

BOARD OF MAYOR AND ALDERMEN

February 4, 1997

7:30 PM

Mayor Wieczorek called the meeting to order.

The Clerk called the roll. There were twelve Aldermen present.

Present: Aldermen Wihby, Elise, Reiniger, Sysyn, Clancy, Soucy, Shea, Domaingue, Pariseau, Cashin, Robert, Hirschmann

CONSENT ITEMS

Mayor Wieczorek 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.

Informational to be Received and Filed

- A.** Communication from the Manchester Airport Authority submitting minutes of their December 19, 1996 meeting.
- C.** Communication from the City Clerk advising that he intends to provide the Board with further information regarding proposed location(s) for future Board and Committee meetings during the restoration/renovation project of City Hall/Annex.
- D.** Communication from the Health Officer submitting a summary report which highlights the activities of the Manchester Health Department for fiscal year 1996.
- E.** Communication from the Manchester Transit Authority submitting minutes of their November 26, 1996 meeting along with the Finance and Ridership Reports for the months of November and December 1996.
- F.** Communication from Carol Munter expressing her concerns regarding the increase in parking meter rates and questioning whether or not the City is trying to help the Downtown merchants.

REFERRALS TO COMMITTEES

COMMITTEE ON BILLS ON SECOND READING

- G.** Communication from the Director of Planning submitting information and recommendations relative to the City's rezoning procedures.

COMMITTEE ON FINANCE

- H.** Communication the Finance Officer requesting authorization to utilize \$26,000 in EPD Replacement Account funds for the purchase of a portable emergency generator.

- I.** Communication from the Chief of Police requesting the transfer of \$13,761 from Salaries to Special Projects in order to reimburse the Personnel Department for expenses associated with the Entry Level Police Department Testing, and also requesting that \$13,761 from the Contingency Account be set aside in the event that the Police Department falls short at year end due to this transfer.

- J.** Resolutions:

“Authorizing the Finance Officer to effect a transfer of Fifteen Thousand Seventeen Dollars and Twenty-four Cents (\$15,017.24) from the 1988 4.20315 Rimmon Street Station and 1991 4.20317 Webster Street Station Projects to the 1997 CIP 2.50502 MEH Building Acquisition.”

“Amending the 1988, 1991 and 1997 Community Improvement Programs, transferring, authorizing and appropriating funds for the 1997 CIP 2.50502 MEH Building Acquisition.”

“Amending the 1997 Community Improvement Program, transferring, authorizing and appropriating funds in the amount of \$160,600 for the 1997 CIP 6.40409 Elm Street Redevelopment Project.”

“Amending the 1997 Community Improvement Program, authorizing and appropriating funds in the amount of \$13,858.00 to the 1997 CIP 7.10216 Annual Traffic Signal LED replacement Project.”

“Authorizing the Finance Officer to effect a transfer of Thirteen Thousand Seven Hundred Sixty One Dollars (\$13,761.00) from Salaries Account to Special Projects Accounts to cover Entry Level Police Department Testing.”

COMMITTEE ON PERSONNEL/INSURANCE

- K.** Communication from Joseph J. Acorace, requesting that he be reinstated into the City of Manchester's group health insurance plan as a pensioner in the City's Blue Choice Program.

COMMITTEE ON TRAFFIC/PUBLIC SAFETY

- L.** Communication from Jon Erdahl, requesting the use of Arms Park and the Bridge Street Bridge on Sunday, May 25, 1997 (with a rain date of Monday, May 26, 1997) for the 6th Annual Memorial Weekend fireworks display.

REPORTS OF COMMITTEES

COMMITTEE ON COMMUNITY IMPROVEMENT PROGRAM

- M.** Recommending that a petition for a discontinuance of Schuyler Street from Notre Dame Avenue to Notre Dame Avenue West Back Street be referred to a road hearing on Monday, February 24, 1997 at 4:00 PM.
- N.** Recommending that a request allowing for the transfers from the 1988 4.20315 Rimmon Street Station - \$1,373.66 - Bond and the 1991 4.20317 Webster Street Station - \$13,643.58 - Bond, and adding the 1997 CIP 2.50502 MEH Building Acquisition - \$15,017.24 - Bond be granted and approved; and for such purpose an amending resolution, a bond transfer resolution and budget authorizations have been submitted.

- O.** Recommending that a request allowing for a change in administration of funds from Planning to Highway by decreasing the 1997 CIP 6.50220B Central Business District Improvement Program - \$160,600 CDBG and adding the 1997 6.40409 Elm Street Redevelopment Project - \$160,600 CDBG be granted and approved; and for such purpose an amending resolution and budget authorizations have been submitted.
- P.** Recommending that a request for acceptance and expenditure of funds received from the Public Service Company of NH's (PSNH) Energy Service Program, by increasing the 1997 CIP 7.10216 Annual Traffic Signal LED Replacement Project - \$13,858 Other increasing this budget from \$25,000 Cash to \$38,858 (\$25,000 cash, \$13,858 Other) be granted and approved; and for such purpose an amending resolution and budget authorization has been submitted.

The Committee further recommends that a proposed 3-year agreement with PSNH regarding the purchase of operational power for LED traffic lights installed under the Energy Service Program be approved and authorized for execution subject to the review and approval of the City Solicitor.

COMMITTEE ON TRAFFIC/PUBLIC SAFETY

- R.** Recommending that a request from Thomas King, St. Patrick's Parade Committee President, to paint a giant shamrock near the intersection of Elm and Hanover Streets in conjunction with the St. Patrick's Day Parade scheduled for March 9, 1997 be granted and approved; subject to the approval of the Police Department.
- S.** Recommending that a request from Susan Lacourse, Villa Crest, Inc., for the placement of signs at several locations near Candia Road and Hanover Street be denied.
- T.** Recommending that Ordinance amendment:

"Amending an Ordinance Regulating Traffic Upon the Public Streets of the City of Manchester relative to penalties for certain vehicular traffic and pedestrian violations."

has been approved and recommends that the Ordinance amendment be referred to the Committee on Bills on Second Reading for technical review.

- U.** Recommending that certain regulations governing standing, stopping and parking, be adopted and put into effect when duly advertised.
- V.** Recommending that certain regulations governing standing, stopping and parking, be adopted and put into effect when duly advertised.

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

- B.** Copy of a communication from the City Clerk to all department heads relative to procedures to be followed by departments when submitting items to the Board and/or Aldermanic Committees.

Alderman Wihby stated I was concerned with why this came about, how this came about, why we're changing it or how it's going to be...we're talking about moving things along for people so that things move faster, but yet it seems like we're trying to slow it down here.

Mayor Wieczorek replied we're not trying to slow it down, Alderman, I think what we're trying to do is to get the system going in the right direction and what we're going to be doing is there is an ordinance being prepared, I think, Leo, that I will have tomorrow and what we would be doing is presenting it to you so that we will get a proper procedure and have you vote on what the proper procedure is.

Alderman Wihby asked what is the problem that we're seeing here.

Mayor Wieczorek replied we are seeing things going to Committees without coming from the Board and there are some things that have to go to the Committees, the CIP, I know is one where things have to go and that is the reason why we are looking at the ordinance that is being prepared so that we can not slow things down, but try to move things along in the proper fashion in the right order.

Alderman Wihby stated so things are showing up in Committees that never came to the full Board, is that what is happening.

Mayor Wieczorek replied it depends on what it is because actually the Committees should only be doing what the full Board sends to the Committee other than like the CIP Committee and I guess there is who else.

Clerk Bernier replied others such as Lands & Buildings and Traffic Committees and Personnel.

Mayor Wieczorek stated that is what we want to do is get the process understood and smoothed out so that we will have a smooth track to run on.

Alderman Wihby asked so the ones that are currently allowed to do that are we looking to change them too.

Mayor Wieczorek replied, no.

Alderman Wihby stated so if you are not allowed to do it in the other Committees asked then why are we looking to change something if we can't do it anyway.

Mayor Wieczorek replied because it is being done and that's the reason why we are trying to get this thing set, so people understand what it is they do.

On motion of Alderman Wihby, duly seconded by Alderman Pariseau, it was voted to receive and file the communication from the City Clerk.

Report of the Committee on Personnel/Insurance:

Q. Advising that it has approved the following items in actions taken on

agenda PC 1-97 for City Clerk, Health, Police and Information Systems Departments.

Alderman Hirschmann stated the reason I pulled Q, it just appeared to be a mistake to me, a procedural mistake. On item Q - Information Systems, the LAN Administrator's position it said the job actually cost \$33,993 as one of our actions, but all we did was change the title of an existing position from supervisor to LAN Administration, so I want to make it clear to the full Board that this action is not going to cost the City thirty-three thousand dollars, it is an existing position.

On motion of Alderman Hirschmann, duly seconded by Alderman Pariseau, it was voted to accept, receive and adopt the report of the Committee as presented.

Confirmation of nominations to succeed Richard L. Houle as Director of the Department of Public Buildings Services, term to expire March, 2003, as follows:

Richard L. Houle
Dave Demers

Alderman Pariseau moved that Richard Houle be nominated and appointed, by acclamation.

Alderman Robert duly seconded the motion.

Alderman Wihby asked what does that mean, your Honor, we've never done that before.

Mayor Wieczorek replied it means he wants to have a unanimous vote.

Alderman Wihby stated we haven't had a vote yet.

A roll call was taken with votes recorded as follows:

Alderman Pariseau voted for Richard L. Houle

Alderman Cashin voted for Dave Demers

Alderman Robert voted for Richard L. Houle

Alderman Hirschmann voted for Richard L. Houle

Alderman Wihby voted for Dave Demers

Alderman Elise wished to explain her vote. Mayor Wieczorek instructed to pass her to the end.

Alderman Reiniger voted for Richard L. Houle

Alderman Sysyn voted for Richard L. Houle and stated I would like to make a comment because a lot of comments were made to me about the janitors losing their jobs, we did not vote for the janitors to lose their jobs, Mr. Houle was given a task to do and he did the task.

Alderman Clancy voted for Dave Demers

Alderman Soucy voted for Dave Demers

Alderman Shea voted for Dave Demers

Alderman Domaingue voted for Richard L. Houle

Alderman Elise stated this nomination has really caused a lot of controversy and I think as a result of that I have gone through a lot of thought process. I was asked to bring Richard Houle's name in and I did so because I did feel strongly that he led the privatization effort, he started central purchasing and central fleet management which are initiatives that I have been backing since I have been on the Board and I feel that they will continue to be developed and realized. After I placed the nomination in, I did get several comments from people in my ward, people who I have conferred with in the past bringing things to my attention relative to endeavors that they have had with Mr. Houle in the past and what it did jar in my mind is the fact that, yes, in the past things have not gone smoothly and we've had problems with additions with schools,

high bills for consultants, architect bills, etc. So, yes, Richard Houle did what we told him to do, but there are things that he has done in the past and in the present that we didn't tell him to do and the job was not complete. Now, this caused more controversy in terms of discussing issues like this and it made me think even more that on this particular issue we need to be looking at the bigger picture. Richard Houle is charged with privatization of the janitorial services in the City, building maintenance, central purchasing, central fleet management, we have a new school coming on-line, City Hall is being renovated. These are all big, big tasks and in looking at those jobs and seeing that department in the future one can only see that this department is going to change in the future and the City has looked toward consolidation, restructuring of different departments to make City government more efficient. So, in the light that this department may look different in the future and the fact that in the past when we have tried to consolidate departments and department heads have had six-year terms and they have sued the City and won, this evening we are going to be hearing a case from a former Fleet Manager who is in the process of suing the City because he declares that we have a term, maybe he will win, maybe he won't, I'm not sure. But, I think the City should have the flexibility to go forward with the management style that we have been preaching ourselves, change/consolidation, the better of the system and the City. Therefore, I would like to see Dick continue in his job and do the job that he is doing, but I can't support a six-year term, so as to allow the City to allow him to continue working for the City at certain capacities, but maybe allowing us to change his department to better suit the needs of the City and the citizens and our finances. So, my understanding is that, at this time, if I do choose to abstain from a vote that will put Dick in a holdover status because at this particular time there is no mechanism to put him in for two years and that Dick can continue presently in his present capacity working on his job and in the future should be decide to change his department or his job we will have the flexibility to do that. So, that is what I would like to do this evening. So, I am going to abstain.

