BOARD OF MAYOR AND ALDERMEN

October 21, 2003 **7:30 PM**

Mayor Baines called the meeting to order.

The Clerk called the roll.

Present: Aldermen Gatsas, Guinta, Sysyn, Osborne, Pinard, O'Neil, Lopez, Shea, DeVries, Garrity, Smith, Thibault, Forest

Absent: Alderman Wihby

Mayor Baines called for a recess to allow the Public Participation session to continue.

Mayor Baines called the meeting back to order.

"Manchester On The Move" presentation.

Mayor Baines stated a couple of weeks ago we had the good fortune in our City to have Bank of New Hampshire and their umbrella bank, Banknorth, put on what those of us who attended probably one of the most significant events we have had in the history of the City focusing on Manchester's future. The summit was called "Manchester Tomorrow". It was held at St. Anselm's College at the Institute of Politics, which by the way is the only part of St. Anselm's actually in Manchester. It was attended by approximately 200 representatives from our community and almost all of them stayed for the entire day. Before I introduce Joe Cornish from the Bank of New Hampshire, I just want to read a couple of highlights from the meeting. Bill Ryan, the Chairman of Banknorth said "Manchester is the envy of other cities in New England." The following is an excerpt from Dennis Pace's article about the summit and he said "Manchester's successes with its growing airport, Verizon Wireless Arena and other development made Manchester the envy of other New England cities said Bill Ryan, Chairman, President and CEO of Banknorth Group and he said how are they doing so well there in these bad economic times." That is a refrain that he hears across New England. He urged us to take credit and feel confident and he said while Manchester has been working the question remains do you have the fire in the belly to continue on for 10 or 20 years more. There is really a sense of confidence about our community. I want to thank the bank for sponsoring the program and I would like to introduce Cheryl Cornish to say a few words to the Board this evening. Again, on behalf of the Board of Mayor and Aldermen and citizens of the community I want to thank the Bank of New Hampshire for their outstanding commitment to our City.

Ms. Cheryl Cornish stated thank you very much Mayor. Bank of New Hampshire and Banknorth was very pleased to host this economic summit. It is the first economic summit of its type and we chose Manchester as our pilot among the six states and the hundreds of communities that we serve throughout New England because of the success that Manchester has had. The bank was very pleased. We started this back in February and I would like to thank the Mayor and the City for the inspiration, the encouragement and the endorsement of sponsoring this summit. It went off far better than we hoped or imagined back in February when we started. As the Mayor said nearly 200 people attended. The comments and the actions and the response has been extremely positive. I can if I just take a minute one of the most heartening things that we heard after the event and it was one of my colleagues who was there who lives in a community…one of the surrounding communities and she and her husband sent their youngest child through college and out of college and she said we were looking around for a smaller place to live and she said we were really thinking about communities outside of Manchester but after being there that day we are looking very closely at Manchester. I think it was a really invigorating, very positive…it was just a great day and we were very pleased to be able to sponsor the event. Thank you very much.

Mayor Baines stated part of this project was another outstanding commitment by the bank because what we had found in working with attracting new business to Manchester and by the way even when we went down to Wall Street there was talk about the tremendous economic engine in the City but what I have found with working to try to bring businesses to Manchester is we were missing something that could really showcase the City using this kind of technology so the bank produced a video about Manchester, which we are going to show you this evening that really should bring a sense of pride that all of us have in the community that we call our hometown. The video was shown.

Mr. Kevin Clougherty stated the Mayor has asked me tonight to provide the Board a chance to review some of the presentation that the City made as part of the economic summit but what this actually is is an abbreviated piece of our credit rating presentation. When we do our presentation to the credit rating agencies it is an all morning type of presentation and much more detailed. I am going to take piece of it to give you some kind of flavor of what we present to the rating agencies and also to provide you some feedback. So this is a sample of what was provided to the summit. The purpose of the summit was to try to focus on the economic future of the City but in order to understand where we are today you really have to go back and take a look at the under pinning and the history of the City and how we got where we are and what really makes up the City. A lot of our strengths that I think we have accomplished over a number of years…the City really started out almost as a futile system where Amoskeag Industries came in and provided all of the necessary features and comforts of life for their employees. They built the row houses that are out here and provided work in the mill and for a long time that system worked great until Christmas Eve of 1935 when Amoskeag Industries declared bankruptcy and if you go back and look at the City's budget

the next year, 1936, you will see that the biggest line item in the City budget was for Welfare. At that point in time a lot of people really expected that the City would not continue but the City did continue by adopting a basic policy with respect to diversification. They diversified the government. They diversified their industries. They said we will never get into a situation again where one industry or one company really controls the destiny of the City. We want to try and diversify and you saw things spread out as a result of that. Right after the Christmas Eve bankruptcy in 1935, the following year we had the Great Flood of 1936 and then in early 1938 you had the hurricane come through. So the people from that period of 1935 until 1938 in the City of Manchester must have thought that things were pretty stacked against us. They had these natural disasters coming through as well as an economic disaster. The City did pull itself together but the combination of those things had a long-term effect on the City. Through the next period of time through 1986 the City really operated as almost a City state. They didn't have to go outside to do anything. Most of the companies that developed in the City were the Public Service company and local insurance companies and local banks and if any decision had to be made you could really get 10 local businesses together to make some decisions and go forward. If the City needed to borrow money it didn't have to go to Wall Street. It could go to Amoskeag Bank or BankEast or Merchants Bank and everything got done somewhat in the City but during that time the City ended up almost under receivership. There was a control board that came down and said listen we can't allow for expenditure of funds. Everybody talks about the Benoit era when he came in in 1944 about not raising taxes. They couldn't raise taxes. They were still trying to dig out from the devastation of the economic disaster of the Millyard collapsing plus these other natural disasters that came on its heels. So for a long time they didn't have the wherewithal to do things. As a result up until 1986 the City kind of fell into disrepair. When I was a kid in Manchester you had the third most polluted river in the world. You never knew what color the river was going to be from day to day. It depended on what dye the mills were running and it was a real problem. At the same time you had a landfill that was growing out of control. You had an incinerator that was throwing ash into the air. The debt was 20% of the budget and you had a lot of things just coming against the City. I think since 1986 we have been able to show a big change. We no longer have a problem with our landfill. We have negotiated a good deal on that. It is closed and we are working to take care of that in a manageable way. The river quality in the Merrimack river recently tested the same as Lake Winnepausakee. So there have been some improvements environmentally in terms of where the City is. We are not doing things with the incinerator and we have been able to do some other environmental things in terms of controlling the watershed at the lake and in terms of acquisitions and properties and in terms of making regular improvements to our water and sewer systems to improve the environment and work with the Federal government. I think the City from 1986 until the present has made a lot of improvements. One of the things that changed in 1986 was Federal law. It said that no longer could the City go to its local banks and borrow money. If it wanted to go engage in capital projects it had to go to Wall Street. What they actually did was make it a disincentive for local banks to participate in capital financing for the towns around the country. So at that point in time the

City had to comply with Generally Accepted Accounting Principals, had to go into the markets and had to do a lot of things that it hadn't done before. No longer could you just run across to the bank and borrow money for operating purposes. You had to go to Wall Street. I remember when I first came in the early 90's as a Finance Officer you had to go in and borrow $36 million the first day of the year because you didn't have any cash. That was half the City budget and that was to get you until May when your tax bills went out. We have been able to make some changes since 1986 to get to a point now where the City has a really strong financial position as a result of some of the policies that have been adopted by the Board over the last 10 years and I think that is something that is positive for the City. When we talked with the rating agencies one of the things they asked us to do is identify what we think are the strengths and weaknesses of the City. One of the weaknesses that we hear repeatedly is our image. I hear a lot about how the City is long on architecture but short on landscape. We have a lot of beautiful buildings but we could do a lot more with shrubbery and flowers to soften up the City and make it attractive. The second item is a political reputation that there is a lot of infighting and things can't get done. I think the reputation for that is undeserved because people didn't look back to what the City during the 80's had inherited. The problems with the bankruptcy and how that really prevented the City economically. It wasn't politics, it was money. I think in the last couple of years there has been a lot that has changed that reputation in terms of the City doing major projects like the airport and the water treatment plant and the arena. We have an inefficient government structure and you have heard me say that. We try to make the world's most decentralized system run as efficiently as possible. That does create some operating budget stress but we have been able to improve that. That is something long-term that should be rectified. One of the things we hear from Moody's and Moody's only, the credit rating agency, is that we need more wealth. We don't have enough high per capita income. We are challenging that because one of the things we find is that when they compare us to Portland, Portland looks like it has more wealth in the city if you look at just its assessed valuation divided by its population but if you go to the census numbers, our median family income is about $10,000 per family higher than Portland and we have no sales or income tax. Also we have, as a City, a lower poverty ratio as calculated by the US Census than most of the other A-1 rated cities. We are at about 9% whereas Portland and others are in double digits. So you can't just look at one end. You have to look at both ends to see how it is affordable and we are providing information to that rating agency to see if they take that into consideration. The weaknesses in the City are far outweighed by the strengths of the City and I think that is why the City enjoys such a strong credit rating. The strengths of the City are its diversity, its stability, and its sound financial condition as a result of financial policies that the Board has adopted and adhered to. A lot of Boards around the country have tried to adopt policies but they don't adhere to them. The first time there is a problem, they go into their rainy day fund or they try to do something that is inconsistent with their policies and that is why they have gotten into trouble. We have a strong infrastructure and we have a great location. I will talk a little bit about those strengths some more. Our diversity is not only in terms of our businesses and populations but our culture and our educational opportunities. If you take a

look at what we mean by diversity, Manchester's largest taxpayers are the Mall of New Hampshire and Public Service Company. They each pay us about $1 million a year. If either one of those…they are are in separate industries or separate developments and you have some other million dollar tax payers that are in different sectors so you don't have all of your eggs in one basket. If you are the City of Berlin, as the paper mill goes, so goes your destiny. Portsmouth is still trying to dig out of their military relationship and being so tied to the Pease Airforce Base. They are still trying to work out of that. Nashua's largest taxpayers are real estate development trusts for $8 million. If that one real estate trust had some problems, they would have to deal with that and they are in a much more volatile situation than the City of Manchester. We have been able to go out and I think through diversification, which again was regarded by our forefathers back when they had the collapse of the mills still in place and we haven't tried to select the one big home run or the one big company. We have tried to diversify and that has been our strength. The thing that we also have diversity in is our population. You don't have to go far to find out that we are speaking more languages in our high schools than other places. We have a lot of different cultures and that is seen as a strength by the rating agency because we are not…all of our eggs aren't in one basket in the wealthy sector. We have workers of all different talents and backgrounds and education, which helps to provide the workforce that is necessary at all ends of the economic spectrum and that is strong. As a result, the City has posted numbers that most other cities in the United States are not able to replicate in this environment. Most of the cities and towns in the United States today are not growing in population and not growing new jobs. Manchester is doing both. There are only a handful of cities over 100,000 that are doing that. If you take a look at the economy of the City, it is the largest city and the financial engine of the State. 60% of the population lives within 30 miles. It is a very wealthy per capita income that surrounds the City and provides a base for people doing business here. It is the largest and best equipped airport in New Hampshire and certainly in New England…perhaps not the largest but certainly the best in providing access in and out of the City for people who want to visit here and do business not just in Manchester but in Boston. It is a great alternative. You saw in the video the President of St. Anselm's saying we have numerous college opportunities. That again provides for diversity and it provides for competition and it helps the City overall. We are the headquarters for the primary and the primary banking financial services industry center for the region and again that makes us stronger. If you were to take a look at the City in terms of its domestic product, which is a study that was done by the U.S. Conference of Mayors in the last year, we are in the Greater Manchester area, the 71st largest metropolitan economy in the United States and there are over 3,000 cities and towns in the United States and we are 71st. We are the 116th largest state metropolitan economy. If you were to rank us as a country, we would be the 130th largest economy in the world. Bigger than Iraq and bigger than most of the South American countries. We have a huge economic engine that we are able to sustain here. When people say why are things going right in Manchester it is because we are diversified and because we adhere to policies to do certain things from a government level, which is helping us to do things and make accomplishments one at a time. Again, another way to look at diversity is

nearly 70% of the manufacturing jobs in the area and surrounding towns are durable goods production, Federal production, electrical products and plastics. Not everything is one Toyota plant or one Boeing plant. We are diversified into a number of smaller units that again help provide for continuity in economic downturns. Not only are we growing and are we strong in a sense but we are stable. If you look at the next couple of slides, you take a look at the 10 largest employers in 1991 versus 2002 you will see that there are a lot of the same companies. Maybe some of the names have changed but it is the same groups that are showing up here. Some of the ones that were here in 1991 have just slipped down the list. It is the same thing with your largest taxpayers. You may find that in 1991 it was under one name and now it is under another but you see a lot of stability in these large taxpayers and again a lot that aren't on here have slipped down. One of the reasons we think companies are strong here is because of the City's strong credit rating and because of the management policies and because of the investment that the City makes in itself to keep people attracted to coming here and our economic development effort. One of the reasons that we have talked to the Board about over the last number of years is that if you look at the economy…we really feel that in the 1970's and this is a history of the Dow Jones and the economy. We really feel that you are in this type of an economy moving sideways. That doesn't mean that there won't be some short peaks and valleys, but you are going to see some tremendous growth in the next 20 years. It happens as a matter of time and you have to be prepared for that. What we are trying to do is structure ourselves so that right here we can get market share. You can see that again this is flattening out in 2000 so we are trying to put ourselves in a position to do some things here that will sustain us as we go forward and take a look at how we can preserve our market share. This again is our valuation. You can see that it dropped down as State funding for education has come in but we have been adding value to our tax base. That has been going on. Again, that is going to help us to be able to get to a point where…if you are a company here, right now companies aren't growing. They are trying to make things work but eventually we are going to get into this period where they are going to want to expand and they are going to want to do something different and they are going to want to relocate from California to the East Coast. What we are trying to do here is to say when this comes and when you are ready to relocate are you going to want to come to a City that has been laying off teachers and that has no reserves and has exhausted all of its reserves, which means that you as a new company are going to have to build those reserves through taxes. Are you going to want to come to a City that has deferred its infrastructure improvements or are you going to want to come to a City like Manchester that has its reserves so that you are not going to have that burden and that has a top rated infrastructure in the form of a great airport where there is not a doorknob down there that is over 12 years old and where our ratios from plane passengers versus debt is very low compared to all of the other airports and where our water rates are low but yet the quality of our water system is superior to all of the other cities and towns and where we haven't laid off teachers and we have put $100 million into our schools while other people are sitting on moratoriums and not doing anything? Are you going to want to relocate to a City that has been adding jobs and been adding value or are you going to want to go to one that has

increasing poverty? The statistics because of the hard decisions that the Board has been making over the years are in our favor now. I think we have a good story to be able to compete for companies when this goes and you can be selective as you rely on your diversity principals for economic development. As I mentioned, when companies come to the City they are going to see that we have fully funded for the most part our health plans and workers compensation. We haven't drawn down on them. We have put in place good programs to actually control what we are spending for those areas. As you take a look at the special revenue account for non-recurring revenue, the first thing a company is going to ask is how did you balance your budget last year. Did you sell something to put some dollars in because that means that next year your taxes are going to go up? That is not the case here. We can show them the reserve account and say that that is there and we still have money for capital improvements. The stabilization reserve again is because we are not looking to have big gyrations in the tax rate. We are trying to keep it consistent. The rainy day fund is there in the event that there is some type of a real estate decline and we have to make up some lost ground in this. Your central business district has a revitalization fund. The Airpark. What we did is again we take the money that we take from the sale of land and reinvest it in those programs so there is not a problem. The same with Hackett Hill, Intown Manchester and the affordable housing fund. So we are continually putting money into areas so that we are not going to have to raise taxes. You will have those monies to rely on going forward. The same philosophy holds true when you look at the reserve accounts that are set up in place for a lot of the major capital projects. There are CIP reserves for every one of the projects so that once you build the Airport or the Verizon they are not going to come back to the City and ask for funds for maintenance. Those are going to be taken care of through the revenues generated at those facilities. The City will be able to keep them first class facilities and yet there won't be a lien on the taxpayers for providing that. At the time that we are doing investments and moving forward in our environment here because we feel it is a good time to do capital improvements, because we are getting low bids on what the project costs are but we are also getting low borrowing costs and we are also getting the ability to create jobs in a time when other people aren't creating jobs. That is contagious. The hotels at the Airport. You have two hotels at the Airport that have been completed or are under recent completion on Perimeter Road. You have the one downtown that is being considered and several on South Willow Street. You have two major supermarkets that are coming in and making investments in the City. You are not seeing that type of activity in other cities in the United States today. It is not happening. So when we go down to the rating agencies and show them this list of activity, the Federal building doing an $18 million renovation and Public Service Company doing their improvements and the hospitals, Elliot Hospital just before this had done their improvements. This is a partial list. They are not seeing that type of interest in the City. It is unique. In addition to being able to go into these other cities and go into the credit rating agencies and saying not only do we have our reserves but we have profitable, city-owned management. We have the Airport. We have Water Works. We have the Environmental Protection division. They have all been recently rated and all have great credit rating reports and all are strong. Recreation areas. You know McIntyre Ski Area and

