

BOARD OF MAYOR AND ALDERMEN

February 18, 1997

7:30 PM

Mayor Wieczorek called the meeting to order.

Mayor Wieczorek called for the Pledge of Allegiance; this function led by Alderman Domaingue.

A moment of silent prayer was observed.

The Clerk called the roll. There were eleven Aldermen present. Alderman Robert arrived late.

Present: Alderman Wihby, Elise, Reiniger, Sysyn, Clancy, Soucy, Shea, Domaingue, Pariseau, Cashin, and Hirschmann.

Alderman Robert arrived late and left early (at final recess of meeting).

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 Director of Planning submitting an informational update on the Enterprise Community Program.
- B. Communication from the Director of Planning submitting information on projects and activities of the Planning Department.
- D. Communication from the Streeter Family and Freed's Bakery, Inc. inviting the Board of Mayor and Aldermen to attend an Open House of the new Wholesale Production Facility located at 299 Pepsi Road on Friday, February 21, 1997 at 1:00 PM.

REFERRALS TO COMMITTEES

COMMITTEE ON ADMINISTRATION/INFORMATION SYSTEMS

- F. Communication from the Director of Information Systems requesting to make a presentation to the Committee on Administration/Information Systems regarding the implementation of the City's new Comprehensive Integrated Municipal Information System.

- G.** Communication from Lloyd Basinow submitting his suggestions for the Board's consideration and possible further action regarding the control of video poker and all other types of coin-operated entertainment devices.
- H.** Communication from Thomas O'Rourke, Continental Cablevision, informing the Board of two billing adjustments relating to fees.
- I.** Communication from Thomas O'Rourke, Continental Cablevision, informing the Board of planned changes and additions to channel line-up, and seeking the Board's approval for the relocation of the City's PEG Access Channel, as required in the franchise agreement.

**COMMITTEE ON ADMINISTRATION/INFORMATION SYSTEMS
AND
COMMITTEE ON TRAFFIC/PUBLIC SAFETY**

- J.** Communication from Ron Pappas, requesting use of Stark Landing and a carnival license from April 17-27, 1997 for the fourth annual Pappy's Pizza Spring Carnival, all proceeds to benefit the Central High School Gridiron Club.

COMMITTEE ON COMMUNITY IMPROVEMENT PROGRAM

- L.** Communication from the Industrial Agent requesting approval of both the existing lease and proposed amendment for MEDO space at 889 Elm Street and authorizing the Mayor to execute the lease amendment; subject to the review of the City Solicitor.
- M.** Communication from the Public Works Director seeking approval to charge overtime costs to the existing CIP landfill account for the operators of specialized leased equipment for the rough grading of the sanitary landfill to accommodate the Phase I, Contract Closure work.
- N.** Communication from the Deputy Public Works Director requesting that any balances left in the 1997 CIP Storm Drain Infrastructure projects account be authorized to the relocation and upgrading of an existing 12" storm drain pipe located within an easement off of Bicentennial Drive in conjunction with the "Paquette Ave./River Road Sewer Extension" project.
- O.** Communication from Lloyd Basinow expressing his concern relative to the area known as "Hobo Jungle" being environmentally unsafe.
- P.** Communication from members of the Manchester Child Care Committee requesting to meet with City officials to discuss the problem associated with the transportation of school children from Manchester schools to their respective after-school programs.
- Q.** Copies of communications received from Robert McLaughlin relative to extinguishing the City's interest in a passageway in the vicinity of the Parker-Varney School.

COMMITTEE ON PERSONNEL/INSURANCE

- R.** Communication from Edward Wojnilowicz, Enterprise Supervisor, Parks, Recreation & Cemetery Department, requesting that the pay scale for pool staffing be upgraded.

COMMITTEE ON TRAFFIC/PUBLIC SAFETY

- S.** Communication from John Niemiec, Manchester Church of God, requesting that the church be allowed to erect two signs each on Mammoth and Huse Roads directing visitors to their church.

REPORTS OF COMMITTEES

COMMITTEE ON ADMINISTRATION/INFORMATION SYSTEMS

- T.** Recommending that the Board of Mayor and Aldermen consider and approve a list of recommendations presented by Dr. Grace Sullivan, at the request of the Committee, to establish the MCTV Advisory Committee for Channel 40 as governed by the Continental Cablevision contract.

**COMMITTEE ON ACCOUNTS,
ENROLLMENT & REVENUE ADMINISTRATION**

- U.** Advising that a proposed revision to Chapter 8. Finances, of the Code of Ordinances of the City of Manchester has been approved as amended; and recommends that it be referred to the Committee on Bills on Second Reading for ordinance preparation.
- V.** Advising that reports of the Board of Assessors (herein enclosed) have been reviewed and is submitting same to the Board of Mayor and Aldermen for informational purposes only.

COMMITTEE ON PERSONNEL/INSURANCE

- W.** Advising that a proposed revision to Section 18-31, Vacant Positions, of the Code of Ordinances of the City of Manchester has been approved as amended; and recommends that it be referred to the Committee on Bills on Second Reading for ordinance preparation. The Clerk notes that the Section numbers should now reflect 33.028 pursuant to the recently enacted recodification.
- Z.** Recommending that the Personnel Director be authorized to distribute a marketing letter dealing with the Deferred Compensation Program to City employees.

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

- C.** Communication from Robert Nichols, Executive Director, NH Community Development Finance Authority (CDFA), providing an update of the status of the CDFAs relationship with the planned FIRST PLACE Museum, in the Mill District of Manchester.

Alderman Soucy noted the communication reflected some concerns raised by the CDFAs, and since the CDFAs and potential projects were something she had dealt with as a legislator three years ago when they ended the program, she was quite perplexed and wondered if the Mayor could give any explanation as to why First seemed to be the last project not to have finalized a contract and doesn't seem as though it will be completed as of the July 1997 deadline.

Alderman Soucy asked if the mayor could shed any light on that.

Mayor Wieczorek responded no, that in talking to them the Historic Association had entered also into an agreement with them to be doing something regarding the history in Manchester, and they have been talking about working with the Industrial Heritage Commission and the

Manchester Historic Association. Mayor Wieczorek noted that Dean had stated to him, if they want him to open it July 1 he would open July 1, but if they want to get the Historic Association and the Heritage Commission in their merged deal to do something then it would be better if they deferred it some. Mayor Wieczorek stated that if the Board would like he could have Mr. Kamen come in sometime after the First Competition, because now they were in the middle of the competition.

Alderman Soucy stated her concern was that the letter seems to state they thought there was some miscommunication between former associates of the First Project and of CDFA, and even if the Board received some type of written communication, he didn't necessarily have to come before the Board, just explaining not necessarily the reason for the deadline, she respected that, but why the finances haven't been, why the contract hadn't been executed as of yet, and why the plans haven't been made. Alderman Soucy stated that the CDFA project in and of itself she did not think in any way effects the merger of these other projects they are separate entities coming into his project and she did not understand how that would have any impact on the funding from the Finance Authority.