Alderman Elise abstained.

Mayor Wieczorek stated it is six to five with one abstention. I'm looking at something here that says "Opinion of the Justices" and it says "To His Excellency the Governor and Honorable Council. In the absence of express regulation, a proposition is carried in. . . a legislative assembly, by a majority of the votes cast. . . The exercise of law-making power is not stopped by the mere silence and inaction of some. . . who are present. The power of the Council reside in the majority, and action taken by any duly convened meeting at which a quorum is present constitutes the action of the Council even though supported by less than a majority of the Council, or less than a majority of the Councilors present, provided a majority of the votes case support the action." *Attorney-General v. Shepard, supra; Attorney-General v. Remis, 71 N.H. 480, 483.* Thus if Councilors present should choose to remain silent, or otherwise abstain from voting, their action will not defeat the action of those who vote, but will be taken as acquiescence or concurrence in the action supported by the majority of votes cast, whether the same be in the affirmative or negative."

Mayor Wieczorek stated, so what I am going to do is ask the City Solicitor who is present here to take a look of this, give us his opinion on this, but, if this is correct, I think Mr. Houle has been awarded a six-year term.

Alderman Soucy stated, your Honor, what city or town was that in reference to.

Mayor Wieczorek replied I am going to have to have him take a look...

Alderman Soucy stated if it is a different form of government...it's addressed to the Executive Council, but I want to know what...

Alderman Reiniger stated it states the Common Law as recognized by the State of New Hampshire.

Alderman Soucy stated, I know what it states, I was asking what the facts of the case were that led to the decision.

Alderman Elise stated my intent, your Honor, is to have Dick continue in his present capacity and if I do have to vote no, I will vote no.

Mayor Wieczorek replied, it's too late to change your vote, Alderman Elise.

Mayor Wieczorek stated let me ask the Assistant Solicitor. With everybody voting for who they want, did they vote or was this just a practice round.

Alderman Elise stated, your Honor, this process has become so politicized, I really think that we should either table it or, I, right now, will move to reconsider at the next meeting.

Mayor Wieczorek stated let us see what happens here.

Alderman Domaingue stated while the Assistant Solicitor is looking over the fine points of the action of the Board tonight, I would like to request, Sir, that at some point in time the Board be provided with information as to which rules we're operating by because my understanding was it was *Robert's Rules*.

Mayor Wieczorek interjected no, wrong.

Alderman Domaingue asked could someone then educate me on whether or not when we are in voting mode, discussion can take place because my understanding was once the vote was called for, we couldn't enter into a long discussion about why we were voting or why we were not voting and I think it would help the people watching this Board and its action as well as the Board if we were given the opportunity which was not present for Alderman Elise tonight to

have a discussion prior to the vote, but not in the middle of the vote. Is that possible, can we get that information. Thank you.

Mayor Wieczorek replied, he's busy studying now.

Alderman Hirschmann stated a point of order would be that a reconsideration could only come from someone voting in the majority that wishes to change their mind.

Alderman Wihby interjected that is not true and moved to reconsider at the next meeting. If you do not want to count Alderman Elise's motion.

Alderman Shea gave notice for reconsideration at the next meeting.

Mayor Wieczorek stated before we start making motions here, let us wait until we find out what is going to happen here.

Assistant Solicitor Arnold stated I did not bring a copy of the old Code of Ordinances with the old Charter in it.

Mayor Wieczorek stated why don't we move onto some other stuff and when you're ready let me know, okay.

Confirmation of the nomination of Jeffrey Trexler to succeed himself as a member of the Manchester Building Board of Appeals, term to expire January 8, 2002.

On motion of Alderman Wihby, duly seconded by Alderman Pariseau, it was voted to confirm the nomination of Jeffrey Trexler to succeed himself as a member of the Manchester Building Board of Appeals, term to expire January 8, 2002.

Confirmation of nominations to the Manchester Development Corporation Board of Directors as follows:

Bobby Stephen to succeed himself, term to expire March 11, 2000.

John Snow to succeed himself, term to expire March 11, 2000.

Rick Loeffler to succeed himself, term to expire March 11, 2000.

On motion of Alderman Cashin, duly seconded by Alderman Shea, it was voted to confirm the nominations to the Manchester Development Corporation Board of Directors as presented.

Presentation to be made by the Chief of Police relative to video poker gambling.

Chief Driscoll stated I thank you for the time tonight, we will try to be as brief as possible and I'd like to introduce the people with me. On my right is Deputy Chief Sam Auciello in charge of our Investigative Unit, on my left is Captain Robert Duffey former Prosecutor for the Manchester Police Department and over in the corner is the senior member of our organization Commissioner Ralph Garst. The Police Department has gathered some information relative to video poker machines, video poker gambling here in Manchester and we'd like to go through

that with you. I certainly make no claim to be an expert on the subject, I have never played a video poker machine, however, I have since spending a lot of time at the Police Department and since I have been the Chief received numerous calls from people within our community talking about the problems created by video poker. As they say, a picture says a thousand words. The cartoon on the front, Joe McQuaid said we could use that, it's a Bob Dix cartoon and I think it says quite a bit. I would like to thank *The Union Leader* and *WMUR* for the attention that they brought to this issue over the last couple of months, they have been very helpful to us. I'd like to turn it over at this point to Bob Duffey who is going to talk a little bit about how gambling affects Manchester.

Captain Duffey stated thank you, Chief, and good evening ladies and gentlemen, thank you for this opportunity. The next slide you see and the next piece of paper you have in front of you talks about gambling affects us here in Manchester and I think the first thing there probably speaks the loudest; that it erodes New Hampshire values because New Hampshire is a unique state, I think we'd all agree. Even those of us that are carpetbaggers and have come from elsewhere certainly value the ways of New Hampshire, the way of life and we don't want to see that eroded. Gambling contradicts positive programs and goals...look at all of the things we've done...enterprise program, the new programs coming up to give the City a better look and a more modern look. Cannibalizing local business...think about the amount of discretionary income that's probably lost to each of our businessmen each and every day by feeding these machines. I'm not talking necessarily about things that have to be bought but a vast amount of discretionary income that exists out there that is lost; that it is intertwined with and attracts new crimes, it promotes gambling addiction is self-explanatory and our resources are stretched thin enough. You're going to hear in a little while from Deputy Chief Auciello, the Chief of the Investigative Division about the incredibly intensive amount of manpower that is needed to prosecute or investigate and prosecute one of these offenses. Just briefly in the State law, it is illegal as you all know to gamble, it is illegal to permit gambling, it is illegal to loan money to aid another in gambling and to possess a gambling machine and let me tell you that right now, ladies and gentlemen, these are gambling machines, these are not for amusement only, these machines are manufactured for one purpose and one purpose only - gambling. So, when you consider your votes or when you consider the discussion tonight we need to get that right up front, these are gambling devices, these are not victimless crimes. The Manchester ordinance and that reference you see there is the new reference talks about amusement devices as a machine generally for the use as a game, entertainment or amusement such as...and the statement down at the bottom..."does anybody see the difference between the machines"...well, the difference, I think, is obvious. If you look at the right-hand column we're talking about machines that either give you something for your money, a round of pool, a sound from a juke box or require you to have some skill and that's the pleasure of the machine, I guess, with electronic video machines probably some of the younger people can speak to that better, but that is what you get from it. Electronic video poker machines require absolutely no skill on the part of the operator, they are a high-tech roulette wheel and that's all they are. They, again, provide absolutely no amusement. The next page talks about how New Hampshire law defines a

gambling machine..."any device or equipment capable of"...and I won't read it to you, but I'll call you attention right down to the bottom. "Displaying any signal entitling a person to receive money." That is exactly and describes exactly what these machines do. Now, remember that with any device it's how the device is used that counts. A gun is perfectly legal as a hunter, but it is not legal to be used against someone. These devices are not legal when they are used to return funds to somebody and that is exactly and precisely how they are being used. As the next page talks about they are not being used for amusement purposes and furthering illegal gambling in the City and eroding again and I don't think we can emphasize that enough...the positive strides Manchester has been taking to improve our quality of life. If you've got a child, one of your children or grandchildren who wants to go into a bookstore to get a book because they need to do a book report for school, do you want them walking into the bookstore and looking to the left and seeing three video machines lined up against the wall; that is what we are seeing. Do you want them on Sunday morning to go to a donut shop, pick up a dozen donuts and see a video machine there; that is what we are seeing. We have seen these machines in each and every type of business entity that exists in this City and that in my opinion is the greatest tragedy of these machines. It is a question of community value, it's a question of how much we value our community. My last portion is this and it's called a reality check and you know that is just what we are about here tonight. This is a reality check. Here's the reality - these machines are constantly, everyday being used illegally, they are being used to destroy the lives of our citizens, they are being used to further crime and problems with crime here in the City. To ban these is going to take a lot of courage, it's going to take a lot of courage on your part. We can sit here and tell you that we need your help to enforce it, but it's going to take courage. You're going to hear a million reasons why we shouldn't do this. But, I haven't heard a real good reason yet why we should keep these machines in existence. The final thing I am going to leave you with today, when I was talking to one of our former undercover investigators today and we were talking about my presentation here today he said I want to tell you a story I never told anybody and I know this man, if he told me this story it's true. This happened a few years ago when he was working undercover and occasionally undercover guys come across this type of thing. He talked to a woman whose husband had spent over \$30,000, their entire life savings on these machines, here in the City and you know what happened. One morning she went off to work, the husband at that point sold their bedroom furniture and went down and played the game and when this investigator asked him why, he said it doesn't matter why, I had to play the machines. These are addictive, vicious, community-destroying devices, we have the power to eliminate them and eliminate them we should. Thank you.

Deputy Chief Auciello stated what I'd like to tell you is a brief description of a covert operation or investigation to conduct proper evidence gathering procedures to enforce the illegal use of these machines. As a Deputy Chief in charge of the Investigation Division, we face a monumental task, your Honor, to bring these gambling offenders to justice. Our problems faced in prosecuting these people not only the people that are behind the machines who are being directed by people who are the vendors to give the direction of the instruction of the payoff of these machines. We have a problem, your Honor, identifying the vendors of the machines.

