their physician and if their physician signs off on a life-threatening illness for which there is no definition in the law, we are not allowed to turn them off under any circumstances. So it has become a well-known practice. It is a practice perpetuated by generally some very specific and for the record I am not going to tell you who they are, very specific physicians and practices."

Commissioner Ramirez: "With that in mind, if you would allow me, since we have counsel here tonight, can I ask directly to the counselor one question?"

John Hiscock: "That is between you and the Chair."

Commissioner Ramirez: "Ok?"

Commissioner Borges-Lopez: "Go ahead."

Commissioner Ramirez: "Since the explanation I just heard is about one doctor? Can that be challenged? Can I suggest, coming through counsel and directed by the counsel, can we have an independent doctor verify that is the case or not?"

Attorney Zullo: "Anything can be challenged. I haven't looked at that law for a long time but the way it is written, I would suspect it would be a very difficult challenge because they are trying to protect allegedly people who are seriously ill from having the utilities cut off and doctors can differ. It would be a difficult challenge and probably an expensive challenge and I don't even know if it would be worthwhile. Have you looked at that in past years? I know we talked about it in past years, John."

John Hiscock: "I can tell you exactly where we are on that. This became a big issue, the DPUC opened a docket and I believe it was 2007, 2008 range, we all used to collect medical information and then the regulations with respect to medical information got tough, we weren't allowed to collect unless we..."

Attorney Zullo: "The HIPPA Regulations."

John Hiscock: "The HIPPA Regulations yes unless we protected it very carefully and it went through a whole pile of certifications and documentation, so we don't do it. The State bootstrapped on that and said we don't expect the utilities to collect that information and therefore simply the physician fills the form out. We were part of the hearing along with the other utilities, with interest groups and in the end the DPUC under the Uniform Termination Regulations, which affect us, prescribed a set of policies and procedures that essentially made it unchallengeable. Since then we have talked to them indirectly, we met with, I can't remember the gentleman's name, fairly high level up in the DPUC or PURA and he simply indicated that they were unwilling to define serious illness versus life threatening because the Legislature didn't do it so they didn't feel they should. Well, you can find a lot of things that the Legislature does and they chose not to. We have since drafted a bill which was spearheaded by Jewett City, one of the munis at the other end of the State to address this issue and require significantly more information when the situation occurs. It didn't make it through the Legislative process, it didn't even make it to a hearing and it didn't make it to a hearing because I believe Energy and Technology was rather busy, at least that was what we were told. We were also told that during the off Legislative Session, we should come back and start talking to them again. So we have an effort ongoing to resolve this problem. Personally I am not optimistic."

Commissioner Ramirez: "Let me clarify this for the record. I have no problem for the person who is legitimate, has a real medical issue ok? No problem at all. My concern is for those that are trying to overcome the system that I have seen. Coming from New York, I have seen all kinds of stuff going on and even now I see non-legitimate issues going on. That is my concern. That this is becoming a chronic issue that, if I have heard correctly, that apparently is increasing and is something we should give more attention to, just for the record."

Attorney Zullo: "It has been a problem for a long time. I know the utility companies had tried to do something many years ago and they were stonewalled all along the way."

John Hiscock: "You really have to think about the philosophy of this. The investor-owned

utilities don't care. They have no reason to care. This is not their issue because they earn their money on return on investment and unless PURA whacks them with a negative finding for excessive write-offs they are in no way affected. So, it is really a very difficult situation and the rest of the customers pick up the tab. In our case, we are supposed to be representing our existing customers so we should be concerned. In their case, their Board of Directors is interested in stockholders. So that is why it is a tough, tough issue."

Attorney Zullo: "And the Legislatures, politically may find it difficult for them to go against something that appears to be beneficial to the underserved."

John Hiscock: "It is part of the process and we deal with it. But, you will be seeing bigger numbers going forward."

Commissioner Ramirez: "Thank you."

Commissioner Borges-Lopez: "Can I have a motion to pass item number 2, Electric Write-Offs?"

Commissioner Westmoreland: "So moved."

Commissioner Borges-Lopez: "Second. Abstentions? All in favor?"

Commissioners Unanimously: "Aye."

Commissioner Borges-Lopez: "Item number 3. Ratify Appeals Committee decision."

Commissioner Westmoreland: "Yes, how much of a discount were we talking about? What was this argument over? Was it \$10, was it hundreds of dollars?"

John Hiscock: "No, it started I believe, it should be in your book, it started off at \$164.00, I think."

Commissioner Westmoreland: "I didn't see it in here."

Commissioner Ramirez: "No it is not here."

John Hiscock: "Well, it might not be in the document. I can quickly look at the information. Yes, it started off at \$164.00 but the problem is, so that you understand, why it builds, it actually ended up being \$1,000 by the time we got through this process because the 10-net-10 discount only applies if you pay the balance to zero."

Commissioner Westmoreland: "Right."

John Hiscock: "So if you miss one month and you don't catch up, it accumulates. So sometimes by the time you get through the process, it can significantly accumulate. Most of our customers take advantage of the 10-net-10 discount. I think the participation rate is about 75%. Oh, I am sorry, \$148.88; initially that is where it started."