Derryfield are profitable operations. The arena is as is Hackett Hill. Most of your other cities, a lot of your other cities have sold off these assets. They sold off their water and sewer departments to privatize them. That is what is going on in Nashua now. Years ago Nashua sold off their water system and gave it to a private company. Now what they are finding is they are going to have to reacquire that asset and once they reacquire it they are still going to have to make the investment that we just made in our water treatment plant so their rates are going to be much higher. Again, when the credit rating agencies look at the City they see that not only do we have our reserves and our policies but we also have these other assets that are performing well and we are not driving them into the ground. We are controlling them because the cost for those services are less than what we are seeing in other areas. As far as location, city's grow in a wheel fashion. Take Boston. It grew out to 128 then it grew out to 495. The next area of growth is…you can follow this. The same if this were Washington. You would see the beltway and the same type of thing in San Francisco. Manchester is ideally situated in terms of roadways and railways for the next development. Again, if you are a city where do you want to be? Do you want to be down here or here where everything is being developed and you are going to be able to access all of these things because of those improvements? As I said one of the things that the agencies find is that you not only adopted conservatively fiscal policies but you stick to them. We are one of the few cities that actually has debt arrangements that when we adopt something that has to do with using one time revenues or dealing with the rainy day fund you stick to it. If you have to cut in order to be able to preserve those, you have done that. Those are hard decisions but again that is why businesses and that is why rating agencies are impressed with the City and why you are seeing some of the things that are happening in the City and they are not happening in other places. One of the things that you look at and this is an interesting chart, when they started the District of Columbia, one of the things that the US Congress required Washington, DC to do was to do a report that compared the District of Columbia to the largest city in every state for tax purposes. So they hire a separate accountant to come in and look at this on a regular basis. If you look at the report, this is income taxes in the State. This is local property taxes, sales taxes, and auto taxes, the total amount on $100,000 income and the percent. If you take a look at this, Manchester, our property taxes aren't the highest on the list here and when you consider that we have none of these other taxes, our cost of living is well below most of these other places and if you were to put our water and sewer rates against theirs, that rate becomes even lower. So it is an affordable place to live that has a low poverty rating and has housing stock and has set aside affordable housing and has done all of the right things financially. Again, you look very attractive when companies want to come back and take a look at relocation. That is going to make your Airport and other companies and your economic development office easier to sell. In summary and again this is an abbreviated presentation, we continue to perform well economically when other places aren't due to our diversification. We have demonstrated a track record of not only adopting policies on debt and finances but sticking to them. We have built reserves and have tight budget controls and our City's enterprise funds remain profitable and well managed and maintained. If you go back to the previous chart that talks about taxes, a lot of what we are

seeing in other states and other cities is as they have drawn down their reserves they have had to raise their property taxes. So we are seeing a lot of double-digit tax rate increases. What you are going to hear tonight is that our tax rate is not going to be in double digits because you made some hard decisions about spending. We are obviously committed to protecting the environment. I think we have a great record. Certainly the environment in Manchester today is much better than it was 10 or 15 years ago because of the actions of the Board over the last couple of years. We talked about that earlier with the landfill and the water and everything else. We have a positive record. Our operating enterprises are profitable and well managed and well maintained and that is recognized by the rating agencies and our debt is moderate and we have rapid payout. So, we really believe again that based on that Dow Jones chart we were talking about this is a great time to be doing major capital projects because the borrowing rates are low and we have extremely competitive construction project costs and we get a great economic return for spending because we are creating jobs and doing some things that other cities just aren't doing. It is not that they aren't doing them because they maybe don't want to, they can't afford to. They have mortgaged their position to be able to do that. Finally, policies are establishing moratoriums due to the economic slowdown and we are continuing to move forward on our financial plan. We have an obligation to leave the City in a better condition than we found it and certainly the Board over the last 10 years can say that they have made great strides in terms of where the City is in terms of the economy and in terms of the environment than what we inherited when we were kids. Mayor, why don't I end it at that.

CONSENT AGENDA

Mayor Baines advised if you desire to remove any of the following items from the Consent Agenda, please so indicate. If none of the items are to be removed, one motion only will be taken at the conclusion of the presentation.

Minutes Accepted

A. Minutes of meetings held June 9 & 10, 2003, June 16 (two meetings) and July 15, 2003.

Informational – to be Received and Filed

B. Response from David Scannell, Assistant to the Mayor, relative to the hours of operation of the Merrimack Common Comfort Station and Visitors' Center.

C. Copies of minutes of the Mayor's Utility Coordinating Committee meeting held September 17, 2003.

D. Copies of minutes of the MTA Commission meeting held on August 26, 2003 as well as the Financial and Ridership Reports for the month of August 2003.

E. Communication from the US Department of the Interior advising of the findings of the US Geological Survey private drinking water well arsenic study recently performed in Hillsborough, Strafford, and Rockingham Counties.

REFERRALS TO COMMITTEE

COMMITTEE ON FINANCE

G. Resolutions:

"Amending the FY 1999, 2000, 2001, 2002 and 2004 Community Improvement Program, transferring, authorizing and appropriating funds in the amount of Four Thousand Seven Hundred Dollars ($4,700) for CIP 214904 YWCA Capital Repairs/Boiler Replacement Project."

"Amending the 2003 Community Improvement Program, authorizing and appropriating funds in the amount of Two Hundred Twenty Five Thousand Dollars ($225,000) for 2003 CIP 410903 Weed & Seed Program."

"Amending the FY2003 and FY2004 Community Improvement Programs, transferring, authorizing and appropriating funds in the amount of Six Hundred Fifty Thousand Dollars ($650,000) for FY2004 CIP 612204 Gale Home Congregate Housing Development Project."

"Amending the FY2004 Community Improvement Program, transferring, authorizing and appropriating funds in the amount of Two Hundred Thousand Dollars ($200,000) for FY2004 CIP 612304 MNHS Homebuyer Assistance Program."

"Amending the FY2004 Community Improvement Program, transferring, authorizing and appropriating funds in the amount of Thirty Seven Thousand Dollars ($37,000) for CIP 612404 Families In Transition – 394 Second St. Pre-development."

"Amending the FY2004 Community Improvement Program, authorizing and appropriating funds in the amount of Eighteen Thousand Four Hundred Dollars ($18,400) for FY2004 CIP 711204 LED Program."

"Authorizing the Finance Officer to effect a transfer of not greater than $9,382.00 from Contingency to Elderly Services, if required."

REPORTS OF COMMITTEES

COMMITTEE ON BILLS ON SECOND READING

H. Recommending that Ordinance:

"Amending Sections 33.024, 33.025 & 33.026 (Compensation Manager) of the Code of Ordinances of the City of Manchester."

ought to pass.

I. Recommending that Ordinance:

"Amending Section 33.026 (Airport Maintenance Worker I, Airport Maintenance Worker (Seasonal/Temp), Airport Operations and Maintenance Specialist, Airport Maintenance Supervisor (Land side), Airport Maintenance Supervisor (Airside), Assistant Airport Maintenance Superintendent, Airport Maintenance Superintendent and Airport Building Maintenance and Structure Superintendent) of the Code of Ordinances of the City of Manchester."

ought to pass.

J. Recommending that Ordinance:

> "Amending Chapter 70: Motor Vehicles and Traffic, by inserting a new section authorizing regulation of speed in service alleys."

ought to pass.

K. Recommending that Ordinances:

> "Amend Chapter 91 of the Code of Ordinances of the City of Manchester by requiring the owners of Multi-Family dwellings to provide "Toters" for rubbish and garbage collection and storage."
>
> "Amend Chapter 150 of the Code of Ordinances of the City of Manchester by requiring the owners of Multi-Family dwellings to provide "Toters" for rubbish and garbage collection and storage."

ought to pass.

L. Recommending that Ordinance:

> "Amending Section 92.25 Annual User Fees of the Code of Ordinances of the City of Manchester."

ought to pass.

M. Recommending that Ordinance:

> "Amending the Zoning Ordinances of the City of Manchester by amending the language to allow Multi-family and other residential dwellings in the Redevelopment (RDV) District."

ought to pass.

COMMITTEE ON COMMUNITY IMPROVEMENT

N. Recommending that the Board authorize acceptance and expenditure of funds in the amount of $225,000 (Federal) for 2003 CIP 410903, Weed & Seed Program, and for such purpose a resolution and budget authorization has been submitted.

O. Recommending that the Board authorize transfer and expenditure of funds in the amount of $37,000 (Affordable Housing Trust Fund) for the 2003 CIP 612404 Families in Transition – 394 Second St. Pre-development, and for such purpose a resolution and budget authorization has been submitted.

P. Recommending that the Board authorize transfer and expenditure of funds in the amount of $4,700 (from various cash balances from completed CIP projects) for 2004 CIP 214904 YWCA Capital Repair/Boiler Replacement Project; and for such purpose a resolution and budget authorizations have been submitted.

Q. Recommending that the Board authorize transfer and expenditure of funds in the amount of $650,000 (HOME funds) for the 2004 CIP 612204, Gale Home Congregate Housing Development Project, and for such purpose a resolution and budget authorizations have been submitted.

R. Recommending that the Board authorize transfer and expenditure of funds in the amount of $200,000 (HOME funds) for the 2004 CIP 612304, MNHS Homebuyer Assistance Program, and for such purpose a resolution and budget authorizations have been submitted.

S. Recommending that the Board authorize acceptance and expenditure of funds in the amount of $18,400 (PSNH) for 2004 CIP 711204 LED Program, and for such purpose a resolution and budget authorization has been submitted.

HAVING READ THE CONSENT AGENDA, ON MOTION OF ALDERMAN LOPEZ, DULY SECONDED BY ALDERMAN SYSYN, IT WAS VOTED THAT THE CONSENT AGENDA BE APPROVED.

F. Communication from Attorney John G. Cronin relative to offer to purchase the Canal Street Parking Garage.

Alderman Gatsas stated I think we all received the letter. I think it is beneficial to the taxpayers of Manchester to have that go out to an RFP so that we can all realize the biggest bang for the buck for the taxpayers of Manchester who we are the custodians of their funds. Maybe I can ask Mr. Clougherty a question or Mr. MacKenzie – one of them. Mr. Clougherty, can you tell me are there federal funds on that garage?

Mr. Clougherty responded not to my knowledge. I know you raised this issue so we have been going back and researching it and let me just tell you what we have done. We in our office went back and looked to see if we had anything that would indicate that there were federal funds involved. We don't have any record of that but that goes back to 1971. If there were federal funds involved it probably wouldn't have been in the original project. It might have been when they did the addition to the second tier. Again, there is no evidence of that. In order to confirm that we went to the Housing Authority and the Housing Authority said that their records show that there were no federal funds for that project. We have also asked that an examination of the deeds be done to see if there was anything that was put in there with respect to the deeds that might indicate that the federal government had some type of lien there. We have not seen anything in that regard either. We have asked the City Clerk's Office to go back and research all of the actions of the Board both in 1971 and in 1985 when that second piece was put on. I don't believe that they have been able to complete that. Obviously with the election coming up they are doing the best they can but to date that hasn't shown any federal funds so we will continue to research that. The consensus seems to be that there are no federal funds involved.

Alderman Gatsas asked so to the best of your knowledge you don't know if there are any UDAG funds on that project.

Mr. Clougherty answered to my knowledge, if you look at the 1971 timeframe that preceded the UDAG project. They came in later so you would seen UDAG in the Center of New Hampshire. You would see it in Wall Street. You would see it in Numerica but you might not see it in the Plaza.

Alderman Gatsas asked so if I saw it in 1985 in Wall Street Towers I may see it in the Plaza.

Mr. Clougherty answered it is conceivable that you could see it in the addition piece of the Plaza but there is no evidence that we have uncovered to suggest that at this time. We will continue to look at that.

Alderman Gatsas stated the reason I am broaching this subject is if there are federal funds involved in that…Mr. Clougherty can you talk about the penalty that would be involved if we sold the garage with federal funds involved.

Mr. Clougherty responded it would depend on what the federal dollars were and what their purpose was. You would have to go back and find out if there were federal dollars, what type of federal dollars they were and did the federal government as part of the contract at that time provide for any type of a reimbursement. They may or they may not have depending on the nature of the funding. Our analysis to date shows that there are no federal funds and that there were no liens put on that but we will continue to look at that.

Alderman Gatsas asked so what you are telling me is that you have all of those contracts.

Mr. Clougherty answered again the contracts that we have don't show that. The Solicitor's Office is working with the Economic Development Office to make sure that is the case and we have asked the Housing Authority to go back and pull their contracts to make sure we are not missing something here. We want to do a thorough research.

Mayor Baines stated in discussions we have had you said that even if you did finally discover it that would not preclude the sale right.

Mr. Clougherty responded right. Usually the federal dollars do not preclude the sale. What they will ask for is some type of a reimbursement maybe for the original investment – whatever that was. Most of the addition was done with bonds and we are aware of that so it would be a small piece probably.

Mayor Baines stated and that analysis would be completed before we actually brought anything back to the Board, correct.

Mr. Clougherty responded right. Before you sold it you would want to make sure that it is free of any of those liens.

Alderman Gatsas asked wouldn't we want to know that, your Honor, before we even negotiated with somebody because from my understanding if we owe $2 million on the project and let's assume that it goes out for the $3 million and the federal funds involved in there are $1.2 million. Somebody is going to be wondering why aren't we…we could be in a position of specific performance if we negotiated a contract with somebody.

Mr. Clougherty answered I think if they were that high that might be the case but based on the review that we have done it seems like the amounts of bond issues and the amounts of the project approvals are pretty consistent so if there were federal money in there I think it would be a relatively small amount.

Alderman Gatsas stated I asked that question three weeks ago but I appreciate that they would have given you an answer before somebody would have come back to me with an answer but that is all right.

Mayor Baines stated okay. A motion would be in order to receive and file this communication.

Alderman Gatsas stated I am not looking to receive and file this. I think this has to go to the City Solicitor.

On motion of Alderman Forest, duly seconded by Alderman Osborne, it was voted to refer this item to the City Solicitor.

Report of the Special Committee on the Civic Center:
Recommending that the full Board authorize the Manchester Housing & Redevelopment Authority to settle the eminent domain litigation with Staples for $45,000, and further that the Board of Mayor and Aldermen approve payment of relocation costs to Staples in the amount of $75,000.

Alderman Shea stated as custodian of the taxpayers to coin a phrase of Alderman Gatsas, I would like an explanation of the $120,000 that we are going to pay for Staples to be relocated your Honor. Where is it going to come from? Who is going to pay it? How are the taxpayers affected, etc.?

Atty. Bill Craig stated I am special counsel for the City. With respect to the relocation expenses, it was agreed by this Board and it is in conformance with State statutes that the relocation payments would be made to all tenants there. The same process and formula was used to determine relocation payments in all instances. The money for Staples came out to $75,000. They had two choices or staff used two methods. They were going to pay either the lower of the actual cost of a self move or the actual estimated cost of a professional move.

Staples used the self move method and came in at $175,000. The redevelopment staff obained a bid of $75,000 and they recommended a payment of $75,000 to Staples.

Alderman Shea stated with all due respect where did the money come from.

Mr. Clougherty responded the money that was deposited with the Board of Tax and Land Appeals came from the City bond for the arena that was part of that $15 million bond issue that was authorized.

Alderman Shea stated so in essence the taxpayers are paying for the $120,000 through the bonding that we did. Is that correct?