They operate autonomously and anonymously. We don't know who these people are or where the money is going to and operating on a shoestring type budget, we always try to prioritize our investigations, your Honor, identifying the problems which we would like to address in the City of Manchester and this gets to be a very time consuming investigation. To implement an effective enforcement campaign against gambling is a monumental task. Any previous charges, your Honor, indicated against prior gambling operators as you can see on this handout with one vendor being fined more than \$125,000 and that person is back in operation again today. They have everything to gain and nothing to lose. Our concern is the licensing and use of these machines in our community, your Honor. The enforcement issues...we have over 464 machines that are licensed now in the City of Manchester, we have over 120 locations where these machines are located. I could go on and tell you stories about the stores with the used furniture sign hanging out front, where there is no used furniture or about the video store that doesn't rent video or about the donut shop where you have to be buzzed to buy a dozen donuts, being a good officer, your Honor, I could tell you there's a lot of good donut shops there. But, when you take in comparison a gambling investigation is the same as a drug investigation. These are covert operations which are very time consuming, they're very tedious, power draining and they require a lot of time and expertise by our officers. To conduct a covert operation, your Honor, to do an investigation on one establishment would take approximately 30 man-hours of three Police officers. We would have a minimal amount of money invested for the officers to play the machine, but our problem is to be introduced to the establishment. Our officers work in an undercover capacity and they have to be introduced by a person that is known to the establishment in order to gain their trust to enter into the premises in order to receive the payoff. This has been a problem for us. But, when you take into consideration the investigation of a gambling operation and that of a drug operation the outcome is almost ten-fold. People that are convicted of drug offenses are felony offenses and they are punishable up to 7 to 15 years in jail with forfeitures and fines which the City does seize to put back in the war against drugs. On a gambling operation that is a misdemeanor charge and a misdemeanor charge is a penalty of up to a \$2,000 fine, and it may be a year incarceration. Our previous investigations and convictions resulted in no jail time for any offenders. It's about money, your Honor. How much money - there is no need to tell you about the stories and the heartfelt stories and the heartfelt stories mentioned by Captain Duffey about the person that depleted their retirement accounts, we heard another story about a person that borrowed against their credit card and are now paying interest on the money that they borrowed against the credit card. But, the estimates of how much money each of these machines take in from a range of \$1,00 to \$10,000 per week, let's do the math as simply indicated in the overhead - \$1,000 times 52 weeks times 464 machines, the lowest possible estimate is \$24,000,000. A realistic estimate from our sources and information that we have received is \$50 to \$100 million. Who benefits from the funds, who are the benefactors, who are these anonymous benefactors? Where does the money go, it's not coming back to the City.

Chief Driscoll stated who plays, who pays. If you look at the breakdown of machines by ward, you can see that Ward 2 is clearly the winner. I would say also that Ward 3 is the winner, followed by 5 and 11. Lots of machines out there and that's the breakdown by wards.

Obviously, the center-city area is the area that we are putting the most resources into, the City fathers are working hardest on are the areas that have the biggest problems with video poker machines, it's also the need for the greatest law enforcement efforts. If you look at the next page, it talks about revenues, it talks about how much the City has received and what the revenues have been during the last few years - 1994/1995 - \$17,000. There were 357 machines in 1995/1996 when we went to \$500 per machines, in 1996/1997 and that's money that is presently budgeted, I'm sure - \$236,000 - and that money will be taken in by the City May 1st and we estimate that when the machines goes up to \$1,000...I'm sorry the fee will go up on May 1, 1997 to \$1,000 and we project that there will probably be in the area of 350 machines at that time and potentially the City could raise \$350,000 through the licensing of the machines. Once again, we'd make the comparison that this is a quality of life issue and we should not be looking at revenue. Other revenues issues - there are potentially 250 machines that are out there that are unlicensed, Paul Bergeron and Matt Normand who have provided us with a lot of good information and worked real hard and located 56 unlicensed machines and they have been licensed as of this time. We believe that to look at the revenue issue is a short-sighted way to go about things, we believe that certainly the City with all of the wonderful things that we're doing needs to look beyond the revenue, we are not a desperate City and should not be looking at these types of things. Other cities and towns, if you look and we've called around and we've asked the different communities to advise us of the number of machines they have, you can see that there is not a City in New Hampshire that has 1/20th of the machines that Manchester does, we have 464 at this time. The next closest, I guess, is probably Concord, New Hampshire with 25. All of these communities say that these are solid numbers. There's something way out of proportion here. Manchester is doing something wrong. Victimless crimes - we spoke about this a little bit. The Police Department does not believe for one minute that gambling is a victimless crime. All of the things that you see down there are certainly related to video poker gambling. The one that is not included that I would ask you to think about is the neglect of our children when parent's of youngsters are in the video poker parlors playing the machines, they're children are at home. We suggest a solution and I hope you conclude that these are gambling machines, they are not good for our community, that they are unlawful. Certainly, we believe that the solution is to pull the plug on video poker gambling. We have worked with the City Solicitor's Office and developed an ordinance that would both prohibit the City from licensing and from people within our community from using video poker gambling machines. We think that that is the answer, we have asked the City Solicitor to do this and that is the last two pages in the document that we passed out to you. I hope, like Bob Duffey said that you take a very, very serious look at this. It is very, very important to the community, for the future of our community, and inconsistent with all of the wonderful things the Board of Mayor and Aldermen and our citizens are doing. We certainly thank you for your time and we'd ask if you have any questions, we'd be glad to try to answer them and we don't propose to be experts on this and the last thing I'd like to do is thank Paul Beaudoin who put together this program and the nice presentation for us, thank you Paul.

Mayor Wieczorek stated, Chief, one question here, you're talking about anonymous and autonomous people...that we don't know where the machines are coming from. When you get a license don't they have to know where it's coming from, who's licensing the machine.

Chief Driscoll replied the person that is licensing the machine is the owner of the business, not the vendor.

Mayor Wieczorek stated so you don't know who the vendors are then, is that what you were saying.

Chief Driscoll replied, I think and Sam can probably answer it better than I, but I think we know who the vendors are, they are very difficult to infiltrate, if you will, and to track where the money is going. I think that was Sam's point, but he can certainly respond to that.

Deputy Chief Auciello stated we know who the vendors are, some of the vendors are, but we don't know which vendor has them in which location and they don't always identify which vendor they get the machines from and that licensing procedure under Mr. Bergeron and Normand, I believe might have more input than I on that.

Mayor Wieczorek stated most people are part of the product they manufacture and in this case they are not too proud of it, so they don't put their name on it.

Chief Driscoll stated there aren't many businesses around with neon lights saying video gambling occurring here. Most of the time, as we said, the doors are locked and you can't get in.

Alderman Wihby asked you know this chart that shows Manchester and the other cities and towns, why, that's unbelievable. Are they doing something different, are they limiting the zoning in certain areas, is that why there is only a few. What are the other towns and cities doing.

Chief Driscoll replied if these figures are accurate and we're told that they are, they don't have the problem that we do. We've asked them why. Nashua says that they have 17 licensed machines, they have a moratorium on licenses, they won't issue any more licenses if they find out that there is a machine that is unlicensed they will go and get it and by ordinance destroy it. So, their problem can never grow, I am told beyond 17.

Alderman Wihby asked do we have that too, do we have something in ours that if you find an unlicensed one, what do you do, just fine them more.

Chief Driscoll replied actually, we just ask them to license them, I think.

Clerk Bernier stated we ask them to license them, if we find that there is an unlicensed video machine, we would ask them to come down giving them perhaps ten days and if they fail to do so...

Alderman Wihby stated I thought we had an ordinance that said we would fine them and make it more expensive for catching them than if they weren't licensed. So, why does anybody want to get a license if we're not doing anything with it.

Deputy Chief Auciello stated from a line officers perspective and in speaking with the undercover folks and we've all done a tremendous amount of research on this is the sad fact is it's well-known that you can come to Manchester, play these games and get paid and that's a reality and that is why we've got 464 machines.

Alderman Wihby asked do we know if they're zoned differently in the other towns, do they have them in certain locations.

Chief Driscoll replied, I don't think so.

Deputy Chief Auciello replied, I don't think so either.

Alderman Wihby asked do all the other towns have limits so that no more are going to go in, do we know that.

Chief Driscoll replied the only one that I know of is Nashua.

Alderman Wihby stated, so right now if you catch somebody that is not licensed you tell them please go in and get licensed, we don't have another fine in existence to charge them for not coming in and telling us ahead of time.

Chief Driscoll replied once again, I think Paul would be better at answering that than I would. But, what we generally do is if he receives a call, or if we receive a call, we either go jointly or he goes and looks at the licenses and enforces that portion of it.

Alderman Wihby stated I know when we passed this ordinance, we had a number in there to penalize the person who did not come forward and get licensed and I'd like to know why we didn't, why we haven't been enforcing that. Paul's here, he's in the back.

Mr. Bergeron stated there's a couple of details, I could perhaps help out with. First of all, the City Clerk's Office did not gain citation authority until this past fall, we were able to secure a change in State law during the last Legislative session which then required the Board of Mayor and Aldermen to act and grant us citation authority. We did, in fact, get that approval from the Board, we worked with Ordinance Violations and the Police Department to have citation

authority and we began the process of being able to issue citations as of the first of this year. The citation fines under current ordinances are \$500 for the first violation, \$500 for the second, and then a required appearance in court on the third. Of the 56 additional machines that have been licensed since the first of the year, none have been licensed because we've walked in found out that those machines were not ticketed. We had two licensed today, but those were store owners who came in on their own and licensed those machines. Of the 56 that were found during the past year, we made a visit to the establishment, found that all of the machines were licensed, but on a repeat visit a month or two later found that they weren't. Normally, they have about 48 hours to come see us. If they don't, a Police officer is out there in the establishment. We have found in prior years prior to having citation authority that once we came in and found the machine, by the time we got to the Police Department and had them call on the establishment they had already come down and got themselves licensed. But, it is our intent to be issuing citations on violations.

Alderman Wihby stated we hired a person to go out and look for unlicensed machines and so he's going out looking for them and telling them...that person please get a license.

Mr. Bergeron interjected not any more, we have citation authority now.

Alderman Wihby stated but it's only \$500.

Mr. Bergeron reiterated \$500 for the first violation, \$500 for the second, and then a court appearance for the third. But, we can issue a citation for every single machine, so one unlicensed machine is a first violation, the second unlicensed machine is a second, a third unlicensed machine would be a court appearance and we can issue the citation for consecutive days. If it's unlicensed on a Monday and it's still unlicensed on a Tuesday, that could be two citations.

Captain Duffey stated what needs to be underscored here is that these funds are being illegally paid from both licensed and unlicensed machines and it really isn't the main thrust of what we're talking about. While that's a concern, illegal money is coming out of the machines whether they are licensed or not.

Alderman Wihby stated we got into this because I'm looking at the 464 and wondering what the other towns and cities are doing differently than Manchester to only have 17. If they have to be licensed there, why don't they just get licensed, pay \$500 or \$88 in Concord, wherever it is, and put them up everywhere. What are they doing, there must be some zoning or something restrictions or something.

Chief Driscoll stated I think they have a moratorium there in Nashua.

Alderman Wihby stated so if it only costs \$88 for one in Concord, why is everybody going to Concord.

Chief Driscoll replied, I don't know that.

Alderman Domaingue stated, Chief Driscoll, could you tell us please if there are other communities that have adopted this kind of an outright ban.

Chief Driscoll replied not to the best of my knowledge in New Hampshire, no.

Alderman Domaingue stated so you're asking the Board to set a precedent with this ordinance and the City Solicitor has reviewed this and we are or will not be looking at a court challenge to this kind of an ordinance.

