

# KAREN A. MURPHY

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March 16, 2009  
(VIA Fax: 860-275-8299)

David M. Panico, Esq.  
Robinson & Cole  
280 Trumbull Street  
Hartford, CT 06103-3597

Re: Validity of the City of Stamford's Bonds Is Questionable &  
SEC Disclosures for the City's Official Statements

Dear Mr. Panico:

The Mayor, together with the City's misinformed, rubber stamp elected boards, have approved, or are about to approve, the operating and capital budgets for fiscal 09/10 and two or three bond resolutions, all of which violate the City's Charter.

Unlike the misleading statements that you and the City's financial advisor, Mr. Barry J. Bernabe, V.P., of Webster Bank, provided to the Board of Finance on March 9, 2009, the SEC rules require that the disclosures in the City's Official Statements be provided in plain English.

The Mayor together with the elected boards message is: Listen to what we say – and do not watch what we do.

Well the taxpayers of Stamford are tired of this Administration's lies and deceit, and we are watching what the Administration, with counsel from outside advisors, is doing, and its illegal.

## **Background**

With the proposed illegal budgets and bond resolutions, this Administration, together with its rubber stamp boards, digs the City of Stamford's fiscal hole deeper.

The Mayor's statement that "that recent arbitration awards would likely provide raises in the same range the city has agreed to" is based on a wrong premise. The reason given by the Mayor was that because of the City's financial condition, arbitrators would have awarded raises in the same 3% range. The Mayor and the City officials fail to understand that the City is in terrible financial condition. The City has \$1 billion of debt and employee benefit obligations that are not funded. When I asked the Mayor after last year's 10% increase when will the increases in taxes become reasonable and predictable, he could not, and did not, answer the question.<sup>1</sup>

The only thing I see that the Mayor is reducing in his proposed budget is his slush fund. The City is not eliminating 44 positions, but apparently this year, unlike prior years,

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<sup>1</sup> The increase in the levy was \$24 million in fiscal 08/09 and another increase of \$25 million is requested for fiscal 09/10. \$50 million in tax increases in two years, and the City has not begun to properly fund its OPEB and pension obligations.

the taxpayers will not be ask to fund 44 unfilled positions. How many other unfilled positions are we being required to fund in this budget?

Ms. Dennies noted a \$1 million reduction in debt service. Check last year's record. I clearly demonstrated to the Fiscal Committee of the Board of Representatives that the City was overcharging for debt service. Of course the response by the City was not truthful and the taxpayers were charge an extra million dollars in taxes.

Another great savings, according to this Administration, will be coming from the \$70 million Bond Refunding. On an economic basis this is a sure loser for the taxpayers. What is astounding that the City gets away with this nonsense by never having to produce for either of the elected Boards any kind of an analysis that shows the "alleged savings." I would appreciate it if you would produce the pro forma savings verification for the proposed transaction.

Over the past years instead of funding OPEB and pension obligation the City funded its slush fund – unfilled budgeted positions. The City's OPEB and pension obligations are not being addressed once again.

Instead our Mayor and elected boards are orchestrating the biggest rip-off ever on local taxpayers. The illegal earmarks in the City's capital budget alone total \$40 million, over two years. Earmarks funnel tax money to the Mayor's pet projects, in this case, for example, the Waste to Energy R&D project, without undergoing normal scrutiny and debate. As bond counsel knows it is illegal to fund R&D projects with General Obligation bonds or Revenue Bonds.

### **\$70 million Refunding Resolution**

In a Special Meeting of the Board of Finance on March 9, 2009, that was not properly noticed, the City of Stamford approved RESOLUTION NO. 3274 - the Resolution authorizing the refunding of up to \$70 million of General Obligation Refunding Bonds. The Resolution authorizes the issuance of \$70 million of Refunding Bonds " for the purpose of maximizing net present value savings and/or to moderate debt service payments..."

Bond counsel and the financial advisor to the City and the City knew, or should have known, that there is no economic benefit to the City by this \$70 million refunding. In other words there will be no "net present value savings" due to the refunding. The shell game being played here is to lessen the City's debt service costs in fiscal 09/10 and may be for other years, including fiscal 08/09, by using the language in the Resolution "and/or to moderate debt service payments." The City has no authority to issue such refunding bonds and bond counsel knows it. If there is authority for the City to issue these bonds, please provide the taxpayers with the citation.