Mr. Clougherty responded that bonding, as you know is paid for out of the rooms and meals tax not the property tax.

Alderman Shea stated but basically that is money that the City isn't getting back from the rooms and meals tax that we are paying. In other words in essence we could use some of that money for other purposes but we are committing all of the money from rooms and meals to the funding of that arena. Is that correct?

Mr. Clougherty replied that is right, Alderman. The Board made the decision to use the rooms and meals funds for that purpose.

Alderman Shea stated right and I did call your office and I asked for a financial report of how much money we are spending because I do walk the ward now and people are asking me how much money we are spending towards that so I would appreciate it if that request could be granted.

Mr. Clougherty responded yes.

On motion of Alderman Shea, duly seconded by Alderman Sysyn, it was voted to accept, receive and adopt the report.

Nominations presented by Mayor Baines.

Highway Commission
Mike Lowery as a labor representative to succeed Peter Favreau term to expire January 15, 2006.

Under the rules of the Board, Mayor Baines advised that the nominations would layover until the next meeting.

Airport Authority - Confirmation
Confirmation of the nomination of Bobby Stephen to fill the unexpired term of Robert Pariseau as a member of the Manchester Airport Authority, term to expire March 1, 2004.

On motion of Alderman Thibault, duly seconded by Alderman Guinta, it was voted to confirm the nomination of Bobby Stephen as presented.

Zoning Board of Adjustment [removed]
Confirmation of the nomination of David Lefevre to fill the unexpired term of Marguerite Wageling as a member of the Zoning Board of Adjustment, term to expire March 1, 2004

Mayor Baines stated I am not asking for you to vote on that this evening.

On motion of Alderman Thibault, duly seconded by Alderman Shea it was voted to recess the regular meeting to allow the Committee on Finance to meet.

Mayor Baines called the meeting back to order.

OTHER BUSINESS

A report of the Committee on Finance was presented respectfully recommending, after due and careful consideration, that

"Amending the FY 1999, 2000, 2001, 2002 and 2004 Community Improvement Program, transferring, authorizing and appropriating funds in the amount of Four Thousand Seven Hundred Dollars ($4,700) for CIP 214904 YWCA Capital Repairs/Boiler Replacement Project."

"Amending the 2003 Community Improvement Program, authorizing and appropriating funds in the amount of Two Hundred Twenty Five Thousand Dollars ($225,000) for 2003 CIP 410903 Weed & Seed Program."

"Amending the FY2003 and FY2004 Community Improvement Programs, transferring, authorizing and appropriating funds in the amount of Six Hundred Fifty Thousand Dollars ($650,000) for FY2004 CIP 612204 Gale Home Congregate Housing Development Project."

"Amending the FY2004 Community Improvement Program, transferring, authorizing and appropriating funds in the amount of Two Hundred Thousand Dollars ($200,000) for FY2004 CIP 612304 MNHS Homebuyer Assistance Program."

"Amending the FY2004 Community Improvement Program, transferring, authorizing and appropriating funds in the amount of Thirty Seven Thousand Dollars ($37,000) for CIP 612404 Families In Transition – 394 Second St. Pre-development."

"Amending the FY2004 Community Improvement Program, authorizing and appropriating funds in the amount of Eighteen Thousand Four Hundred Dollars ($18,400) for FY2004 CIP 711204 LED Program."

> "Authorizing the Finance Officer to effect a transfer of not greater than $9,382.00 from Contingency to Elderly Services, if required."

ought to pass and be enrolled.

Alderman Pinard moved to accept, receive and adopt the report of the Committee on Finance as presented. Alderman Forest duly seconded the motion.

Alderman Guinta stated I have a question regarding the first funding item for $4,700. Where is that money transferred from?

Mr. MacKenzie replied there were four cash balances from CIP projects and I think if you look at another part of the Finance Committee agenda there will be four smaller ones that were unexpended. They were identified earlier this year when the bonds were identified and those would be used for the funds.

Alderman Guinta asked was there a project that was utilizing funds identified for graffiti removal for one of these projects that is being reviewed this evening.

Mr. MacKenzie answered you are close. The CIP Committee discussed the possibility of using those funds for graffiti removal. They have not taken any specific action but there is still roughly after this $4,700 there is roughly $15,000 left that the Board could use towards graffiti removal.

Alderman Guinta asked so this could be money used for graffiti removal.

Mr. MacKenzie answered that is correct.

Mayor Baines called for a vote on the motion to accept, receive and adopt the report. There being none opposed, the motion carried.

Mayor Baines stated at this time I would like to discuss the phone poll issue. As you know, the Clerk polled the Board relative to the issue of the request from Mr. Weber. To answer one of the questions that surfaced this evening, the Finance Officer…

Alderman Shea interjected did Carol finish off reading all of the resolutions.

Deputy Clerk Johnson responded yes we did. We are up to the HR report but the Mayor is taking up this issue first.

Mayor Baines stated the Finance Officer brought this matter to my attention Friday morning and we spent the entire day on this issue. I wanted to make very clear that the reason this issue was brought to the Board on Friday was because I wanted it to be brought to the Board

on the day that I became aware of it and to make the Finance staff available and also to allow the beginning of the transfer of the assets in this account. I would like to turn this issue over to Mr. Clougherty at this time.

Mr. Clougherty stated I would like to just kind of lay the groundwork of where the City is with respect to the agreements. The agreements that are in place for the baseball stadium allow for the authorization of the issuance of bonds, which this Board has done and which we have been proceeding with. We are at a point where we could issue the bonds at any time. We have I think one paragraph in the official statement that we have to deal with and we have one or two rating calls that we have to make tomorrow. We could conceivably issue the bonds in the next couple of weeks. There is nothing legally in the documents that have been adopted that prohibit me from issuing those bonds. We can go ahead and do that. There is, however, some language in the documents that once the bonds are issued would prohibit me from making those funds available for expenditure by the developer until such time that they provide us with a letter of credit. It makes sense and what we said to the Board is that we want to let the Board know that if for some reason we are going to change the letter of credit requirement that we really think that is something that the Board should have a say in and that is why I wrote the letter last week. One of the principals has asked the City to take a look at doing something a little bit different. They are advocating allowing for some securities to be posted with the City rather than a letter of credit. Now our recommendation is this. We think the letter of credit is the way it should go. If in the meantime between now and the next couple of weeks or the next 120 days the developer needs some time to try and do a different line of credit than we are willing to allow for some type of an interim allowance on that. Certainly if this Board decided that you wanted to allow for the acceptance of the securities as a permanent resolution that is within your authority but it is not what we are recommending. We are certainly willing to do something on an interim basis. Now as an interim arrangement we have done some research into this and we feel that the interim arrangement would be fine but we don't want to do that on a permanent basis. There is also, with respect to this, if we are going to not allow the securities to be a permanent solution and delay the sale of the bonds until we have a…we are in receipt of letters of credit. That does put some type of a cash strain on the developer. There should be an allowance that would in advance of the issuance of bonds allow us to keep the project moving forward and in that regard we recommend that you authorize because again it is not the issuance of the bonds it is the expenditure of the proceeds, that you would authorize us to allow up to $2 million worth of expenditures for the stadium and Gill Stadium understanding that we would be holding on to some securities in the interim that would be in excess of that $2 million authorization. You would be holding on to $2.8 million worth of securities. If that were to be approved then the project could be moved forward and provide for a cash flow and allow for the project to meet its obligations and allow for the City to work in partnership with the developers and he would have the opportunity to come back with the letter of credit. We are looking for two parties to come together. The stadium developer has to have his letter of credit as the balance of the

developers have to have theirs. They have to come together at the same time and when that happens I think we will be ready to move forward. We could issue the debt at any time. The restriction isn't on the issuance of the debt it is on the release of funds.

Alderman Guinta stated Kevin I need you to clear up some consistencies with me. When I spoke with Finance on Friday evening I was told something very much different than what you just identified, what you just said now.

Mr. Clougherty asked when you talked to me.

Alderman Guinta answered no I spoke with Randy Sherman. As it was identified to me he said that both you, Randy and Bond Counsel were in favor of this proposal. I don't think that is what you just said.

Mr. Clougherty responded in favor of this as an interim arrangement, yes.

Alderman Guinta asked you are in favor of it as an interim arrangement. What do you mean by interim? Do you mean 120 days or two weeks?

Mr. Clougherty answered to be perfectly honest, Alderman, the cost of setting up the alternative, the escrow…there are going to be some expenses involved either way so I think the incentive will be for the…if you don't want to accept this as a permanent arrangement the incentive really is to go forward and get a letter of credit as soon as possible rather than trying to do a bridge for 120 days and then doing a letter of credit.

Alderman Guinta asked why would we want to do this as a permanent arrangement if what is before us is 120 days. I am not sure why you are bringing up a potential new arrangement. The request is for 120 days and in your opening remarks you mentioned two weeks to allow for the baseball owner to secure different credit. The concern I have here is the inconsistencies that I have received in terms of information starting Friday evening. In order for me to have an informed decision I need to have accurate information and today is only Tuesday and in between Friday night and now there have been several inaccuracies in terms of information provided.

Mayor Baines responded well let's try to clear it up. You talked to the Deputy Finance Officer on Friday and the Finance Officer will try to clarify any confusion.

Alderman Guinta stated well let's move back a little bit. When…I was also told that the first discussion of this occurred on Thursday before the LOC was due. Is that accurate?

Mr. Clougherty responded first of all, Alderman, in terms of due there is no specific date that is in the agreement that I am aware of that says this has to be done by such and such a date.

Alderman Guinta stated Randy told me that Friday was the deadline so that is another inaccuracy.

Mr. Clougherty responded let me explain it. It is not an inaccuracy. There is no absolute deadline as far as when that happens. As I mentioned, the restriction is on when the funds would be made available so if we were going to make sure that before we issue bonds…you know it is not required but we think it is a prudent thing to do that we had the letters of credit in place that is I think what he is referring to. There is not an absolute deadline. What is forcing the issue isn't so much an absolute deadline of any contractual agreement. It is the deadline of being able to get the project done on time. If we are not able to keep cash flowing to the project, you are not going to be able to get Gill Stadium done on time and you are not going to be able to get the stadium constructed in time. The goal here, I think, is to try to work cooperatively to get some cash freed up understanding that we will be holding on to securities to make sure that you have your protection while we are still able to go forward and take a look at issuing debt.

Alderman Guinta asked so there was no deadline on Friday.

Mr. Clougherty answered I think there is a deadline. If you want us to go ahead and issue the debt on a timely basis then it would have been Friday that we would have liked to have received the letters of credit.

Mayor Baines stated I would like to try to clear up this matter as best I can because this came to my attention Friday morning. The Deputy Finance Officer was working with the Finance Officer to get all of the paperwork down to Wall Street related to the bonds and also to insure that the work continued on Gill Stadium, that the cash flow was there to pay the contractors, the sub-contractors, the engineers and everybody associated with the project because as you know work is being done, the turf is being installed and everybody is expecting to be paid. That is a legitimate request so I think what the Deputy Finance Officer probably was saying in reference to that was he was trying to get everything done working with Joanne Shaffer and Bond Counsel to get all of the paperwork down to Wall Street. That is the best explanation that I can give in terms of my knowledge of the situation.

Alderman Guinta stated let me just try to clear up this. I was told that there was a date that the LOC was due. I was told that it was due by the end of business on Friday. Is that accurate or is that not accurate?

Mr. Clougherty responded in terms of an absolute deadline, I am not aware that there is. Again, I would defer to Bond Counsel to help clarify that.

Mr. Walter McCabe stated from what I understand from some discussions with Randy is that he had indicated to the developers that in order to keep on schedule with the proposed issuance of the bonds that the letters of credit would need to be in hand by Friday. As far as I understand it, the first time that I am aware that the developers have suggested an alternative security package was late on Thursday. I first heard that on Friday and I think that was in reaction to the deadline but the deadline was in connection with the issuance of the bonds. Randy said that if we are going to continue to go forward we want to see that that has been accomplished. We do not want to go ahead and price bonds and borrow money if there is still a question about that security being put up. That is my understanding of where the Friday deadline came up.

Alderman Guinta stated that clarifies it. The first time that the City of Manchester was contacted by the stadium owner relative to the LOC was the day before the imposed deadline of Friday?

Mr. McCabe replied that is the first I heard of it. Whether there was discussion prior to that to some degree with someone in Finance I don't know.

Mr. Clougherty stated there may have been. As you know, Mayor, I was not in the office last week and I spent part of the week before in New York. The first I heard about it was on Thursday but there may have been discussions internally as to could this be done and what would be the position of the City. In that regard, we talked to Bond Counsel and went to the Solicitor and said is this something that is within the authority of the City Finance Officer to do or should it come back to the Board. Everyone agreed that it should come back to the Board.

Mayor Baines stated as I recall during the conversation when you brought this to my attention on Friday in the agreement it says that it is a letter of credit or cash. There was some discussion between the Finance Officer and the Deputy under the definition of accounting procedures related to whether this transaction constituted the cash portion of it. That is when we got in touch with our Bond Counsel and brought the City Solicitor in and had a discussion that we did not feel and the City Solicitor advised us that no that could not be accepted without going back to the Board and that is the issue that we formulated to go back to the Board with input from Bond Counsel. Am I correct on that, Mr. Clougherty?

Mr. Clougherty responded that is right. There may have been discussions about this as a concept and there may have been some discussion about the mechanics of it but the fact of the matter is that you have to follow the agreement and the statutes with respect to how this handled.

Alderman Guinta stated you are saying we have to follow the agreements yet your office was on Friday evening telling me that you approved of this change.

Mr. Clougherty responded I approve of this change if the Board approves the authorization. You would have to do an amendment. We have language that we can provide to the Board. If the Board is inclined to make this change then you would have to amend the agreement.

Alderman Guinta asked do you approve of it if we approve of it.

Mayor Baines stated he recommended I think very clearly…I asked would the Finance Officer recommend it. Yes he would recommend it and that was the formulated letter that Mr. Clougherty drafted in that regard. We also reviewed that with the City Solicitor and with Bond Counsel in the terms that Mr. Clougherty just described.

Alderman Guinta stated the real concern I have is the information that is communicated to the Aldermen and the problem regarding phone polls is you have more than one person doing them, especially because it is a Friday evening and each Alderman is trying to be contacted so you have more than one person disseminating information so probably different information was disseminated to different Alderman. I don't know that we actually each voted by phone poll on the same particular issue. I got information from the City Clerk's office and I wanted to verify it with the Finance Department because I felt that was the responsible thing to do and based on the verbal information I received on Friday I voted no because I didn't think it was in the best interest of the City to amend the agreement. As we have gone forward since Friday evening I have talked to several Aldermen and I have talked to City staff and I have talked to people involved on the baseball side and it seems to be a lot of misinformation and different information regarding the nature of this agreement or this proposed deal. Again, I think beyond anything it is first and foremost important to insure that the Aldermen receive good up-to-date accurate information and I don't feel that we received that and that is a problem as we go forward with this project.

Mayor Baines stated we are going to go to some other Aldermen. In reference to that we had asked the Finance Officer and the Deputy Finance Officer to be available. The reason for doing the poll was to get the information to the Board in a timely manner after it was brought to the Mayor's attention. So the purpose of the poll was to get the information to the Board recognizing that you had over a three day period a chance to look at the information and get back to the Clerk and also that the poll would have to be reconfirmed in the form of a poll.

Alderman Guinta stated I would disagree your Honor because we were asked to vote on Friday. We weren't just provided the information and given the weekend to think about it. When I was asked…I called back and I gave my answer but when I asked Randy what is the reason you need this so soon his response was we want to get the process going to sell the bonds on Monday. I said well what happens if people change their mind Tuesday night and he said well we will have to sell things back. That is what I was told. Here is an example of

all the misinformation. You are disagreeing and Kevin is disagreeing so I am getting information out of Finance that is not accurate, which is a big problem.

Mayor Baines stated again that is not something we would be doing.

