

**SPECIAL MEETING  
BOARD OF MAYOR AND ALDERMEN  
(Called by the Mayor)**

**July 29, 1997**

**Immediately Upon Conclusion  
of the Public Hearing**

Mayor Wieczorek called the meeting to order.

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

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

**Absent:** Aldermen Wihby and Soucy

Mayor Wieczorek advised that the purpose of the special meeting was a presentation to be made by the Highway Department with the assistance of the Consultant Firm of Camp, Dresser & McKee (CDM) and special legal counsel relative to the Combined Sewer Overflow (CSO) issue facing the City.

Mayor Wieczorek requested that Frank Thomas, Public Works Director, address the Board.

Mr. Thomas stated I'm a little embarrassed here because the team that's making the presentation they're on their way up from the treatment plant. So, with your permission I would request a 5-minute delay.

Mayor Wieczorek stated is there anything you would want to say before they get here or would you rather hold your remarks till then.

Mr. Thomas replied, I can start it off. The reason why we are here is to bring the Board of Mayor and Aldermen up-to-date on the CSO issue that is facing the City - Combined Sewer Overflow. We're going to be here tonight to explain exactly what a Combined Sewer Overflow is. Why we have them, why we now have to address them and what type of potential future costs the City is going to be faced in dealing the CSO issue. Also, we're going to have here Greg Smith our outside special counsel to explain to the Board what is the legal basis behind us having to go ahead addressing these CSO issues. This is something that hasn't come up overnight. We've been dealing with it for well over two years now. Part of the whole program is that we had to go out and define the extent of the CSO's, how many we have, impacts on water quality in the Merrimack River. We had to put together some intermediate control measures such as street sweeping efforts, how can we mitigate some of the pollutants that get into the storm drain systems and getting to these overflows when it rains and ultimately into the river. We have done all that. We've put together what we felt was a corrective facility plan to address the CSO's which we have submitted to the State and to EPA in Boston. The initially plans were turned down and are basically in the negotiating process with EPA and the State

right now. Realizing that this is a potentially very costly issue that we have to deal with and knowing that Nashua is going to be faced with similar problems as Manchester, the Mayor and the CSO team that has been established has gone down talked to the Mayor in Nashua and gathered support from Nashua. So, in our future dealings with the State and EPA we'll at least be coming in with a common front. I think tonight what you'll be hearing is starting from scratch because a lot of you are familiar with Combined Sewer Overflows but I think we want to make it clear to you what they are and what are the impacts and go on from there. We are at the stage now where we have to reach some kind of agreement with EPA on the scope of the project and obviously we can sit down and talk with them, we can talk to the State but ultimately the decision is going to be with the Board of Mayor and Aldermen as to exactly what plan is going to be supported and what plan we are going to move forward with.

Mayor Wiczorek asked, Frank, are they going to come in here and explain the origin of this thing, why we have to do it, so that people that are watching this on Channel 40 will understand that we're talking about a large sum of money and the reasons for our undertaking the project.

Mr. Thomas replied this is all tied back to the Clean Water Act. In the 70's and 80's, the Clean Water Act focused on dry weather flows, dry weather sewage discharges in water bodies such as the Merrimack River. In those days, there were the Water Pollution Abatement funds...when we built the treatment plant, when we built the interceptors. During that period, as you know, there was up to 95% funding made up of both federal and state funds. Now, that the major sanitary flows that went into these water bodies have been eliminated the focus is on wet weather flows and these wet weather flows only appear when there are storm events, so the rivers have been cleaned up quite a bit through the Water Pollution Abatement Programs, now the federal government is focusing on the next step. However, we don't have those types of matching funds anymore. There is no more of the 80% federal funds and state funds. There will be potentially revolving loan funds that are going to be made available to the City, there may be potentially grant funds made available to the City up to 30%. But, the problem is that there is no guarantee that these funds at the state level are going to be here year-to-year, they're funded on a yearly basis. So, we don't have the same type of assurances that we had back in the 70's and 80's.

Alderman Shea stated I read where Senator Gregg is trying to get some funding or at least he's on a committee that's looking for funding for this type of project, am I correct.

Mr. Thomas replied yes. There are a lot of efforts being made to potentially fund some of these types of programs. The problem is it is a multi-billion dollar problem throughout the United States and to put any hopes that there is going to be a spicket turned on at the Washington level is very unlikely and I think that the decisions that have to be made have to be made on the assumption that we aren't going to get a windfall from the federal government.