## **\$50 million General Obligation Bond Resolution**

### **BAN vs. 20-Year Bonds**

The irregularities associated with the Resolution authorizing the Issuance of \$50 million of General Obligation Bonds are numerous. Interestingly, I have a copy of the final Resolution for the \$70 million refunding but not for the \$50 New Issue. Bond counsel may have become aware of the problems as well. It may be, however, that the rubber stamp boards missed a step in the stage play they put on each year during the budget approval.

It appears that the illegal operating budget proposed by the Mayor contemplates that a \$50 million BAN, a one year note, not twenty years bonds, will be issued. However, the BAN was not approved at the un-noticed Board of Finance Special Meeting on March 9, 2009.<sup>2</sup> In the alternative, the City could generated budgetary savings, not true, economic savings, and at a real costs to the taxpayers by financial engineering the \$70 refunding and issuing \$50 million in new bonds. It is difficult to know what exactly is going on because this Administration, together with our elected boards, is anything but transparent.

### **Project List**

An integral part of the \$50 million new issue Resolution is the Capital Project schedule entitled "2008-2009 Unissued Bonds For Capital Projects" (" \$50 Million Project List") that is attached to the Resolution. What is very peculiar about the \$50 Million Project List is that:

1. The summary sheet for the \$50 Million Project List shows that \$20+ million of the \$88 million 2008 bond offering has not been allocated to identifiable capital projects. How is it legally possible that \$20 million has not been allocated to capital projects?
2. The amount of authorized, unissued bonds ("AUI") is not calculated properly. The premium received on previously issued bonds and the interest earnings on the bonds proceeds have not been subtract in determining the amount of authorized but unissued bonds. Instead the City uses the bond premium and the interest in the bond proceeds to illegally fund operating expenses.
3. The City does not show how the \$47 million in 2007 BAN proceeds are allocated to the Capital Projects. According to the City's Official

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<sup>2</sup> In the Mayor's February 12, 2009, letter to the Board of Finance he states: "We are hopeful that when this refunding takes place that the bond market rates will be comparable to their rates today so that this may save a minimum of \$1.4 million in debt service." In the Mayor's proposed operating budget, debt service is reduced by approximately \$1.4 million from what it should be based on the existing bonds. With a BAN the City does not have to budget a principal payment on the new \$50 million debt in fiscal 09/10. The City may be considering entering into a SWAP with the BAN to take advantage of the low interest environment. However, based on the City's past experienced I do not think that this is likely.

Statement school capital projects were allocated \$23.5 million of the \$47 million. At least that what was told to the investors.

4. On p. 6 of the Official Statement for last year's \$88 million bond offering, school capital projects went from \$23 million in 2007 to \$15 million in 2008, and that \$15 million is now \$6 million according to the \$50 million Project List.

Not all capital projects can be bonded. Only capital projects of a "permanent character" can be bonded. Notwithstanding, the City illegally bonds cars, makes loans to developers, fund the cost of synthetic turf fields with the proceeds from general obligations bonds. In fact the City funds no capital expenditures through the operating budgets. The height of this waywardness comes with the 09/10 Capital Budget where the Administration intends to use bond proceeds to fund R&D projects.

The City's bonding practices, to include the shifting of operating expenses to capital projects, are the subject of a pending litigation and a Freedom of Information complaint. I was denied access to the City's 2008 bond records because "Bond Counsel is not comfortable releasing the documents." With the proceeds from the 2008 \$19+ Refunding Bond the City funded it \$450,000 SWAP loss. I would like to know what authority the City relied on to fund such a loss. I would also appreciate an explanation why bond counsel is not comfortable releasing the 2008 bond records.

### **Mayor's Proposed Operating Budget**

The City's Charter requires that the Mayor proposed budget include the funding necessary to comply with federal, state and local laws. The City has an ordinance requiring minimum OPEB payments. The Mayor does not budget for these payments. Further, the City's Charter requires for the purposes of financial planning, detailed estimates of revenues, capital expenses and operating expenses for each of the following two fiscal years. The Mayor has not made a good faith effort of informing the taxpayers or the elected boards what the funding requirements for the City's pension and OPEB obligations will be in fiscal years 2011 and 2012.