Alderman Shea stated this isn't a complicated situation. Let me read into the record, "Alderman Shea on August 27, 2003 stated your Honor I think that for my own personal thinking we entered into a contractual agreement with a particular company and I think personally it is a bad precedent for the City to enter into an agreement and then when the pressure is brought to bear because of lack of information on the part of people we have to change the terms of the agreement. I was certainly in favor of the baseball stadium like everyone else. One agreement has changed and pretty soon maybe the meeting is held in the second part of September and possibly another agreement may have to be introduced and changed and that is where I am a little bit leery." It is a very simple process. I don't have to go through what Alderman Guinta went through. All I have to know is is it the original agreement and are we changing it. I said to the Aldermen in mid-September and the *Union Leader* today said along with Alderman Shea not giving any credit that and I quote "the realization noted that we should stick to the original contractual agreement or might I note that also there will be several other changes." So basically what I am saying is that it is a simple process. We agreed to an agreement. It was changed once and it is now being changed again and pretty soon there will be other changes, minor or major, as indicated by the Committee meeting the other day. So your Honor what I say is we should have stuck to the original agreement as written. We wouldn't have any complications. There wouldn't be any problems. We would have said look you signed an agreement. Drew Weber is here. He is a wonderful person. He agreed to a certain agreement. It had to be changed and whether or not he would have agreed or disagreed with that change we don't know but we agreed to an agreement when we voted on this and now it is dramatically being changed and I say once you change one term you have precedent set so you can change two or three others. That is my commentary, your Honor.

Alderman Gatsas stated again I come back to what I said when we originally found out about the power plant. It is one thing, your Honor, to notify the Board about a situation but it is another thing to ask the Board for a vote. Now, Mr. McCabe, can you…I would like to ask you some questions. I know that you are our legal counsel so it is your name and your reputation on the line. My question to you is I hope you understand borrowing against securities.

Mr. McCabe replied yes I do.

Alderman Gatsas asked what is the usual practice for lending institutions to lend against security or even brokerage houses to lend against security.

Mr. McCabe answered the usual practice is to enter into an agreement under which the securities would be pledged to the institution making the loan. That is exactly what is being proposed under this circumstance.

Alderman Gatsas asked do they lend at 100% of that security or do they lend at a percentage of the security.

Mr. McCabe answered unless arrangements are made to cover effectively the equivalent of a margin fall when the securities go down in value typically there is a cushion provided so they are lending at less than 100%.

Alderman Gatsas asked at what percentage are they lending, Mr. McCabe.

Mr. McCabe answered I think that varies based on the particular institutions. Some may lend at a higher average than others depending upon the return that they are charging.

Alderman Gatsas asked if you went to a brokerage house and had a margin account, what is the margin account that they lend on. What is the percentage?

Mr. McCabe answered it depends on your relationship with the institution but 50%, 60% or 70%.

Alderman Gatsas stated so what you are saying is…let's use 70%. If we are having securities in the amount of $2.8 million the most the City should be looking at lending or guaranteeing or holding is 70% of that.

Mr. McCabe replied unless they were otherwise protected against the securities going down in value such as some other collateral being put up or an immediate call on the securities, which is what the brokerage house would arrange for. Typically they would want that type of cushion, yes.

Alderman Gatsas asked, Mr. Clougherty, do we have the ability to do that at City Hall.

Mr. Clougherty asked do what.

Alderman Gatsas answered check the availability of what the securities are worth on a daily basis.

Mr. Clougherty replied we would enter into an agreement as part of this arrangement where we would have a trustee or an agent do that for us.

Alderman Gatsas asked so what is that going to cost the City.

Mr. Clougherty answered it would come out of the cost of the project. It would come out of the bond issue.

Alderman Gatsas asked so Mr. McCabe is it your recommendation that you would tell the City to lend at 100% on the securities.

Mr. McCabe answered no, however, I don't think that is what the Finance Officer was proposing.

Alderman Gatsas asked Kevin what are you proposing.

Mr. Clougherty answered there are really two pieces to this. What we said is we want securities equal to $2.8 million. We have checked to make sure that they are valued at that currently. We are also going to put in effect what would be a debt service reserve against the proceeds equal to that amount so if there was a problem you would have those dollars available too. We are asking to only allow for the expenditure of $2 million, not $2.8 million, for the interim period so that you are more than covered.

Alderman Gatsas asked doesn't the agreement call for $2.8 million.

Mr. Clougherty answered the agreement calls for, I think, a percentage between the developer…yes in the case of the stadium it would be $2.8 million.

Alderman Gatsas asked doesn't the lease agreement that we entered into call for a $2.8 million line of credit.

Mr. Clougherty answered I don't believe it says a specific number. I think it puts in place a formula that says how that is going to be arrived at. Walter, do you have that language?

Mr. McCabe stated there is a formula. The rough equivalent I believe is $2.8 million.

Alderman Gatsas asked so the rough equivalent says $2.8 million Mr. McCabe.

Mr. McCabe answered right in the form of a letter of credit, correct.

Alderman Gatsas stated Mr. Clougherty I guess I am coming back to you because you are supposed to be the Finance Director of this City giving us expertise information on what we should be doing. I know that we all understand that we should listen to our department heads but what I am hearing from Mr. McCabe is different than what you are telling me because if we are looking for $2.8 million…let me just turn this calculator on for a second. If we were

lending Mr. McCabe at 70% and looking at $2.8 million in security we would be looking for $4 million in securities using my easy math.

Mr. McCabe responded without trying to do the math in my head what I thought I understood and I will let Mr. Clougherty clarify it is he was suggesting that the $2.8 million letter of credit instead be allowed to be posted as securities in the amount of $2.8 million but that advances be limited to $2 million, which I think is less than 70% of $2.8 million.

Alderman Gatsas stated so your suggestion is we may leave Gill Stadium uncompleted.

Mayor Baines responded no. Mr. Clougherty will you respond to that please.

Mr. Clougherty replied I am not sure what the question is.

Mayor Baines stated he asked if that would leave Gill Stadium uncompleted.

Alderman Gatsas stated if we are only distributing $2 million and we have already gone through somewhere around $720,000 and that was as of two weeks ago, if in the 120 days we go beyond the $2 million because the Mayor said that we need to have everybody paid in a timely fashion, what do we do.

Mr. Clougherty responded I don't think that is a problem for Gill Stadium because you have the other letter of credit that has been posted for Gill Stadium. I think Gill Stadium is solid. The $2 million would be allowing…as the Mayor mentioned earlier there are two parts to the project. It is not just Gill Stadium. It is riverfront development where there are costs being incurred for environmental purposes, for architectural and engineering types of work and for a number of things down in that area that again should be able to be reimbursed. I think what we are looking for is to allow us to make some funds available in that regard, not so much just for Gill Stadium.

Alderman Gatsas stated well I guess I am a little bit confused, Kevin, because since the $1 million that was deposited with the City on September 26 we cut checks at the last baseball meeting somewhere in the vicinity of $720,000. That leaves us roughly $280,000 and $2 million to do renovations that we projected of about $4.1 million. I am lost in the transition here when you are telling me that we are going to be paying for engineering at the new ball field. I don't have a problem but you are saying to me that we should hold out of the bond proceeds $2.8 million. What happens if for some reason the 120 days comes and the securities aren't worth what they are and we are into doing the bonding for the baseball stadium and we have no equity because we are told here $2.8 million if that is what the letter of credit was supposed to be then it should be $4 million in securities.

Mr. Clougherty responded I don't think that is what you were told.

Alderman Gatsas replied Mr. McCabe just said that.

Mayor Baines stated we need to be careful not to interpret what people are saying and I would like to give Walter the chance to clarify.

Mr. McCabe stated I think if I can indicate what I understood Mr. Clougherty had suggested as a proposal to the Board and I will ask him to speak up if I am misdescribing this but from prior discussions I think I understand it. The proposal is that because the letter of credit is not immediately available and the City has been asked to accept in lieu of that securities of $2.8 million and because there is, yes, a valuation issue on securities that would not be there with a letter of credit that the proposal would be to accept on a temporary basis the securities but because there is the valuation issue reserve how much you would continue to fund forward to keep this project going at $2 million with the idea being that when the $2.8 million letter of credit was available that the securities would be released in exchange and that $2 million advance limit would be removed. Is that accurate, Kevin?

Mr. Clougherty responded it is. I think there are some other points that you need to look at here too. In addition to this there is the underlying personal guarantee. Is that right, Walter?

Mr. McCabe stated yes that is correct.

Mr. Clougherty stated and you also have the $1 million line of credit for Gill that we have in addition to what we are proposing here.

Mr. McCabe responded correct.

Alderman Gatsas stated your Honor that is unfair to say we have a line of credit of $1 million on Gill Stadium. That has already been dispersed. There is less than $200,000 left in that line.

Mr. Clougherty responded no.

Mr. McCabe stated Kevin I think actually that is the way the agreement is. The requirement is that the first $1 million be put up by the developer and used in the project and he is correct, I believe, that $700,000+ has been advanced to pay expenses there and there is $280,000 of the next first dollars available in a reserve.

Alderman Lopez stated one of the major questions has been asked about the securities and the percentages. I, too, was disappointed in the phone call vote and got different answers to my questions. I would like to ask the person who is putting up the letter of credit what is the real story here? It seems that we are getting things back and forth between…Mr. Weber, if

you can enlighten us because I believe you are an honorable person because I think the Board of Mayor and Aldermen, at least this one anyway, wants the straight truth as to what is going on here.

Mr. Drew Weber stated the truth is that I went to Fleet Bank two weeks ago to see about a letter of credit. I met with an officer there who was extremely nice and helpful. The officer said, Mr. Weber, why are you paying this kind of money with me when you can just go directly to the City and try to give them the security and cut me out as a middle man? Cut me out as a middleman and you will save money and the City will have what they want. I broached that to the City. They were working on that and they were working on it and working on it and working on it.

Mayor Baines asked was that with Mr. Sherman.

Mr. Weber stated I would have been more than happy to avoid this kind of grief here from this gentleman…

Alderman Gatsas interjected Mr. Weber did you say that you told him two weeks ago.

Mr. Weber responded this is correct.

Alderman Gatsas stated thank you. I guess that is the story your Honor. Here is a gentleman that comes before us and tell us that he told Mr. Sherman two weeks ago and we don't know about it until 5:05 PM on a Friday.

Mayor Baines asked, Mr. Weber, you had discussions with Mr. Sherman about the possibility of doing this and that process was…

Mr. Weber interjected and it was being worked on and worked on. I could have gone and gotten a letter of credit two weeks ago. I was trying to save some money. That's all. I am sorry about that. I apologize for trying to save some money and I will do exactly what the lease calls for. I will throw $25,000 out the window and everyone will be happy.

Mr. Clougherty responded that is fine. If you are going to go ahead and do the letter of credit that is great. That is where we all want to be. As far as discussions with the staff, certainly if things are proposed the staff is going to respond and take a look at different options but they need to have information on what the securities are and take some examination into how the thing can be properly structured and research that. Now if Randy was doing that I think you have to at least give him the benefit of the doubt and let him respond to that. He is not here tonight.

Mayor Baines asked when was this brought to your attention, Mr. Clougherty.

Mr. Clougherty answered as I said I believe Randy asked if that was something that could be approved on Wednesday or Thursday. Remember, I was out of town the previous week and not available and two days the week before that we were in New York doing the rating presentation. He may very well have talked to Randy and he may very well have asked Randy to consider this and Randy would probably have done some research but when the final decision was made by Mr. Weber that he wanted to actively go that route, Randy brought it to my attention and that is when I asked Bond Counsel and asked the Solicitor that even if we thought this was a good idea what is the legal process to get involved. Is that something that the Finance Office can do? I don't believe so. It had to come back to the Board.

Mayor Baines asked was the issue because we flushed this part of it out on Friday that there was an interpretation that this could possibly be considered cash under the agreement because it could be liquidated within a certain number of days.

Mr. Clougherty answered it may have been his position in that regard that it could be cash and he may still believe that. I believe, on the other hand, that that is not the case and we are better off bringing it before the Board to get it finalized so there is not a problem down the road.

Alderman Lopez stated thank you, Mr. Weber, for standing up on your own two feet and telling us what you would do in two weeks. I think we want to trust our staff but if they can't give us the exact, correct information I personally don't think they ought to be our staff any longer because if this was two weeks go and this has been going on there was a committee that we entrusted to ask questions and move things along. I think that with the knowledge the staff had they should have contacted the Chairman and sat down and then we could have had a phone call vote unanimous from the committee that they understood what was going on. It might have been a different situation. This thing has to be gotten hold of because right now there is mistrust here and for a gentleman to come up here and stand on his own two feet and tell the truth I think is honorable and I thank you for that, Mr. Weber. Mayor, I just ask that the staff from now on if anybody comes before any committee, not just on this issue but the whole story has to be given.

Mayor Baines stated I couldn't agree more. Again, Friday morning is when the conversations that were taking place with Finance were brought to my attention and that is when we brought Bond Counsel and the City Solicitor into the discussion. I don't think anybody was attempting to do anything…Kevin it is your department. How would you like to respond to that?

Mr. Clougherty responded in fairness it is great that Drew is presenting that he had talked to Randy and I would like to hear what Randy has to say in response to that to see how firm

that request was and whether it was just an exploration of an idea or whether it was something that was a formal request. I would also like to know…I also think it is important for the Board to know that we get a lot of requests from departments and from contractors asking if we could look into doing things differently and a lot of times the staff will give them a general impression on that but that is not an approval or not to say that is exactly how that works out. To the extent that he was notified or asked about something, I would like to hear what Randy has to say about that. Second of all, if it were Randy's interpretation that perhaps this could be allowed if the Finance Officer were to go forward with the cash position than that is certainly a reasonable approach that he would have been taking. However, when he discussed it with me my feeling was that we should run it by Bond Counsel and the Solicitor and they agreed with me that it should come back to the Board.

Alderman Lopez stated I have a follow-up. I don't know why Randy is not here tonight if he is the guy who is doing all of this. It seems that he is running the whole show.

Mayor Baines responded Mr. Sherman actually traveled to New Jersey today with Frank Thomas to give the Eastern League an update on the progress of the stadium.

Alderman Lopez stated I appreciate that explanation.

Mayor Baines stated I think what you are seeing is it seems to me there was a disagreement on the definition of cash between the Deputy and the Finance Officer related to this issue.

Alderman Lopez stated I also think, your Honor, that the staff we have are good at a lot of things but I also believe that our staff is playing with major leaguers and we have nobody who is giving us the other side of the opinion of what is going on. I appreciate the staff, the Finance Department. It is not derogatory towards them. They do the budget and work out the different things and we just had a presentation here tonight but I think we are getting a lot of secondhand information at the same time. I think that the people in this whole process...we should have somebody who is actually working directly for the Aldermen.

Alderman Garrity stated I believe it was a week ago tonight that the baseball committee had a meeting. All aspects of the development and Gill Stadium were discussed. I believe Mr. Sherman was representing the Finance Department that night. I think it is inexcusable that that was not mentioned to the Committee when he knew about it. Unacceptable and there should be some consequences for that.

Mr. Clougherty responded with all due respect to Alderman Lopez and his comments, the staff has done several complex projects. We have done the arena. We have done the airport. We have done a lot of these projects. So, to say that the staff is somehow not up to task is really not the case. The issue here is who is looking out for the interest of the City in terms of this operation. It is not that you want your Finance Department to go along and be a yes

man to the developers. We haven't done that at the Verizon and we haven't done that on any of the other projects. We do have professional consultants and staff that are providing us the information in this regard. I think the issue that is being brought before you tonight is a candid presentation. As I said, there is no absolute deadline pending. The only deadline that is here is in order to get the project moving forward and the only deadline that we are looking at is on the issuance of the debt. Now I think we have been very straightforward with the Solicitor and others in providing you the information on what the issue is and bringing that forward for your consideration. Again, I am not going to speak for Randy. I think he can speak for himself. The staff has provided you with good guidance as we said right along. You have made good decisions and you have had good advice and you got our advice tonight and it is not something we are giving you as an amateur staff. It is something that we got based on a lot of experience and based on consultation with a very experienced and very knowledgeable consultant.

Mayor Baines stated again I think that is very true but how…did Mr. Sherman bring this issue to your attention and what was the process of doing that. If there was discussion with Mr. Weber when was it brought to your attention? You did explain that you were out of the office for a period of time.

Mr. Clougherty responded my recollection was that it wasn't until later in the process but I want to hear from him and speak to him about that.