Mayor Wieczorek asked she would like him to get a letter from Mr. Kamen or have him come in.

Alderman Soucy responded she would appreciate some sort of response to the issues raised in this letter.

Mayor Wieczorek stated he would do that.

Alderman Soucy moved to have a letter of explanation requested from Mr. Kamen. Alderman Domaingue seconded the motion. The motion carried with none recorded in opposition.

Communication from Alderman Elise suggesting the Board eliminate the increased motor vehicle registration fees in the 1997-98 budget; and further indicating that if a majority does not agree to this, then consideration should be given to an elderly exemption.

Alderman Elise noted the agenda had reflected a referral to the budget discussions, and she had hoped that the Board would take a look at it right now before they went into discussions about the budget. Alderman Elise noted that after a budget was prepared by the mayor's office and came to the Board, if that item was included in the budget it may be a very difficult time for the Board to justify removing it in regards to revenue, so she thought it would be helpful for the Board to make a decision on this before the budget is formulated. Alderman Elise stated she wished the Board to either discuss it this evening or refer it to a committee to make a recommendation to the full Board.

Alderman Wihby commented that he thought this was the same item that Alderman Domaingue indicated they were suppose to go over and have a public hearing on if they were going to change something. Alderman Wihby suggested it be referred to the Revenue Committee so they could take the necessary steps and come back with a report.

Alderman Wihby moved to refer the communication to the Committee on Accounts, Enrollment and Revenue Administration. Alderman Shea seconded the motion. The motion carried.

- K.** Communication from Alderman Domaingue requesting the Board refer the subject of Building Impact Fees to Committee to determine whether there is a need to increase these fees.

Alderman Wihby moved to refer this communication to the Committee on Accounts, Enrollment and Revenue Administration. Alderman Clancy seconded the motion. The motion carried.

Report of Committee on Personnel/Insurance

- X.** Recommending that a policy on Health Insurance Reinstatement For Pensioners reading as follows:

That any qualified City pensioner under 65 years of age who is eligible to receive pension benefits from the City, having maintained the same plans offered by the City, shall be entitled for reinstatement to the City's group health plans, based on the insurance company's terms of acceptance and the individual's understanding that they will be responsible for 100% of the insurance premiums and all premium increases

be adopted.

Alderman Domaingue noted that items X and Y referred to a recommendation that a policy on health insurance and reinstatement for pensioners be adopted by the Board. Alderman Domaingue stated that if X was passed then Y would be passed. Alderman Domaingue stated that X was a change in policy from what the city had done in the past with the exception of one individual and as a committee member she had voted against the policy because she had a concern relative to whether or not adopting this policy would effect the city's risk pool and thereby effect the city's insurance premiums regardless of the fact that the individuals involved who are retired may well be paying 100 percent for their insurance premiums. Alderman Domaingue stated that as a matter of record she wished to have a roll call on the vote of adoption of this policy.

Alderman Hirschmann stated that Mr. Ntapolis had appeared before the committee and felt that the impact of the policy was not going to be a great impact; he could not provide exact numbers, but had felt it was minimal.

Alderman Shea stated there had been a discussion in committee regarding the continuity of insurance, in other words if a person belonged to Matthew Thornton, left the city and was employed by the state and kept their Matthew Thornton insurance, and then reverted back to the city in Matthew Thornton there was no break in insurance.

Alderman Wihby moved to accept the report of the committee. Alderman Soucy seconded the motion.

Alderman Wihby noted that if this gentleman or anyone in the future stopped taking the coverage that they were entitled to, in this case for eight years or whatever it was, wouldn't they have been able to get this for the eight years they were on so therefore the city was less vulnerable in those eight years because he took something else. Alderman Wihby stated the

way he was looking at it the city had saved money for those eight years, and for the next eight years they would be exposed as they would have been, asking if that was how it worked.

Mayor Wieczorek noted that anybody that is in the city's plan, the city is developing its own experience, and so good or bad yes.

Alderman Domaingue stated one of the reasons she opposed this was in looking at private industry, they often ask why they are not running more like a business, she did not remember business offering to anyone who has left the business, the opportunity to come back and take advantage of the insurance program, and that was part of her concern.

Following brief discussion it was concurred that the motion being voted upon was to approve item X, accepting that report of the committee adopting the policy.

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

Report of Committee on Personnel/Insurance

- Y.** Recommending that a request of Joseph Acorace to be reinstated in the City's Health Insurance Program as a retiree of the City be approved.

On motion of Alderman Hirschmann, duly seconded by Alderman Pariseau, it was voted to accept the report of the committee. Alderman Domaingue was duly recorded in opposition.

ADDENDUM ITEM

Communication from Richard Davis, InTown Manchester, requesting to address the Board regarding the Bridge and Elm Street property.

Mayor Wieczorek noted that this item had been omitted from the agenda and had been forwarded to the aldermen today.

Mr. Davis addressed the Board stating In Town was requested to look at the Bridge and Elm site by the City's Economic Development Office and on behalf of the MDC Board. We have developed a couple of site plans for that site that they had shown the Board earlier and they had taken back to the MDC. We presented those sketches also to abutting property owners to have them give us their response. Actually, to my surprise the abutting property owners were not too enthusiastic about a park proposal, they felt that it was not a use they could predict or control very well, and so we began searching for some other solutions for the site. The idea of a public market has been circulating for some time. It has been presented to our board by Alderman Reiniger. We developed some pictures which he shared with the Board, showing how a public market would work on this site. Our board has endorsed this concept and has urged me to move it forward to bring it back to the Board of Mayor and Aldermen for their consideration and then hopefully to the MDC. A public market, he was sure they had visited them in other cities, is the kind of thing that really brings together an interesting mix of food, and food related items.

Ideally it has quite a number of small vendors, about twenty in our case. It's the kind of place that you want to go on a Saturday morning and get your fresh bread, your coffee, sit watch other people, get your fruit, your vegetables, your tortillas, your Greek cheese and prepare your dinner

for Saturday. It's a market that supplies fresh produce, carry out items and the key to doing it is getting the right variety and mix of ethnic and specialty foods together. A public market can include a farmer's market and we have talked and met with the For Manchester group that is exploring the idea of the farmer's market and they have enthusiastically endorsed the proposal and would like us to carry it forward. Illustrations were shared with members of the Board which showed two separate concepts, one simpler and less expensive, and one an upscale of the same concept. Mr. Davis noted that both show vender spaces, ability for people to access from both sides. Mr. Davis stated that they would propose this, with the Board's endorsement back to the MDC Board as an interim solution for the site, it was not the only solution for the site and it was not the only site that a farmer's market would work, it seemed to them a good match, and a good solution for an interim site while that site is developed and marketed. This is only a preliminary concept, it needs a good deal more work in terms of costing, and in terms of market analysis and construction estimates. The best guess that he could make right now was, as costed out on a preliminary basis, is that the simpler version is something less than \$500,000. to develop, the upscale version is something more than \$500,000. to develop, but he thought some of the site work - paving, utilities were things that would need to be done on the site to make it more attractive and marketable anyway. Mr. Davis stated they thought that funding could come from a variety of different sources, if done successfully the market may have a limited ability to carry some amount of debt.

