Meeting Minutes

Audit Committee

Monday, February 7, 2011 3:00 p.m.

1. Opening Remarks/Roll Call

Chairman Williams called the meeting to order at 3:01 p.m.

Present:

Rick Williams, Chairman Preston Edwards

Barbara Chick

Staff:

Bill Dollar
David Schuler
Craig Hametner
Jed Johnson
Terry McMasters
Jonathan Morgan
Bryan Bradford
Elizabeth Morales
Michelle Taylor
Christian Thony
Mark Samuels
Robby Neill

Terry Anglin Assistant Chief Greg Conley

Visitor

Connie Cannady, J Stowe & Co

2. Consider approval of the minutes from the meeting of December 13, 2010.

Motion was made to approve the December 13, 2010 minutes by Preston Edwards

Motion seconded by Chairman Rick Williams

Motion was approved

3. Oncor Franchise Fee Audit

Connie Cannady, consultant with J Stowe & Co., presented the Oncor Franchise Fee Audit. This audit was done as a coalition effort with 26 cities in total. She stated because of deregulation back in 2001 the issue of discretionary service charges was settled under a Denton lawsuit. The big piece is from a factor due to a change in state law. What was found on the 4% component of discretionary service charges was that there was an underpayment based on the fee on fee factor related to Contributions in Aid of Construction.

The review could only be done for a two year period under the law so the total amount of underpayment was \$2,710.

Chairman Williams then asked if there needed to be a change made to the franchise agreement wording. Connie stated that 4% of gross revenues is 4% of the gross revenue of discretionary charges.

The other issue that came to light is that when reviewing the discretionary service charges, it was found that Oncor has been reducing the amount of revenue they are getting from discretionary service charges. Part of that is a result of PUC saying that due to the smart meters there should not be charging as much for connects, disconnects, and reconnects. Oncor, along with the other electric providers complied with that order and made some reductions to the discretionary service charges. Because the City is under a percentage, the City will continue to lose revenue unless there is some melding of the two because when you lose revenue on the percentage side, the 4%, it does not get picked up on the factor side. If the City had a full 4% of everything then it would not matter which bucket of dollars it was in but because it is going down on the discretionary side, the factor will stay constant. That was one of the recommendations to meld the factor together so you are dealing with just one factor that includes discretionary service charges at a certain point in time to be negotiated and that factor would never be reduced regardless of what they charged on a percentage basis.

Chairman Williams asked if there was a standardization of what a discretionary service charge should be. Connie stated the charges are set by the PUC. When discretionary charges are set and you lower them, then you increase the per KWH charges in the rates. Connie stated that in her opinion, the discretionary charges should have been included in 1998 on what they were paying the City on anyway, that was the original lawsuit that Denton brought. So if Oncor had been paying appropriately back then, the original factor under the state deregulation law would have been correct and none of this would be going on but they added the 4% after the fact. Connie stated that due to a recent case that just came out of the district court, the PUC realized that they had made an error in making the determination that the factors could not change. Anything that is negotiated between the City and Oncor is allowable under the law. What the PUC said was anything above that 1998 factor was not allowable and that is why they were not allowing those marginal increases. The recommendation is that if they are going to stay with the factor, go ahead and blend those two factors together so there are no questions going forward.

Bryan asked if there was some room to negotiate the franchise fee rate that was set in 1998. Connie stated that the recent court case says that to the extent that the City and Oncor negotiate a rate, the PUC can not tell Oncor that they can not pass it through. There is an opportunity for the cities to go back and negotiate

some sort of increase to those factors to allow for the fact that the 1998 period is stale.

She also stated that at the same time, it would probably be beneficial to get rid of the 4% issue and just mold it all in. This way you will have a factor that is going to be on all the kWh which includes electric sales and anything that is revenue generating which is allowed to be in the factor.

Bill then asked Connie if she thought that all cities would be in unison to do this together. Connie stated that she thought so.

4. Fleet Services Audit

Jed presented the Fleet Services Audit. With the first finding, Fleet has already secured concurrence from NAPA to implement fixed dollar mark-up caps on higher cost parts upon renewal of the agreement, Fleet will explore the issue of other operating costs and headquarter fees to compare allocation of overhead with other in-house NAPA programs.

There were no questions from the Audit Committee in regards to findings #2.

In regards to finding #3, Fleet stated that they are the ones telling NAPA what parts to buy and to put on the shelf.