Alderman Shea asked aren't several different water sewage problems being addressed nationwide, I thought that there was a bill that was going to be proposed in Congress that would tend to help because of the fact that there are various systems that are antiquated and that would kind of be tied in with this type of a situation.

Mr. Thomas replies I am not familiar with exactly the funding or the bills that you're talking about, however, I am not aware that there has been any funds that have been earmarked to address Combined Sewer Overflow issues.

Alderman Domaingue stated, Frank, the mandates that you have referred to are not State mandates but federal mandates, is that correct.

Mr. Thomas replies that is correct under the Clean Water Act.

Alderman Domaingue asked how much money federal meaning our United States Congress, how much money have they given us to date to help us tackle these new federal mandates that they have enacted.

Mr. Thomas replied none whatsoever.

Alderman Domaingue asked are we going to be keeping track of how much money the City of Manchester will spend combined for this effort so that in the future if a group of concerned citizens choose to take legal action they'll have a record of the expenditures.

Mr. Thomas replied oh, definitely. The cost of any implementation plan will be closely tracked.

Alderman Cashin asked how much money have we spent since 1970 in trying to clean up the waterways in the City of Manchester.

Mr. Thomas replied close to \$150 million when you consider the cost of the wastewater treatment plant and all of the interceptors.

Alderman Cashin stated my understanding is that this will cost about \$120 million.

Mr. Thomas stated the plan that the City has submitted in working with the consultant we feel meets the intent of the law. Right now, the price tag is up to about \$80 million. The federal government on the other side is looking at a potential plan that's in the \$115 million range. We feel, as I mentioned, that our proposal does meet the intent of the law because there is latitude in the interpretation of the law. The additional cost to from what the City has submitted to what the federal government would like us to do is approximately \$35 million and that \$35 million is really buying a very small additional level of improvements on impact to the river and so our

case basically is that it's very difficult to justify spending \$35 million more to remove a very small percentage of additional pollutants.

Alderman Cashin stated the City of Manchester has already spent \$150 million since 1970, I think that is when we first started. It seems to me that rather to get into an attitude where the City is talking about suing the federal government or the citizens, isn't it better if we try to sit down with the Congressional delegation and try to work things out. It's inconceivable to me that people in Washington wouldn't listen to the City of Manchester saying hey, wait a minute, here's what we've done so far. We've made not only a moral commitment, but a financial commitment. If you're looking at a \$150 million bond issue that's staggering. Somewhere, somehow somebody has got to have some compassion someplace and understand what's going on here. We want to do everything we can, but I think there's a point where you have to say wait a minute, we're willing to enter into a partnership with you, but we just can't do it alone.

Mr. Thomas stated that is provided for in the law because as I mentioned there is the ability to interpret the intent of the law and as I mentioned we feel very strongly that the proposal has been submitted on behalf of the City does meet that intent and I think this is almost like a continuing negotiating session with the EPA and I think what we have to try to do is try to convince them that it's senseless to spend another \$35 million to gain what, to gain the ability to maybe swim one or two days more in the river when really swimming in the Merrimack River in Manchester is really not a likelihood on a large scale basis.

Alderman Robert stated, Frank, I certainly think that the approach that Alderman Cashin proposes on how to handle this should be reasonable and should be our best approach, but let's just say if the federal government doesn't want to negotiate, that they are just saying you have to spend \$115 million and you have to clean it up to these specifications, do we have any other recourse, do we have a legal recourse.

Mr. Thomas replied the law provides the power to require implementation of the law. I think it's too premature to say what kind of legal action does the City have, what kind of legal action does EPA have on the City. They do have the right to impose fines and what not. I think what we have to do is sit down and work out an agreement that is reasonable to the City, but yet accomplish the goals of the Clean Water Act.

Alderman Robert asked has anybody thought and again I don't want to jump the gun on your presentation, but \$115 million is a lot of money. Has anybody thought of where and how that's going to come from.

