

2/24/10

**CITY OF BROCKTON  
WATER COMMISSION  
Minutes  
February 24, 2010**

**Present:** Stephen T. Pike, Chairman/Commissioner  
Bruce Malcolm, Commissioner  
Craig Pina, Commissioner  
William Work, III, Commissioner  
Larry Rowley, Superintendent of Utilities  
Michael L. Thoreson, DPW Commissioner  
Brian Creedon, Water Systems Manager  
Alisa Hambly, Secretary

**Attending:** John Condon  
Michelle DuBois  
Kate Archard  
Robert Sullivan, City Council  
Chris MacMillan, Councilor  
Gini Jeppson  
Barbara Carchidi  
Loretta Murray

**Mr. Pike called the meeting to order at 8:05 A.M., noting that a quorum is present and the meeting is being recorded.** The approval of the February 2<sup>nd</sup> and February 8<sup>th</sup> minutes are postponed.

Mr. Pike called for a report from the **DPW Commissioner**. **Mr. Thoreson reported** that the budget has been submitted to Mr. Condon and pending any actions taken today, will be finalized.

Mr. Pike called for a report from the **Superintendent of Utilities**. **Mr. Rowley reported** that the replacement of 2 inch mains will hopefully be beginning next week weather permitting on: Green Street, Annis Street, Greenbriar Road, Litchfield Terrace and Woodbine) these are small mains with no fire protection about 500 feet in length. Staffing is down one position, which is being reviewed.

Mr. Pike called for a report from the **Water Systems Manager**. **Mr. Creedon reported** that the flows are normal, Silver Lake is full and Monponsett and Furnace will be going up due to the rainfall.

Mr. Pike opened the meeting for **New Business** and the Rate Hearing explaining that the Commission will discuss this issue and then comments will be heard from any person, with a limit of two minutes and discussion will be directed only to the issue of the rate hearing. Mr. Condon stated that he has reviewed the budget and the request is a couple million dollars beyond the revenue capacity; this year's collected revenues are below last years revenues; the obligation to Aquaria has to be met; and if the meter acquisition is deferred this would cause problems in getting the basic requirement of rendering bills to the customer. Last years budget did generate a large surplus of approximately \$5,000,000 (not certified by the Dept. of Revenue) which gives some assistance with next years budget. The collected revenue history is as follows: 2007 - \$9.8 million; 2008 - \$9.4 million; 2009 - \$15.1 million. Mr. Condon recommended an inflation rate increase.

Mr. Pike stated that the Commission feels the meter program is overdue and it is the belief of the professional staff that the new meters will increase revenues. Mr. Rowley stated that the meter change out would take approximately 3 years. Mr. Condon stated that the cost could be split between water and sewer and the statute for borrowing is as follows: meters – 10 years and software 5 years. Mr. Thoreson stated that this program will move forward when we hear from DEP re SRF funding. Mr. Condon stated that the feeling is that the rate structure is overly steep from one block to the other. Mr. Pike stated that as mandated by DEP another water source was brought on and it has to be paid for. Mr. Malcolm stated that he would like a break down by block in order to analyze the effect on the rates.

2/24/10

Mr. Pike opened the discussion of water rates to anyone who would like to speak, noting that the meeting is being tape recorded and anyone speaking sign the sign in sheet:

Councilor DuBois questioned the percentage of the proposed rate increase. Mr. Pike stated that a cost of living CPI or PPI was discussed, the actual number has not been established. The rate increase that went into effect on July 1, 2008 was done to absorb the cost of Aquaria, who began to bill us November 2008. Councilor DuBois agrees with Mr. Malcolm that a breakdown of revenues by block be provided on a yearly basis. Also concerned how many big users have been allowed to install multiple meters, as this enables a major water user to be billed individually for separate buildings thereby not being billed for a higher block rate. Believes it is fiscally irresponsible to allow any major user to change the way they are being billed without first discussing with the City Council. Mr. Pike stated that the Commission did not think this could be done and as such there was a long discussion with that applicant as well as their lawyer who researched the issues; this issue did not need approval from either the Council or Water Commission as they had a legal right to do this, the only control would be that the Superintendent of Utilities had the authority to approve where the pipes are installed and how the meters were connected. Councilor DuBois questioned if there was a legal determination from the City Solicitor as this would have been due diligence and questioned if this was the only instance in the past year. Mr. Pike stated that is the only time this has ever happened as far as he is aware; however there is a difference between a business coming in having one building and one use and residential units that are spread out into separate buildings. Councilor DuBois stated that this is a dangerous precedent as it allows every apartment building to come in and re-meter their facility. Mr. Pike stated that the Commission is not in favor of this but it is what the law allows, suggested that an Ordinance be added stating there is one meter for one deeded property; cannot do this post-facto as they had the legal right at the time. Councilor DuBois stated she is not in support of a rate increase.