Alderman Wihby commented that he thought the \$500,000. price tag scared a lot of people including himself, it was a good idea if it was going to be kept downtown. Alderman Wihby stated that he understood they had some people looking at the property now, and actively pursuing it with MDC asking if he was aware of that.

Mr. Davis stated he spoke with Mr. Taylor today regarding what if any proposals were on the table; that Jay let him know that right now there were no formal proposals and that was a good question. He thought that this may have the effect of bringing forward other proposals that the aldermen and MDC might explore, and if so that was probably a good result, it would enable some comparative analysis between the two projects.

Alderman Wihby asked if something on airport land would make any sense since they had land there and it could be left on a permanent place where people could see the airport, or was it because they wanted to do it downtown. Alderman Wihby noted his concern was whatever funding he got, they would not want to see something up for six months or a year, they would want to see it there for three, four or five years he thought, at that price maybe even ten years. Alderman Wihby stated that they were taking a site that they thought was a number one priority in the city, putting something like this on it which might achieve a short term goal but he thought it would hurt the long term perspective over there.

Mr. Davis stated it was a good question, he thought that if the site is held off the market for the major project that people seem to want to see, that he thought they could argue that if they did put up a 20 story office tower on the site, given the rates of taxation then in effect, that you would probably recover everything that you put into the site in the first year really. Mr. Davis stated he thought they would have to take that concept forward and would have to say that it is an interim solution. he thought it made sense in the downtown area because a lot of cities have

looked at this as an economic development tool, and they thought it was a good substitute also for a supermarket which they don't have downtown at the moment.

Alderman Wihby asked if it could not be done with some sort of tent or something so they don't have to spend a half a million dollars.

Mr. Davis responded that farmer's markets could be done pretty simply. This was a step up from a farmer's market, it would operate kind of in the shoulder season from late April or Early May through October and so it was a little more flexible, a little more upscale than a farmer's market would be, but he was right that a farmer's market could be done for a very limited investment.

Alderman Wihby asked if he was asking the Board to endorse this concept.

Mr. Davis responded no, it needed a lot more work at this point; that they would like for the Board to send this to the MDC for its further consideration. Mr. Davis stated he understood that this was one of MDC's priorities, was finding some long term growth solution for the site.

Alderman Wihby moved to refer the matter to Manchester Development Corporation.

Alderman Reiniger seconded the motion.

Alderman Pariseau stated his concern was the word "interim" for this proposal and the \$500,000. price tag attached to an interim use, asking if it made sense. Alderman Pariseau stated if someone comes to the city in June or July requesting to purchase the corner, what would be our response, 'oh, I'm sorry you can't because we are going to use it as a farmer's market.' Alderman Pariseau asked why they did not put the farmer's market down along the river, and really aggressively try to sell that property on Bridge and Elm. Alderman Pariseau stated he would be opposed to the \$500,000.

Alderman Reiniger stated that the MDC now had the property and whatever it recommends would come back to this Board, and he thought there was a general agreement that they needed to have a high use for that property, it was very valuable, but they did not know if that would be 10 or 20 years, or two years to get a large building or valuable building there, but the trick there was what to do in the meantime because every day they did nothing with it they were losing money. Alderman Reiniger noted that that was not a good option either. Alderman Reiniger stated that when he went to the west coast last year, he had visited two public markets, one in Vancouver and one in Seattle, and in those cities the public markets had become some of the biggest draws generally, and he thought locally Lowell had a successful public market and of course there was Faneuil Hall in Boston was a high end use that had been very successful.

Alderman Clancy noted that these were permanent.

Alderman Reiniger responded that it may be that it will be very successful and we will want to keep it permanent or maybe a big building will come along in another year and they would do that. It was just another thing to look at rather than to do nothing with the property.

Alderman Hirschmann stated that he took the invitation of MDC to attend a half day planning session, it was the corporations goals assessment for the future and one of their top goals was this piece of property, but it was with respect to marketing and selling it off, spinning it off from city property, so he was not in favor of spending a half million dollars in developing it

themselves. If they could find a developer to come in and buy the property from the city he would support that.

Alderman Soucy stated she had similar comments, but wanted to make her position clear that this was one of the things that excited her about the For Manchester project, because she thought a downtown market or some kind of a local fruits and vegetables kind of market is the greatest thing, because certainly there was a big draw in Boston, and she thought it would bring a lot of people into the downtown, her only concern was the amount of money and maybe further down the road that would enhance the property. She thought it would be a good location the only concern was parking, but she thought it was a lot of money to invest from the start, but she did not in any way want that to reflect as her disfavor for the project she thought it was a fantastic thing and maybe if they could look at lowering the price tag a bit for this first summer and see if it is successful that might be an option, but she really hoped that the downtown association or the For Manchester group moved ahead with some kind of a farmer's market proposal because she felt it could be a boom for the downtown.

Alderman Wihby noted that the motion was to send it to MDC.

Mayor Wieczorek called for a vote on the motion. The motion carried with Alderman Clancy, Pariseau and Hirschmann duly recorded in opposition.

Alderman Elise stated that she wished to compliment Alderman Reiniger for the endless projects that he had initiated for ward 3 she thought he had done a wonderful job and she wished to compliment him at this time.

OTHER BUSINESS

5. Communications relative to legal opinions on vote taken regarding the confirmation of Richard Houle.

Mayor Wieczorek stated that they had a number of opinions that had been issued and he respected everybody that did issue an opinion.

Mayor Wieczorek read a letter from himself to the Board into the record, a copy of which was distributed. The letter read as follows:

On February 4, 1997, I declared Richard Houle the victor in the election to succeed himself as Director of Public Building Services for a six year term. As you know, the vote was six for Mr. Houle and five for Mr. David Demers, with Alderman Elise abstaining.

My ruling was made with the caveat that it was legally proper. Since that time, I have received several conflicting legal opinions on this matter. Because there is no legal consensus and because I do not wish to allow the abstention to frustrate the orderly workings and progress of this government, for the record, I adhere to my prior ruling. In addition, I have asked Director Houle to seek a declaratory judgment confirming his appointment. He has agreed to do this at his own expense. However, should he win in court, I expect the city will reimburse him for his legal expenses.

Mayor Wieczorek stated that he also had a motion for reconsideration and Alderman Wihby you have made the first motion for reconsideration, so if you would like to move for reconsideration.

Alderman Wihby responded he wished to read the letter again and did so. Alderman Wihby stated to the Mayor, so you are sticking to what you said that seven is allowed.

Mayor Wieczorek stated I am adhering to the ruling that I made but he is going to go to the court to seek a declaratory judgment.