Commissioner Westmoreland: "So, you say most customers take advantage of it, is that a good thing or a bad thing? Do we save money because everybody is paying their bills early?"

John Hiscock: "It is a very strong collections tool, very strong. It is not, you know, interest in cash, there is no float on it; there is no interest today. At one point in time, maybe there was a little bit. It is a collections tool; it puts people in a position where they don't forget to pay their electric bill. Where it is extraordinarily effective is with the commercial customers. For commercial customers the discount could be \$1,000, \$2,000, \$3,000 to \$4,000 a month. I believe without subject to further check, I believe 75% of our money comes in the first 10 days of the month."

Commissioner Ramirez: "Good thing."

Commissioner Westmoreland: "So, the...sorry I have a couple of more questions, the thing is, I have two concerns and I have no problem with the specific incident or issue and I will certainly support the Appeals Committee, but I think we are setting a precedent for bad weather. So anytime we have bad weather on the tenth day, anybody can come back and claim that the weather was bad, I couldn't get out, etc., let's have more appeals, let's go to Small Claims Court. I can't imagine how much time was wasted on this whole thing between the Small Claims Court and the staff and the Appeals Committee and this guy who spent a lot of time on it. It just seems like it was just thousands and thousands of dollars over basically a thousand bucks at the end of the day when it started out at \$148.00."

John Hiscock: "It was an extraordinarily unusual weather event. Normally it is not an issue. This was a really, really bad snow storm and to compound it, the last day of the month was over the weekend. This customer pays on time all of the time and we had that record and we presented that to the Appeals Committee. Rarely have I ever seen the Appeals Committee grant this and I am not going to lay it on the Appeals Committee because I had absolutely no objection and I usually do have an objection."

Commissioner Westmoreland: "Well, the only suggestion I have is that it needs to be more specific exactly on the bill when it is due. Like, it says this amount if paid by September 10th at 5 p.m. or I don't even know what the rule is. September 9th at midnight and weather and post office delivery is not our problem. I mean, that is what I would do, just to clarify because it is confusing."

John Hiscock: "I will convey to you just how complex this rule is. It is very simple to say 10-net-10, pay by the 10th of the month. We have a three page document that spells out really what the rule is. The rule is if the 10th occurs on the weekend and you get it into our box before opening business on the day after the 10th, we post it on the 10th. If you put it in the night deposit box, if it is in our post office box when we pick the mail up on the first morning after the 10th, it is posted on the 10th. And I could go down through this. We don't put this on the internet."

Commissioner Westmoreland: "I hear you but I think you could say it is due in our office by 5 p.m. on the 10th. I think it would be much clearer."

Commissioner Ramirez: "Through the Chair. I have no problem in how the rule is. I don't know if you have seen the rule, but I think it is very open for everybody and it helps everybody including you, presuming that you are a recipient of this rule. [Directed to Commissioner Westmoreland] I believe it is a very simple rule and this case is not a common case. It was an uncommon weather issue. It was something way beyond from what I have heard. I know for a fact that our Vice Chair is not inclined to say yes to a lot of things, so I feel very comfortable with the way it is and I understand your point. No doubt about it. If we keep changing rules, we are going to be spending a lot of time on this one."

Commissioner Geake: "Through the Chair. Basically with the fact that we are going to be going online shortly might even take care of this problem because the person can automatically have it sent to us, it may take care of this type of problem we experience."

Commissioner Westmoreland: "Except that then it will be, well you know Cablevision was out the other day and it is not my fault I couldn't get online, so I am going to appeal it."

Commissioner Mann: "Only for three hours."

Commissioner Geake: "Yeah."

[Laughter]

John Hiscock: "And counsel has generally indicated to us over the years, when we get into these discussions, that this is not a penalty, we make it very clear, this is not a penalty; this is a reward for good behavior, so we don't get into this argument about it being a penalty."

Commissioner Westmoreland: "Right, my concern is, and again it is partially because I am new and I apologize to the other Commissioners for taking up time on this, but I am concerned with...I don't care about \$148.00, I care about the fact that the staff and the lawyer and courts all took time on this and Commissioners. It just seems like such a big waste of time over something that was silly."

John Hiscock: "No actually...it was but there were no lawyers involved. I went down, it was my time, I went down to Small Claims Court and got the case dismissed on Standing and then after I got the case dismissed on Standing, I explained to this individual why he did it wrong. I won't say...I won't put it quite as a language barrier but let's say he was not aware of procedural things. Once he realized what he had to do and his landlord got it all straightened out it was fine and I think it will be great going forward. I know it doesn't answer your concern about publishing the procedure but..."

Commissioner Westmoreland: "It was just a suggestion that is all. Alright, I am done."

Commissioner Borges-Lopez: "Ok, I need a motion to ratify the Appeals Committee decision."

Commissioner Ramirez: "I will make a motion to ratify the decision."

Commissioner Borges-Lopez: "Second?"

Commissioner Geake: "I will second it."