Mr. Thomas replied the cost to implement this Combined Sewer Overflow Facility Plan is going to be raised, mostly likely, through increased sewer user fees. Part of the whole negotiating process is once there is agreement on a plan then the next phase of the negotiations is to negotiate on how long the City has to implement it. Obviously, if we have to implement it in

five years, we're going to be very hard pressed. On the other side, we would be hoping to spread out the implementation of the improved plan over the longest period possible...15, maybe up to 20 years. But, obviously, somebody has got to pay for it and the sewer user fees will most likely be the mechanism that is recommended to fund this.

Alderman Reiniger asked should a community be unable to pay or comply with this, what penalties would the community be facing.

Mr. Thomas replied first of all there are affordability studies that are done as part of this whole study. The federal government has their own formula that works out what can be affordable to a city such as Manchester. Unfortunately, the affordability studies once you crank out all of the numbers, pretty much the bottom line is that a municipality can afford major expenditures along these lines. Now, if a municipality refuses to do it and we have outside legal counsel to answer those questions tonight, but there are fines. You can be fined sizably on a daily basis, you can be put under administrative type orders to implement the plan that they so desire you to implement.

Alderman Reiniger stated it seems kind of odd to some people that this community could be deemed economically challenged to the point where we could obtain an economic community grant, but then at the same time be deemed to be able to afford this project over a hundred million dollars, I guess that's the nature of the federal government.

Mr. Thomas stated when the consultants show up they will go through that whole affordability study with you and show you the different type of levels of impacts on a municipality and so far the information that's developed is saying that we are in this median range of affordability.

Alderman Clancy asked, Frank, can you explain to some of us and to the viewers what a CSO is, a Combined Sewer Overflow, exactly is.

Mr. Thomas replied you will be given a handout in a few minutes which goes into detail, but what a Combined Sewer Overflow is. Manchester being an on mill city has only basically one set of pipes in the ground and that one set of pipes in the ground carry both sanitary flows and storm flows. During the days of water pollution in the 70's and 80's when the interceptors were built, these interceptors were designed to handle and treat the dry weather flow is basically the sewage that is coming down these pipes when it's not raining. Now, the treatment plant obviously is not of a large enough capacity to take all of the storm drains that may come down these pipes. So, periodically along the river there were overflows built where the excess water would be allowed to discharge into the river and during these periods the sewage was so diluted with storm water that the impacts on the river were minimal and, of course, during the period of the 70's and 80's the purpose was to take out the majority of the sanitary flows out of the river which it did accomplish up to about 98% of what was being discharged into the river has been

removed. But, now that we've taken that big sludge out of the rivers the focus is on this minor amount that we see as storm water overflow.

Alderman Cashin asked what percentages did you say we took out, Frank.

Mr. Thomas replied 98%.

Alderman Cashin stated so for 2%, we're looking at a cost of roughly anywhere between eighty and one hundred twenty million dollars.

Mr. Thomas replied that is correct.

Alderman Domaingue stated, Frank, just a quick question on funding. You mentioned that the source of funds for this project would probably be an increased sewer user fee and given the fact that we increased the sewer user fees to accommodate a \$30 million Cohas Brook Interceptor project which provided needed sewage for people that don't have in the southeast corner of Manchester, this would roughly be another two and a half times increases above and beyond what taxpayers now feel are high sewer user fees, is there some way that we are going to be able to justify this or are you expecting that the property taxpayer will also have to kick in and complement some of the sewer user fees that are going to be increased in order to pay for this project.

Mr. Thomas replied again that whole subject will be discussed shortly, but the bottom line is that the sewer fees are going to take a tremendous increase and when sewer fees go up obviously there is a lot of lateral effects not only to the homeowner, but business and commercial establishments.

Mayor Wieczorek recessed the meeting to allow the consultants to get prepared.

Mayor Wieczorek called the meeting back to order.

Mr. Thomas stated as I mentioned we have invited our Consultants Camp, Dresser & McKee (CDM) who's representing the City on the CSO project. Bill Ditullio to my left is the head Project Manager for the CSO and he's brought some of his staff with him. Also here tonight is Attorney Greg Smith from the McLane Law Firm who is our outside special counsel on this project and I'm going to turn it over to Bill Ditullio now.