Alderman Wihby stated you are adhering to what ruling that you made, that he is in.

Mayor Wieczorek responded yes, I ruled at the last meeting that I consider him duly elected with the caveat that it was illegal.

Alderman Wihby stated with the caveat that the city solicitor would get back to us with an opinion is what I understood it to mean, and my understanding is the letter that I got that his opinion is that it takes seven aldermen and therefore he is not renominated. Is that true.

Mayor Wieczorek responded well, that is one of the opinions that I have, I have several opinions.

Alderman Wihby stated I guess I am just wondering where we are.

Mayor Wieczorek stated he had just explained where we are.

Alderman Wihby asked that he explain it again.

Mayor Wieczorek stated what I said at the last meeting, that I consider Richard Houle duly elected with the caveat that it is legal, all right. So now we have several conflicting legal opinions, and what I am saying is that I'm adhering to my original statement that I consider him duly elected and he will go to court to seek a declaratory judgment to determine if in fact that is legal, if it isn't then it's no go.

Alderman Wihby stated where you loose me is where is says here is because there is no legal consensus and because you do not wish to allow the abstention to frustrate the orderly workings and progress of this government. Alderman Wihby stated so you are going to stick by that seven is willing to work and that is not going to frustrate the workings and progress of this government your honor, as we have always ruled before that we had to have eight, is that what you are saying.

Mayor Wieczorek stated that is what I am saying, alderman.

Alderman Wihby stated so a motion is in order to reconsider and what happens if it gets six votes, are you going to break a tie or not going to break a tie.

Several aldermen stated he could not break a tie.

Mayor Wieczorek responded no, yea.

Alderman Wihby stated so in other words you are still considering that the abstention is a positive vote. You are not changing your mind on that. So any vote that we get that is an abstention means a positive vote.

Mayor Wieczorek responded no, it's going to court.

Alderman Wihby stated if you are allowing it to stand your honor, then that is what is happening, it's going to court and until it comes back to us.

Mayor Wieczorek stated yea, but it's going to be one way or the other alderman. It's either going to be declared that it's right or it's wrong.

Alderman Wihby stated that until such time that it goes to court your honor... I think the normal process would have been we have never done this before so therefore I'm going to rule that he's not properly put back in and let him go to court to tell us otherwise. But if you are going to rule

this way, then any abstention from now on until we get a ruling from the court, any abstention is voting in the majority. That's true, it's on the record.

Alderman Wihby moved to reconsider. Alderman Robert duly seconded the motion to reconsider.

Alderman Shea commented that he had a few concerns stating in your brief to us you mentioned that you expect that the city will reimburse him for legal expenses. Alderman Shea asked don't we vote on that as a Board.

Mayor Wieczorek responded yea, I said that's my expectation that if he wins that the city will reimburse him as we have in the past for other people.

Alderman Shea stated that the second point your honor is up until now we've been governed by our ordinances, now we are governed by common law so do all the decisions that have previously been made by this Board can be null and void because of the ruling here that common law over-rides the ordinance. In other words, can this be a precedence for other people to come back if they so chose and say that these votes that have ended in abstentions are really positive and therefore they can come back at the city in one form or another.

Mayor Wieczorek responded I'm not sure this one will but I think when we get a decision from the court there probably will.

Alderman Shea stated a third point your honor is we have a city solicitor who has ruled a certain way and you're ruling a different way so you're ruling, you are actually overseeing, in other words you're saying that his opinion does not fly in this case but your decision is the one that we should follow.

Mayor Wieczorek responded no, what I've said is that I've weighed out all of the legal opinions that I've had, and we have a number of them as you can see here, and since it is not clear and it is confusing, I think it is better if we clear it up.

Alderman Shea stated well, it's not too confusing to some of us, but it is to others.

Alderman Cashin asked what Solicitor Clark's reaction was.

Solicitor Clark stated I've issued my legal opinion. The opinion of my office is that it requires seven affirmative votes to confirm a department head. That is the position that has always been followed by this Board. I'm paid to give you my best legal advice and that's it. Could it have an effect on prior actions that this Board's taken? It could, I don't know what actions have been taken where people have abstained where it may have changed the vote. I have given the opinion to the mayor. I know that there is an opinion on the agenda from the Municipal Association. There is a second opinion issued by them today where they have backed off that opinion. They received some materials from me. They reviewed their opinion and said that you should follow the opinion of your city attorney. I did receive an opinion from Shaines & McEachern, the two McEacherns, and I disagree with their analysis. In my opinion Manchester has always done it this way; that past practice and the way you handle or interpret your laws apply. The courts have always held that it does when you have a simultaneous or contemporaneous interpretation and application that is given great weight in New Hampshire, and I think to change the game at this time is wrong.

Alderman Cashin stated to Solicitor Clark so in your opinion he is not appointed, is that right.

Solicitor Clark responded in my opinion he was not confirmed, correct.

Alderman Cashin stated okay, so he is not confirmed and asked do you agree with that your honor.

Mayor Wieczorek stated I said I have my ruling as the presiding officer here, I've stated what my position is and I said we are going to go to court. He is going to court at his expense to get a declaratory judgment.

Alderman Cashin stated my question to you, your honor, do you feel he is appointed or he isn't appointed tonight.

Mayor Wieczorek responded, well, he's going to remain in office.

Alderman Cashin stated my question is do you feel he has been appointed or not appointed.

Mayor Wieczorek stated assuming that the court agrees he is appointed, if the court doesn't then he is not appointed.

Alderman Cashin stated so tonight he's not appointed.

Mayor Wieczorek stated well the court hasn't ruled yet.

Solicitor Clark stated my office obviously is going to have to defend this in court, are you telling us at this point he's a holdover and that is the position we should take in court, unless the court overrides us.

Alderman Wihby stated he asked that question and he said no.

Solicitor Clark stated that is what I'm trying to find out, I have to defend this in court, if he is going file a declaratory judgment it's going to be against the city of Manchester. I want to know whether or not I am to take the position that he is a holdover at this point pending the court saying he's approved or are you taking the position that he is approved pending the court overturning that. Because the court's not going to entertain his declaratory judgment if you've already ruled that he's in possession of the office.

Alderman Robert stated if I had my druthers I'd just declare him the victor and let the court decide if he is or he isn't, but I just wanted to say that this is not the first time we have had the courts get involved in some of our decisions. You may remember some of the consolidations that were attempted to do, department heads got lawyers, legal fees were paid, this is not a precedent setting matter, things like this happen and things like this are going to happen again. We still have one case pending that I hope to resolve in the not to distant future where we may be asked to do the same thing. I'm not surprised at this. It's just from what I can see the nature of the beast.

Alderman Wihby asked your honor, why would Mr. Houle seek a declaratory judgment if you are going to rule that he won, what is going to make him do that. If you are going to rule that he won and now we are going argue that he doesn't and we are going to take the solicitor's advice, then we are going to have to pursue it in court with our solicitor in order to say that he didn't win. He is not going to seek a declaratory judgment if you said today that he won, what is going to make him do that.