Commissioner Borges-Lopez: "All in favor?"

Commissioners Unanimously: "Aye."

Consent Agenda

Commissioner Borges-Lopez: "Letter of Credit. Discussion on Item 4."

Commissioner Geake: "I will make a motion that we accept it as written."

Commissioner Borges-Lopez: "Do I have a second?"

Commissioner Westmoreland: "Second."

Commissioner Borges-Lopez: "All in favor?"

Commissioners Unanimously: "Aye."

Regular Agenda

Commissioner Borges-Lopez: "Item number 5, who has the floor John, Mr. Hiscock?"

John Hiscock: "Ok, the OPEB Trust Plan. I think you recall during the February and March budget meetings we talked about the OPEB liability, we talked about the continuing benefit program for a specific set of employees hired before a certain date with a sunset of that program. We also talked a little bit about GASB45 and the requirement that if we did not since 2009, when power size government form had to implement, we were building an OPEB liability on the balance sheet. I unfortunately forgot to put, my fault, a copy of the balance sheet from the 2012 audit in the packet and it's something I should have done. I will pass it along to everybody and we will just quickly look at this. In light of some other things we are doing, I will explain why this is a good idea to go forward and move in this area. If you look down on the page 9 from last year's audit under Non-Current Liabilities you will see a net OPEB obligation and from the business activities, which is where it comes from the employees from water and electric, it is \$1.4 million and there is no offsetting asset to cover it. That represents the amount of money that we didn't set aside in the ARC that we should have and under GASB45 and I believe it is a thirty-year amortization of the...I am not sure."

Attorney Friedland: "I think that is close, I mean..."

John Hiscock: "Ok, and the goal is to pay the current and set aside money for the future and amortize the actual total liability which started out in 2009 as \$9.8 million and obviously grew. The \$9.8 million is a note in the audit and not a balance sheet item. However, the purpose of the OPEB Trust would be to offset that liability and to continue to accumulate the ARC, pay for the current expenses out of that so that and remember in budgeting time I told you within five years we would have that \$1.4 million back down to zero. We certainly don't want to continue to build that number for several reasons. One, we are in the process of going for our bond issue and part of the rating process is looking at the financial health and there is no doubt when we get to the rating agency meetings and somebody looks at this, they are going to go 'and what are your plans to deal with your OPEB liability?' So we want to have a reasonably good explanation that we started a budgetary process to wipe it out in five years. We have created a trust to take care of it, so that is really why we are here. Towards that end, I talked a little bit to Frank Zullo several years about this because several years ago we were going to move forward but we got busy with several things and didn't quite have the cash to resolve it anyways at that point in time. So, we set it aside and then after the audit came in and we moved into the spring, I asked Frank to sit down with me and go over it again and let's get re-engaged and come back to the Commission with the appropriate set of documents. So, I am going to stop at this point and let Frank go from there."

Attorney Zullo: "Well, this is a very specialized area of the law and so after discussing it with John and understanding what he wanted. I then got a hold of Allan Friedland of Jackson & Lewis, which is a Hartford firm that specializes in matters of this nature and asked them to look into it and give us a proposal in this regard. And so he is here tonight to explain it to us and the whole purpose of the proposal is to recommend to the Board of Commissioners that they establish a Section 115 Irrevocable Trust for other post employment benefits and Allan you can explain it to them I hope in a manner that would be much better than John or I."

[Laughter]

Attorney Friedland: "Well, thank you I appreciate the opportunity to speak with all of you this evening. What I would like to do is talk to you a little bit about this trust, what it means, I think we have already discussed the purpose of the trust trying to, if you will, segregate a liability, this liability that is showing up on the accounting statements to fund that obligation, set aside funds so that there is essentially, under the accounting standards, are permanently available solely for the purpose of funding this retiree obligation. Now, we talked about the obligation being somewhere around close to \$11 million but you can fund the trust, and I will get into the mechanics of how the trust operates, but you can fund the trust as much as your desire up to whatever limits your ongoing budget can meet and that is what John was talking about funding it over five years. There are advantages, particularly of removing that item off of your accounting statements as a liability and then having the trust fund serve as an offsetting asset to support the actuarial calculations that are required under the GASB accounting