Finding #4 dealt with obtaining P&L supporting documentation from NAPA. Bryan asked if there was a clause in the agreement to audit NAPA and Craig stated he would get that information to him. Craig checked the contract and stated there was no clause in the contract that would allow the City to audit.

There were no questions to findings #5, #6, #7, #8, #9, and #10.

5. Police Peripheral Inventory Audit

Christian presented the Police Peripheral Inventory Audit. He stated this audit was done as part of a recommendation from a SOX review.

Chairman Williams asked if the City has the ability to say what the definition of a peripheral item is in regards to the dollar value as it appeared that the entire audit had to do with what gets capitalized and what does not. David stated that the capitalization policy was written with a goal in mind and that was to utilize the work order system which has not been implemented and therefore is the reason why there are inconsistencies with what the policy states and what the system does. David stated that they can modify the policy to exclude the definition of adding peripheral items as a fixed asset item because the work order system is not in place.

Christian presented finding #1. Discussion was that if the policy gets updated to remove the definition of a peripheral item as an add-on it is not to be capitalized. This would then not be a problem because it would not meet the criteria of the \$5,000 capitalization threshold amount.

Bryan asked if the concern was the financial reporting or the safeguarding of assets. Craig stated it is both.

As for finding #2 the issue here was timing due to Telecommunications transitioning to a new work order system, therefore, the old inventory tracking system was not current and accurate.

A destruction policy will be created; therefore there were no questions about finding #3.

As for finding #4, David Schuler stated when they transitioned to and started the fixed asset system there were a lot of items they did not have any records for and those items were subsequently added and that is the reason for the inconsistencies.

There were no questions to finding #5, #6, and #7.

Craig presented finding #8 and stated his concern was that Directive #5 given to the auditor was not the same as the one that is listed on the city network.

The Audit Committee did not have any additional questions in regards to this audit.

6. Franchise Audit for Commercial Solid Waste Pickup for Private Companies

Craig presented this issue and told the Audit Committee that it deals with the franchise agreement for wastehaulers which has to do with who conducts an audit.

Chairman Williams asked how much would an audit cost and Craig said for a nationally recognized firm, it would be about \$20,000. David Schuler agreed it would be around that range depending on the amount of time spent and the complexity of the organization.

Craig stated to the Audit Committee that Internal Audit could do the audit at a much lower cost to the taxpayer.

Bill then discussed the history of how the City came to operating their own commercial solid waste and how several discussions have taken place to where the City could take over the commercial business. Bill also mentioned that the

City hired a consultant at the direction of Council to look into what it would take for the City to take over the entire business. The consultant recommended that the City take over. At the time the study was done, the cost was going to be about a five million dollar investment of extra equipment and hiring additional people. All this then brought on public hearings and the big wastehaulers like BFI and Waste Management came out and stated it would not be necessary for the City to take over the entire business of commercial collection and stated they would pay whatever mark-up the City wanted. The commercial industry also came to the council meetings and they stated they liked the freedom of choice, they liked it the way it was and the ability for them to be able to chose who they want as a wastehauler. Out of these discussions, the wastehaulers felt that their rates are proprietary information because the City is in competition with them. Therefore, the clause in the agreement that audits should be done by a nationally recognized firm came to be.

Bryan stated that the commercial solid waste division does two things for the city; one is that the waste stream goes to the City's landfill and that provides a million dollars to the general fund. A private wastehauler takes their waste to another landfill that they contract with. The other is that if you take the revenue generated by the commercial department and take the direct expenditures related to that service (not the overhead), it makes about half a million a year which is used to cover the fixed overhead of the solid waste department. If the City did not have their own in-house commercial wastehauler business then there is another half million of fixed cost that would have to be absorbed by the residential area which would be about a 40 to 50 cent rate increase for residents and then the loss of the million dollars of revenue coming into the landfill. Bryan stated that the City should require for all the tonnage to go to the landfill but that would create a legal battle because some of the haulers have a contract with landfills or even have their own landfill.

Bryan stated he would revisit with Kevin Slay in Customer Service to see if someone in his area can pursue the area of reporting new wastehaulers they see when they are out in the field.

Bill stated they would talk about it and get it on the agenda for later on.

7. City's Commercial Solid Waste Pickup

This was discussed with #6 above.

8. Adjournment.

The meeting was adjourned at 5:05 p.m.

Submitted By:	Chairman Rick Williams
Elizabeth Morales	Audit Committee