Alderman Soucy stated and if you do rule in fact that he is the victor, then how is our solicitor suppose to then, having taken the public position that he has, defend that action. Ethically there are problems with doing things like this, you can't make a decision and then unmake a decision after he's issued a legal opinion, I think that puts Mr. Clark in a very tenuous position. The last time an issue like this came up with the charter and the city solicitor's office had issued an

opinion they suggested you get a second opinion, we then had to hire other counsel to pursue the action. That is definitely a consideration in this instance and I think we need to be clear as to what our position is so that Mr. Clark can do his job.

Mayor Wieczorek stated well, I think that I have made it clear that the decision that I made is subject to the legal clarification, and that's why he is going to court to determine what it is.

Alderman Wihby stated I don't understand either. Your honor, I don't know what I am voting on, and I don't want to tell you what to do your honor, but the proper thing would be to listen to what the solicitor said that he is not in, accept that, we wouldn't have to move to reconsider because he wouldn't have won, and then he can go out and seek the declaratory judgment on whether or not he did win or not, but if you are ruling that the solicitor is wrong you are going to take the one opinion over the attorney over the two attorneys, because we do have two saying that - another one saying the solicitor is right, so there are two saying against what happened or that he is not put in, I guess I don't know I'm voting your honor, because I read this because it says you want an orderly working you don't want to allow the abstention to frustrate the orderly workings and progress of this government, your honor, and by reversing what we have always considered in my ten years to be what we've always done, and allowing that seventh vote not to have to be there, I don't understand, unless you are ruling the other way, I guess I don't understand you keep saying 'I'm ruling with my letter' but I don't understand what your letter is saying because I don't know what he has got to defend is he defending the aldermen or is he defending the mayor.

Mayor Wieczorek stated let us say if this were a six to six vote and the mayor had a vote I would be supporting Dick Houle.

Alderman Cashin stated but you don't have a vote here your honor.

Mayor Wieczorek stated I said if I did that is what I would be doing, so I think my position is clear. What I have said is that if you have a person that has abstained then is that going to frustrate the operation of city government.

Alderman Wihby stated I think it will because we never ruled that way before your honor. We have never done it this way. We've had budget problems where people have abstained and we went back out for days trying to come up with a decision because somebody abstained and we didn't know what to do and we needed so many votes and all of this other stuff and people have abstained because of conflict of interest and stuff like that, and you are going to say that because they abstained they were voting in favor, it doesn't make much sense. I understand your honor that you want him in and I understand he's a holdover, I don't see what we loose by saying he is a holdover until such time that he seeks a declaratory judgment and let the court decide whether we are right or wrong, and if we are wrong he's in, and if we are right there is no harm done, but I don't understand where we are going. I don't know how to vote your honor. I would like to have Tom's question answered, who is he representing, the aldermen or the mayor.

Alderman Soucy stated if your position your honor is that he in fact does hold the position, then I don't think the solicitor is able to defend us and I think we would have to seek outside counsel once again, I think that issue needs to be resolved. I don't mean to speak with Mr. Clark but I think he needs to rephrase his question to you, because I think there is a problem.

Solicitor Clark stated as I see it if the mayor declares that he has won, then I don't believe the Superior Court will entertain a declaratory judgment by Mr. Houle because there is no issue. It would have to be, someone else would have to go to the Attorney General's office for permission to bring a Quo Warranto which is a challenge to hold an official office.

Mayor Wieczorek stated so I think that what we have to do then to clear this up is to have the court make a decision based on whether he gets it, right.

Solicitor Clark stated I do not believe a court will entertain a declaratory judgment by Mr. Houle if he's already declared the winner because there is nothing for them to interpret.

Mayor Wieczorek stated well what we want to do is to get a ruling so that we understand what happens in a situation like this when you have an abstention. That's basically what it is.

Alderman Soucy stated that's right, and you can't make this decision and then pursue the court action is what Tom is telling you. Tom Clark just said if you rule the way you say you are ruling in this letter, then you can't go to court.

Alderman Clancy stated your honor as far as I am concerned right now he is a holdover unless the court overrules it.

Alderman Reiniger stated based on what Mr. Clark said maybe it would make sense to have the Attorney General look at it and maybe the Attorney General will decide there is merit to bringing a court case, and maybe the Attorney General will agree with you and not bring a case and that's the end of it.

Alderman Cashin asked how many lawyers are we going to get involved in this thing.

Mayor Wieczorek stated well, there are actually too many alderman. Mayor Wieczorek asked Solicitor Clark what he thought about the suggestion that Alderman Three made.

Solicitor Clark responded who is Alderman Three suggesting petition the Attorney General, the Board.

Mayor Wieczorek indicated an affirmative.

Alderman Reiniger stated you are the one who suggested it so I'm just exploring it.

Solicitor Clark stated generally the Board would do it, one of the aldermen would have to petition the Attorney General.

Alderman Reiniger stated he would not do it because he disagreed with the solicitor, but maybe Alderman Wihby or Cashin would do it.

Alderman Cashin asked why he should do it.

Mayor Wieczorek stated what I want to do is get it resolved so that we understand really what happens in the position like this.

Alderman Shea stated if Alderman Two did vote in the majority can she bring up the vote again and have a different vote.

Alderman Wihby stated there was already a motion to reconsider.

Alderman Shea stated she then can decide.

Mayor Wieczorek stated there was going to be one motion for reconsideration, not three.

Alderman Cashin stated all you have to say is in your opinion he's a holdover, there doesn't have to be any reconsideration vote, there doesn't have to be anything, we can go to court and we can take care of it whatever we have to do, but as long as you are saying that in your opinion he's appointed there's a problem. It's that simple.

Alderman Clancy stated exactly.

Mayor Wieczorek stated in the first instance what I said that Richard Houle was going to go for a declaratory judgment then we will consider him a holdover until such time as the court decides.

Alderman Reiniger stated we just received a letter from Attorney Waugh at the municipal association I would like to ask...

Mayor Wieczorek interjected asking which letter.

Alderman Reiniger responded dated February 18, I guess he was referring to a letter from Mr. Clark and I would love to see a copy of that, but.

Alderman Wihby asked where he got that from.

Alderman Reiniger stated it just came today.

Alderman Wihby stated he did not have one.

Alderman Soucy stated she did not have one.

Alderman Elise stated she did not have one either.

In response to question, the clerk advised they did not have one.

Mayor Wieczorek stated it came to me and the city solicitor.

Alderman Wihby asked where he (Alderman Reiniger) got one.

Mayor Wieczorek responded he had given it to him.

Alderman Cashin asked if it would have been any more difficult to give it to everyone.

Mayor Wieczorek responded that they would give it to everyone.

Alderman Reiniger commented that he had the floor and as Mr. Clark if he agreed with this letter.