standards. So, the trust becomes essentially a vehicle for allowing, under the GASB accounting standards, to remove that liability and drop that down off of your accounting statement and drop it into a footnote, which is easier to manage than a line item liability. The standards for establishing a trust, most of you are familiar with what a trust is, a trust is simply an account that is set up for a particular purpose with beneficiaries and the beneficiaries in this case would be the retirees, those individuals who would have the opportunity to receive retiree benefits, retiree medical benefits, we are talking about medical, dental and I think there is some life insurance obligations. So, even though the retirees are the so called beneficiaries of the trust, the town really uses the trust to fund the benefits, these retiree medical benefits for the eligible retiree group. So as the trust is funded the District can certainly continue to pay for some of these costs outside of the trust. It will be able to use the funds within the trust to directly pay for the retiree obligations and in some cases and we will need to discuss this a little bit, but the District could front the cost of retiree benefits for a year and seek reimbursement for that year. There needs to be some control in terms of using the trust funds only for current retiree obligations. The trust basically, so you have beneficiaries which are the retirees, you will have a trust; you will need a trustee who is a fiduciary who is responsible for holding the assets of the trust and we are suggesting and there has been internal discussion of using a financial institution, an independent financial institution. So, then you have funds that once they are put into the trust the trust is held in the name of the trustee, the trustee has the power to disperse the benefits in the amounts in the trust fund as they are directed and I will get to the structure as to who directs the trustee to make distributions out of the trust for trust purposes. So you have a trustee with authority over the fund, then you have investment decision-making that needs to be made with respect to that fund as well because the funds normally are going to be invested in some type of investment whether its securities, whether its savings accounts, given the amount and the liquidity needs of the trust, usually you will have a professional advisor which may be the trustee. The trustee can serve both as an investment advisor and the person holding the funds for the trust. By the way, if any of you have questions, please feel free to speak up and I would be happy to answer the questions as they come up. We call this a Section 115 Trust because it happens to be Section 115 in the Internal Revenue Code, which by the way allows the trust to be tax-exempt and that happens to be a tax code provision that extends to all state and local governments tax exempt from the internal revenue code. So, the federal authorities can't come in and try to tax the income on the trust because the trust is really deemed to be part of the taxing district even though the funds are permanently set aside. The way the rules work because the Commissioners will have the unilateral right to remove the trustee to appoint new trustees at your discretion. So..."

Commissioner Ramirez: "May I?"

Attorney Friedland: "Absolutely."

Attorney Zullo: "The Commissioner has a question."

Commissioner Ramirez: "Before we get to into this, the first question is; what percentage of retirees will get from this pension or fund? What is the percentage they will be receiving individually?"

Attorney Friedland: "No one individual will have an account under this plan."

Commissioner Ramirez: "I know, you say this fund is dedicated to cover medical funds, dental, etc., how much of this fund is dedicated, let's say John Doe has a medical bill of \$10,000 what percentage of that bill for this fund is going to cover that, 90%, 100%, 80% or...?"

Attorney Friedland: "The amount of the fund that is actually expended for purposes of covering medical bills and expenses..."

Commissioner Ramirez: "That is correct."

Attorney Friedland: "Is going to be a decision between John; it will be a budgeted item. So in other words, the amount of funds that are actually used and applied on a yearly basis out of the trust is a decision..."

John Hiscock: "And maybe I can go through it another way that might be helpful to you."

Commissioner Ramirez: "Right."

John Hiscock: "The way the Employee Manual is written, basically says that the retirees are entitled to these benefits to the same extent as existing employees. It goes on further to say that in no case shall these benefits exceed the benefit that the existing employees have."

Commissioner Ramirez: "Ok, you answered my question."

John Hiscock: "So that if in fact we did say a kind of contributory health coverage, it's the same way."

Commissioner Ramirez: "I got it thank you."

Attorney Friedland: "It's the level of benefits."

Commissioner Ramirez: "I got it. The second question, if you don't mind, financial institution, are we looking at a bank or a private individual from a financial company? What are you leaning to? The reason is that there is a big difference when you are dealing with an individual financial firm and dealing with a bank."

Attorney Zullo: "We are eventually going to have to make that decision, but go ahead."

Commissioner Ramirez: "And the other one would be the trustee, if I heard correctly and I am sorry if I misunderstood, you say that the trustee will have the full ability to decide what to do with this trust. Will the Commissioners have any power at all? We need to be able to say 'hey wait a minute; we are not going to be moving this fund from Point A to

Point B' not without the approval of the Commissioners.”

Attorney Friedland: “That is correct. The trustee...”

Commissioner Ramirez: “I just want to make sure that the Commission itself and the Department have some power so this trustee wouldn't go on full fledge and do what they want to do with the fund.”

Attorney Friedland: “The Commission can control, the trustee will have no power to make independent distributions out of the trust.”

Commissioner Ramirez: “That's good because I heard something different, so...”

Attorney Friedland: “They will be directed to make distributions.”

Attorney Zullo: “Directed by the Commission.”

Attorney Friedland: “Yes, by the Commission.”

Commissioner Ramirez: “Ok, I got that clear now because I didn't hear the word that he just cleared up now and I just wanted to make sure.”

Attorney Friedland: “The trustee has general power but usually in a trust arrangement of this sort we make the trustee a what we refer to as a directed trustee and we will have to set up, one of the things you can do and I am suggesting you may want to have a subcommittee that is established so that when a distribution that needs to be made to pay for a retiree medical cost, that there is a party there whether it be a subcommittee or the full commission to authorize that payment.”

Commissioner Ramirez: “That is a feature element. I just wanted to clarify that, thank you sir.”

Commissioner Westmoreland: “Just a couple basic questions, the actuarial liability is \$10 million but we are not going to try and come up with \$10 million because we don't believe it is really going to cost that much, is that why we are doing it like this?”