Chief Driscoll replied, I think he could speak for himself.

Alderman Domaingue stated, I think the Board ought to have some sort of idea of where we are headed with this, your Honor. Could we have the City Solicitor respond.

Mayor Wieczorek stated I will have him respond, but I just want to make a point here on local control because this is what we've been talking about. I had just testified on a bill regarding local control in Concord last week. A lot of people think we have local control in New Hampshire, we don't. And, the fact is the only thing cities and towns can do is what the State permits it to do and that's why with the local control bill that is the number one action by the New Hampshire Municipal Association is to reverse that, so that if they can pass the bill saying that cities and towns will have local control then you will be able to do anything that is not restricted by the State and that's why I'm wondering here if this is something...if we can do this in the City or should it be done by the State...the State should actually be the one to do this. This would be the clearest way, in my view, to do it, Tom, right.

Assistant City Solicitor Arnold stated, I have no problem with that. I guess I'm not sure of the question that's being asked. If the question is, could we face a challenge if this ordinance were to be passed, sure we could.

Alderman Domaingue stated, I guess what I'm asking is it likely that we would face a court challenge, is there something in this ordinance that would cause people to challenge it on the basis of the fact that we don't have local control that the Mayor has spoken of.

Assistant City Solicitor Arnold replied, I guess if you wanted my opinion as to whether we have the authority to enact this type of ordinance, I would suggest that we recess, so you could meet with counsel.

Alderman Domaingue asked may I follow-up with another question. Thank you. When would you be expecting this ordinance to take effect, Chief Driscoll, or be asking the Board to do that.

Chief Driscoll replied probably July 1st. I would say to answer your question, is it likely that there would be a court challenge. I would say, absolutely, anytime. You look at a multi-million dollar business and take that away from certain anonymous individuals that certainly they are going to come forward and challenge you, so absolutely, I believe we would. But, once again, I would go back to the quality of life and public safety here in Manchester. I think that that's something that you folks have to consider very seriously and look at it. We would not be here talking to you about it unless we thought it were very, very important.

Alderman Domaingue asked am I correct in looking at the numbers that you presented to this Board this evening, not only are we looking at 464 licensed machines, but the possibility or probability of an additional 250 which brings the numbers up over 700 machines in the City of Manchester that we suspect are out there, that's a large number.

Chief Driscoll stated it certainly is.

Alderman Cashin asked does Nashua have a person designated to go out and check on these machines to see if...

Chief Driscoll replied because the nature of the problem is much smaller in Nashua their Police Department does it. They know where those 17 machines are. If they get reports of machines beyond the 17, they got out with a pick-up truck and haul them away by ordinance.

Alderman Cashin stated if they know there are 17 machines and they haul machines away, there has got to be more than 17 machines at one time.

Chief Driscoll replied, I suspect in any community there are people that try to be...

Alderman Cashin stated I guess we could assume...when you read this...Manchester 464, we sound like the gambling capital of the State of New Hampshire.

Chief Driscoll interjected, Mr. Cashin, we are.

Alderman Cashin continued we don't know how many are in Nashua, there could be 217.

Chief Driscoll stated when that figure was brought to my attention, I called the Nashua Police and spoke with their number two person down there and said "you gotta be kidding me, we have 464 and you have 17" and he told me that's what we have, we work real hard so that number doesn't grow.

Alderman Cashin stated so Portsmouth doesn't have any or they don't know how many they have. I appreciate the work you did, but I do think that we do a better job policing these things than any of these other communities and I think you have to accept that.

Chief Driscoll stated we license them and try to control them, but in the letter that I wrote right inside the first page, I wrote "that with good intention the Board tried to control and license these a couple of years ago, but I believe that it's turned into a Trojan horse, the Board really didn't know what they were getting when they started to do that."

Alderman Robert stated, Mark, you alluded to some of the problems that these machines cause, should we as a City expect to see rising crime rates in the next few years because of this. Have we seen the top of the mountain, the tip of the iceberg or are we in for more problems, in your opinion.

Chief Driscoll replied, I guess I would say like Deputy Auciello said that it's very, very difficult to enforce the gambling laws, it's a known fact that with gambling intertwined with gambling are other types of crime and we tried to list some of those, bring them to your attention. As long as we have gambling, we are going to have things like bad checks and embezzlement and burglary and the alcohol and drug abuse that go with that. If we could put that fire out, potentially those other issues would go away also. They're not ever going to go away, but we're not going to be contributing to them, if you will.

Alderman Robert asked could you explain briefly to the Board and to the audience the legal quagmire that we're in and what the recommendation or what approach we're going to take to ban these machines.

Chief Driscoll replied, I'm not sure I understand your question in the "legal quagmire".

Alderman Robert replied the predicament we're in. We've tried to "control them" because we lack the power and the authority from the State do to anything.

Chief Driscoll stated I think we believed as a community and I know that the Police Department looked at this also, is that if the price were high that less people would try to license the machines. We found out that regardless of the price whether it was \$500 or \$1,000 there is so much money involved here that people just take \$1,000 as part of doing business as an expense and write that off and go on.

Alderman Hirschmann stated, Chief Driscoll, I was reviewing your draft ordinance and my question would be...it says "gambling devices prohibited", but it doesn't say anywhere what the penalty would be if we did prohibit them and someone was caught with machines, there's no recommendation in ordinance form for a penalty.

Chief Driscoll replied not at this point. We're just trying to float this and see if the Board would support something like this. This is something that was written by Tom Clark and Tom Arnold, I believe, I don't believe that they've set a penalty at this point.

Alderman Hirschmann stated it was my impression that if we enacted this and the penalty wasn't stiff, gambling would go underground and everyone would laugh.

Chief Driscoll stated gambling would go underground...I guess the best analogy to make is that it is unlawful to sell drugs and we deal with that and we deal with it very effectively. I think that it would be much easier if, in fact, it were unlawful to license them and if it were unlawful to use them if the Police Department became aware that they were in a location and by the very fact that they were there that was an unlawful thing, it would be much easier to get at. The enforcement problems and I don't want to go over this again, but in order to put the manpower and resources to do one gambling case equals doing 10 felony drug cases. They are just so manpower intensive...to establish yourself and play the machine and get comfortable in that establishment before people will start paying you, it's very difficult and then the reality is that there is a very small penalty anyway.

Alderman Hirschmann stated I respect the analogy, Chief. I would want, your Honor, to support this...a very stiff penalty to be included in the ordinance.

Alderman Elise stated I know when we first looked at this issue several years ago, I definitely did support banning these machines and it was told to us that there was no way that the City of Manchester could ban this type of activity so we did go to regulating and my concern with this issue is that we may be barking up the wrong tree. It's say to say, but we did go through something similar to this at great expense of an ordinance, the bar ordinance developed by Alderman Reiniger. He worked on this for quite a bit of time and lobbied us and we were hoping that it would work for the City in the sense that it would prevent bars from going in close to local schools, churches, etc. and that failed in the sense that a bar was able to locate in an area that we didn't want it to locate in and the State superseded the jurisdiction on its ability to go in. We went through this extensively and Alderman Reiniger worked on this very hard and we had great hopes for this and might this be better attacked by working with the Legislature and our Senators in terms of changing the laws at the State level.

Chief Driscoll stated I'm not sure at this moment what direction the State's going. I guess there are a lot of varying views at the State level as to how this issue should be dealt with or if it should be dealt with at all, should it be legalized and I guess although I'm very cognizant of that problem and how the State intends to look at this, I guess what I see here in Manchester is a very, very severe problem, a lot of people being hurt by it and I would be negligent if I didn't come to you and say Manchester has a problem, I need help. I don't know what the answer is, I'm not sure that the ban is the answer, but it certainly needs to be dealt with. We need to do

something about it. Our neighborhoods are suffering, our community is suffering as a result of it.

Alderman Clancy stated according to these figures here 1997 we have 464 machines in the City of Manchester. Okay, we have 200 plus underground. So, you say 700 machines times \$1,000 that's \$700,000. Your Honor, last year we only had \$600,000 in the budget to pave the roads in the City of Manchester, we can do a lot of paving with that \$700,000.

Mayor Wiczorek asked should we put them on the Highway trucks.

Alderman Wihby stated, Mark, we have 250 underground now. So, by doing this and banning them and you can't find those 250 as it is because otherwise I think they'd be licensed. So, there's going to end up being 400 underground that you're not going to find anyway. So, what have we accomplished. I think they are going to move underground and you can't find 250 of them now which it seems high that you can't find, how do you think you're going to find them once we ban them and they go underground and increase.

Chief Driscoll replied, I think we would be able to find them. I think if, in fact, they were unlawful if their use was prohibited by the City of Manchester that people would be calling and telling us where they were and we would be able to take a serious look at that.

Alderman Wihby stated they are not calling you now and telling you where they are.

Chief Driscoll replied no they are not because they are accepted by the community now.

Alderman Wihby asked wouldn't it make more sense to regulate the ones that we have now, grandfather them in now, do whatever we have to do, put zones in where they can only go in and make sure we limit it like we did with the video places and charge two, three thousand dollars for people who are underground and we find and maybe don't even give them a license and ban them or even stop them in other areas altogether.

Chief Driscoll replied, I guess there's a couple of answers there. One that you mentioned a zone, I'm not sure which one of you Aldermen would raise your hand to have the zone in your ward, I don't think any of you would.

Alderman Wihby asked didn't we just come up with something for the video thing that basically stopped it from coming in the City, that type of zone, same zone, put in that zone where they can't be, I guess.

Chief Driscoll stated I guess the other thing, if you make it lawful and continue to condone video gambling in the community that the problem that the Police Department deals with on a weekly basis and all of those calls that we receive is going to continue.

Alderman Wihby stated my concern is that I think the City Solicitor is going to rule as he did last time that we can't do it, it's illegal and we're taking a chance and we'll probably pursue it, but we'll end up in the court and in the meantime with our ending up in court, two years go by and we haven't done anything. So, maybe we look at fixing the problem now with regulation and at least taking care of the future. But, my concern would be that we lose everything anyway and two years out, nothing has changed.

Chief Driscoll stated, I'm sorry, I don't have the answer.

Alderman Reiniger stated just to follow-up on Alderman Elise in reference to the bar license ordinance we passed in 1994 in which I did work on it with Joe Keefe and Tony Simon, at the time and it hasn't failed. Actually, what happened was the Superior Court Judge ruled in favor of the bar owners who had challenged it, I think it was The Industry Club or The Coliseum...the Judge ruled in their favor, the City appealed that, the appeal was accepted at the State Supreme Court and oral arguments are scheduled for the end of February. So, that will be a very important argument and I think that we shouldn't be afraid of doing something because of fear of a lawsuit. People can sue for about anything at anytime, pretty much. I think in that case the ordinance sent a strong message that we were going to get tough about cleaning up the inner-city neighborhoods, the neighborhoods on the west side and I commend the Police with what they are recommending tonight and I think this would send the same strong message.

Alderman Sysyn stated that was my thought too, but that didn't work. A bar opened by Central High School with your liquor license law and I don't know how banning the poker machines is going to be different, the State never backed us up on that.

Alderman Elise stated I was just going to ask the Chief if he could play out the scenario of what would happen when we enacted the ban and preceding that what would happen in terms of owners of machines, etc. If we enacted the ban what would follow.