Solicitor Clark responded I agree with the proposition you ought to follow the advice of your city attorney, yes.

Alderman Reiniger stated do you agree with his, what do you disagree with in the letter.

Alderman Cashin noted that the aldermen did not have a copy of the letter and he did not think this was fair. Other aldermen concurred with his statement.

Mayor Wieczorek requested his assistant to make some copies of the letter.

Solicitor Clark asked Alderman Reiniger which portion of the letter he was talking about.

Alderman Reiniger asked if there was anything in the letter he disagreed with.

Solicitor Clark responded that if Alderman Reiniger asked a question about a particular portion of it he would be happy to answer it. I am not going to answer hypotheticals.

Alderman Reiniger stated well, you've read the letter.

Solicitor Clark responded yes I have read the letter.

Alderman Reiniger asked is there anything you disagree with in the letter. I just want to know if this reflects your reasoning. That's all.

Solicitor Clark stated he didn't write the letter. I agree that his letter raises issues that he and I discussed. It raises questions. It does state that there has been a past practice. It states that the courts in New Hampshire do consider contemporaneous interpretation, and the administration of the law as bearing substantial weight.

Alderman Reiniger stated you are referring to the administrative gloss doctrine.

Solicitor Clark stated part of it, yes.

Alderman Reiniger stated you agree with Attorney Waugh that that doctrine applies in this case.

Solicitor Clark stated he believed that it may apply in this case.

Alderman Reiniger stated do you, yes or no, agree that that doctrine applies in this case.

Solicitor Clark responded that he was not prepared to give that answer.

Alderman Wihby stated that attorneys don't say yes or no.

Alderman Reiniger stated you are saying that there is a past practice.

Solicitor Clark stated yes I said there was a past practice.

Alderman Reiniger stated and that past practice is based on the old rule 40.

Solicitor Clark responded no, it was not based solely on the old rule 40.

Alderman Reiniger stated that's the rule you provided to us in your letter you provided to everyone, what else is it based on.

Solicitor Clark responded it's based on every confirmation that this Board has made since the Charter has come into effect. It has taken seven affirmative aldermanic votes to confirm a department head.

Alderman Reiniger so you are saying that's a past practice based on is it the rule 40 or.

Solicitor Clark responded no, it's based upon the votes taken by the Board of Mayor and Aldermen.

Alderman Reiniger stated well your letter refers to rule 40.

Solicitor Clark concurred.

Alderman Reiniger stated and then you said that rule was adopted by the charter in 1983.

Solicitor Clark stated no, I said there was a rule 40 which required a majority of all aldermen elect; that during the charter revision process that rule was incorporated into the charter. That is what I said.

Alderman Reiniger stated all right, so rule 40 you're saying was incorporated into the charter in 1983.

Solicitor Clark responded that's what the letter says.

Alderman Reiniger stated and the charter language that reflects rule 40 is 3.32.

Solicitor Clark responded I believe so.

Alderman Reiniger stated but that language is different isn't it.

Solicitor Clark responded there is one word different.

Alderman Reiniger stated the word 'all'.

Solicitor Clark stated I don't believe that changes the meaning of it at all.

Alderman Reiniger stated so it's your position that the word "all" that was omitted in the charter makes no difference.

Solicitor Clark responded in my opinion it does not, when you are talking about aldermen-elect you are talking about 12 people whether you are talking about all or not.

Alderman Wihby stated so your honor, where we are at, you have now ruled that he's a holdover and he can seek a declaratory judgment.

Mayor Wieczorek responded right.

Alderman Wihby stated and in the future seven votes, abstention don't count, as of now, until there is a declaratory judgment.

Mayor Wieczorek responded affirmatively, stated I guess that's what we will have to do. Okay.

Alderman Reiniger stated your honor, I was just trying to get clear for the record the reason that's all I'm trying to do. So, Mr. Clark you gave Attorney Waugh copies of past precedence. Solicitor Clark responded at this point if the Board wants to talk legal advice if we are going to be going to court I suggest we recess to talk.

Alderman Reiniger stated he would like to know if any of these past precedences occurred after 1983.

Solicitor Clark stated I would suggest that we recess to talk about legal advice if the Board is going to.

Alderman Cashin stated he would move to that if they wanted.

Alderman Elise stated she would move to the solicitor's recommendation.

Mayor Wieczorek asked Alderman Reiniger what he wanted to do.

Alderman Reiniger responded that was fine, I have enough.

Mayor Wieczorek noted that there was a motion made by Alderman Wihby seconded by Alderman Robert asking if they wished to withdraw.

Alderman Wihby withdrew his motion for reconsideration. Alderman Robert withdrew his second to the motion.

Mayor Wieczorek stated they would go on, items 7 and 8 they would not worry about, and would go on to item 9.

6. Notice of reconsideration given by Alderman Wihby relative to the vote on the confirmation of the nominations to succeed Richard Houle as Director of the Department of Public Buildings Services, term to expire March, 2003.
(Note: Alderman Wihby was a member having voted in the minority.)

A motion made in former discussion relative to this reconsideration was withdrawn. No action was taken on this item.

7. Notice of reconsideration given by Alderman Elise relative to the vote on the confirmation of the nominations to succeed Richard Houle as Director of the Department of Public Buildings Services, term to expire March, 2003.
(Note: Alderman Elise was a member having abstained.)

This item was not addressed.

8. Notice of reconsideration given by Alderman Shea relative to the vote on the confirmation of the nominations to succeed Richard Houle as Director of the Department of Public Buildings Services, term to expire March, 2003.
(Note: Alderman Shea was a member having voted in the minority.)

This item was not addressed.

Confirmation of nominations to the Manchester Heritage Commission as follows:

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.

Alderman Elise moved to confirm the nominations to the Manchester Heritage Commission as presented. Alderman Shea seconded the motion. There being none opposed the motion carried.

Confirmation of the nomination of Mark Gross to succeed Signe McQuaid as a member of the Planning Board, term to expire May 1, 1999.

Alderman Domaingue moved to confirm the nomination of Mark Gross to succeed Signe McQuaid as a member of the Planning Board, term expiring May 1, 1999. Alderman Pariseau duly seconded the motion. There being none opposed the motion carried.

Confirmation of the nomination of Eleanor Dahar to succeed herself as a member of the Manchester Development Corporation Board of Directors, term to expire March 11, 2000.

Alderman Elise moved to confirm the nomination of Eleanor Dahar to succeed herself as a member of the Manchester Development corporation Board of Directors, term expiring March 11, 2000.

Confirmation of the nomination of A. Joseph Dion to succeed Signe McQuaid as a member of the Zoning Board of Adjustment, term to expire March 1, 1997.

Alderman Hirschmann moved to confirm the nomination of A. Joseph Dion to succeed Signe McQuaid as a member of the zoning Board of Adjustment, Term expiring March 1, 1997.

Alderman Robert duly seconded the motion. There being none opposed the motion carried.