Mr. Ditullio stated what I am going to do first is go over the agenda for the presentation today. Basically, what I'd like to do is give you an overview of the CSO project and in doing so I'd like to talk to you about what a CSO or a Combined Sewer Overflow is. I'll also talk to you about the existing Combined Sewer Overflow characteristics in the City of Manchester. I'll cover the federal EPA and State of New Hampshire DES CSO policies and how they apply to

the City of Manchester. I'll talk about the City's action to date. The City has been working on this effort since 1990 and I'll go over what they have done and what the City has done since the inception of the project. Next, I'll talk to you a little bit about the CSO Control plans that have been developed and the costs of those plans. I'll then turn the discussion over to Joe Ridge, Joe is an economist with Camp, Dresser & McKee and he's going to briefly talk to you about the Federal Affordability Analysis and how that Affordability Analysis applies to CSO Abatement projects and then we will have a few minutes times of where Greg Smith the City's attorney for this project will talk to you about some of the legal issues regarding the Clean Water Act and the CSO policies and we can then talk to...open it up to some questions and provide you with some answers to your questions before we have some closing remarks. So, with that, I'd like to talk to you a little bit about what a Combined Sewer Overflow is. At the time the sewer system in the City of Manchester was built, it was the procedures at that time to have one pipe in the street that would convey during dry weather waste water flows ultimately to the river and in recent years the City built a wastewater treatment plant for treatment before it was disposed of back into the river and during wet weather conditions what happened was that same pipe would convey rain water and the theory behind that was when it rained the rain water would mix with the waste water and dilute it so that it could discharge out to the river and cause no adverse impact. This schematic basically shows a schematic of a combined sewer system where we have one pipe and during dry weather we just get the sanitary flow that comes or the waste water flow that comes from the buildings in the City and it goes out through a piping system to the treatment plant for treatment. However, when we have a rain event, we also get the contribution of the street runoff and it combines with the waste water and a portion of it goes to the treatment plant for treatment and the excess flow goes out to the river. As the community became more developed more flow went out to the river and as more flow went out to the river the quality of that flow had a larger component of waste water and, therefore, there were greater impacts to the receiving water. So, the federal government developed this policy to address the quality of those discharges as they entered the river. The largest combined sewer overflow area in the City of Manchester is what is known as the Cemetery Brook discharge. Some people talk about this as Hobo's Alley, I guess it's called - Hobo Jungle. At that particular location about 200 acres of land is tributary to the outfall pipe and there are actually two outfalls, a low outfall and then there's a very large outfall that during the spring time and you can probably see this from the highway when you're looking from across the river, during the spring time when we have a snow melt and we have a heavy rainfall event, we also have a discharge from here. The flows are so great that when they designed this outfall they built a stepping system, it looks like a set of stairs, but the purpose of those steps is to dissipate the energy so that when the water then dumps into the river it doesn't dig a big hole. Here is a picture of an overflow event that occurred during the study period and witness that the upper overflow is not going at the time, but you can see the magnitude of the discharge. Now, this is what's called combined sewage. This has untreated waste water along with rain water that's going out to the river. Another location is just upstream of the treatment plant, the very first manhole we termed that manhole #1. The cover of the handout also has a picture of manhole #1, you can see the impact of what happens during a rainfall event. Literally, the waste water comes out the manhole cover and