Alderman Guinta stated Kevin I disagree with some of the statements or comments you just made. There have been severe consequences since Friday afternoon relative to this issue. There have been several stories printed in the newspaper that apparently were inaccurate based on information provided to me and to other Aldermen from members of your staff. I don't think we can wait for Randy to return to get some answers. I think we need to know that we can rely on City staff. Alderman Garrity brings up a very important point. The Riverfront Committee met on Tuesday and Randy was before us. Drew Weber said this has been in discussion for almost two weeks. I think it is imperative when there is a dramatic change discussed relative to $2.8 million…this is not a change order. This is $2.8 million but at the very least the Finance Department should bring it to the attention of the Committee, especially when the Committee is meeting while these discussions are going on.

Mr. Clougherty responded I think if there had been a formal decision by the developer at that point he probably would but if they were asking in an exploratory basis was that something that could be done, that is different. We are not going to come every time somebody calls and asks us something what if, what could. We are going to come when there is a question of I would like you to.

Alderman Guinta replied I think we need to change that policy.

Mayor Baines responded I agree somewhat but there is a whole story here. I received a call from Mr. Weber on Thursday night if I recall and he asked me about the numbers on accounts to transfer some money. At that point in time I said what are you referring to, a transfer of what and I said first thing tomorrow morning I will go into the Finance Office and find out exactly what they are talking about in terms of the accounts, etc. because at that time I was not informed of this issue. That morning, early on, I think you called me again Mr. Weber even before I had left to come into work and I said I was on my way to the office. I called Mr. Clougherty up to my office and Mr. Sherman up to my office and I said what is this issue related to these account numbers. It was at that point that we got into this issue of the transfer of the municipal bonds and the…I am looking for the words now, securities. I said to Kevin is that acceptable. Why is this issue surfacing now? Is that acceptable? There was an issue between the Deputy who has worked, by the way, as hard as anybody to make this work and the Finance Officer as to whether that constituted cash. Kevin said I need to get some more advice on that and information on that and that is when we started calling people together and I was on the phone with Mr. Manley and later with Walter and then Walter and Rick together and we had the City Solicitor in and said does this constitute and that is why the issue was put forward in the manner that it was. I don't think anybody intentionally created this situation and I don't think there is anybody who has worked harder on this project to make it work, to get all of the necessary letters to advance the project and to get all of the documents done in a very timely manner than Randy Sherman. I think we should withdraw some judgement on this related to the intricacies and the timing of what happened simply to tell you that when the Mayor first became aware of it it was the phone call with Mr. Weber on Thursday evening and the follow-up Friday morning and that consumed our entire day. It was my decision at that point in time because of some of the issues alluded to by Alderman Gatsas I said this has to get right out to the Board and that is when we talked about what is the format to do that and we made the Finance Officer and the Deputy available for it. I think there are some legitimate issues related to that and we will address those issues but I think the important matter before us now is that we are very close to having everything in order to advance the project and I think we should be at least at some point in time in the near future tonight be talking about how we can relate to insure that number one Gill Stadium remains on schedule because of all the issues revolving around that and how we can assure that the proper steps are taken tonight to allow the cash flow to exist so that the contractors and others who are doing the work are paid in a timely manner. We are all committed to Gill Stadium and getting that job done and we have various contractors and sub…

Alderman Guinta interjected your Honor you are debating the issue.

Mayor Baines responded no I am not debating. I am explaining what I believe the next step…

Alderman Guinta interjected I thought I had the floor. If you would like to debate I would be happy to debate the issue…

Mayor Baines interjected this is not a debate. Excuse me. We need to get some decisions made relevant to how we keep the projects on track. That is not a debate and I do have certain privileges as the Chair of this Board.

Alderman Guinta stated all I ask is that if it is going to turn into a debate that you step down.

Mayor Baines replied please proceed.

Alderman Guinta stated I am proceeding your Honor. I guess I have a question. It really bothers me that I didn't have this information until Friday. Why doesn't it bother you that you didn't have this information?

Mayor Baines responded I was very bothered by that.

Alderman Guinta replied it doesn't appear that way.

Mayor Baines stated well I don't go around…I try to keep my emotions in check and try to be very thoughtful and deliberative.

Alderman Guinta replied your Honor we are talking about a $100 million…

Mayor Baines interjected I can assure you that on Friday the Mayor was very upset but again I am not going around wailing and screaming. I am trying to solve problems.

Alderman Guinta stated I do think that we need to make some changes, some dramatic changes immediately. I am no longer in a position to feel like I can trust the information that is provided to me. As a Board member and as a member of the Committee I think we need some dramatic changes in terms of information, especially when we have a Committee meeting and Randy Sherman is present representing the Finance Department. Any of these discussions when you are talking about a dramatic change in the contract I think it is reasonable to keep all parties informed and Alderman Lopez said it right. If the Committee voted on this issue or at least discussed the issue and presented its opinion to this Board I don't think we would be in the position that we are in right now. As I understand it, Drew Weber had a suggestion based on the information he received from Fleet Bank. As I understand his comments before he is still willing and was willing to weeks ago when he approached Fleet to provide an LOC.

Mayor Baines responded that is correct.

Alderman Guinta stated well based on the information that we received as Board members on Friday evening that was not presented to us. What I was told was that Mr. Weber wanted four months to secure a lower rate. That appears to be false.

Mr. Clougherty responded I don't think that is false, Alderman. Let me explain. If Mr. Weber had wanted to have a letter of credit as opposed to another approach that is fine and I would like to go back and see what that request was and what the writing is on that so we can trace the record back and I would like to see what the intent was. If for whatever reason we weren't able to get a letter of credit then there are two things that I think we need to be looking at with respect to the issuance of the bond. You can issue the bonds before you have a letter of credit or you can not issue the bonds before you have a letter of credit. Are you willing to accept these securities as an interim bridge that is acceptable somewhere down the road before we issue the debt? Are the securities that are being talked about going to be made available to the staff to take a look at and do their due diligence on that on a timely basis? It is one thing to say I would like to do this and it is another thing to have the information in front of us.

Alderman Guinta replied I understand what you are saying but I need to interrupt. That is not what was presented to this Alderman Friday night at 5:15 PM from Randy Sherman. I mean this is the problem with the inconsistency. If Mr. Weber had asked for a two week extension…wait a minute let's move back. Two weeks before the LOC date was in place he had been discussing with the Finance Department this very issue because Fleet suggested it as a money saving method. Friday night 15 minutes after the close of business when the LOC was due Alderman were called. I spoke to Randy at around 5:15 PM or 5:30 PM and he said to me and I quote that "Drew is looking for a 120 day extension to secure a better rate because the rate he received from Fleet was $50,000". Even that number was inaccurate.

Mr. Clougherty responded again Alderman I can't speak for what he said. All I can tell you is that at that point in time what I was asking the Board for was an extension to allow him, if he wanted to as an interim arrangement, to provide for some securities so that we could go forward, make cash available and issue the debt. If that is not what we want to do, then don't do it.

Alderman Guinta stated let me ask you a question. If the sole purpose is to save $20,000 or $25,000 why would Mr. Weber ask for a four-month extension? I don't think he would.

Mayor Baines stated let me clarify because a couple of things, you are right, are inaccurate. First of all when we started dealing with this on Friday morning one of the things we had I said to Drew can you immediately begin the process of executing a letter of credit. I think Joanne initiated some phone calls to the bank that was being dealt with to see exactly how fast we could execute it because my concern at that time was in fact with Kevin's interpretation and how fast it could be done. It was my understanding at the end of it hearing

the conversation after Kevin drafted a letter a call was made to Drew and we asked can you achieve this within 120-day period. It wasn't the issue…I never heard the words extension or anything like that. It was can it be achieved within 120-day period.

Alderman Guinta asked what.

Mayor Baines answered the letter of credit and he said yes it could be but he was going to again begin to look at the process if, in fact, the Board did not approve this arrangement this evening. That was as it was said but we immediately again when we became aware of the situation…Drew was down there anyway and Joanne got involved and actually made a call to a bank to say how fast can this process be initiated.

Alderman Guinta responded that brings up another issue. Why does Randy Sherman have the ability two weeks before an LOC is due to enter into a negotiation with Mr. Weber knowing that at some point he has to go to Kevin and at some point Kevin has to go to you, which all happened and at some point it has to go to Bond Counsel, which happened, and then you all decide at some point we have to go to the Aldermen? Why does Randy have the ability to make that decision, negotiate for two weeks and then make it sound like Mr. Weber is the one who is trying to renig on a deal?

Mr. Clougherty replied I don't think that is what he was trying to do.

Alderman Guinta responded but that is what happened. That is not what he tried to do but that is exactly what happened.

Mr. Clougherty stated I think with respect to this project the Mayor has asked Finance and has asked Randy to get involved and to try and provide some service in terms of moving the project forward and I think he has done a good job on that. He has worked hard at that. If his interpretation in my absence was that you could use these dollars, even though it might be acceptable from a business standpoint and I may agree with that from a business standpoint, the question is is it legally something that can be done. If his interpretation at that time in good faith was that it could be done legally and it could enter into the cash provisions and it was within the Finance Office authority that is his position. He didn't do something wrong. He didn't deliberately mislead anybody. He made his own interpretation of that and that is fine. The deadline isn't as I said a formal deadline that has to be issued. It is when we are going to issue the bonds. If we are not going to…and that I think is what is being lost here. He can make that decision and that is fine. I appreciate him looking at that side of it from a business standpoint but if after we have had discussions with the Solicitor and Bond Counsel that determined it should come back to the Board then that is what you do. That is what the intent of this was to come back to the Board and get clarification.

Alderman Guinta stated we are all very aware of the agreement and you just said, Kevin, that part of Randy's and I assume by extension the Finance Department's responsibility is to oversee this project. Is that fair to say?

Mr. Clougherty responded no I really don't think it is the City Finance Department's…

Alderman Guinta interjected you just said that part of Randy's job is to make sure that we get these things done on time.

Mr. Clougherty stated with respect to the bond issue I am talking about. With respect to the project there are a lot of other things going on.

Alderman Guinta asked so here is my question. If that responsibility regarding bonding rests with Finance why did Finance delay it for two weeks? Why didn't Finance come to the Committee and talk to the Committee because quite honestly we are in this situation because Finance made a decision unilaterally without discussing it with any Alderman or the Mayor until Friday. That to me doesn't seem to be the appropriate way to conduct business.

Mr. Clougherty replied again it is a self-imposed deadline because the responsibility for issuing the bonds is the Finance Department's.

Alderman Guinta asked if it is a self-imposed deadline what happened if Drew Weber didn't meet the deadline. Then the bonds wouldn't have been issued and that would be okay.

Mr. Clougherty answered from my standpoint if the bonds aren't issued…

Alderman Guinta interjected what is the purpose of having a deadline.

Mr. Clougherty stated I think what you have to understand is with respect to the bond issue we are trying to move the bond issue forward and we are on a track to do that. We are, in order to make funds available for the project, both the riverfront side and the Gill side, trying to expedite the bond issue. We are doing that. We are working hard to do that and as I said we are in a position where we could release an official statement sometime this week to have a pricing next week and have this bond sale completed. However, if there are outstanding issues of any sort that are coming forward…I don't authorize the issuance of bonds until I feel those things are completed. Now are we trying to get this thing done on a timely basis? Yes. If it is not done then the bond sale gets delayed. If the bond sale gets delayed that is not the end of the world. If the bond sale gets delayed but you still authorize the expenditure of funds then that is the other way of accomplishing this but from our standpoint I want to make sure that all of those this and that's are taking care of before I authorize the issuance of the debt. So the deadline is something that we were trying to get accomplished so we could get into the bond market on a particular timetable.

Alderman Guinta stated let's assume that this vote does not pass tonight. Take me through that process. I assume we would request the LOC and at what point do you feel we would receive that?

Mr. Clougherty responded I think that the LOC from Mr. Weber will be forthcoming in a timely basis over the next two weeks. I think that the information that we got from the other principals is that their letter of credit would also be available in the next couple of weeks…

Alderman Guinta interjected do we know that he would be able to secure a letter of credit in two weeks because I would like to give him ample time.

Mr. Clougherty responded he says he can. That is what he told us the other day and again that is why we tried to give the 120 days to be more than generous with time.

Mayor Baines stated just to recap here and with due respect to Mr. Sherman who is not here, based on the conversation I had on Friday when he had those conversations with Mr. Weber he forwarded something to the Finance Office to get a response to see if that was acceptable. I just want to clarify that.

Alderman Gatsas stated I have been waiting here because I asked Mr. Sherman specifically on Tuesday at that baseball meeting when do you expect to receive the letter of credit. His answer was soon I hope. So if Mr. Weber had told them two weeks ago the opportunity for him to at least discuss that position with that Committee would have been then. I asked that question your Honor and it was like nobody knew anything about anything and that is not fair.

Alderman O'Neil stated first of all I want to publicly apologize to Drew and Joanne Weber for being dragged into an internal disagreement in City government. Some people are trying to make Drew out to be a bad person for what he did. All he did was come to the City with an idea that was not only in his best interest but also in the City's best interest. I am sorry that you are being dragged through this this evening and based on what happened in the City on Saturday with ticket sales obviously the public is still very much behind this project and very interested in it going forward so I am sorry that you have to get dragged through this this evening. Regarding confidence in the City staff, this is the same City staff that has been involved with…I thought Kevin Dillon was quoted in the presentation earlier $500 million worth of improvements at the Airport. The same City staff that has been involved with $105 million in school improvements. $38 million in improvements recently at the Manchester Water Works. Kevin, I don't know how many millions of dollars of improvements in our wastewater system. This is a $27.5 million project. In my opinion this is pretty simple for them. They have been through this. They have been through tougher situations and I would like to call our staff the major league because I think they are the best and I think somebody

only has to look at the rating agencies in New York and what they think of the City of Manchester and how our financial situation is and they have a great bullpen that they can call on when needed in Walter McCabe and Rick Manley. We are not their only client. They have clients all over New England and all over the country probably. This was a timing issue. Talk about the Committee meeting Tuesday night? I heard Kevin say tonight that he might not have heard of this issue until Wednesday or Thursday of last week. How could Randy have presented it to the Committee when he hadn't even spoken to his boss about the issue yet, the man who has to sign-off on all of this? Let's move forward and stop what is going on here tonight. There was no breakdown in communication. We need to let the staff do their job and when it is an appropriate time to present information, they will present it. Thank you, your Honor.

Alderman Thibault stated I would like to ask Finance one question if I could. If, in fact, we accept this proposal that has been given to us does it put the City at risk at all for any financial problems?

Mr. Clougherty answered if you do allow a period of time for this arrangement to be struck in accordance with what we have recommended, I don't believe it puts us at risk and I will ask Walter to respond to that too.

Mr. McCabe stated legally there is a slight difference in one circumstance between pledged security and a letter of credit. A letter of credit is the credit of a banking institution that is not Mr. Weber's credit. If there were to be a circumstance of an insolvency of Mr. Weber then the bank would still have to pay. If we have a pledge of securities and there is an insolvency of Mr. Weber in that particular circumstance you would have to get relief from the bankruptcy court to invade the pledged securities. It is likely you would get that relief but there would be some processing time and you may have to deal with some other creditors in that particular circumstance. That is the one technical difference.

Alderman DeVries stated to clarify and maybe Kevin would be the best person to talk to within the document that you handed out this evening there are a couple of things that need to be brought up and I think our Bond Counsel just read right into it. I don't see any language that is going to address any of the costs associated with any insolvency of the funds if we ever get there or an agreement for the daily monitoring and I am looking for an opinion as to whether that needs to be built into this document that is before us this evening. I am wondering if there has been substantial talk about changing the date from 120 days to something lesser filling in the blank on the final page that talks about releasing the dollar amounts basically. It is left blank now and that needs to be $2 million not $2.8 million so that we are all sure what is before us this evening. I think we need to have a little bit of a discussion on the event of default as referenced here.

Mayor Baines called for a five-minute recess.

Mayor Baines called the meeting back to order.

Mayor Baines called Mr. Weber forward.

Mr. Weber stated first of all I apologize for losing it. This has been a very long process. I ask that please for the good of Manchester and the good of baseball that you follow Kevin Clougherty's recommendation and vote yes. I will give you my promise that I will immediately begin work on a bank letter of credit. As I said before I don't know how long it takes but I will do it. I have met every obligation 100% over these two years and I will continue to do so. I want to thank…I had a talk with the Mayor today and we were both practically in tears. This has been a very, very, very difficult thing on my wife and on me. I laugh when I say I got into this for fun because I haven't had very much except for Saturday. I had fun Saturday. So, again thank you to the Mayor and I hope that you will vote so that we can continue to work so that the vendors can get paid at Gill and we can continue this process.