Confirmation of the nomination of A. Joseph Dion to succeed himself as a member of the Zoning Board of Adjustment, term to expire March 1, 2000.

Alderman Hirschmann moved to confirm the nomination of A. Joseph Dion to succeed himself as a member of the Zoning Board of Adjustment, term expiring March 1, 2000. Alderman Robert duly seconded the motion. There being none opposed the motion carried.

Communication from the City Solicitor, if available, regarding automobile registration fees.

A communication from the Solicitor was distributed to members of the Board.

Alderman Pariseau moved to receive and file the communication. Alderman Wihby duly seconded the motion.

Solicitor Clark stated that they had reviewed the votes taken and in their opinion the final vote taken does comply with the statutory requirement.

Alderman Cashin stated he respected the solicitor's opinion, but noted it was taken from a traffic committee meeting.

Solicitor Clark responded no, the Traffic/Public Safety Committee had met and discussed it and they reported back to the full Board and it was accepted as a report of the Board.

Alderman Cashin asked if that was what he had based his decision on.

Solicitor Clark responded affirmatively.

Alderman Cashin stated that he had voted against it and was still against it and they could interpret a vote of the traffic committee any way you want, and he would accept that from the city's attorney. Alderman Cashin stated what he had voted for here was the exemptions that were being authorized, he wasn't voting for the fee, and if it were proper tonight he want to move that the fees be retracted.

Mayor Wiczorek advised there was a motion on the floor to receive and file.

Alderman Pariseau suggested that it be referred with item E, the communication from Alderman Elise since it regarded the same subject.

Alderman Pariseau withdrew his motion. Alderman Wihby withdrew his second.

Alderman Pariseau moved to refer the communication from the Solicitor with Item E, the communication from Alderman Elise, to the Committee on Accounts, Enrollment and Revenue Administration. Alderman Wihby seconded the motion. There being none opposed the motion carried.

Alderman Cashin moved to rescind the additional auto registration fees. Alderman Hirschmann seconded the motion.

Alderman Hirschmann noted that he had voted against it originally and had never intended to support the fees and wanted to be on record opposed commenting that the citizens of Manchester did not want to see the fee and neither did he.

Mayor Wiczorek noted if they repealed it they would have to figure out where to get \$600,000. and asked what effective date Alderman Cashin wished to put on the repeal.

Alderman Cashin responded the day it was passed.

Alderman Domaingue stated when the Board voted to adopt the fee there was certain information that they were not made fully aware of, one of them was that there were certain vehicles that were being currently taxed with this fee and she was not made aware of it, that go beyond automobile. One was pop-up camper, and one was trailer. Alderman Domaingue stated given the fact that they enacted this fee, they made it part of the budget, and now to remove it means take that money out of the budget, this being February 18, and then come up with either additional money to replace it or cut other departmental budgets she thought it behooves them to make sure they have that information before they decide to remove that money. She thought that reflective of the calls that she had received, the people of the city of Manchester were not fully informed when this fee was produced, would have felt better on it if it had a public hearing and it did not, and at this point they would like to see it removed and she was willing to do that in the next budget cycle. Alderman Domaingue stated she wished to hear from the Finance Department what the impact is going to be so they make a conscious decision once they remove this revenue.

Mr. Sherman stated on the 1997 budget they had \$1.2 million budgeted. Going forward if they kept the fee structure the way it is they were talking closer to \$1.4 to \$1.6 million of revenue derived from this fee.

Alderman Domaingue stated so if they were to repeal the fee the way that Alderman Cashin had requested, they were to return or refund most of that \$1.2 million and where would that be coming from.

Mayor Wiczorek responded there was only one place, you cut the budget, and half would come from the school department because if they were going to have everybody working at this in the same proportion at which they enjoy monies from the city that was the basis on which you would have to cut it. It was a very difficult situation.

Alderman Pariseau stated that he thought that at the time they passed this fee it was to be put into a separate account dealing with the parking garages, not part of the general fund, so if they did rescind it they wouldn't be taking any money from any department, this was a "kitty" that they set up for the parking garages.

Mr. Sherman stated that they had also budgeted \$1.2 million in expenditures to be paid out of the general fund from the revenues, so for 1997 they had the whole amount in the general fund; that they built in the expenses and they built in the revenues.

Alderman Wihby noted that it was an offset of the expense.

Mr. Sherman stated that if there were revenues in excess of what was spent this year they would go into the trust fund, but they had fully budgeted this revenue this year. Part of it was for the Washington Street Garage, and part of it was for the Granite Street.

Alderman Soucy asked if Alderman Cashin was willing to amend his motion to read effective to July 1, so it would not impact the current budget.

Alderman Cashin replied that he wished he could, but he could not. Alderman Cashin stated he voted when it first came up and then through a report of Traffic it is said that he voted for the fees, and no, he could not do that.

Mayor Wieczorek noted that he had vetoed the budget and his veto was overridden, he thought Alderman Cashin was one of the ones that voted to override his veto, and that meant he agreed with.

Alderman Cashin stated he did not agree with the fees, it meant that he agreed with adding the \$800,000 for the school budget which was why he had voted for the budget which the mayor did not want to put in either.

Alderman Cashin moved to the question.

Alderman Wihby stated that they had sent it to the revenue committee earlier to look at it, when they passed it they had reviewed it and it was either coming out of the tax rate or it was coming out of the fees. He felt there was a poor explanation to the people who are complaining, because when they called him and he explained that one way or the other it had to be paid either through property taxes or the fee they calmed down. Once they understood, they said nobody had explained that to them. Alderman Wihby noted that under Alderman Domaingue's proposal when it was passed they said they were going to review it, the Board sent it to the revenue committee today, they should let it go there and see what happens in the committee, and they could find out how much more they have to fix the garages, maybe they would find out they were not going to put any more money in the garages this year or next year and they might not fund anything or have to come up with the revenue.

Alderman Robert stated he may have come in late and missed something, but could someone explain what the goal was with the fees and why were they instituted.

Mayor Wieczorek noted it was a user fee to pay for the repairs.

Alderman Soucy noted that it was not a user fee because it was not being charged to just the users.

Alderman Pariseau asked why they did not take the meter money and utilize that.

Alderman Robert stated that when he voted for the fees, he usually doesn't vote for fees, but he thought he was doing something positive and was actually taking a step to do what had to be done to rebuild the downtown, to rebuild the tax base. In looking back on the way things have been done historically, when it gets to budget time these things get left out, the tax base never gets fixed and they wind up paying more. He made a conscious decision to support the fees

because he thought eventually they would be rebuilding the tax base, it was a step that had to be taken, if they didn't take steps it would never be done.