Chief Driscoll replied, I would suspect that there would be a grace period, perhaps July 1st or some time a few months away in which the machines could be removed. Obviously, you have to let the present licensing expire or people would be looking to have you refund the money that they've already paid and I think that is good until May 1st. So, I would say a grace period perhaps May 1st to July 1st or something like that and then that they are unlawful in the City and call the Police Department and we would be charged with dealing with that.

Alderman Elise asked could any injunctions be placed on the City to prevent us from removing them. I'm just trying to follow through that there may be a better way to get at this.

Chief Driscoll replied, I'm not sure I have the answer, but I sure have the problem.

Alderman Robert stated I just wanted to state that just looking at the “who plays, who pays” section, it is obvious that the central part of the City is bearing the brunt of all of this and I’m just going to ask my colleagues, maybe I shouldn’t have to mention that they should be sensitive, but this affects people, this affects how people live their lives, this affects the environment that people raise their children in. I’m just hoping, just requesting that folks who live in areas of the City that aren’t quite as affected as our that they remain sensitive to this. I’ll gladly offer guided tours, point out my problems, how folks...how these things affect the neighborhoods, if they wish. But, to leave things as they are right now, regulating them, I have to call them a failure and it’s something that has to change, there’s a problem there. Certainly, though, the folks from the licensing office can go in and check licenses and we probably could too. Most of the time, people aren’t resistant to us coming into the clubs, they don’t want us in there all the time, but on a need be basis we go into the clubs.

Alderman Shea asked how much would you estimate that machines are grinning in both the underground as well as the ones that are licensed.

Chief Driscoll replied, I think the figures, the information packet gives between a thousand and ten thousand dollars a week per machine. This is a multi, multi-million dollar business.

Alderman Shea stated you don’t know where this money is going to or to whom it’s going.

Chief Driscoll replied like we said it’s kind of like an anonymous business. I’m sure if you looked at their tax returns you really couldn’t track all of the money.

Alderman Shea stated it is possible that money is going out of the City as well as staying in.

Chief Driscoll replied, I would suspect that is true.

Alderman Shea stated so there might be people who don’t live in Manchester, but have a vested interest in what is happening here, coming in and then going out.

Chief Driscoll stated there is no question about that.

Captain Duffey stated there is a lot of activity here, Alderman, with our CI’s telling us the folks coming in and playing the machines and leaving again, you’re absolutely right.

Chief Driscoll stated something is very interesting, Bob mentioned CI, CI is confidential informant. We have better luck with people giving us information about drug dealing, drug usage than we do with gambling. People are scared to death of the gambling. A lot of powerful people involved.

Mayor Wieczorek stated the ordinance should go to the Committee on Bills on Second Reading.

Alderman Pariseau interjected it should go to the Committee on Administration, your Honor. It was there to begin with and as a courtesy to Alderman Robert, we sent it back to the full Board for this presentation.

On motion of Alderman Wihby, duly seconded by Alderman Pariseau, it was voted to refer the issue relative to video poker gambling to the Committee on Administration.

Alderman Elise asked if in the meantime couldn't the Chief meet with our Senators and State Representatives to discuss how any type of legislation in the House or the Senate could assist Manchester with this effort. It seems the more direct route, if that is what we so choose to do.

Mayor Wieczorek stated I think somebody here stated we don't know what the State is going to do. Actually, if the local control bill passed then we could do a lot of things that we talk about doing here. The problem is if you're waiting for the State, we don't know what the State is going to do regarding gambling because you know the things they've been talking about regarding legalizing some of them probably at the race tracks, I don't know what's going to happen there. There's a lot of problems with this.

Alderman Cashin stated, Mark, you said you were going to set up a meeting between the Liquor Commission, myself and the Police Department, has that been done.

Chief Driscoll replied, no it hasn't, but we've communicated and I'm not sure the gentleman is there this week, we've tried to communicate with him, Mark Fielding has called him a number of times and we'll get back to you on that and I'd just like to thank the Board for their patience, Mayor. This is something that a lot of people have been interested in and we appreciate your time.

Mayor Wieczorek stated now we are back to Item 4.

Assistant Solicitor Arnold stated, I guess the question was whether or not the case or opinion of the Justices that I was presented with control the present vote. I would say they do not. Both the opinion and the case say "in the absence of express regulation to the contrary". Our present Charter contains such regulation, it specifically provides on votes of appointments and removal that a majority vote of the Aldermen-elect shall be required.

Alderman Reiniger stated, I guess I am going to ask for a parliamentary ruling here because I do respectfully disagree with the Assistant Solicitor. New Hampshire is a State that has recognized as it's Common Law an abstention is deemed to be a vote with the majority. Not all states have that as it's Common Law and to change the Common Law there has to be an intent to do so and as the Solicitor quoted "in the absence of express regulation the law is abstentions count as a

vote of the majority” and it says “express regulation” and the section that the Solicitor quoted refers to a majority vote of the Aldermen-elect. It doesn’t say seven Aldermen. It says only Aldermen-elect and I think that intent is that the Mayor doesn’t break the tie.

Alderman Soucy stated a majority of the twelve is seven.

Alderman Reiniger stated it’s six, but an abstention is deemed to be a vote.

Alderman Soucy stated it is of elect, so you have to use the number 12 because of the elect.

Alderman Reiniger stated if they wanted seven, they’d say seven. It says “express regulation” and that’s the Common Law of New Hampshire. I think as the parliamentarian you can rule...I think Mr. Houle has, in fact, been elected under the law of the State of New Hampshire.

Alderman Cashin stated with no disrespect to Alderman Reiniger, but if I’ve ever seen a conflict here, he’s already voted one way and now he’s going to interpret the law for us...maybe you don’t want to get involved in this discussion, this evening.

Alderman Reiniger stated as an attorney, as an officer of the court, I’m bound to follow the law of New Hampshire.

Alderman Cashin interjected and as an Alderman, you’ve already vote too. So, you do have a conflict here.

Alderman Reiniger stated the parliamentarian has raised a legal issue and...

Alderman Cashin stated we have legal counsel.

Alderman Shea asked do we follow the City government’s rules and regulations or do we decide that Common Law oversees that when it’s...I don’t understand. Is this our rule here, didn’t we just have a debate last night about the Charter and now we’re saying the Charter doesn’t have any substance when Common Law comes in. All these people that worked on the new Charter...any time we want to change it, we can use Common Law to change what we want.

Mayor Wieczorek stated what I am going to do is rule as the parliamentarian that I would consider Dick Houle elected, however, with the caveat that we’re going to have to check this to find out really what it is because we don’t know who’s right.

Alderman Wihby asked what about the vote to reconsider.

Alderman Shea asked have we ever done this before, your Honor.

Mayor Wieczorek replied, no we haven't.

Alderman Shea stated, oh, we're changing the rules...

Mayor Wieczorek replied, no, we're not changing the rules...we've never had a situation like this before.

Alderman Wihby stated does that mean that during the budget process the same thing could happen and from now on every single vote that we take, it doesn't have to take a majority and just abstain.

Mayor Wieczorek replied, I don't think so. I think when it comes to bonds and things you need eight votes.

Alderman Cashin stated, you said it doesn't apply.

Assistant Solicitor Arnold stated I stand by my opinion. The Charter says "a majority of the Aldermen-elect". I think that that clearly has been interpreted in the past and I would hold that interpretation to mean a vote of a majority of the twelve Aldermen.

Alderman Cashin stated you're overruling the Solicitor's opinion, is that what you're doing.

Mayor Wieczorek replied what I am saying is that I am considering Mr. Houle elected.

Alderman Cashin stated, you can't do that, your Honor.

Mayor Wieczorek stated, I said with the caveat that...

Alderman Cashin stated there is no caveat, you can't do it.

Mayor Wieczorek stated at the very least, he's a holdover, Alderman, at the very least that is what he is.

Alderman Cashin stated then that's fine, he's in a holdover, but he's not elected and he's not appointed.

Mayor Wieczorek stated this is why I said...we've got a conflict here and my job is to resolve the conflict.

Alderman Cashin stated, your Honor, your own attorney has said that you can't do this.

Alderman Shea interjected we pay him to be our City Solicitor, your Honor, and you're saying that we don't listen to him.

Alderman Cashin stated this is going to be interesting.

Mayor Wieczorek stated well, it's going to be interesting. You asked if it ever happened before and it hasn't happened before, so we'll have to see what happens.

Alderman Elise stated in terms of the intent of my vote, I intended to vote a certain way to accomplish a certain goal and over time this is going to change, so I need to know in terms of how does reconsideration fit into this picture.

Mayor Wieczorek stated you can vote to reconsider.

Alderman Wihby stated a parliamentary question, your Honor. If you vote in the majority you can reconsider at the same meeting, if you vote in the minority you have to give notice of reconsideration at the next meeting. So, if you're going to consider her vote as a plus then she can reconsider right now. If not, you can reconsider my motion as reconsideration at the next meeting. Either one and can Tom move on that.

Mr. Girard stated it is Rule 10 of the Board and says "if you're in the majority you can reconsider at the next meeting without notice. If you're in the minority you have to give notice at the meeting in which the vote was taken to reconsider at the next."

Alderman Wihby asked, Tom, is that true that you can't make a motion...if you're in the majority you can't vote at the same meeting.

Alderman Elise stated, I would like to clarify too that the intent of my vote was to have Mr. Houle stay in his present position, but not for a six-year term and if the Board would like to work with me in negotiating with that...

Alderman Pariseau stated you'll have to change the Charter.

Alderman Elise stated, I know, but I'm just telling the Board what my intent is and it's not to put Mr. Houle out of a job, it's just not to install him for a six-year term. The new Charter is mandating two-year terms and I think that might work very well in the future and I'd like to leave this position open to work with changing his position as well as that department, in the future.

Mayor Wieczorek stated either way, he's going to be there.

Assistant Solicitor Arnold stated Rule 10 does provide that 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 the reconsideration of any vote shall be permitted. So, I think that to reconsider it at this meeting would require a vote of the majority. If it were not, notice could be given and it could be...

Alderman Wihby stated that is what I said and she is in the majority because you counted it.

Mayor Wieczorek asked do we count her as the majority or...

Alderman Soucy stated, your Honor, with all due respect, this case was just handed to the Solicitor this evening. I think it is very unfair, in a ten minute period to expect him to digest this, interpret it with the Charter and the rules and to hang our hat on that opinion. With all due respect to the man, let him review it, let him consult with the other people in his office, if need be and come back with a formal opinion. To suggest that we have some edict tonight because you've decided to play the judge and moderate between Tom Arnold and Alderman Reiniger, I just don't think is fair or appropriate at this time.

Mayor Wieczorek reiterated that I said it was with the caveat that assuming everything checks out.

Alderman Soucy stated but you're saying that it's the decision and that you've made your decision with the caveat instead of saying we have a disagreement we need to resolve and until we get a resolution and until I get a definitive answer from either one or them, I'm going to make a decision anyway and that's inappropriate.

Mayor Wieczorek stated if the decision is that if Alderman Reiniger is right, then it's done. If he is not right, then he's a holdover.

Alderman Soucy stated but Alderman Reiniger is the one who brought this in and had the time to review it and to determine what cases followed it and how this case has been used and everything else and to review the other cases within this document, whether he chose to or not and the same courtesy has not been extended to Tom Arnold.

Alderman Wihby asked could we have a ruling from the Solicitor on what I asked him...can a person in the positive reconsider today.

Assistant Solicitor Arnold replied, yes.