Alderman Gatsas stated Kevin I am just going to ask you and I hope you can give me a yes or no answer on this question. Have you seen the securities that have been discussed?

Mr. Clougherty responded yes they have been provided to our office.

Alderman Gatsas asked and you have analyzed them and you think that there is a net worth on those securities of $2.8 million.

Mr. Clougherty answered what we have done, Alderman, is we have taken those securities and provided them to…we have done a couple of things. We have talked to independent analysts that review securities all the time, for example the analysts that work with our pension funds and our trustees of trust funds…

Alderman Gatsas interjected can you give me specific names please.

Mr. Clougherty stated Finebuckle who does it for the City, Wayneright who does it for the Trust Funds, and CFM who is our financial advisor and we have had them look at that. We have been…they are of value as of today and as long as we can arrange through an agreement and a perfected arrangement those are certainly acceptable. We had three different…

Alderman Gatsas interjected do you have that in writing from any of them.

Mr. Clougherty stated we have it from at least one of them. I am sure the others will be forthcoming.

Alderman Gatsas asked do you have it downstairs in your office.

Mr. Clougherty asked the one letter, yes.

Alderman Gatsas asked Mr. McCabe have you seen the securities being Bond Counsel.

Mr. McCabe answered I have not but I have been advised of the nature of them in terms of the actual valuation of them. That is not my area of expertise.

Alderman Gatsas asked do you have anybody that obviously with the fees we are paying you as Bond Counsel would give an opinion to the City because obviously we are paying you an awful lot of money for your legal expertise in this deal.

Mr. McCabe answered we are making sure that the documentation that is put in place if this arrangement is approved will provide the protections to the City and we will obviously make sure that the party that is going to hold the interest and security for the City is satisfied that they have the right pieces of paper to reflect the securities. That is what legal counsel does. Legal counsel generally does not evaluate the financial worth of the securities. That is what a financial professional would do. I believe Kevin has indicated that he has talked to three different financial professionals about the valuation of the securities.

Alderman Gatsas asked so Kevin we are prepared to take those securities tomorrow and prepared to make margin calls on them as we see fit. I guess somebody alluded to the fact that we were waiting for other lines of credit from other people. Did I understand that correctly or incorrectly?

Mr. Clougherty answered first of all I don’t know if we are ready to accept them tomorrow. We are certainly willing to provide the legal documents that we need to have to authorize because as we mentioned early on we want to have a perfected arrangement on this. It is not so much on the municipal bonds, which are A rated and better. That is not an issue but on the vanguard funds we want to do something there.

Alderman Gatsas responded I didn’t hear you. The what funds?

Mr. Clougherty stated the different mutual funds that we have that have been disclosed.

Alderman Gatsas asked so there are mutual funds and not all bonds in there.

Mr. Clougherty answered right.

Alderman Gatsas asked so you feel comfortable that with the rumblings that are happening with mutual funds right now you feel comfortable on those securities.

Mr. Clougherty answered yes because we are concerned as you are with the rumblings on Wall Street but we have on several occasions because the City retirement system, not for the pension fund but for its employees, has some 401K dollars and things like that and we are always constantly looking at those types of things. We are happy with the particular funds that they are looking at and we have had people assure us that those are the highest quality and have not been involved in any of these rumblings and we should not, particularly for such a short time, 30 days, be worried about that.

Alderman Gatsas stated at the Senate we have something that we call divide the question. Do we have the ability to divide the question here so that we can go forward with the $2 million on renovation at Gill Stadium and not be concerned with the bond issuance of Riverfront Stadium so that the Gill Stadium work can get done and we don't have that issue of whether we have the security in place? Can we take the bond issue, Kevin, and separate it because obviously that is what we are talking about?

Mr. Clougherty responded you are not separating the bond issue. I am not sure what you are asking me, Alderman.

Alderman Gatsas stated what I am asking you is this. If we can go forward and obviously from the cash flow of the City we should be able to keep the project going at Gill Stadium for that $2 million that you are talking about and allow Mr. Weber to get his line of credit to do the Riverfront Stadium baseball development because I think this Board is committed to do the project at Gill Stadium one way or the other and if that is the case then we are splitting hairs when we are going forward here. We should just get Gill Stadium done and let the baseball stadium at the riverfront stand on its own.

Mr. Clougherty stated you have the authorization in place for Gill Stadium to go forward. I don’t believe there is any additional funding or any additional action that the Board needs to take to complete Gill Stadium. I don’t think that is an issue and we can advance those funds under the authorization I have. If you do not want me to advance any money in terms of the Riverfront Stadium until we have a letter of credit, that is the agreement we have in place already as I understand it and you would not authorize me to release $2 million or up to $2 million and accept securities in the interim so that we could advance those funds prior to the acceptance of a letter of credit at which time I would be able to do that.

Alderman Gatsas asked so that really helps both situations doesn’t it. It gives Mr. Weber the opportunity to secure his line of credit. It allows us to proceed with the construction at Gill Stadium so that there are no timelines that are interrupted. What is wrong with that process?

Mr. Clougherty answered again I think that what it does is…there are dollars being spent on Riverfront. There are legal reimbursables and to expect the development team to fund that out of their pocket is something that is going to delay that project down there. Again, you are trying to keep two projects going on a parallel basis. You are trying to get Gill Stadium done so they can be in their next season but you are also trying to have them get the stadium built in a timely fashion as well.

Mayor Baines stated you do have architects that are working on design. You have engineering studies that are going forth. You have environmental work that is going on and that is the interest that you have expressed in accepting the arrangement that has been proposed that allows us and the City…obviously Gill Stadium is a separate thing and Alderman Gatsas is correct that we are committed to seeing that through no matter what but all of the entities are working to insure that this project moves forward and are committed to it moving forward and this would allow that money at your authorization and your diligence regarding everything being in place to advance that money with the protections that are being backed up with the securities that are being provided by Mr. Weber that does protect the interest of the City. Is that correct, Mr. Clougherty?

Mr. Clougherty answered that is correct and as you know before I release any funds they have to be signed off on by the Highway Department and the independent consultant to make sure that they are verified as legitimate expenses and that is how that would be handled.

Alderman Smith stated I am no Grady Little but I am going to try and give everybody some relief in regards to what I have heard this evening. First of all, Kevin, the Finance Department recommends this venture right?

Mr. Clougherty responded that is right.

Alderman Smith asked and Bond Counsel – Walter.

Mr. McCabe answered yes. In terms of the recommendation you are legally protected in the manner that is being proposed and it is a temporary solution in which any question about the adequacy of the collateral and insolvency will eventually be removed by the letter of credit. In the meantime you have $2.8 million against the $2 million obligation. That is a pretty good deal.

Alderman Smith asked in regards to the Baseball Committee I really think that there should be better communications. What I want to ask you is if we delay the bonds there is no question that it is going to be a strain on the developer and the project will not get done in time. This is what I want to give out to all of my colleagues. If Gill Stadium is not done in time, it will be finished and Central High will probably not be playing football there next year. There will not be any baseball time restraints because the field will not be done. We

have five months to get that field ready. From what I understand now the Riverfront Stadium is 18 months so time is of the essence. Someone asked why there wasn't a referendum. This is why there wasn't a referendum because there wasn't time to put it to the voters. If you are going to do something, do it right. I think we are doing it but we are picking on the wrong person with Mr. Weber. We should be getting our act together. I think it is time now that we make these funds available and go along with this. It is only on a temporary basis and he will get a letter of credit. Is that hard to ask of my colleagues?

Mayor Baines stated a motion would be in order to confirm the phone poll.

Alderman Smith moved to confirm the phone poll. Alderman Thibault duly seconded the motion.

Alderman Gatsas requested a roll call vote.

Deputy Clerk Johnson asked can I just clarify that ratification of the poll will also include authorization to execute the temporary agreement at up to $2 million.

Alderman Lopez asked for clarification. What Alderman Smith just said is not the same thing that is written here. The information that Alderman Smith just mentioned about a motion and you mentioned a roll call vote we are giving up to 120 days here. Does that still apply?

Mayor Baines responded I think it should be amended or that part of it or we can withdraw the motion and second with the stipulation that Mr. Weber as he stated tonight will begin working immediately on the letter of credit and it will be delivered as quickly as it can be executed.

Alderman Lopez stated I think it is important that we put that in there.

Mayor Baines responded that will be part of the motion as well. Do you agree, Alderman O'Neil?

Alderman Gatsas stated let's now put Mr. Weber in a compromising position. Let's have him give us a timeframe so nobody says we said to him anything else other than that. If he says he can get it done in two or three weeks, that is fine.

Alderman O'Neil stated he never said that your Honor. He said he has no idea.

Mayor Baines stated he said he would do it as quickly as he could possibly do it. Is that what you said, Mr. Weber?

Mr. Weber responded yes.

Alderman Gatsas stated I would like a time estimate because we don't have any agreements that have dates in them. I think that is a disadvantage for everybody.

Mayor Baines responded we can estimate within the next month.

Alderman Gatsas stated we can do it by minutes if you would like.

Alderman Lopez stated why don't we give him 30 days.

Mayor Baines responded okay and if there are issues he would have to come back to the Board with it. Let's proceed with the roll call starting with Alderman Gatsas.

Alderman Gatsas asked is that with 30 days in there.

Mayor Baines answered that is correct.

Deputy Clerk Johnson stated I just want to clarify the motion. It was by Alderman Smith, duly seconded by Alderman Thibault.

Mayor Baines responded yes.

Alderman Gatsas asked for clarification. Is that with 30 days in this agreement?

Mayor Baines answered that is correct.

Alderman Guinta asked is it required.

Mayor Baines answered yes and he would come to the Board if he needed an extension.

A roll call vote was taken. Aldermen Gatsas, Sysyn, O'Neil, Lopez, DeVries, Smith, Thibault and Forest voted yea. Aldermen Guinta, Osborne, Pinard, Shea, and Garrity voted nay. Alderman Wihby was absent. The motion carried.

> A report of the Committee on Human Resources was presented requesting that a position of Airport Security Manager be established at Grade 22 and that an ordinance be ordained under suspension of the rules this evening without referral to the Committees on Bills on Second Reading or Accounts, Enrollment & Revenue Administration.

On motion of Alderman O'Neil, duly seconded by Alderman Pinard it was voted to accept the report and suspend the rules to place the Ordinance on its final reading at this time without referral to the Committees on Bills on Second Reading or Accounts, Enrollment & Revenue Administration.

On motion of Alderman O'Neil, duly seconded by Alderman Forest, it was voted to read the Ordinance by title only, and it was so done.

> "Amending Section 33.024, 33.025 and 33.026 Airport Security Manager of the Code of Ordinances of the City of Manchester."

On motion of Alderman O'Neil, duly seconded by Alderman Garrity, this Ordinance having had its final reading was Ordained.

> A report of the Committee on Lands and Buildings was presented recommending that a request to erect and maintain two utility poles and deserted railroad bed behind 60 Rogers Street be approved subject to additional language which has been stated therein, and recommending that the Mayor be authorized to execute the easement on behalf of the City.

On motion of Alderman Shea, duly seconded by Alderman Pinard, it was voted to accept, receive and adopt the report.

Alderman O'Neil asked are we still on Lands & Buildings issues.

Mayor Baines responded we could be if you would like to stay there.

Alderman O'Neil stated I know there was some misunderstanding amongst members of the Board regarding conservation easements and I don't know if this is the appropriate time to address it. It affects Alderman Garrity in Ward 9 and Alderman DeVries in Ward 8. I don't know if they are prepared at this time. There have been some misunderstandings and I think it would be great if we could move those forward this evening.

Alderman DeVries stated on behalf of both of our wards we have a motion which we would like to entertain tonight which would be to convert certain tax deeded parcels in the vicinity of Crystal Lake and Riverdale Avenue to public use. Such parcels shall include in the vicinity of Crystal Lake Map 506, Lots 1, 38, 39, 40, 41, 42 and 43 and in the vicinity of Riverdale Avenue Map 680, Lots 1, 5, 5A, 7, 13, 13A, 13B, 14 and Map 681, Lot 4. That is a motion on the table and I would like a second.

Alderman Shea duly seconded the motion.

Alderman Garrity stated there was some discussion in Lands and Buildings about this and I thought procedurally that decorum wasn't correct and I have something on Rule 14 that I would like to bring forward.

Deputy Clerk Johnson stated I have two letters in front of me. One is signed by Aldermen Gatsas, Guinta and Garrity requesting that under Rule 14 that the Riverdale properties be brought up at the next meeting of the Board and placed on the agenda and I have another from Aldermen DeVries, Lopez and Shea requesting that the Crystal Lake properties be brought up at the next meeting.

Alderman O'Neil asked can't we address those this evening, your Honor.

Alderman DeVries stated we think that we can through the motion and the second part of the motion that needs to be a separate entity to cover state statute would be that staff be allowed to draw up the language for the conservation easements encumbering the land. I think it can be taken care of tonight. I don't know about Alderman Garrity but I know just in case it was not taken care of tonight I did give notice of Rule 14, which can be…but that petition can be withdrawn if this is taken care of tonight. That is my opinion anyway.

Mayor Baines called for a recess.

Mayor Baines called the meeting back to order.

Deputy Clerk Johnson stated it is my understanding that there is a motion on the floor Alderman DeVries by Alderman Shea that the Board convert tax deeded parcels that were outlined in the Crystal Lake and Riverdale Avenue vicinities for public use and that the parcels are to be encumbered with conservation easements to be determined by staff at a later date and assigned to the Parks & Recreation Department.

Alderman Gatsas stated I saw something tonight in Lands and Buildings that I never thought I would ever witness here. That an Alderman held another Alderman's project hostage. That motion came before us at Lands and Buildings and it was tabled because another Alderman's project wasn't there and it wasn't on the table and it wasn't heard. Now if somebody wants to believe that I have the power to control 10 votes on this Board they ought to look at the votes that have happened in the past. Never have I ever thought I was ever going to see that. That discourages me and that hurts me. I think if we talked to the former Chairman of this Board he would have told you that in the 30 years of his experience on this Board he would have never seen that. I think that is wrong, your Honor. I think that Rule 14 is divided into two questions. If they want to separate it, there was no agreement that was coming forward with the Riverdale project on that Rule 14. Rule 14 stands on its own for the Riverdale project. I think we would separate those and if Alderman DeVries wants to bring in her project on Crystal Lake so be it but she shouldn't have held up Alderman Garrity's project on Riverdale.

Alderman DeVries stated to responded and there was a separate Rule 14 that was filed so there were two Rule 14's on these projects this evening to be sure that they both did come

forward to the full Board. Rule 14 being an action that we are allowed as Aldermen to take to assure that something is pulled out of Committee and brought to the full Board for assessment. We do have the motion before us tonight to take care of both of these conservation projects. As I indicated at the Committee on Lands and Buildings as well as here previously I am not at all opposed to the conservation easements being placed on Riverdale Avenue. I never have been. That is an appropriate area. The Conservation Commission sent the letter, which is a courtesy extended to them. It is an appropriate project. Crystal Lake is wetlands. Wetlands that are important to the watershed for Crystal Lake. These properties got held up in Lands and Buildings…the letter requesting that these be addressed as tax deeded and conservation easements be placed was sent to the Committee last February. It has been sitting there forever waiting for an appropriation. It got hung up in the mitigation with the I-93 wetlands project. It was never intended to be paid for by those projects. It was associated lands sitting near I-93, mitigated lands that make for a nice extensive corridor. These wetlands are of no public use. They are not buildable lands. They need to be put into conservation because they are critical to the watershed of Crystal Lake. We need to get that done and both Alderman Garrity and I realize that we may not be here after the first of the year to continue to usher these critical projects along and we want them taken care of.

Alderman Garrity stated Riverdale Avenue is something that I have been working with my constituents on for the better part of three months. It is something that I think is important. We need more green space down in Ward 9. We deal with a lot of issues down in the South end of Manchester. I am extremely disappointed in Alderman DeVries' motion at the Committee level to not support Riverdale Avenue because of something petty. All of my constituents down on Riverdale Avenue are watching tonight because it is important to them. It is important that I vote for this but I am disappointed that my colleague in the South end of Manchester, in Ward 8, voted no on this project. Thank you.

Mayor Baines called for a roll call vote.