spills down the side of the banking and enters the Merrimack River and again this is sanitary flow or waste water flow and it includes human wastes. To give you an idea of the magnitude of the problem there are 26 of these combined sewer outlets in the City of Manchester, they exist along the Merrimack River as well as the Piscataquog River and if you look at that figure in your packet you'll see that they are pretty well distributed up the rivers. So, they're not concentrated in any one location. On the next figure, the system contains what is known as a combined sewer system. This graphic...the blue area is the area where there is one pipe serving both sanitary or waste water flows and storm water flows. The rest of the area is what we call a separated system where there are separate pipes for sanitary flow and separate pipes for storm flow, so the only areas that are really impacted or that we are concentrating on in this project are the areas shown here in blue. This is the area which makes up the 26 combined sewer overflows. The treatment plant is located down river here and we're flowing down river towards Massachusetts I promised that I would talk a little bit about the existing combined sewer overflow characteristics. One of the responsibilities of the project was to estimate on an annual basis how much combined sewer overflow volume discharges into those rivers and it also was a responsibility to determine or estimate the frequency, the number of times each year when these overflows occur. These are the twenty locations, they're listed by receiving water...Piscataquog River CSO's are listed here and then we have the Merrimack River divided into various segments. You can see by the first column, this is an average annual volume from each of those locations and I want to point out the bottom total there. What we're saying is that on an average annual basis about 220 million gallons on combined sewer overflows are discharged into those rivers and you can look in the next column...the Frequency...anywhere from as low as once or twice per year to as frequent as 49 times per year. The South Main Street (South) discharge occurs as many as 49 times a years, just about every time it rains we have a discharge from the South Main Street (South) outfall pipe. And, the last column just talks about the average volume per event and this is just information that is used to determine the characteristics and the impact and the severity of the CSO problem in each community, in this case in Manchester. Now, this is an national issue and in the early 70's the Clean Water Act was developed and in April of 1994 the federal government EPA produced its Combined Sewer Overflow Policy and just a small snapshot of some of the requirements or the important ones I thought that I'd like to present to you of the 1994 National CSO Policy are that there should be no dry weather overflows; that is when it rains all of the waste water that is in that combined sewer pipe should be going to the treatment plan for treatment and, in fact, as a result of the investigations we have performed for the City we have determined that, in fact, all of the waste water flow does go to the treatment plant, so you are not violating the policy with regard to dry weather overflows. Next, is that you implement what they call a nine minimum controls and in short all this is is just best management practices. Just to make sure that you are taking advantage of, that you are maintaining the system properly and maximizing the conveyance capacity of your facilities and we've essentially done that report, the report has been submitted to the government for review and basically the determination that we made is that the City is operating a very, very good waste water collection system and are meeting the intent, for the most part, of the nine minimum controls. Next, is to develop a long-term control plan. The

long-term control plan is basically the capital improvements program that the City will undertake to meet the federal/state CSO policy and that is what I am here to talk to you about today...the recommendations or the findings, if you will of the long-term control plan. Next, is to review the State water quality standards for the remaining CSO's. The CSO policy does not necessarily require that all of the CSO's need to be eliminated and Greg Smith will talk to you a little bit later and that if in fact, CSO's remain that the plan must be in line with the State's water quality standards for whatever CSO's continue to occur in the City. And, finally, that they acknowledge the fact that implementing a Combined Sewer Overflow Abatement Program such as the one we are talking about tonight is going to have some very serious financial impacts on the community. So, they have developed a procedure which Joe will talk about in a few minutes about how to evaluate the affordability of these projects. Next, is the State's policy and just in short New Hampshire Water Quality Standards related to the CSO issue is that there should be no floatables, oils, grease, scum or other material impacting river aesthetics. So whatever plan that we develop, we must make sure that we don't have any of these pollutants entering the river and that there are no toxic substances entering the river. Just for your information, we've essentially narrowed down the impacts of these CSO discharges to floatables and also coliform and they have set an E. Coli for coliform limit of 406 coli per 100 milliliter. I won't get into the technical end of things but this is the way we basically need to deal with - aesthetics and coliform. As I indicated to you when I was reviewing the agenda for today the City of Manchester has been working in this effort since 1990 when, in fact, the City was issued its national pollutant discharge permit and at that time the permit required that the City begin the process of abating these CSO's and at that time the City went out and went through a selection process and hired Camp, Dresser & McKee as the prime consultant on this project to meet all of the requirements of the permit as well as all of the requirements of the state and federal policy and as you can see through this graphic there have been a number of deliverables that have been required through the process and we have met all of the requirements and right now we are at a point where we have presented the findings of the long-term control plan, the alternatives analysis and we are in the process of beginning some negotiations and that's why we're here today to present to you the status of those recommendations because the government is looking to resolve or to get the City on an administrative order to implement those recommendations or those findings. In short, what we did was we developed various alternatives to resolve or reduce the frequency of overflows. I showed you the original graphic where we had overflows occurring as infrequent at some locations as once-a-year to as frequent as 49 times a year. What this graphic does is it compares the cost of reducing those overflows to no more than two-a-week, once-a-month, once every three months, once every six months, once-a-year and once every five years and, of course, as you can see here in reducing the frequency of those overflows you increase the cost and part of the analysis that we have presented to the government is a cost-benefit analysis. Okay, when it gets to a point where the cost of reducing the overflows is greater per gallon removed than the benefit that you are getting then you stop. This is the approach that we have taken, this is the approach that, in fact, the government has used on all of the CSO's or many of the CSO projects that have been done to this date. During this whole facilities planning process there are a number of meetings that occur and during the early stages