Alderman Reiniger stated, I agree that if Mr. Arnold can find a case that interprets this language as being expressed intent to reverse the Common Law, then he's right. But, I haven't seen such a case in the State of New Hampshire. The burden is to show that this language expressly overrules the Common Law and I think that's going out on a limb to say that it does.

Mayor Wieczorek stated, so we have had two votes taken and what we need to do is find out, really what that vote is; that is the whole thing...six to five and one abstention; that is the vote.

Alderman Domaingue stated one of the reasons why earlier in this meeting I asked by what rules we were going was because of the confusion we're seeing here tonight. We seem to have been making up the rules as we went along, it was comfortable and convenient, but is not always right. I am willing to abide by the decision of the City Solicitor's Office because that's what we pay them for, their expertise. But, my observation here tonight is that we have taken the career and the reputation of a man who had dedicated 30 years of his life to the City of Manchester and we've done it a little bit of disservice, no we've done it a lot of disservice and when I observe that someone is at this Board level making a statement about the intent of their vote, I would only remind them that their vote intent a few weeks ago was a full support of this gentleman, full support of this gentleman in glowing terms. It's difficult to follow the bouncing ball of someone's intent when they keep changing their mind meeting after meeting. I haven't changed mine, I support Mr. Houle and I will continue to do that, but I will, out of respect to the City Solicitor's Office abide by the legal ruling.

Alderman Cashin asked could I ask Alderman Reiniger a question. Alderman, you came in with that decision that the Mayor referred to, is that what I heard.

Alderman Reiniger replied, yes.

Alderman Cashin asked when did you come into the Mayor's Office with it.

Alderman Reiniger replied about 30 minutes before the meeting.

Mayor Wieczorek asked, Alderman, is this an inquisition.

Alderman Cashin replied, no. He had it 30 minutes before this meeting, right. I guess my question is why wouldn't you have called Arnold into your office and at least shared it with him.

Mayor Wieczorek stated, no, Alderman, when I got it I went over to see him just before the meeting started.

Assistant Solicitor Arnold stated I really don't wish to get involved here, I'm here as a legal advisor.

Mayor Wieczorek stated, Alderman, I am going to conduct the meeting from here, not from your seat.

Alderman Cashin stated all I am simply asking is had he seen it prior to the meeting.

Mayor Wieczorek replied, yes. But, he didn't have time to study it, if that's your question.

Alderman Shea asked why did he come in with that to begin with.

Mayor Wieczorek stated we'll have his office, the City Solicitor's Office take a look at that and find out because I don't know whether Common Law precedes what they do here or whether this takes precedence, so we'll have to find out.

Alderman Elise asked so the notice for reconsideration is included.

Alderman Soucy asked, your Honor, could that ruling from the Solicitor's Office just be forwarded to the Board, in writing, prior to our next meeting.

Mayor Wieczorek replied, yes.

Alderman Pariseau asked why don't we just table it until he comes back at the next meeting instead of having all of this discussion.

Mayor Wieczorek stated what Alderman Soucy said was she wants something in writing before the next meeting and I have no objection to that.

Assistant Solicitor Clark stated I would be glad to provide that, I just want to make sure that I know the questions I am trying to answer. The first question is how many votes are required to confirm Mr. Houle. The second question is what is the effect of an abstention in terms of the number of votes and I guess there's a third question about reconsideration and when that takes place or when a notice must be given.

Alderman Reiniger stated, I think the question is whether the Charter constitutes an express regulation that reverses the Common Law of the State of New Hampshire with respect to the issue of abstentions and voting with the majority.

Mayor Wieczorek asked, now, Tom, do you have all of the questions. Is there anything else that has to be a part of what he is going to be researching.

Alderman Shea asked are you going to consider what Alderman Reiniger brought up about Common Law versus the regular City Charter.

Assistant Solicitor Arnold replied, yes.

Mayor Wieczorek stated this should cover everything.

Alderman Wihby asked if his notice for reconsideration was recorded. The Clerk responded affirmatively and noted Alderman Shea was also recorded as giving notice.

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

Mayor Wieczorek called the meeting back to order.

OTHER BUSINESS

A report of the Committee on Finance was presented, recommending that Resolutions:

“Authorizing the Finance Officer to effect a transfer of Fifteen Thousand Seventeen Dollars and Twenty-four Cents (\$15,017.24) from the 1988 4.20315 Rimmon Street Station and 1991 4.20317 Webster Street Station Projects to the 1997 CIP 2.50502 MEH Building Acquisition.”

“Amending the 1988, 1991 and 1997 Community Improvement Programs, transferring, authorizing and appropriating funds for the 1997 CIP 2.50502 MEH Building Acquisition.”

“Amending the 1997 Community Improvement Program, transferring, authorizing and appropriating funds in the amount of \$160,600 for the 1997 CIP 6.40409 Elm Street Redevelopment Project.”

“Amending the 1997 Community Improvement Program, authorizing and appropriating funds in the amount of \$13,858.00 to the 1997 CIP 7.10216 Annual Traffic Signal LED replacement Project.”

“Authorizing the Finance Officer to effect a transfer of Thirteen Thousand Seven Hundred Sixty One Dollars (\$13,761.00) from Salaries Account to Special Projects Accounts to cover Entry Level Police Department Testing.”

ought to pass and be enrolled.

Alderman Shea moved to accept, receive, and adopt the report of the Committee on Finance as presented. Alderman Sysyn duly seconded the motion. The motion carried with Aldermen Shea, Domaingue and Hirschmann duly recorded in opposition to the \$13,761.00 resolution to cover Entry Level Police Department Testing.

A report of the Committee on Bills on Second Reading was presented recommending that the Board of Mayor and Aldermen order a referendum question reading:

Shall the municipal approve the charter amendment to eliminate the at-large positions for aldermen and school committee members?

be placed on the September 16, 1997 municipal election ballot.

Alderman Wihby moved to accept, receive and adopt the report of the Committee on Bills on Second Reading as presented. Alderman Pariseau duly seconded the motion.

A roll call vote was taken. Aldermen Wihby, Sysyn, Clancy, Soucy, Shea, Domainque, Pariseau, Cashin and Robert voted yea. Aldermen Elise and Hirschmann voted nay. The motion carried.

A report of the Committee on Community Improvement Program relative to a lease assignment for the Pearl Street School, was presented recommending that the Board of Mayor and Aldermen authorize the Mayor to execute the City of Manchester's Consent to Assignment of the lease between the Pearl Street School Realty Trust and the City to DASS Development Corp., as enclosed herein.

The Committee further recommended that the Mayor be authorized to execute an amendment to said lease relative to financial reporting as enclosed herein.

The Committee additionally recommended that the Board of Mayor and Aldermen find that the increased rent set forth in an amendment to the aforementioned Pearl Street School lease agreement effective on May 1, 1993 was consideration for writing off the amounts of unpaid rent due the City up until the effective date of such amendment.

The Committee noted that such recommendations were based upon review by the Finance Department, Office of the City Solicitor, and City Clerk's office, and that recommendations for execution of documents were made subject to the review and approval of the City Solicitor.

Alderman Wihby moved to accept, receive and adopt the report of the Committee on Community Improvement Program as presented. Alderman Robert duly seconded the motion. There being none opposed, the motion carried.

Ordinances:

“Amending the Code of Ordinances of the City of Manchester by deleting Sections 110.02, 110.26, and 110.27, License and Business Regulations, in their entirety, and inserting new Sections 110.02, 110.26, and 110.27, providing for changes in licensing regulations.”

“Amending the Code of Ordinances of the City of Manchester by deleting Sec. 118.12(b)(8) and Sec. 118.12(g), Taxicab drivers license, providing for changes in taxicab driver drug testing procedures and replacing them with new Sections.”

A communication from the Clerk noted that numerical changes had been made consistent with the recodification of the Code.

On motion of Alderman Wihby, duly seconded by Alderman Reiniger, it was voted to read the ordinances by titles only and it was so done.

These Ordinances having had their second readings by titles only, Alderman Soucy moved on passing same to be Enrolled. Alderman Reiniger duly seconded the motion. There being none opposed the motion carried.

On motion of Alderman Soucy, duly seconded by Alderman Shea, it was voted to recess the regular meeting to allow the Committee on Accounts, Enrollment and Revenue Administration to meet.

Mayor Wieczorek called the meeting back to order.

A report of the Committee on Accounts, Enrollment and Revenue Administration, was presented advising that Ordinances:

“Amending the Code of Ordinances of the City of Manchester by deleting Sections 110.02, 110.26, and 110.27, License and Business Regulations, in their entirety, and inserting new Sections 110.02, 110.26, and 110.27, providing for changes in licensing regulations.”

“Amending the Code of Ordinances of the City of Manchester by deleting Sec. 118.12(b)(8) and Sec. 118.12(g), Taxicab drivers license, providing for changes in taxicab driver drug testing procedures and replacing them with new Sections.”

were properly enrolled.

Alderman Shea moved to accept, receive and adopt the report of the Committee on Accounts, Enrollment and Revenue Administration as presented. Alderman Soucy duly seconded the motion. There being none opposed, the motion carried.

Copy of a communication from Alderman Domaingue relative to SB 152 “an act relative to the City of Manchester budget cycle”, requesting that the NH Senate Public Affairs Committee take no action until a discussion of the proposed legislation can take place at the point of “local control”.

Mayor Wiczorek stated this is the bill I was in Concord on and that is a bill that we requested Senator Danais to put in because in the new Charter it is going to permit us to have biennial budgets. The legislation that is being requested is enabling legislation which means that it isn't legislation that is binding on the Board, that it still has to come back to the Board to have the Board make a vote, but it is just going to give you the opportunity to do that and that's what I did. I'm in Concord quite often as I said earlier, I'm talking on local control, I was there. I, not only have the right, but I have the responsibility to be there speaking on behalf of the City or for myself, in many instances, I never bind the Board on anything that we have unless the Board has taken some sort of formal action. So, what I did, I think was entirely proper.

Alderman Pariseau stated, your Honor, I just think it would be nice if we were made aware of it before we're approached by the press asking us what our opinion is about a bill that the Mayor had Senator Danais bring up to the Concord about this particular case about the biennial budgets, just as a courtesy, I think we could make it a policy.

Mayor Wiczorek stated it's a lot more difficult than you might imagine. With some eleven hundred bills up there you don't always have a lot of time to decide what you're going to do. Now, we are going to be meeting again, I guess after finally reaching Representative D'Allesandro, we are going to be meeting on February 17th, which is a holiday, but I will be here and they will be here and any Aldermen we would like to invite them to be there too because what we do with the department heads and the legislators is try to review the bills that are there and they're coming very slow for some reason this year, the bills are coming fast, but we don't have a lot of time to study them. So, there really isn't a lot of time to react to these things.

Alderman Shea stated years back, I believe, the people from the Legislature met with the City government people, the Aldermen, are you saying that that is going to be instituted and so on the 17th what time.

Mayor Wiczorek replied eight o'clock, right here in the Chambers in the morning.

Alderman Domaingue stated, I want to thank you for putting it on the 17th because it is a bank holiday, so I will be here at eight o'clock in the morning. My purpose for putting this on the agenda was simply so that we could have a discussion about the legislation that goes on in Concord, your Honor, because it is so very important. As you've said there are so many pieces

of it. My letter did not, in any way, reflect that your testimony was in error or that you were trying to represent anything other than yourself. I do think that the Board needs to be more aware of the legislation that is coming before us, I do think...