### **Mayor's Proposed Capital Budget**

Like last year's Collapsed Capital Budget, this year's Collapse Capital Budget does not meet the requirements of the City's Charter, and raises bond validity issues. The City is also bonding capital projects that are not of "permanent character" in violation of the City's Charter. The City acknowledges that it is improperly bonding projects when it states it needs short term capital. Omitted from the Capital Budget is a much needed new police building. The City estimates the cost at \$30 million, which is most likely understated.

Every other municipality is cutting back on capital expenditures but not Stamford. Ask yourself: Why?

## **Other Disclosure Problems**

### **Pensions**

Based on the most recent actuarial report, the primary reason the City's pension costs went up in the Mayors' proposed budget is because of **higher than expected pension benefits**. Only \$6.5 million dollars of the estimated \$200+ million lost in pension fund assets was taken into account in computing the City's pension contributions. Yet here is now the City described, misleading, at best, the pension increase:

Increased contributions to city pension funds, decimated by the plunging stock market, account for all of the increase in municipal spending.

Another concern is the fact that the retirees, not the taxpayers, will benefit if the decimated pension funds rebound significantly. There is another provision in the City's pension plans that provides that there is automatic adjustment in retiree pension benefits if the returns on the pension exceeds 10% over a three year period.

Reasonable and predictable tax increases are not in the City's future. And forget about improvements in the City's infrastructure and the City's schools that are in desperate need of repair. The City is facing a pension and retiree health tsunami that will overwhelm the taxpayers. To compound matters, there will also be a huge shift in taxes from commercial to the residential owners due to the economic downturn.

### **OPEB**

The games going on with the funding of OPEB is incredulous. The City passes an OPEB Funding Ordinance in 2008 to demonstrate its high financial standards knowing it can be changed overnight - that is after it receives the \$88 million in bond proceeds.

Now the Board of Representatives is holding in committee an amendment to the OPEB Ordinance that would eliminate the requirement to fund the actuarial required contribution. Although the Mayor has no right or authority, he prepared his proposed budget assuming the OPEB ordinance will be amended. I wonder how this will be explained in the Preliminary Official Statements for the new and refunding bonds?

### **Other OPEB Comments**

There is no basis for the City's 6% and 8% interest assumptions. GASB requires that the liabilities and the ARC associated with benefits funded on a pay-as-you-go basis be determined using a discount rate equal to the expected rate of return on general funds. CT investment rules for the general fund are restrictive. There is no basis than for an interest assumption higher than 4.0% for the benefits funded on a pay-as-you go basis.

The City is and has been on a pay-as-you go basis for OPEB. The Mayor apparently believes, incorrectly, no matter how one funds the plan if you have a trust one can use the higher interest assumption - not so. Note that the auditors used 6%, and Mayor used 8% in his proposed budget.

David M. Panico, Esq.  
March 16, 2009  
Validity of the City of Stamford's Bonds  
Page 6

Not only are the OPEB assumptions questionable, the use of "an open 30-year level percent of pay method" to fund the past service, I believe, is not actuarially sound. The City's actuary does not indicate that the City is funding its OPEB obligation on an actuarial sound basis.

### **WPCA**

For a discussion of WPCA's financial statements, see the attached March 9, 2009, letter to the Board of Finance. How can an entity with \$16 million in revenues and \$114 million in debt be conducting \$40 million in R&D research funded with GO/Revenue Bonds? WPCA is also amending its prior three year capital budgets- I never heard of such a thing. The reason, I believe, is to get cash via General Obligations Bonds into WPCA in order to fund its operating expenses.

The cost of the new pelletization process for sludge disposal is exorbitant and unaffordable. WPCA should return to the haulaway system for its sludge (See p.368 of the Mayor's proposed operating budget)

### **Revaluation**

The City needs to do yet another Revaluation, a full inspection Revaluation as of October 1, 2009, is not discussed. The City claims that the last full inspection Revaluation was the 1999 Revaluation, which it was not. Further the City has not budgeted for this fiscal 09-10 expense. It should also be noted that the City authorized bonding for the \$2 million cost for the 1999 Revaluation which was improper.

More of a concern is the expected enormous shift in taxes following the Revaluation from commercial to the residents as a result of the economic downturn..

### **Conclusion**

We expect more from the City's outside advisors especially given the inexperience of the City's officials and the City's weak elected boards.

Sincerely,

KAREN A. MURPHY

cc: Barry J . Bernabe, V.P. , Webster Bank w/attachments  
(Via Fax: 860-947-1878)

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