of the alternatives development EPA brought to the table the fact that you have to look at the elimination of CSO's because it is always the objective of the federal government to make the water as clean as possible and the plan was to take a look at whether or not the City could afford to have zero discharges. So, the government started at a point if you look at the chart of a project that would get down to zero discharges at a cost of \$250 to \$300 million and that's where they started from. We've basically narrowed it down to a plan where the EPA is saying okay, we acknowledge the fact that that is a lot of money, but you started out at 220 million gallons of discharge, we want to see you get down to six million gallons and the cost of that is \$117 million, \$116.8 million dollars. But, if you look at the cost benefit analysis and you really look at what, if you will, makes sense from a cost benefit analysis what is listed here is the City's revised plan as an \$82 million plan for 13 million gallons. Now, I think what is important that I want to leave with you right here is that what EPA is essentially saying is that the City is spending \$82 million and it's going to eliminate the frequency of overflows to no more than four times a year; that is unsatisfactory. EPA is saying that they believe that the City should spend an additional \$34 million to get you down not from 220 to 13, but to get from 220 to six and reduce the frequency of overflows to not more than four, but no more than two. The importance of this graphic is to understand that where we are with the negotiations and the discussions with EPA...they're trying to require that the City of Manchester spend first of all, \$82 million which I'm not saying is an acceptable amount of money, but they're saying that \$82 million is not enough money; that they are saying that it is important that we need to swim in the Merrimack River as often as possible and that four overflows per year is not acceptable; that the City needs to spend \$34 extra million to get it down to two more overflows. What I'd like to do at the moment is I'd like to turn the discussion over to Joe Ridge. Joe is going to talk to you a bit about the affordability analysis approach and then when he's done we'll talk with Greg and then we'll open it to discussions if you have any questions on my presentation or the other presenters and we can take them at that point.

Mr. Ridge stated what we want to do at this point is sort of describe to you the process that EPA has laid forth to determine the affordability of somebody's recommended program and this is applying to all CSO communities, not just Manchester and where we are in the process with the agencies. EPA as Bill mentioned early on recognize the financial capability and financial issues are an important part of the CSO program and an important burden that the communities have to face, so they developed this process for evaluating the relative impacts that various CSO programs have caused communities to put forth some consistency and the process that I'll describe in a minute essentially is used to determine the implementation schedule to be used for a particular program and EPA has essentially created three programs of impact: there is a low burden impact in which the agency essentially says that that program out to be implemented over a five-year program; a medium burden over a ten-year period and then a high burden which can be implemented as long as 20 years under the guidelines. Now, the important thing about the affordability process is that it is not statutory or regulatory, it's a guidance document prepared by the agency and used at the discretion of the agency and it gives us some flexibility in negotiating with the agency, but it also means that the agency staff can choose to ignore it or

interpret the guidelines in their own fashion which is kind of where we are in the process right now. Now, the affordability process essentially looks at two sets of parameters. The first parameter is for a given program what will be the total waste water bill for a typical household relative to the income in the area and the income measure that they use is the median household income and again they've broken this out into three categories. If the projected bill is less than one percent of median household income then that's sort of a low impact. To put that in perspective right now Manchester's typical household bill is about \$230 per household per year. Given the median household income in Manchester that equals about .6 percent of household income, .65 percent. So, from EPA's perspective bills could increase by as much as 35% and still be in this low or no impact area. The next category is between one and two percent where we had mid-range and above two percent which would be higher impact. A two percent median household income to Manchester would be a bill of approximately \$800, to sort of give you the sense of level of, the magnitude that we're dealing with; that is the first part of the process. If the projected bills are over one percent then you do the Phase II analysis. Now, the Phase II analysis tries to look at the economic situation of the community, it goes beyond household bills to look at the economic situation of the community and the ability of the community to borrow the money sufficient to support the program and here are the range of indicators that they looked at and it's essentially the bond rating which is a measure of whether you can borrow the money you need to fund the program, the unemployment rate, median household income, or indicators of the economic situation in the community and the property revenue collections again which relates to the bonding authority. Now, you take the Phase I analysis meaning household income with that low medium high to put communities in relative perspective and determine what their ability to proceed will be. Now, we're in the process of developing this process for Manchester and the key piece of information which is what the rate impacts will be of the associated program, there is a lot of uncertainty with that because it depends on a couple of factors that we're dealing with with the various agencies. One, is whether we're dealing with an \$84 million program or the \$116 million program, that has an effect obviously and the period of time to implement the program and the amount of outside assistance that will be available to the City to help fund the program. In New Hampshire there are two programs that subsidize the cost of waste water projects. There's a State Revolving Fund program from which you borrow money at a low market rate and there is also the Debt Service Assistance Program where the State agrees to pay 20% of your annual debt service for eligible projects. Now, if the City were successful to get a longer implementation schedule in the range of 15 years the City proposed program of about \$84 million and the 20% grant over a 10 to 15 year period project that rates would double or slightly more than double. If we are unsuccessful in those regards the projected rate impact will obviously be greater and that is where we are in the affordability analysis or at least what the process is. At this point, I'll turn it over to Greg.