John Hiscock: “Two issues, if we try to fund it completely it essentially would be a \$10 million hit on cash, which is something we certainly can't take. And that is sort of the GASB45 deal, before GASB45, nobody evaluated anything and it was a pay as you go, while everybody knew how big the liability was getting, this was sort of a methodology in my mind from a management perspective to get it under control. You need to evaluate it and you need to start putting money into it and you are going to amortize the total liability over say thirty years and that is a reasonable thing because you've got existing employees who are not going to draw from this for many, many years so the process allows you over that timeframe and in the end everything will be zero because we have sunset employee OPEB benefits. Employees that started in the water utility lost this benefit after 1991 so anybody hired after 1991 does not get a continuation of health

benefits and in the electric utility it was 2001. And if it were not for those sunsets, that \$10 million would be more like \$20, \$22 or \$23 million.”

Commissioner Westmoreland: “And my other question is the Committee you are recommending the trust advisory committee, is that going to be a committee of the Commission or are you recommending we go out and getting outside people from the District to be on the Committee? How is that supposed to work?”

Attorney Friedland: “I was going to say, the requirement for the trust advisory committee is so that someone or that there is oversight with regard to the operation of the trust. And that could be, you could have a committee that consists of a committee that makes decisions at the Commissioner level and you just do that at Commission meetings or you can set up a subcommittee that could for instance be just a smaller group.”

Attorney Zullo: “I think he was asking, were you considering someone other than Commissioners?”

Commissioner Westmoreland: “Correct.”

Attorney Friedland: “I don’t think I was, generally the answer would be no.”

Attorney Zullo: “It is either a subcommittee or this group as a whole.”

Commissioner Ramirez: “I believe that the final decision, the Commission has to approve what the subcommittee has suggested to do.”

Attorney Friedland: “We can structure it that way so the subcommittee would be in charge of the administration but require approval from the full Commission before...”

Commissioner Ramirez: “They would have to.”

Attorney Friedland: “Clearly and I can set that up in the documentation so that there is that protective process in place.”

Attorney Zullo: “But is a good deal of that performing, and I am just asking, for a medical bill, a legitimate medical bill to be paid for ‘x’ so if the subcommittee meets and goes through all of the rig-a-mere-o to see that it is valid, could they in some instances have the authority to direct the trustee rather than going to the full Commission and going through the whole exercise again? I am just looking to you for your recommendation in that regard.”

John Hiscock: “I was just going to say that Frank, it is not a very difficult process because this is taken care of on an insurance basis, we have a carrier, we know the premiums, we know the premiums on an annual basis so we clearly know the amount of money involved and it is very clear.”

Attorney Zullo: “That is what I am saying. Do we have to have that subcommittee plus a

full committee? That is all that I am getting at or maybe we should. I am just throwing it out as a thought.”

John Hiscock: “I interpreted your question about there would be a lot of transactions.”

Attorney Zullo: “No, no, no.”

John Hiscock: “And there aren’t really, this is the insurance program and insurance kind of takes care of it.”

Attorney Friedland: “You could even literally budget how much you want to pay out the trust at the beginning of the year and authorize those payments and then the advisory...somebody...you just need someone to give direction and even the advisory committee, even if it’s the full Commission there is no reason why you can’t approve a certain expense and then just delegate to John the ability to communicate to the trustee to cut a check. It could be that simple.”

Commissioner Ramirez: “It really isn’t complicated.”

Attorney Friedland: “Right.”

Attorney Zullo: “Most of these aren’t discretionary decisions.”

Attorney Friedland: “You can keep it as simple as you want, it depends on again, somebody has to be there to know there is going to be an investment recommendation from the trustee. Somebody has to accept and agree to how the assets are going to be invested. Whether that is the full Commission or just a small advisory committee, that is something that a detail that can be worked out.”

John Hiscock: “And you will probably point out in a while, one of the issues that makes this a little bit different than our normal decision, we are only allowed to invest public funds in a very, very small range of things, banks that have a certain rating according to the banking commission, other government securities and things like that. We don’t go out and put money in bonds and stocks. Well, I think you are going to get an explanation that this is permissible for this and therefore you do need good financial advice.”

Commissioner Borges-Lopez: “Absolutely.”

John Hiscock: “To maximize this asset over the long term and that’s something we don’t normally do internally in our organization.”

Attorney Friedland: “Yes that is correct and the statute is very explicit that when you establish a trust under the particular State Statute that allows towns to in subdivisions to adopt in Connecticut these trust for either pension, post employment benefits like retiree medical, that when the money is in a separate trust, then the trustee has the capability and the right to invest the funds into what we refer to as an ordinary and prudent manner. So, the trustee is a fiduciary and is subject to state laws with regard to the

prudent investment of funds. There is actually a State Statute governing what they call the Prudent Investor Act. So, you are going to be generally picking trustees that are used to investing funds and they are used to having that fiduciary capacity and providing that kind of investment advice and it also allows the funds to grow in value at a much better rate than to the extent you are investing and funding more than what you might get in a CD in this day and age. So, we talked about the assets of the trust and the one other advantage I want to mention is that when you put the funds into the trust, when you do the actuarial accounting work for this, you actually get a much more advantageous calculation to the District because of the discount rate. You get to assume that your assets are going to grow at a higher rate of return than if you didn't fund at all. So the obligation when it's not funded at all tends to be because it is very conservative interest assumptions looks maybe much bigger than it otherwise might be than if it were funded through the trust. So that is another advantage of putting funds in the trust to the extent obviously that you have budgetary capability."