Mayor Wieczorek interjected the headline says "Mayor's two-year budget move has City Aldermen fuming."

Alderman Domaingue continued by stating with all due respect, your Honor, I don't write the City headlines, so you'll have to take that up with Joe McQuaid and *The Union Leader*, however, my purpose for putting this on is very serious. We have a lot of bills that do affect the City in one form or another either directly or indirectly and at the very least, your Honor, I think that this Board ought to have a listing of what those bills might be in either the Senate or the House, so that we can have a discussion about it or at least be made aware of them. So, if there is a position to be taken by this Board, if any Alderman feels that this is necessary, we can go ahead and do that. I think some of the Aldermen including myself were caught off guard by the fact that we didn't even have any knowledge that this piece of legislation existed and that is a reality. We need to be aware of it and how that gets taken care of whether it's the City Clerk's Office, I don't care. I'm not asking for the Mayor's Office to take that responsibility. What I'm asking for is a lot more communication because things they do in Concord do affect us financially sometimes and we have an opportunity to have a say up there. We recently missed an opportunity, I understand, with the traffic fines. The bill that went before Senator Podles committee, she's Chairman of it, she's a Manchester Senator and our own Police Chief was not aware that that bill was up there that day, so he couldn't get up there to testify about how very important it is for the City of Manchester to get that revenue back here instead of the State gobbling it up and that is just one more example, your Honor, and that is the purpose for my putting it on this agenda.

Mayor Wieczorek stated, okay, so we'll see you on the seventeenth.

Alderman Wihby stated, your Honor, I just gave Richard a copy of what actually passed or the amendment.

Mayor Wieczorek stated, yes, I was there and they did it the same day. It all happened the same day, they moved very, very quickly on that.

Alderman Soucy stated, your Honor, you said we asked Senator Danais, who is the we in addition to yourself.

Mayor Wieczorek replied, me, I'm the guy.

Communication from Alderman Elise requesting the Board's support in

directing the City Clerk to draft a letter in support of U. S. Senator Gregg's comments relative to the federal government fulfilling its promises of 1975 to fund Special Education.

Alderman Pariseau moved to forward a letter in support of U. S. Senator Gregg's comments relative to the funding of Special Education. Alderman Elise duly seconded the motion.

Alderman Domaingue asked do we want to limit it to this proposal. Let me tell you why I ask the question. I asked the School Department to fax over some numbers that are not represented in what is included in the packet and they speak to the issue of legal fees and in the last two and a half years, we spent nearly \$200,000 additionally to the numbers you see before you in legal fees for Special Education cases. I think that we need to commend Senator Gregg for what he is attempting to do, but having served six years at the House Education Committee level, one term on the School Board, and having three kids in the Manchester School system, I have to tell you that it is a band-aid where a tourniquet is very, very necessary at this point and Manchester is the State's largest City, with the State's largest, single school district. The Federal government continues to hand us programs with strings attached that have three-year qualifiers. You take it up, you pay for it after three years. I think seven years is too long and I think the State's largest City, as an example to the rest of the State of New Hampshire and it's communities needs to stand up, thank Senator Gregg for his effort and ask him with his legislation to go one step further and make it a three-year payback at 50% because the money that has been missing from the federal level shortchanges not only the gifted student, not only the average student, but it literally shortchanges those Special Education students who are most in need. They've set the mandates, they've diluted the program to the point where even the Special Ed kids don't get the kind of funding and the kind of programming that they need and now if we say okay to a seven-year payback of only 40% when they have only kicked in 7%, we are saying it is okay, one more time, to take advantage of the local communities and the kids because they don't want to put a priority on it. Well, I do want to put a priority on it and I'm asking this Board to send a communication back to Senator Gregg thanking him for his effort and asking him to amend that legislation to a three-year payback at 50% and moved to amend the motion on the floor as stated.

Alderman Shea stated I would like to add that we have other people in Washington beside Senator Gregg and I would suggest that we include Senator Smith, as well in this particular situation asking for any support he can give as well as the Congressmen from, the newly-elected Congressmen, as well. Because I think the more pressure we can bring to bear, the better off we will be, but I concur with my colleague.

Mayor Wiczorek stated right after I got the news with the Office of Civil Rights, that following Friday, I had a meeting with members of each of our delegation here dealing with both Special Education and the Office of Civil Rights because of the problems they were creating because they were not problems they were creating just for us, it's our entire State, it's the entire country and as a matter of fact, I just asked my staff today to get me the names of the people that are

serving on the Committee that is going to reauthorize the bill because the last Congress grappled with it, but did not arrive at a conclusion and this Congress now, I understand, it is on the front burner and there are a lot of thing/changes that have to be made because I think our regular students are getting shortchanged, there is only so many bucks to go around and since there is they are the ones that are paying the price and I don't think it is fair, so we know that they have to grapple with it and that's why we have been working with them on that.

Alderman Elise stated I think it is great that your office is working on it at this time and I would not mind amending the letter to put in the information that Alderman Domaingue would like to put in. I do know that for a period of time that we have not received the money we were suppose to receive and whatever money we could get back the School system can use right away and that is the goal. So, I would not mind amending the letter to say that and also sending it to whichever officials we would need to send it to and I do think that it carries a lot of weight for you to initiate this process also, but it carries more weight if we all endorse that too and I think we all talked about that similar legislation at the State House that affects Manchester, but in the Accounts Committee we are looking at the Special Ed budget as it is increasing every year and the School Department has put together some data with the Finance Department on this particular issue over time in terms of the expenses that the City has incurred and that data will be used to be looked at by both the City and the School Department on where do we want to go from here in terms of advocating for things and changes in laws and regulations at the State level as well as nationally and also within the State and within the City of Manchester, what is it that we can do to better provide services to our Special Ed community at a lower cost. So, there is an effort going on in the City, as well.

Mayor Wieczorek asked Alderman Domaingue for clarification on her motion.

Alderman Domaingue moved to amend the motion to ask them for three years at 50% payback. Alderman Shea duly seconded the motion. There being none opposed, the motion carried.

Communication from Messrs. Stiles and Bernier, requesting permission to schedule a meeting on Tuesday, March 18, 1997 at 6:30 PM relative to the restoration/renovation project of City Hall as it relates to the public sector who have given of their time and effort in raising additional funds.

On motion of Alderman Pariseau, duly seconded by Alderman Shea, it was voted to approve the request to schedule a meeting on Tuesday, March 18, 1997 at 6:30 PM.

Communication from the Airport Director, requesting permission to use the competitive sealed proposal process for the renewal of the Law Enforcement Services Contract between the City's Department of Aviation and the Rockingham County Sheriff's Department which was due to expire on June 30, 1997, but has been mutually extended to September 30, 1997.

On motion of Alderman Pariseau, duly seconded by Alderman Robert it was voted to permit the use of the competitive seal proposal process for the renewal of the Law Enforcement Services Contract as requested by the Airport Director.

Communication from the Industrial Agent, submitting a proposed subordination agreement by Wall Street Tower Limited Partnership to refinance existing debt on the Wall Street Tower Project and recommending the Board's approval subject to review by MDC Counsel and the City Solicitor.
(Note: Communication from the Executive Director of MHRA dated 1/27/97 attached.)

Alderman Sysyn moved for discussion. Alderman Wihby duly seconded the motion.

Alderman Domaingue stated I'll defer to my colleague, Alderman Shea.

Alderman Shea stated I'll let Alderman Domaingue speak first because I'm totally unfamiliar with what is going on here and I wanted a clarification by Jay Taylor.

Alderman Domaingue stated my question, very simply it is this the same Wall Street Tower Project that the City has refinanced and refinanced and refinanced over a period of a payback of over 40 years where it is still costing us to pay for parking spaces in that garage. Is that the same project.

Mayor Wieczorek replied it is the same project.

Alderman Domaingue stated then you can understand why I am going to say no.

Mayor Wieczorek stated it enhances the City's position and I don't think you ought to say no that quickly.

Alderman Domaingue stated it is going to have to be a real good sell, your Honor, because I think the taxpayers have been soaked enough on this project.

Mr. Taylor asked what is the question and I'll be happy to answer the question.

Alderman Domaingue asked is this the same project that we have refinanced on several occasions.

Mr. Taylor replied this is the same project that has been refinanced one time previously, yes.

Alderman Domaingue stated and the payback on the garage was over a period of 40 years, is this the same project.

Mr. Taylor replied the garage lease currently is a 20-year lease with a 20-year option and expires in June of 2005.

Alderman Shea asked could you give me a little background, I'm unfamiliar with this.

Mr. Taylor stated I would be happy to try to explain this. You may recall that this project was initially originated in 1985. The City applied for and received a Urban Development Action Grant of about \$6.4 million to assist in the financing of this project. In addition to that, the City took back a purchase money mortgage for \$660,000 which represented the value of the land on which the building is built. So, collectively, the City and Manchester Development Corporation as successor to GMDC have a mortgage on the property of roughly \$7 million, a little over \$7 million. Now, in 1990 the bond issue was refinanced and the notes were split up that the City/MDC now has a third mortgage position, currently, behind about \$16.5 million in debt. The new proposal which involves a HUD backed mortgage, the proposal is to refinance the project with some of the debt going behind the GMDC/City debt to the extent that under the new proposal we'll have a third mortgage position, but behind only \$9 million instead of \$16.5 million. And, that in my view, is the key to this whole thing. It does put us in a much better position in terms of a liquidation position if that were to occur and clearly we are behind a lot less money than we were previously and, I think, to the extent that that is the case where the City is in a better position. So, I think that is really the heart of this issue here.

Alderman Clancy asked what are you going to do with the existing old restaurant up there on the top floor.

Mr. Taylor replied that is up to the ownership of the building, we have nothing to do with any of the leases or anything of that nature, that is up to the ownership.

Alderman Clancy stated there was a rumor that they were going to put up some penthouse apartments up there.

Mayor Wiczorek stated I had heard the same thing, I don't know what they're going to do.

Mr. Taylor stated they are free to do anything that conforms with the City's Zoning Ordinance there and I've heard restaurants, law offices, a number of things, but I don't know exactly what their plan is at this point.

Alderman Shea stated I'd like to review in 1985 it was \$7 million and it went up to \$16.5 million and now if we vote on this it will go down to \$9 million.

Mr. Taylor stated the \$7 million is the City's portion of the debt, the rest of the debt was financed through the first mortgagee which in this instance was the bank, The Daiwa Bank. We were behind, we're in third position currently behind \$16.5 million right now, as it exists at this very moment. Under the new proposal they are going to put some of that debt behind us in the order of succession so that we will only be behind \$9 million in debt and this first mortgage is going to be backed by HUD, it is going to be a mortgage guarantee which is a credit enhancement.

Alderman Shea asked do you feel that this is a good investment.

Mr. Taylor replied, I believe and my own opinion is and again all of this is subject to review by the Manchester Development Corporation Counsel and the City Solicitor's Office, keep in mind we have seen no documents yet. But, our concern is that if this deal is like it appears on its face, as it is now, we think it is a good deal as long as nothing else in the deal changes and that's why it is important to look at the documents, but as it sits now it appears we're in better position under the proposal than we are currently.

Alderman Soucy stated essentially we are going to be getting paid that much more quickly than if they do default on the mortgage.