Alderman Gatsas asked are we taking them separately.

Mayor Baines answered no it is one motion isn't it Carol.

Deputy Clerk Johnson stated there was only one motion given.

Alderman Gatsas stated there is another Rule 14.

Alderman DeVries stated Rule 14 is not for tonight.

Mayor Baines asked the Clerk to advise the Chair.

Deputy Clerk Johnson stated the reference to Rule 14…there were two letters that were issued under Rule 14. The motion is separate from those letters. The motion was based on Crystal Lake and Riverdale properties be designated as public land with conservation easements to be done by staff and have them assigned to Parks & Recreation.

Alderman Shea stated I want to publicly give credit to Alderman DeVries for looking out for her constituents. That is what we are elected to do and if each Alderman feels that because one Alderman doesn't support another Alderman, your Honor, I think that is not really thinking in the box as it were to use Alderman O'Neil's phrase. We are all here together to work together to help the citizens of Manchester and I give her credit for sticking up for her constituents and any Alderman that is elected should stick up for their constituents and I am one who favors the way she went about doing this this evening. I thank you for letting me make that comment.

Alderman Garrity stated I admire Alderman DeVries sticking up for her constituents and that is exactly what I am doing down in Ward 9. To hold Ward 9 constituents hostage because her project is not on the agenda right now or is still tabled is unfair.

Mayor Baines called for a roll call vote. Aldermen Lopez, Shea, DeVries, Smith, Thibault, Forest, Sysyn, Osborne, Pinard, and O'Neil voted yea. Aldermen Garrity, Gatsas, and Guinta voted nay. The motion carried.

> Notice for reconsideration given by Alderman Gatsas on motion to accept a majority report of the Committee on Lands and Buildings regarding authorizing city staff to negotiate with Hampshire Plaza, LLC and its representatives for the possible disposition of the Canal Street Garage.
> (Motion having carried with Aldermen Sysyn, Pinard, O'Neil, Lopez, DeVries, Smith, Thibault and Forest voting yea, and Aldermen Gatsas, Guinta, Osborne, Shea and Garrity voting nay.)

Alderman Gatsas moved to reconsider. Alderman Garrity duly seconded the motion.

Alderman Gatsas stated your Honor I think that tonight we had some discussion in Lands and Buildings about abutters properties and whether we were going to negotiate with an abutter or not negotiate with an abutter. There is a Wellington Road project and we are not negotiating with an abutter. There is the Canal Street parking garage and we are negotiating with the abutter and I guess I have concern that we have a letter that we sent to the City Solicitor and we are continuing down this road to continue to talk to somebody that and again your Honor the big problem I have is I guess I can go through here and I should find it because I asked the question your Honor and you agreed with me. That is pretty scary but we do agree on a lot of things. That we should have the opportunity to talk to the appraiser and your Honor we are now on the 21st and my understanding is the appraiser couldn't come in to today's Lands and Buildings meeting because the proper notification wasn't given. Your Honor I can look through this because I found it today when you said yes we should

have the appraiser before us. We don't have the appraiser here. We haven't had the opportunity to ask the appraiser any questions. So your Honor I guess my request fell on deaf ears so I am asking you when you think we could have the appraiser before us to ask questions about the appraisal.

Mayor Baines responded I think the question was asked of the appraiser.

Mr. William Jabjiniak stated the appraiser would be available either Friday or Monday or Tuesday of next week.

Alderman Gatsas stated your Honor I guess I will leave it up to you whether you want it in Lands and Buildings or whether you want the full Board here.

Mayor Baines responded that is up the Committee. If the Committee wanted to call a meeting and invite the appraiser in that would be the judgement of the Chair.

Alderman Thibault stated I would like to call a meeting next week, no problem.

Alderman O'Neil asked does there have to be a meeting or can Alderman Gatsas meet with him on his own.

Mayor Baines answered that could happen too.

Alderman Gatsas stated I think it is important that we get the information on how he came about an appraisal in public.

Mayor Baines stated I would suggest…it would probably be in the best interest if Alderman Thibault called a meeting and invited the appraiser in and any Alderman who wanted to come in and participate could do so. I would recommend that.

Alderman Thibault asked when is he available again.

Mr. Jabjiniak answered Friday of this week or Monday or Tuesday of next week.

Mayor Baines stated you can talk to Mr. Jabjiniak. Do you want to just set it for Monday and Bill will coordinate it with him and we will get back to the Board?

Alderman Gatsas moved to table the reconsideration until we have an opportunity to talk to the appraiser.

Alderman Lopez stated in reference to the motion that we did at the last meeting it was to let the staff continue to negotiate. Nothing has been settled as to the staff coming back and

making any recommendations on selling it to the abutter. If Lands and Buildings wants to have a meeting and have everybody there to talk to the appraiser that is fine. Nothing has been done by the staff and given to either Lands and Buildings or this Board for them to continue to negotiate and that was the motion that passed at the last meeting. All they are doing is giving them the authority to negotiate. I don't see any reason for reconsideration. They can continue to negotiate. Lands and Buildings can meet and talk to the appraiser and then when we finally take a vote on whether or not we are going to accept whatever the staff tells us then that is fine.

Mayor Baines responded with all due respect to Alderman Gatsas it is whether you can and it is my understanding and I just want to clarify with the City Solicitor that a motion for reconsideration shall be dealt with at the next meeting. I am not sure you can postpone it to another meeting and I ask that he look into that.

Alderman Smith stated I would like to ask the City Solicitor in regards to the letter from Attorney John Cronin about further action. Are we in violation and so forth?

Deputy Solicitor Arnold asked in violation of what, Alderman.

Alderman Smith answered in regards to giving exclusive rights to one agency to purchase the garage.

Deputy Solicitor Arnold stated I don't think you are in violation of any statute or ordinance. The Board is free to direct staff to negotiate with a single party.

Alderman Thibault stated we gave staff 21 days to come back to the Committee.

The 21 days I believe is up next Tuesday.

Mr. Jabjiniak replied today is the 14th day.

Mayor Baines asked Mr. Arnold what did you find out about the reconsideration.

Deputy Solicitor Arnold stated I am reading the rule now.

Alderman Lopez stated Rule 10 says you can't. It has to be taken up tonight.

Mayor Baines asked what page are you on.

Deputy Solicitor Arnold answered in the red book we are on page 113.

Mayor Baines asked could you read the rule please. Just read it out loud.

Deputy Solicitor Arnold stated Rule 10 states "a motion for reconsideration of a vote shall be open for debate but such motion shall not be considered unless made by a member voting with the majority or unless notice be given at the meeting at which the vote is passed, in which case, the motion shall be made at the next regular meeting after and only one motion for reconsideration of any vote shall be permitted." It says the motion shall be made at the next meeting. I don't think that tabling it would violate that rule.

Mayor Baines stated so you can vote that up or down in terms of tabling it.

Alderman Gatsas stated I would like to discuss this.

Mayor Baines responded you can't discuss a motion to table but I will allow the discussion before I accept the motion.

Alderman Gatsas stated the reason I made the motion for reconsideration is because I thought it was unfair that this Board would be taking different parameters on different properties whether we are going to negotiate with abutters or not negotiate with abutters. We need to have a consistent policy because we are going to find it very difficult to do business with people in the City if our policy is inconsistent. We had a piece on Wellington Road. We didn't negotiate with the abutter. We had a piece on Canal Street. We negotiated with the abutter. The first vote that came out of Committee was to go to an RFP. We always talk about Alderman O'Neil who was so careful this evening to talk about what a great job our staff does. Our staff recommended that this garage project go out to an RFP. That was staff's recommendation. That was from the City Solicitor in the minutes of the meeting that I have before me. I agree. So if we are going to listen to staff on projects of $105 million and $27 million and $38 million then certainly we should listen to staff on recommendations of $2.5 million or $3 million or $4 million. I think that it is imperative that we start either following some consistent pattern or we are going to get into a problem with trying to do business with these people.

Alderman Gatsas moved to table. Alderman Garrity duly seconded the motion.

A roll call vote was taken. Aldermen Gatsas, Guinta, Sysyn, Osborne, Pinard, O'Neil, Lopez, Shea, DeVries, Garrity, Smith, and Thibault voted yea. Alderman Forest voted nay. Alderman Wihby was absent. The motion carried.

> Communication from Thomas Seigle, Chief Sanitary Engineer, seeking the Board's authorization to enter into a Septage Service Agreement with the Town of Plaistow.

Alderman Shea moved to approve the agreement and authorize the Mayor to execute same on behalf of the City, subject to the review and approval of the City Solicitor. Alderman Osborne duly seconded the motion.

Alderman DeVries asked is there any kind of default on payment from…I would assume it is the direct haulers that we set the actual contractual agreements up with so if there is any default of payment is there something built in that the Town of Plaistow will pick up on the defaults and the City is not writing off bad debt.

Mr. Kevin Sheppard answered I don't believe there is anything that holds the town responsible for the private septage haulage.

Alderman DeVries asked so shouldn't we amend our contract so that we don't end up writing off the bad debt for the septage coming from another town.

Mr. Sheppard replied I guess that is a question for the City Solicitor's Office.

Alderman DeVries stated I am not sure that I really need to…if you are not prepared.

Deputy Solicitor Arnold responded I am sorry. I was looking at something else. I only heard the last half of your question so if you could repeat it for me.

Alderman DeVries stated the question was before this contract is finalized if we do approve this tonight my concern is if there are any bad debts that are incurred, we are talking about septage haulage from third party truckers or whatever for the Town of Plaistow so I am saying if they fall into default and become bad debt is there a way we can go back and have Plaistow make up the bad debt rather than the City of Manchester having to write it off. If we can't answer that tonight I am prepared to vote on this. It is not holding up the contract. I just thought it was a loophole that maybe we could plug.

Deputy Solicitor Arnold asked could you put that in a contract, yes I suppose you could but that means you would have to bring the Town of Plaistow in as a party. Typically my understanding with these types of matters is that the City looks to the premises that generates the septage to pay the bill and goes after that premises if the bill is not paid.

Alderman Shea asked, Kevin, they will be delivering the sewage as it were. Don't they have a contract to pay when they deliver it? Isn't there some arrangement where we wouldn't be talking millions of dollars would we? Just a couple of hundred thousand.

Mr. Sheppard replied yes we are talking about $35,000 in revenue. We would catch that before it got out of control.

Alderman DeVries stated I just realize how annoying it gets at the Accounts Committee when we have to write-off bad debt and I thought maybe we could close that loophole but evidently not.

Alderman Guinta asked is this an extension of an agreement or is this a new agreement.

Mr. Sheppard answered it is a new agreement.

Alderman Guinta asked do we have other similar agreements like this with other towns.

Mr. Sheppard answered we have similar agreements with Bedford towns and the State asked us to take a look at Plaistow, Atkinson and Litchfield to truck their septage.

Alderman Guinta asked when did they ask us to do that.

Mr. Sheppard stated over the past month. There is a concern within the state with septage facilities…not having enough septage facilities within the state. The state has asked us to assist them in accepting these towns.

Alderman Guinta asked did the issue that to us in writing.

Mr. Sheppard answered I am sure we have something in writing.

Alderman Guinta asked did it come to this Board. This is the first I am seeing of this proposal.

Mr. Sheppard answered I believe the Board of Mayor and Aldermen actually approved negotiating with these towns.

Alderman Guinta asked at the last meeting.

Mr. Sheppard answered I am not sure. Maybe Carol knows.

Deputy Clerk Johnson stated I would have to go back and look.

Mr. Sheppard stated the Board actually approved allowing us to negotiate an agreement with the town.

Alderman Guinta stated I guess I have some general concerns. Are there any health concerns or concerns from your department about bringing additional septage into Manchester.

Mr. Sheppard answered no. We are talking probably an additional septage gruck per day. We have a septage receiving facility down there right now so we are not taking about much capacity throughout the year.

Alderman Guinta asked how much septage is in each truck.

Mr. Sheppard answered probably about 1,000 gallons or somewhere around there.

Alderman Guinta asked and it is $70 for every 1,000 gallons. Am I reading that correctly?

Mr. Sheppard answered right.

Alderman Gatsas stated we have talked about everything else. We might as well talk about septage. The $70 per 1,000 gallons can you tell me what kind of revenue that is?

Mr. Sheppard answered for the Town of Plaistow if we were to execute this agreement it would be about…if all of the septage came to Manchester it would be about $35,000 a year.

Alderman Gatsas responded let me understand what you are saying. What you are saying is that the septage tanks that are out there would be pumped and that would be traveling to the City.

Mr. Sheppard replied that is true.

Alderman Gatsas asked and we are looking to do this with how many other communities.

Mr. Sheppard answered we have Plaistow, Atkinson and Litchfield.

Alderman Gatsas stated so basically why we are doing it is to be a good neighbor.

Mr. Sheppard responded why we are doing it is because the NH Department of Environmental Services asked us to assist them in providing a location for these towns to dispose of their septage. Every town by State law needs a place to dispose of septage.

Alderman Gatsas asked where do they store it now.

Mr. Sheppard answered I believe a lot of it is being hauled down to Massachusetts.

Alderman Guinta asked why do we want it.

Mr. Sheppard answered because there is a shortage of septage receiving facilities in New Hampshire.

Mayor Baines stated it is getting late and we are not going to be able to answer all of these questions. Maybe we should refer this to the Committee on Administration.

Alderman Lopez moved to refer this item to the Committee on Administration. Alderman Forest duly seconded the motion. Mayor Baines called for a vote. The motion carried with Alderman Gatsas being duly recorded in opposition.

Warrant to be committed to the Tax Collector for collection under the Hand and Seal of the Board of Mayor and Aldermen for the collection of sewer charges.

Deputy Clerk Johnson advised that the amount of the warrant was $77,785.62

On motion of Alderman Forest, duly seconded by Alderman Pinard, it was voted to commit the warrant as presented in the amount of $77,785.62.

Bond Resolutions:

"Amending a Resolution of the Board of Mayor and Aldermen Passed to be Enrolled on June 1, 1999, Which Resolution Authorize the Issuance of Bonds in the Amount of Twenty Million Dollars ($20,000,000) for Refunding Certain Outstanding Bonds of the City."

"Amending a Resolution of the Board of Mayor and Aldermen Passed to be Enrolled on September 24, 2001, Which Resolution Authorized the Issuance of Bonds in the Amount of Thirty-Five Million Dollars ($35,000,000) for Refunding Certain Outstanding Bonds of the City."

On motion of Alderman Garrity, duly seconded by Alderman Shea it was voted to dispense with the reading of the Bond Resolutions by title only.

Alderman Gatsas asked what are these Bond Resolutions for.

Mr. Clougherty answered it has been brought to our attention, Alderman, that we have a refunding opportunity that could save the City about $500,000 over time. These Resolutions allowed us to refund bonds up to a certain date. The changes allow us to take everything current within those dollar amounts we are talking about. It just allows us to realize some savings.

Alderman Gatsas asked are we extending the period.

Mr. Clougherty answered yes. What this does is we, at one point for example had $35 million worth of authorization to refund bonds up to that date but since that date we have had other bond issues and there are some opportunities to refund pieces of those so rather than introducing a new resolution and having balances we are taking these current ones and

saying just fold in those issues that have come since and allow us to go up to that same amount. We are not extending the amounts, we are just allowing for the more current bonds to be included under the same authorization.

Alderman Gatsas asked are we extending the term of those bonds. If they were due and payable in full in 10 years are we extending them to 20? Are we refinancing those bonds?

Mr. Rick Manley stated the authority will just allow us to refund the previously issued bonds and substitute the rates for the rates they currently bear. It would not involve an extension of the currently outstanding bonds at all. It is just a refunding and replacement of those bonds with bonds at the lower rate.

Alderman Gatsas asked so you are saying we have bonds that are outstanding at $35million that could be a 9% but we are just taking that $35 million and reissuing it at let's say 4%.

Mr. Manley answered that is fundamental. I think the dollar amounts are sort of subject to what the markets will favor in terms of allowing us to bond at a savings but that is correct.

Alderman Gatsas asked and there is no prepayment penalty in the bonds that we are reissuing.

Mr. Manley answered the old bonds were issued I think in 1998, 1999, 2000 and 2001. They have standard 10 year call provisions on them, which means that if they are called out early many of them do have a small call premium. No bond issue for refunding, however, would be done unless there was a present value savings to do so, which would necessarily include any prepayment premium.