Councilor Sullivan requested leeway to discuss some of the statements previously made; asked Mr. Condon if he had any guesstimate as to when the revenue will be certified. Mr. Condon stated it should be certified within the next 30 days. Councilor Sullivan requested a status update on Aquaria finding new clients, as Holbrook is interested. Mr. Creedon stated that they are presently in negotiations...Mr. Pike stated that he does not mean to be disrespectful, however we have an agenda and are talking about rates. Councilor Sullivan stated that in terms of the rates, he concurs with Mr. Malcolm and would like to make a formal request for a breakdown relative to the high and low users, be provided a hard number once broken down on meters; also concurs that there is no feeling on the Council to increase rates, however would like to see a hard number on the CPI or PPI.

Ms Kate Archard questioned why the water rates go from 25,001 to 875,000 when the other increments are so small. Mr. Creedon stated that the block above 25,000 is generally for commercial operations or large housing complexes; one possibility would be to divide the top block. Ms Archard also questioned how much money was paid to Aquaria during 2009. Mr. Condon stated the contractual obligation for the fixed component has been paid as well as the variable component, not sure of the amount, the fixed commitment increases every year and the variable commitment is based upon what is actually bought, the variable rates are frozen for the first three year's of the contract after that they can increase by producer price index. Mr. Creedon stated that we have paid approximately \$2,300,000. Ms Archard questioned what rate would be charged to Holbrook if they purchases water. Mr. Pike stated that this wouldn't effect what has to be budgeted for next year, need to figure out what our revenues are going to be, any purchase like that would affect the 2012 budget. Mr. Condon stated that any outside user would allow the city to back off from its fixed commitment payment to Aquaria. Ms Archard questioned how the rates are changed. Mr. Pike stated that if there is a motion at the end of the hearing to increase the rates, a vote would be taken and the information would be sent to the City Council.

Council President Chris MacMillan chastised Mr. Pike on his tone towards the City Councilors...the discussion between Mr. Pike and Councilor MacMillan got a little heated.

Mr. Work exited the meeting.

Councilor MacMillan questioned if it illegal to have one meter at condo associations. Mr. Pike stated that the discussion is about rates. Councilor MacMillan stated it was brought up. Mr. Pike stated that someone else brought it up. Councilor MacMillan informed Mr. Pike that he letter for both him and Mr. Pina at the end of the meeting.

Mr. Pike questioned if there was anyone else that would like to speak on the rates. Hearing none this portion of the hearing is closed, questioned if there was any motion on the rates.

2/24/10

**Mr. Pina moved to recommend to the City Council that the water rates be increased by the PPI index as recommended by Mr. Condon, Chief Financial Officer. This motion was seconded by Mr. Malcolm for discussion purposes.**

Mr. Malcolm questioned if this would be an equal increase for all the block rates. Mr. Pina stated it would be an across the board increase. Mr. Condon suggested that as there are a number of PPI indices, it should be specified referencing the indexes in the Aquaria and Veolia contracts; specifying Producer Price index excluding food and energy.

**Mr. Pina amended his motion to include the PPI indexing from the Aquaria contract. Mr.. Malcolm accepted this amendment, and so voted unanimously by the Commission.**

## **RECESS**

Mr. Pike opened the meeting for **Old Business** and discussion of the following:

- **Fiscal Year 2011 Budget** - previously discussed.
- **Current Year Budget Report.** Mr. Creedon reviewed the current budget. Mr. Condon stated that the budget is largely fixed costs, with a big debt service component, purchasing service from Aquaria, and the contractual obligation to operate the treatment plant, which are not amenable to cost control; what is left is staff which is necessary to provide service.
- **Shut off Policy** – no discussion.
- **Abatement Procedure** – no discussion
- **Irrigation Meters** – correspondence received from Solicitor's Office, discussion postponed.
- **Meter Replacement** – Mr. Pike stated that if this moves forward every meter needs to be replaced. Mr. Condon stated that there are meters that are estimated for years because the crews are not granted access. Mr. Condon stated that in order to write a borrowing order, he needs to write a certification letter stating in his opinion this commitment can be sustained and not effect the present level of services in the future, unfortunately he cannot state that without a revenue stream to support. Noted that any change in the rate structure would take an ordinance change; the original structure was set up to generate as much as possible without penalizing the homeowner; do not want to put a new structure in place that reduced revenues because once the system is in place the cost to serve a big user versus a homeowner is not much more. Advocates having an annual rate increase or worst case bi-annually at modest amounts as costs are continuing to go up; do not want to take a necessitate and defer it so it becomes an imposition on the rate payers.

Mr. Pike opened the meeting for **Other Business**. Mr. Pike opened for anyone to address the Commission relative to any item on the agenda.

Ms Gini Jeppson stated that as they were never apprised of the meeting pertaining to the power plant and did not have a chance to be heard; questioned if the Commission had any plan or recourse to have a meeting where the people could be heard. Mr. Pike stated that the Commissioners were surprised with the lack of attendance, the agendas were not published, which has changed, there is currently no law requiring the agendas be published, however beginning July 1' 2010 the law requires the agendas be published. The preliminary agenda is now posted with the notice of the meeting. The Commission has never discussed the power plant, regarding not being notified, other than posting the agenda, it is not fair to individually notify regarding an individual item on the agenda because they may have an interested. The Commission has had hearings for fourteen years and granting connections to the water system and the only thing we can do is have public meetings, we cannot take back any prior approvals as they were granted legally, cannot have another hearing on that petition. The Commission does not approve the plant being built, we only approved a water connection. All applicants have to be treated the same, our process was followed.

Ms Barbara Carchidi questioned if the power plant has to come back to the Commission because they need less water. Mr. Pike stated they would not need to come back as it was presented to the Commission as an optional use of water, the Commission has never amended a permit for using less water than permitted as it is based on a maximum use, the purpose of granting a permit is if more than 10% above what has been granted is used there is a penalty. Ms Carchidi questioned if the rate could be increased. Mr. Pike stated that there is a rate setting process, the permit would not be negotiable regarding rate as there is a published set of rates.

2/24/10

Ms Loretta Murray questioned why water would be granted on an optional use rather than a need use. Mr. Pina stated that if this is being referred to Brockton Clean Energy, the optional was to use diesel as a fuel, now that is off the table, it was an operational use for them, they had to apply for the full amount of water they anticipated using. Mr. Pike stated that any entity applying for water applies for the maximum amount of water they may need because if they apply for less and go over by more than 10% they can be fined, any applicant would have to know their maximum need. Ms Carchidi questioned if the Commission reviewed the determination of the citing board that sewer water had to be used. Mr. Pike stated that there are two different used of water, one in the plant and one to cool the towers, they did not come in for cooling, which is what the citing board spoke about, they came in for water in the building itself, which is what was granted. Ms Carchidi stated that no one comes to the meetings as no one knew about the meetings until now. Mr. Pike stated that by law all the meetings are posted the same way every board in the city posts their meetings.

Mr. Pike closed the meeting apologizing for losing his temper and stated that due to the pressure from several of the Councilors on items that he believes are specious and the punitive nature to review the new ordinance, admitted to being upset for the valued service of any member of the Water Commission over the past fourteen years, apologized for losing his patience and his failure in his ability in running a fair and open meeting. Also stated that it has been an honor to work with everyone, praised the staff and the quality of work. Every single person he has come in contact with is extremely complimentary about the way the crews act in the streets and in homes, which is not typical, credited Mr. Rowley as to how the crews behave. Also praised Mr. Thoreson, Mr. Creedon and Alisa regarding the professionalism of the staff.

**Mr. Pina moved to adjourn. This motion was seconded by Mr. Malcolm, meeting adjourned at 9:42 A.M.**

**Respectfully submitted:**

Alisa Hambly  
Secretary  
Water Commission

**Certified by:**

Brian M. Creedon  
Water Systems Manager  
Clerk of the Commission