John Hiscock: "Yes, the yield is so much better in the trust than it is in our regular funds that it just makes economic sense to go that direction."

Attorney Friedland: "At one point, once the funds goes into the trust they are irrevocably placed in the trust solely for the purpose of paying for these retiree medical liabilities. The terms of the trust will prohibit the District from using the funds in the trust for any other general purpose. That would be specifically not allowed. And that is one of the criteria under the GASB Standards, you have to have a trust that we call, for the exclusive purpose of paying these retiree medical benefits. Now, if at some point, twenty-five years from now or how many years, there is no further liability because the last person dies off, the trust would end, the purpose of the trust would end and the funds could then come back to the District."

Attorney Zullo: "And also, the trust also becomes exempt from any creditors of the Second Taxing District."

Attorney Friedland: "Correct. That is also another requirement. That none of the assets will be subject to the claims of general creditors."

Attorney Zullo: "So the fund is protected reasonably well."

Attorney Friedland: "Yes."

Commissioner Ramirez: "So in the language it will be stipulated that once the last..."

Attorney Zullo: "It is irrevocable and it's exempt, which is very important."

Commissioner Ramirez: "Right."

Attorney Friedland: "So, in that regard, the Commissioners will also have the ability to amend the trust if there is something that comes up and there is something

administrative that we haven't foreseen or whatever, the Commission, as a group, can amend the trust to, now you aren't going to be able to amend the trust to use the trust funds for other purposes, but within that confines of the limited use of the funds, you would be able to make changes to the trust for unforeseen circumstances or maybe you have a bank trustee who comes in and says we don't like this one provision in your trust for whatever reason, can you change it? Sometimes trustees want to be indemnified or there are various issues when you are dealing with trustees. So the trustee could request a modification document of the trust to suit their particular business needs. And that would really be another reason to go forward to select a trustee before you adopt a trust to make sure whoever you are going to use as a trustee agrees or is willing to abide by the terms of the trust that we are proposing. It is just like negotiating any contract with a bank or whatever for services only these are trust services. There will be some fees and those fees can all be paid out of the trust to the extent you desire to pay from the trust. There is nothing that can prohibit you from paying fees of the trust from general funds."

Commissioner Borges-Lopez: "Will there be a third party administrator or will this be strictly handed through the accounting department here at SNEW for distribution purposes?"

John Hiscock: "I don't think a lot will change. We will still be paying the premiums, we will still be paying the self-insurance portion; we will still be doing it that way. We will be doing it for the trust obviously and I don't quite understand the exact mechanism but we talked about that the other day and we would continue to pay the current ongoing bills and then with authorization however it is set up. So, yes we are not going to hire an outside firm to start writing checks to the insurance company or anything like that."

Commissioner Borges-Lopez: "Ok."

Commissioner Ramirez: "I wouldn't think so."

John Hiscock: "Those kinds of things will be handled internally just like they are today. The accounting treatment and the controls will be slightly different but the process of the paper moving is the same."

Commissioner Borges-Lopez: "The process is internal."

Commissioner Westmoreland: "Just a couple of questions to make sure I understand this, so the \$10 million accrued actuarial liability, that is based on the 59 employees that are eligible today, is that correct?"

John Hiscock: "Yes."

Commissioner Westmoreland: "So that amount will go down as those employees and ex-employees pass away. Cease to exist. Is that correct? I mean that gets changed as we move forward in time, it goes down, theoretically? Or it could go up if costs go up; I mean I get that part. Theoretically, on a net present value basis it will go down."

John Hiscock: "Correct. Although in the three years between the \$9.8 million and the whatever it is now, it actually went up about \$350,000 other than the liability, so it did actually increase."

Commissioner Westmoreland: "Right."

John Hiscock: "So it did actually increase but not tremendously. Maybe that is the best way to look at it."

Commissioner Westmoreland: "So what we are going to see as we go forward on this on the operations expense statement and budget we will be approving in the future for the next five years, there will be a larger OPEB expense amount and then after five years that amount will still be paying that presumably the next twenty-five years beyond that but the amount will be substantially less I would guess depending on cost and insurance and all that stuff. That is theoretically how it will work?"

John Hiscock: "To give you an example, if you look at the last page which is number 13 and that was part of our actual budget process, if you look at the net OPEB obligation, it is kind of hard to see it that way because of the way we do it. Ok, in the first set of boxes the third line up is the one-fifth estimated of the net OPEB obligation as of June 30, 2013 and in total it is \$366,000. So to answer your question, for the next five years, the current year plus four more, we will be spending \$366,000 a year more than we would if we had complied with the rule starting in 2009. That is the catch-up. Does that answer your question?"