Mr. Sherman stated as they would recall the mayor brought in a couple of proposals last year as part of the budget. One had to do with the meters, there was a discussion about increasing the parking garage rates and they also had the auto registration issue. A few years ago the parking fund was run into a deficit by refusing to increase the rates for parkers to park in the garages that fund went into a deficit and no longer could be operated as an enterprise fund they had to bring it into the general fund, and for years it has continued to operate in a deficit. During that same period of time the city was not doing any annual maintenance in the garages, and they ended up putting \$2. million plus into the Canal Street garage a few short years after they had put three additional floors onto the garage. They were holding that garage up with 2X4's. This legislation that allows for the additional auto registration fee was enacted in 1969, it was not new legislation. There is certain legislation in place that allows communities to fund parking garages. Parking garages are not cash cows, they do not support themselves, if they wanted the garages to support themselves they would have to charge around \$80.00 per month to park there. This registration fees, meter fees and garage revenues can only be used for specific purposes according to the state legislation. Meter revenues cannot be used to fund parking garages. In the past the city had done that because meters at one point had excess cash, you cannot do that. The garage revenues that they bring in are not covering the cost of the garage, they are operating a deficit there. The revenue from the auto registration has got to be used exclusively for parking garages. If there is excess revenue generated in any one year, that revenue is set aside in a trust fund to be used for future years for that purpose only. For 1997 they reduced the rate to the 1.5 mils maximum so that they would not generate any excess revenue and they used that money to pay debt service and to pay for cash capital projects they had at Canal Street and over at the Washington Street garage. If they didn't raise the revenue this year they would have had to go out and bond those. The garages were in need of dire repairs and this was a mechanism that's been on the books for some 27 years to allow communities the size of Manchester to deal with these issues, and it was based on that premise that that revenue was passed.

Alderman Cashin stated he was not arguing the legality, he was just saying that it should have been put into the budget and into the tax rate. That was his opinion, and now he read that it was being said that he had voted for this through a Traffic Committee report he just wanted to set the record straight, bring it to a vote so he could vote no again so everyone knew where he was coming from.

Alderman Domaingue stated that she had very consciously and reluctantly voted for that fee and the reason was very clear to her, if they had done as Alderman Cashin had suggested and left it on the tax rate the kinds of repairs they were talking about were not 20 year bonding repairs, and her concern was once they lapped it onto the tax rate they were never going to take it off the tax rate and that money that was suddenly new money in the tax rate when the garages were repaired would now be used for something else, only the poor taxpayer wouldn't have any say about it, it would then be part of the base.

Alderman Cashin noted that would be a responsibility of the Board.

Alderman Domaingue stated that as far as the fee was concerned she had heard enough feedback from her constituents that they would like to see it repealed and she had told them that effective July 1 she would vote to repeal it, however, she was not elected to act out of emotion or irresponsibly, they have repairs to do in the city garages they have liability that will cost the taxpayers dearly for decades to come if anything happens and they are responsible and they did not repair those garages, they had a responsibility to act accordingly. Alderman Domaingue stated that she was willing to support that fee through June 30, they could send it to committee, but her vote would not support it effective July 1.

Mayor Wieczorek called for a vote on the motion to rescind it back to the inception.

Alderman Soucy asked if Mr. Sherman knew how much money of the \$1.2 million had been expended to date.

Mr. Sherman did not have the answer readily available, and Mr. Lolicata was not present to provide an answer, but Mr. Sherman knew that the debt service was not an item that they could not pay.

Alderman Wihby noted that this was a 33 cent increase on the tax rate if it had not been done this way.

Alderman Hirschmann noted that if the finance office is advising that the garages are losers, then they should sell them.

Alderman Wihby noted that they had tried to give it away and no one wanted it.

A roll call vote was taken. Aldermen Cashin, Hirschmann, Elise, Clancy, and Soucy voted yea.

Aldermen Robert, Wihby, Reiniger, Sysyn, Shea, Domaingue and Pariseau voted nay. The motion failed.

Discussion regarding temporary relocation of meeting rooms for the Board of Mayor and Aldermen and its Committees during the renovation of City Hall (to be presented by the Office of the City Clerk).

Clerk Bernier advised that they were waiting for some information and they would return with information at the next meeting of the Board.

On motion of Alderman Pariseau, duly seconded by Alderman Shea, it was voted to table this item.

Mayor Wieczorek presented nominations as follows:

Heritage Commission

Charles Goodwin, 433 North Bay Street.

Zoning Board of Adjustment

Roger Bouchard to succeed Doug Mitchell as an Alternate, term expiring March 1, 1999.

Under the rules the nominations were to lay over to the next meeting.

NEW BUSINESS

Alderman Pariseau requested the Board send a directive to the School Board asking they grant Mr. Baines an interview for the Superintendent position. Alderman Cashin seconded the motion.

Brief discussion ensued where Alderman Wihby and Alderman Shea noted concerns with involving themselves in a matter that involves the school department and the school board. Alderman Shea stated that it was an infringement upon the School Board's rights as might as their infringement would be upon the Board if they sent letters not supporting Mr. Houle, or supporting him, not that he disagreed with the idea that he should have had an interview.

Alderman Pariseau rephrased the motion that a letter be sent stating that the Board encourage the School Board to grant Mr. Baines an interview. Alderman Cashin seconded the motion as restated. The motion carried with Aldermen Wihby, Soucy, Shea and Robert recorded in opposition.

Alderman Wihby asked where the bag and tag was. It was noted that they were still working with Highway and it was in the CIP Committee. Alderman Wihby stated that in talking with some Board members he thought it was not going to win asking if they should not take a vote today to get rid of it.

Mayor Wiczorek stated that they should wait to go through a little more of the process.

Alderman Elise commented that Croteau Court Apartments on Mammoth Road had given her a check in the amount of \$100.00 for City Hall Restoration, in appreciation for the cooperation that the Highway Department had with them regarding some renovation of their property. Alderman Elise asked that a copy of the letter be sent to Frank Thomas.

Alderman Domaingue questioned where the mitigation of the siren horns was. It was noted that the discussion had occurred in a committee and highway and planning work working on it.

Alderman Reiniger stated he had receive a letter from Lou D'Allesandro regarding a proposal to the Middle School project which could potentially save a lot of money and help the millyard and he understood from the paper it was referred to the Planning Department and asked that the aldermen be included in the debate.

Mr. MacKenzie stated that he was going to be preparing a response and it would be available in approximately two weeks and he would be happy to provide information to this Board. Mayor Wiczorek stated they would like.

18. Communication from the Chief Negotiator requesting to meet with the Board for a negotiation strategy session.

On motion of Alderman Soucy, duly seconded by Alderman Pariseau, it was voted to recess the meeting to meet with the chief negotiator.

Mayor Wieczorek called the meeting back to order.

It was noted that Alderman Robert had left the meeting during recess and had not returned.

Alderman Domaingue moved to approve the MAPS contract as outlined in a memorandum of understanding presented with financial reporting subject to Rule 26 of the Board. Alderman Hirschmann duly seconded the motion. The motion carried with none recorded in opposition.

In response to question Mayor Wieczorek advised that he would not accept a motion to suspend the rules.

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