Alderman Shea asked are those municipal bonds that we are refinancing.

Mr. Manley answered yes.

On motion of Alderman O'Neil, duly seconded by Alderman Garrity, it was voted that the Bond Resolutions pass and be enrolled.

Resolutions:

> "Amending the FY 1999, 2000, 2001, 2002 and 2004 Community Improvement Program, transferring, authorizing and appropriating funds in the amount of Four Thousand Seven Hundred Dollars ($4,700) for CIP 214904 YWCA Capital Repairs/Boiler Replacement Project."
>
> "Amending the 2003 Community Improvement Program, authorizing and appropriating funds in the amount of Two Hundred Twenty Five Thousand Dollars ($225,000) for 2003 CIP 410903 Weed & Seed Program."

"Amending the FY2003 and FY2004 Community Improvement Programs, transferring, authorizing and appropriating funds in the amount of Six Hundred Fifty Thousand Dollars ($650,000) for FY2004 CIP 612204 Gale Home Congregate Housing Development Project."

"Amending the FY2004 Community Improvement Program, transferring, authorizing and appropriating funds in the amount of Two Hundred Thousand Dollars ($200,000) for FY2004 CIP 612304 MNHS Homebuyer Assistance Program."

"Amending the FY2004 Community Improvement Program, transferring, authorizing and appropriating funds in the amount of Thirty Seven Thousand Dollars ($37,000) for CIP 612404 Families In Transition – 394 Second St. Pre-development."

"Amending the FY2004 Community Improvement Program, authorizing and appropriating funds in the amount of Eighteen Thousand Four Hundred Dollars ($18,400) for FY2004 CIP 711204 LED Program."

"Authorizing the Finance Officer to effect a transfer of not greater than $9,382.00 from Contingency to Elderly Services, if required."

On motion of Alderman Pinard, duly seconded by Alderman Osborne it was voted to dispense with the reading of the Resolutions by title only.

On motion of Alderman Sysyn, duly seconded by Alderman Lopez, it was voted that the Resolutions ought to pass and be enrolled.

TABLED ITEMS

18. Request for discontinuance of a portion of Millstone Avenue.
(Tabled 08/04/03 at road hearing pending report from City Solicitor.)

This item remained on the table.

19. Communication from Thomas Bowen, Manchester Water Works, requesting approval of a Resolution to withdraw Manchester Water Works funds currently under the Trustees of Trust Funds (Capital Reserve Fund) and place such funds toward the establishment of a $500,000 Revenue Stabilization Fund.
(Tabled 10/07/03)

On motion of Alderman Smith, duly seconded by Alderman DeVries, it was voted to remove this item from the table.

Alderman Gatsas stated the reason I tabled this was obviously to have the City Solicitor look at the funding for the $500,000 revenue stabilization fund. I think I did some research and took a look at what that fund was…the reason it was set up. It was set up with funds that were from the profit side of the Water Works Department so that it would take care of any emergency without having to come back and increase water rates. I think it is only appropriate, your Honor, that we would leave those funds there in the same position they are

at so that the Water Works could take care of emergencies if something happened in a catastrophic situation without having to go back out and increase water rates. I would make the motion that we leave that fund exactly the way it is because it was set up for catastrophic situations.

Mayor Baines stated I would like to ask Mr. Bowen to come forward and address this issue before I accept any motions on this.

Mr. Clougherty stated that is exactly what the intent of moving from the old capital reserve into the revenue stabilization fund is, Alderman. That is exactly why that is being done. My recommendation would be that you move on the action.

Mayor Baines responded could you repeat that Mr. Clougherty.

Mr. Clougherty stated our recommendation is that the Board adopt the request as originally submitted. The intent was to do exactly what Alderman Gatsas is saying. It protects the ratepayer by setting up reserves. Instead of having a capital reserve fund we are going to put it into this revenue stabilization fund in accordance with the very thorough legal process that we went through to set up al of these different reserves at Water under their new bond resolution.

Mr. Thomas Bowen stated as I mentioned a couple of weeks ago when I was here before, the $250,000 that was originally put into this fund that has grown to just under $400,000 at this time was done prior to the sale of the revenue bonds and during the course of the sale of the revenue bond there was a feasibility, a financial feasibility study done and a considerable look into the requirements for the revenue bond sale, which included the establishment of a number of reserve funds. The fact is that we do not need the previously established fund that was established under the Trustee of the Trust Fund. It is not part of the revenue bond sale. It wasn't figured into the sale. It was not recommended by the feasibility consultant and it was his recommendation that those monies be cleared into the revenue stabilization fund.

Alderman Gatsas asked, Mr. Bowen, those funds in the capital reserve fund are not as easily accessible as the stabilization fund. Is that true?

Mr. Bowen replied I can't answer that. I would say no, they probably…one is held by the Trustee of the Trust fund and the others are held by the Trustee on the revenue bond sales so there is a similar process. It requires action by the Board of Water Commissioners, an establishment of need, and then I think we can draw on those funds. I would say they are probably equally as…

Alderman Gatsas interjected for the capital reserve fund if my recollection serves me right you have to come to this Board to get that done.

Mr. Bowen responded I don't believe that is true.

Alderman Gatsas stated and then go to the Trustees of the Trust Fund.

Mr. Bowen responded I don't believe so.

Mr. Clougherty stated I believe Alderman Gatsas is right. I think you do have to come before the Board to get authorization to spend those dollars and then the trustees are allowed to release the funds. They are the custodians.

Alderman Gatsas stated so basically my first initial statement was to move those funds is more difficult if you leave it in the capital reserve fund than it is if you leave it in the stabilization fund. You can move the stabilization fund at the discretion of the Water Works. I think that my motion would be that we leave it in that fund because that is what it was set up for, a catastrophic issue.

Mayor Baines stated Mr. Clougherty I think you need to go through exactly why this recommendation is being made so everybody can understand it fully.

Mr. Clougherty responded prior to the issuance of the resolutions for the revenue bonds the capital reserve was put in place because that was the appropriate way to set-up a reserve for an emergency. The reason it was set-up wasn't because it was particularly difficult or because it had to come to the Board, it was because that was the process that had to be followed to allow for a federal reserve to be established. Now that we have set-up this separate resolution and have set-up a variety of funds to provide for safety that comes back to the management of the Water Department. I think investors and I think the credit rating agencies felt that it was…you know in terms of dealing with emergencies it was the management and the Board of Water Commissioners. Now I will remind the Board that the budget for the Water Department does not come to the Aldermen for appropriation so providing them with the flexibility to deal with catastrophic issues but at the same time requiring them to have a certain layer of funds to deal with those things seems to be the most appropriate structure.

Alderman Gatsas stated I would think that there must have been some wisdom from Boards before us that set-up this capital reserve fund. I don't think they just did it out of the clear blue sky. There must have been some reason why the Boards preceding us set-up this fund because they had to come to this Board to set-up the fund. I guess my question is is there any money in the stabilization fund now?

Mr. Clougherty responded yes there is. To answer your previous question again I think that the way the department was funded in the past it allowed you to have the Board make some

decisions with the Trustees of Trust Funds involved in setting up a capital reserve because remember those bonds were general obligation to the City of Manchester. What we have done is put out a revenue bond that allows for this to be on a structure with the ratepayers. To be honest if we could have gone back 20 years I would have argued to do it that way then. I think it is a much better situation based on the way that the department is organized and funded. I think that having the department self-funded with rates, having that responsibility with the Water Commissioners including their budget adoption is the way that it should be structured and should have been structured in the past. So to look at it and say well this is the way it used to be and we set it up is probably not the defensive of why we shouldn't move forward in a better way.

Mr. Bowen stated to answer your question also to paraphrase Kevin that basically was the only way we could do it in the past was to do it through the Trustees of Trust Funds. That is why it was done in that manner. Now we have another mechanism and that mechanism is a revenue stabilization fund that is done through the revenue bond sale.

Mayor Baines asked am I correct that the Superintendent of Water Works and the Finance Officer are still recommending this process to be followed.

Mr. Clougherty answered yes.

Alderman Lopez moved to approve the request and dissolve the Capital Reserve Fund; with such funds remaining to be utilized as reimbursement to a $500,000 revenue stabilization fund. Alderman DeVries duly seconded the motion.

Alderman Guinta asked how much is in the revenue stabilization fund.

Mr. Bowen answered it was funded at the closing with $500,000. Basically this kind of followed separate tracks and I think I tried to explain this at the other meeting. Basically we followed parallel courses. At the time of the closing this approval had not been obtained so we funded the revenue stabilization fund with cash that we had.

Alderman Guinta asked how much are you looking to move over.

Mr. Bowen answered basically what we are going to do is we are going to keep it at that $500,000 level as required by the covenance of the bonds.

Alderman Guinta asked so if you are going to use the money for the purposes of stabilizing water prices why don't you just move the money in the stabilization fund over to the capital reserve fund.

Alderman Lopez asked didn't we have a legal opinion in reference to that.

Mayor Baines answered yes we did.

Alderman Lopez moved the question.

Alderman Guinta stated I would like an answer to my question. Quite simply if the purpose is to insure that water rates don't increase my position would be that the Board should have some oversight, therefore, the money should be moved into the capital reserve fund. I think the position of Water Works is the opposite and the Finance Officer.

Mr. Clougherty responded again the City does not appropriate the water budget.

Alderman Guinta replied that is not answering my question.

Mr. Clougherty stated well it is, Alderman. What we are saying is that if you are going to take dollars and have them under control of the Board rather than under the Water Department that is trying to deal with the emergency situation it creates a much different level of a response. It does not allow that entity to do its mission and if you start trying to change the way that you are appropriating funds to them I think that is inconsistent with what the intention is of having them as a separate enterprise operation, especially with the special legislation that has been adopted.

Mayor Baines stated and we have a Board of Water Commissioners with authority. I am going to call for a vote. The motion carried with Aldermen Guinta and Gatsas being duly recorded in opposition.

Mayor Baines stated Alderman Lopez you asked for a personal privilege at this time to make a motion regarding Wellington Road.

Alderman Lopez stated thank you I appreciate it. It is late so I will be brief. I heard some discussion about Wellington Road in Lands and Buildings and since that time I think the City Solicitor shared some information with me because I asked him the question and he was in the process of reading it and he did come to a final conclusion so I thought it would be important for the City Solicitor to give his ruling as to the bidding process or proposed process that was discussed on Wellington Road and if I can call on Mr. Arnold I would appreciate it.

Deputy Solicitor Arnold responded I have examined the proposal put forward by the high bidder. I am of the opinion that it does not meet the requirements imposed by the Committee. The proposal is set forth in a manner that $50,000 is paid upon acceptance, $50,000 is paid upon the purchase and sale agreement and then there is a 60 day due diligence period after which the proposer in his sole opinion if he doesn't feel that due

diligence is met can request that the deposit back and terminate the agreement and that is obviously not a non-refundable deposit.

Alderman Lopez stated along with that I don't know the direction that we can go in tonight unless the Chairman and the Committee…there is only one bid left and if we want to refer this back to Committee so they can have a Lands and Buildings or should we take up the issue…

Mayor Baines interjected they are having a meeting Monday so I suggest we refer it back to the Committee.

Alderman Lopez stated unless they would accept letting the staff continue to negotiate and now that they have answered that particular question we could address that.

Alderman Gatsas stated your Honor if you want to recess this meeting we have the Committee right here. We can discuss this in five minutes and give you an answer. We can get it done so you can set your tax rate.

Deputy Clerk Johnson stated we haven't posted a meeting so they can't meet.

Alderman Lopez asked can we do it any other way.

Alderman Gatsas stated we can do it under Rule 14 and bring it forward now.

Deputy Clerk Johnson responded Rule 14 would bring it forward at the next meeting.

Alderman Lopez asked can we suspend the rules.

Deputy Solicitor Arnold stated what we are dealing with is RSA 91:A that requires that any meeting of a public body of the City of Manchester be posted for 24 hours prior to the meeting.

Mayor Baines stated we will not recess this meeting for the Committee to meet.

Alderman Gatsas asked what about suspending the rules.

Mayor Baines answered that would not qualify according to the City Solicitor.

Deputy Clerk Johnson asked is he looking to suspend the rules just to take an action on it because you don't have to suspend the rules to take an action on it.

Alderman Lopez asked can we take an action.

Alderman Gatsas stated under new business we can bring it forward.

Deputy Clerk Johnson stated it doesn't need to go to Committee if they don't want it to go to Committee in order to allow them to negotiate with the low bidder if that is what the issue is.

Mayor Baines asked would that be allowed.

Deputy Clerk Johnson answered yes. The report would have to go back to the Committee on Lands and Buildings so I will caution you on that.

Mayor Baines asked can you say that once again.

Deputy Clerk Johnson answered the reports from the staff on the negotiation has to go back to Lands and Buildings to meet other statutory requirements.

Alderman Lopez moved to allow staff to negotiate with the next bidder in line and then report to Lands and Buildings. Alderman Garrity duly seconded the motion.

Alderman Gatsas stated not negotiate just to sign that contract and get a check.

Alderman Lopez replied yes.

Deputy Clerk Johnson stated no. What we need to do is have the purchase and sales agreement go back to the Committee in order for the Committee to make a determination of surplus and bring that report out to the Board on November 5.

Alderman O'Neil asked the full Board doesn't have…

Deputy Clerk Johnson interjected the authority to determine this surplus. You do but you have to get that recommendation from Lands and Buildings according to your ordinance. If you don't, you are breaking your own laws.

Alderman Gatsas stated my understanding was to deem that surplus is if we were looking to have something outside the RFP process.

Deputy Clerk Johnson responded no. If you are going to dispose of City property under ordinance you need to declare it surplus.

Mayor Baines asked, Mr. Arnold, do you concur with that opinion.

Deputy Solicitor Arnold answered I do.

Alderman O'Neil asked haven't we already done that.

Deputy Clerk Johnson answered no. We have had this discussion, the Solicitor's Office and the Clerk's Office and no we have not.

Alderman Gatsas asked can somebody read that rule to me.

Deputy Clerk Johnson answered it is not by rule, it is by ordinance.

Alderman Gatsas asked can I see that ordinance.

Alderman O'Neil asked so Alderman Thibault's Committee is meeting next week.

Mayor Baines answered that is correct.

Deputy Clerk Johnson stated you could proceed with getting the RFP. You could have Lands and Buildings review it for surplus and make the recommendation out to the Board at the next meeting.

Alderman Gatsas stated well I am looking at the ordinance and Mr. Solicitor I guess you have to read it because it says if you choose a different method we don't have to follow the above.

Deputy Solicitor Arnold responded it says "if the recommended method of disposal is other than by public sale the Committee shall specify the reason or reasons for such recommendation and the Board shall address such considerations." I don't think I understand your point, Alderman.

Alderman Gatsas stated if that is the case then we don't have to worry about it. We can do it right here in front of the Board.

Deputy Solicitor Arnold responded that is not what the ordinance says. It says upon completion of its review the Committee on Lands and Buildings shall report to the Board.

Alderman Gatsas asked a) or b).

Mayor Baines replied the Chair will rule that we will follow the ordinance and it has to go back to the Committee.

Deputy Clerk Johnson asked did you want to proceed with having the purchase and sales agreement brought forward.

Mayor Baines answered yes.

Deputy Clerk Johnson stated then we can have a motion to that effect to allow staff to go forward with that.

Alderman Forest asked what is the motion.

Deputy Clerk Johnson responded the motion would be to authorize staff to negotiate with the other bidder and bring forth a purchase and sales agreement and Lands and Buildings will report out at the next Board meeting.

Mayor Baines called for a vote. There being none opposed, the motion carried.

NEW BUSINESS

Mayor Baines stated there is a parade on Thursday at 3:30 PM.

Alderman Gatsas stated with your assistance your Honor I believe we asked the Finance Officer various questions…

Mayor Baines interjected I thought Bond Counsel was researching that.

Mr. Clougherty stated we can get you those answers in the morning.

Alderman Gatsas stated I would like a specific timeframe and who the person is that is going to deposit $500,000 with the City for the relocation of Singer Park.

Mayor Baines responded we will have that information for you once we get it. Now we are going to deal with the tax rate issue at the next meeting.

There being no further business, on motion of Alderman Garrity, duly seconded by Alderman Smith, it was voted to adjourn.

A True Record. Attest.

City Clerk