Commissioner Westmoreland: "Yes, so presumably all things being equal, that expense would go down year six out?"

John Hiscock: "Correct."

Commissioner Westmoreland: "Except that everything goes up anyway. Alright, yes that answers my question, thank you."

Commissioner Borges-Lopez: "Any other questions?"

Commissioner Westmoreland: "No."

Attorney Friedland: "That is really..."

Commissioner Borges-Lopez: "Is there anything else you would like to add?"

Attorney Friedland: "No, I think that really kind of takes you through, you know at some point there will be a process for adopting resolutions and we will go through it once everything gets approved to move forward with the documents. It is basically a trust document resolution to adopt the trust and then there will be just some internal discussion about whether the Commission is going to serve as the...or is there going to be a small group as an advisory committee, things of that sort. It is a fairly straight forward

process.”

Attorney Zullo: “Allan, they have to first decide whether they want a bank or a corporate entity or someone to act as trustee. And then for the investor, do you want a bank or an individual guide to act as an investment individual in terms of money. These are things they have to think about.”

Commissioner Ramirez: “Absolutely.”

Attorney Zullo: “And then they also have to think about the term of the trustee, whether they want an advisory committee, how many do you want on it, these are things you going to have to decide right?”

Attorney Friedland: “We will come up with some reasonable recommendations, for instance with advisory committee members, would you want them staggered, would you want them to have a staggered terms, should they be and I was thinking maybe something like maybe a two year term? I don’t know what your normal...”

Attorney Zullo: “The Commission term is six years.”

Attorney Friedland: “It is six years.”

John Hiscock: “The Commission term is six years staggered.”

Attorney Friedland: “You know if the Commissioners are already staggered, you can just wait by nature, whoever you pick, you are going to have staggered advisory committee members. Like I said, I don’t foresee there being a lot of work on this at all. Generally, we are going to need accounting statements that come in, there is going to be a year-end annual accounting that is done. Maybe you will look it over quarterly, but typically the investment advisors, depending on the situation, sometimes they do quarterly or semi-annual reviews or they can simply come in and make a presentation to the Commission.”

John Hiscock: “I think what is essentially going to happen will be a slightly different section in the audit but if you recall from the audit, Section 8 of the notes is a full disclosure of the municipal employees retirement system fund, the funding, all of the related information, you will have another note in there that will be there for the OPEB. It will be the same kind of disclosure.”

Attorney Zullo: “Allan, since you have done a lot of these, in terms of boilerplate, what would you recommend in terms of a trustee? Would you recommend a bank normally?”

Attorney Friedland: “Usually a bank is good to use because if you use an individual and that individual leaves, then you are left without a trustee. If you use individuals you are going to have to have two individuals and then you all this issue about bonding, where a corporate trustee is always there, easy to manage and the fees we have seen, we have seen fees for trustees where all they do is they act as what we refer to as a directed trustee where they are told when to make a distribution and the fees are really quite reasonable

in those situations.”

Attorney Zullo: “Would you recommend that the financial advisor also be a bank or something of that nature?”

Attorney Friedland: “Well, I don’t think there is...maybe given the size of the fund using a bank that also has a trust department. I don’t really have an opinion as to, there is really no one answer to that. Some clients already have investment advisors.”

Attorney Zullo: “Well, most banks would have a trustee.”

Attorney Friedland: “Most banks have trustees.”

Attorney Zullo: “And what would be the term for years you would normally appoint a trustee? One year, two years, three years?”

Attorney Friedland: “You would generally, given that the Commission can remove the trustee at any time, we usually don’t see terms. Usually you just sign a trust agreement.”

Attorney Zullo: “Until he resigns or is removed.”

Attorney Friedland: “Until he resigns and you always have a provision allowing for removal within 90 days or something like that. So, you are never stuck, even if you have a term limit of three to four years. Now, the only advantage to having a fixed term is that it tends to force you to go out and find a new trustee at the end of the term and you know the question is the fund large enough to warrant that type of concern.”

Attorney Zullo: “That is not that big.”

John Hiscock: “Yes, considering the size we would probably be better off with a bank’s trust department.”

Attorney Zullo: “Well I was just wondering if we had a sense of the meeting here so they could give you some direction here in a general form, at least a draft form agreement to go forward or maybe they want to discuss it further. You also said that the Board of Commissioners have the right to designate and advise the trustee?”

Attorney Friedland: “Correct, in other words the trustee will be a directed trustee as I described.”

Attorney Zullo: “So you will set up the mechanism whereby this Commission can give the direction.”

Attorney Friedland: “Correct.”

Attorney Zullo: “And you will also give some consideration to an advisory committee, if they want to adopt an advisory committee.”

Attorney Friedland: "Well, what I can do with the trust is just create the ability to appoint an advisory committee and just say in the absence of the appointment of an advisory committee, the whole Commission shall serve."

Attorney Zullo: "And could this Commission discharge a trustee without cause if they felt they needed to?"

Attorney Friedland: "Yes. The trustee could be removed at any time for any reason."

Attorney Zullo: "Without cause."