Mr. Taylor replied we'll have a better chance of getting something. If there is a default now, we're going to get zero because there is not enough value there. At least with the \$9 million, we'll have a little better chance of getting something.

Alderman Soucy stated just one more question about the City holds a 19.7% interest in the MDC mortgage...

Mr. Taylor interjected yes, and that portion of the debt is being paid on a regular basis, on a quarterly basis. The City's portion is being paid and it is current.

Alderman Soucy stated it is being paid through the deduction that we owe them for leasing parking spaces.

Mr. Taylor replied no. It is being paid directly and if they miss a payment, we do have an offset against the garage rent.

Alderman Sysyn moved to go ahead with the subordination agreement subject to the opinion of MDC Counsel and the City Solicitor. Alderman Wihby duly seconded the motion. The motion carried with Alderman Domaingue duly recorded in opposition.

Ordinances:

“Amending the Code of Ordinances of the City of Manchester by deleting Sections 110.02, 110.26, and 110.27, License and Business Regulations, in their entirety, and inserting new Sections 110.02, 110.26, and 110.27, providing for changes in licensing regulations.”

“Amending the Code of Ordinances of the City of Manchester by deleting Sec. 118.12(b)(8) and Sec. 118.12(g), Taxicab drivers license, providing for changes in taxicab driver drug testing procedures and replacing them with new Sections.”

On motion of Alderman Reiniger, duly seconded by Alderman Pariseau, it was voted that the Ordinances be read by titles only, and it was so done.

These Ordinances having had their third and final readings by titles only, Alderman Soucy moved on passing same to be Ordained. Alderman Shea duly seconded the motion. There being none opposed the motion carried.

Resolutions:

“Authorizing the Finance Officer to effect a transfer of Fifteen Thousand Seventeen Dollars and Twenty-four Cents (\$15,017.24) from the 1988 4.20315 Rimmon Street Station and 1991 4.20317 Webster Street Station Projects to the 1997 CIP 2.50502 MEH Building Acquisition.”

“Amending the 1988, 1991 and 1997 Community Improvement Programs, transferring, authorizing and appropriating funds for the 1997 CIP 2.50502 MEH Building Acquisition.”

“Amending the 1997 Community Improvement Program, transferring, authorizing and appropriating funds in the amount of \$160,600 for the 1997 CIP 6.40409 Elm Street Redevelopment Project.”

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“Authorizing the Finance Officer to effect a transfer of Thirteen Thousand Seven Hundred Sixty One Dollars (\$13,761.00) from Salaries Account to Special Projects Accounts to cover Entry Level Police Department Testing.”

On motion of Alderman Soucy, duly seconded by Alderman Pariseau, it was voted that the Resolutions be read by titles only, and it was so done.

Alderman Reiniger moved that the Resolutions pass and be Enrolled. Alderman Sysyn duly seconded the motion. The motion carried with Aldermen Shea, Domaingue and Hirschmann duly recorded in opposition to the Resolutions transferring \$13,761.00 to cover Entry Level Police Department Testing.

Mayor Wieczorek stated I have a letter from Signe McQuaid indicating:

“...that it is with deep regret that I must resign my appointments to the Planning Board and Zoning Board of Adjustment effective immediately. A new position out-of-state makes it impossible for me to regularly attend meetings. I feel it is not fair to my fellow Board members nor the citizens of Manchester to continue to serve in what would be a limited capacity. It has been a great privilege to serve the people of this City. Every meeting has been a testament to the quality of this community and a constant source of personal pride that I have been able to play a small part in its progress and development. I would also like to commend the many men and women with whom I have had the privilege of serving. We are truly a blessed community to have so many committed individuals volunteering their time and energy to make Manchester the great place it is to live and work. Additionally, I offer my thanks to you and the Board of Aldermen for your continued support and assistance over the years and hope that you will not hesitate to call on me in the future if I can somehow be of service.

Mayor Wieczorek stated she has done a marvelous job over the years in the many, many jobs that she's had and I will entertain a motion to send a letter with regret to Signe.

On motion of Alderman Domaingue, duly seconded by Alderman Soucy it was voted to forward a letter to Signe McQuaid accepting her resignation with regret and also to thank her for your dedication and contribution to the City.

Mayor Wieczorek presented nominations as follows:

Manchester Heritage Commission

Alderman Mary Sysyn, term to expire January 1, 1998.
Albert Cappannelli, term to expire January 1, 1998.
David G. Deziel, term to expire January 1, 2000.
Linda Sirak, term to expire January 1, 2000.

Planning Board

Mark Gross to succeed Signe McQuaid, term to expire May 1, 1999.

Manchester Development Corporation Board of Directors

Eleanor Dahar to succeed herself, term to expire March 11, 2000.

Zoning Board of Adjustment

A. Joseph Dion to succeed Signe McQuaid, term to expire March 1, 19927.

Zoning Board of Adjustment

A. Joseph Dion to succeed himself, term to expire March 1, 2000.

As per rules of the Board, the nominations will lay over until the next meeting of the Board.

Alderman Elise asked that the Board receive resumes on the nominees.

Mayor Wieczorek stated they would be receiving the resumes and had some now, but those that he didn't have they would be getting them.

NEW BUSINESS

Alderman Wihby stated I had the Clerk pass out Section 18-31 Vacant Positions to be amended and moved that it be referred to the Committee on Personnel noting there were a couple of concerns from some of the Aldermen on the Personnel Committee that positions were being filled too fast and they wanted to have some control. So, I talked to Personnel (Hugh Moran) and this will not delay the system, at all, but will give the input for the Committee, if a majority of the Committee members felt that they wanted to hold up a nomination or hold up to fill a position, if they let the Director know he would just put it on the next agenda for them. So, it was sort of a compromise to what it was before.

Mayor Wieczorek stated I know the problems we had before, it was so long and difficult to try to get something done.

Alderman Wihby stated this won't go back to that, but it will give them an opportunity...

Mayor Wieczorek interjected, no, but we're going halfway back.

Alderman Wihby stated it won't delay the process. What happens now is that by the time he gets it back from the Finance Department okaying the numbers and the money at the same time he'll be sending it to the Personnel Committee and in that same time frame they will have three days to decide whether or not they want it to be approved and if the majority say no, they'll put it on the agenda and if they don't get back to him, it will be approved just like normal so it wasn't adding any days or anything to it, but it gives them the chance to stop it from going through.

Mayor Wieczorek stated I think we're getting back into micro-management; that is the way it seems to me with this. I thought that the decision was made by the previous Board, I guess, when we made the change or maybe it was this Board last year. It was this Board last year, so we wouldn't get into that. If a department had money and a position that it would go ahead and do it and now we're back into micro-management, that's the way it looks to me.

Alderman Wihby stated I'm sending it to the Personnel Committee and they can take it up, your Honor. It's not micro-managing in that, I think when we did it the first time, I think the big thing was we wanted to move the process along faster and I think what I'm hearing is that it's going too fast because they don't have an opportunity to say no. So, I think this would solve the problem and it doesn't delay it any longer, but at the same time gives the Committee a chance.

Alderman Cashin duly seconded the motion. The motion carried with Alderman Robert duly recorded in opposition.

Alderman Wihby stated in today's paper the budget about the School Department saying that they're going to take \$670,000 and put it off till next year...I'd like to know how they can do that. The way the paper reported it was that the School Department was saying we're going to be in the hole \$670,000, but it's okay, we'll do it, we'll charge it off to next year.

Mayor Wieczorek stated they're not going to be able to charge it off next year.

Alderman Wihby stated I don't know how they would do that and if not, we should let them know that they can't and that they're going to be told that they're going to have to make some cuts, I guess.

Mayor Wieczorek stated they are going to have to do something because they're not going to be able to show a deficit.

Mr. Clougherty stated, I agree with you and we have told them that they can't overspend their budget.

Alderman Wihby asked can we send them another letter letting them know.

Mayor Wieczorek stated they were told that last night.

Mr. Clougherty stated we would be happy to write a letter though. There have been several meetings where we have told the Superintendent and the Assistant that that is the case.

Alderman Pariseau nominated William Desrosiers to succeed himself as a member of the Manchester Transit Authority, term to expire 2002.

Alderman Pariseau moved to close nominations. Alderman Cashin duly seconded the motion. There being none opposed, the motion carried.

Alderman Reiniger stated I have a letter from a constituent Mark Morrissette who had a very bad experience with the towing and the emergency situation. He raises a number of issues and he had problems collecting his car, and moved that the communication be referred to the Committee on Traffic/Public Safety.

Mayor Wieczorek stated I was getting some calls and it was after twelve when I was getting them and that was a mess.

Alderman Elise gave notice for reconsideration on item 11, the Report of the Committee on Bills on Second Reading relative to the Charter amendment.

Alderman Wihby stated the Task Force would be meeting on Thursday at five o'clock at the Chamber of Commerce offices and all the entities are going to give reports, five or ten minutes of each thing that they are doing within the City, so it would be a good thing to attend to hear what everybody is doing.

Alderman Elise stated I just have one other thing that I have to say that I just need to say. I was really taken aback by your statement regarding the political, the attempts regarding the Board members on the Special Education item were politically motivated. Well, I don't think it's becoming for the Mayor of the City to make such statements at this particular time regarding a very, very serious matter and you know the seriousness of this matter and you may be threatened by the Board's need to be kept up-to-date regarding your activities in Concord, we'd like to know what your activities are. As a matter of fact, we'd like to back you on some of those activities sometimes.

Mayor Wieczorek interjected feel free to come with me, I've got room in my car. I'm up there one, two, three times a week sometimes.

Alderman Elise stated I just want to remind you, Mayor, that each Board member has issues that they'd like to work on and that comments like that are very unbecoming to your position.

Mayor Wieczorek stated, Alderman, when I'm in Concord I'm up there speaking for me. I'm not there speaking for the Board. You have every right to go to Concord and speak for yourself. Just as any citizens can go to Concord and speak on any bill.

On motion of Alderman Soucy, duly seconded by Alderman Pariseau, it was voted to recess the regular meeting to meet with the Assistant City Solicitor to discuss pending legal matters.

Mayor Wieczorek called the meeting back to order.

Asst. Solicitor Arnold addressed the Board suggesting they start with 991 Candia Road stating that he would ask for a motion that the Board offer a settlement to the FDIC in the amount of \$70,096.43 in return for a discharge of the FDIC's mortgages on the property and that the offer being contingent on the probate court quieting title as to anyone else that may be out there.

Alderman Pariseau so moved that the Board offer a settlement to the FDIC as outlined by the Assistant City Solicitor. Alderman Shea seconded the motion. There being none opposed the motion carried. Alderman Hirschmann was duly recorded as abstaining, noting a personal conflict.

Assistant Solicitor Arnold stated that with respect to Old Hackett Hill Road, he suggested a motion that the City Solicitor convey to the Hillsborough County Superior Court the fact that the City no longer contests that portion of the action that the court set aside the discontinuance of Old Hackett Hill Road, and essentially that the City not contest that action.

Alderman Cashin moved to the recommendation of the Assistant City Solicitor with regard to conveying to the Hillsborough County Superior Court the fact that the City no longer contested the action that the court set aside the discontinuance of Old Hackett Hill Road. Alderman Sysyn duly seconded the motion. There being none opposed, the motion carried.

There being no further business to come before the Board, on motion of Alderman Pariseau, duly seconded by Alderman Shea, it was voted to adjourn.

A True Record. Attest.

City Clerk