Attorney Friedland: "What we could do is we could create some flexibility within the trust so if you get to the point where you want to create a subcommittee, you can do it by simply a resolution of the Commissioners without having to go in and do..."

Attorney Zullo: "So this is very comfortable to you as to how it works and maybe it is not as big a deal as all of us think it is, but they have to be comfortable that they have control over this, this thing they are creating in that it is going to lead them to benefits and not into problems so all of these things I am mentioning would be, I think would give them some comfort."

Attorney Friedland: "That is right and even though we will give the Commissioners the right to delegate to a sub-advisory committee, again it will be pursuant to rules established by the Commissioners. I can leave it open without even writing anything into the trust, that if you want to create a subcommittee you just create roles for that individual, for that sub-committee the way you would any other sub-committee."

Attorney Zullo: "John, how do you see your function here? What would be a comfortable function for you in this whole operation?"

John Hiscock: "Just moving through the process."

Attorney Zullo: "Doing exactly what you are doing now."

John Hiscock: "Doing exactly what I am doing right now. Getting it in place, putting it where it belongs and certainly go from there."

Attorney Friedland: "What I think would make sense is to let the Commissioners give directions to John."

John Hiscock: "Of course."

Attorney Friedland: "Obviously to do transactions on the trust because usually the trustee only wants to deal with one or two people. You would have to have one person or two people with signatory authority over the accounts."

Commissioner Ramirez: "Probably put two."

Attorney Friedland: "So we would put two for internal control purposes."

John Hiscock: "Yes, we do two out of four persons."

Attorney Friedland: "Two out of four, ok."

John Hiscock: "Out of four authorized only two and actually right now it's the Treasurer, the General Manager, the Financial Analyst and the Director of Administration, but it could be anybody. It could be Commissioners, whatever you want to adopt with respect to this, it doesn't matter. We just do that for our own internal banking process."

Commissioner Ramirez: "Through the Chair. So, the report for this, it is up to the bank to provide and should be required to do it every three months so we know where we stand and that will be written in the contract or dictated by the bank itself. How quickly do they produce the bank statements?"

John Hiscock: "You mean the monthly trust account statements? I don't know if they are going to be monthly or..."

Attorney Friedland: "Usually."

John Hiscock: "I don't know, probably quarterly."

Attorney Friedland: "But that is a matter that when you are sitting down with a trustee that is a question you would ask the trustee and I am sure they will do whatever frequency."

John Hiscock: "As an example of something that we speak about a lot but I don't speak about the detail of it with you. Is the municipal trust money that is up at CMEEC and it is a very similar arrangement with the trustee and SNEW as the beneficiary and we do get quarterly statements from them and it lists everything we are invested in, it lists all the yields and it is a fairly complex document that is sent quarterly. I don't normally routinely give them to the Commission. We get them internally and we file them away. And there it is a commercial trustee and advisor and is a very similar process."

Attorney Zullo: "John is it your wish that they adopt the proposal? To adopt this, do you want them to think about it or do you want...?"

John Hiscock: "I think that from my perspective unless there is a lot of questions and a lot of things to think about, I think that basically this evening it would be my goal to get the Commission to agree to go forward and let Attorney Friedland go ahead and set up the documentation and bring them back to the Commission as necessary."

Attorney Zullo: "For their approval."

John Hiscock: "For their approval."

Commissioner Ramirez: "So it would be a motion to approve contingent to final approval..."

Commissioner Borges-Lopez: "You need a motion or just a show of hands that the Board has, I mean the Commissioners have..."

John Hiscock: "Either a motion to continue to proceed with reporting back to the Commission."

Attorney Zullo: "Why don't you just have a motion to proceed and then with the caveat that he has to go back to the Commission and the Commission has to approve what is drafted. They can tweak it anyway they like but at least you have something to work from and you can go onto a final if you want a final or reject it and not do anything."

Commissioner Ramirez: "I would feel comfortable placing a motion to allow the attorney to draft...to proceed."

Commissioner Borges-Lopez: "So I need a motion to proceed with the OPEB trust plan?"

Commissioner Ramirez: "I will make the motion."

Commissioner Borges-Lopez: "Second?"

Commissioner Westmoreland: "Second."

Commissioner Borges-Lopez: "All in favor?"

Commissioners Unanimously: "Aye."

Commissioner Borges-Lopez: "Motion carried. Anyone opposed; abstentions?"

[No opposed or abstentions]

Commissioner Ramirez: "You have some homework to do."

[Laughter]

Attorney Zullo: "That is ok."

Commissioner Borges-Lopez: "Thank you."

John Hiscock: "You have the last item."

Attorney Zullo: "There is one more item he is saying."

Commissioner Borges-Lopez: "Adjourn?"

John Hiscock: "Yes."

[Laughter]

Commissioner Borges-Lopez: "Motion to adjourn."

Commissioner Westmoreland: "So moved."

Commissioner Geake: "Second that."

Commissioners Unanimously: "Aye."

Adjournment

The meeting adjourned at 8:15 p.m.

Attest:

Lisa Roland
District Clerk