Attorney Smith stated my name is Gregory Smith and I'm with the McLane, Graf, Raulerson & Middleton Law Firm here in Manchester and I have been acting as environmental counsel in the work that CDM has been doing with the City of Manchester in trying to reach a reasonable, sensible result consistent with the law in solving this problem. Now, I think to start what you

have to have in mind since you've already been through some Clean Water Act improvements in the City is that the Federal Clean Water Act applies nationwide, sets a goal of reducing and reducing and reducing pollution that makes its way to the nation's surface waters. In this particular instance, the situation of combined sewer overflows it is obvious that national government and the EPA recognizes that it is a misallocation of this nation's economic resources to try to solve the combined sewer overflow problem overnight. I believe the estimates of what it would cost to do that nationwide is \$132 billion. Because EPA realizes that across the board there are diminishing returns to allocating such an extraordinary amount of financial resources to eliminate and combine sewer overflows, but because Congress has not provided any relief valve the Clean Water Act does require that the nation is driven in the direction of reducing this kind of pollution. EPA has stayed its hand in enforcement and not enforced heavily against municipalities and to better guide that enforcement discretion EPA adopted the 1994 Combined Sewer Overflow Guidance Policy, it's a thick set of documents that are intended to guide each of the...in each case the EPA staff in deciding how far to go and at what pace to achieve the objectives of the Clean Water Act. What CDM has presented to you is a plan that Manchester's consultants have developed which meets the criteria of EPA's 1994 Guidance Policy, the so-called \$80 million plan. It is consistent, we believe, with what EPA has been requiring other municipalities to do. I think that it has probably been made clear to you that the EPA's current position of approximately \$30 million more expensive plan has dramatically diminishing returns for that extra expenditure of money; that would require extra expenditure of money over a 10 to 15-year period or longer of Manchester's resources and a contribution by the State of New Hampshire. To this point, there has been work with the State of New Hampshire Department of Environmental Services to try to enlist to the fullest extent that we can their support in achieving a plan that meets the requirements of the federal law and if it doesn't go further than other communities are required to go or you should be required to do this. There was a reference earlier to you that this is driven by national law and what are referred to as technological standards about what can be deposited in the nations rivers and it's also driven by State law to the extent that what we're looking at are water quality standards for the river in Manchester that is set by the State. So, without getting into the nuances of that problem there have been a series of discussions that have been initiated with the State to try to enlist to the fullest extent that we can the State's support for Manchester's plan to deal with this, to not do more than other communities are required to do as you move in the direction that the Clean Water Act mandates and not to do it at a more rapid pace. There has also been some involvement with the State's Congressional delegation. There was discussion early on about the national mandates of the Clean Water Act and whether there might be any relief coming from Congress in the form of giving people more time or altering the requirements. There was also naturally discussion about whether there would be any additional federal assistance to meet this requirement because as I said at the outset it's over a one hundred billion dollar program that is being driven by the statutory framework established by Congress. As Bill Ditullio said, I think, there is a federal Clean Water Act statute that sets these objectives of reducing and reducing and eliminating discharges of pollutants over time as it turns out in this situation to the nation's waters. There are very complex sets of regulations that have been adopted to deal with that and

then we have this policy document which is suppose to guide EPA in deciding how rapidly to move in this direction and combined sewer overflows and how much time to give communities and how much of a financial burden they're going to try to impose on the municipality. The position of the representatives has been to try to get the most favorable plan we can consistent with the law and we're at an important point in the process because there have been meetings as has been explained to you over a period of time, there were meetings recently and we're returning to more meetings in just a matter of a few days with EPA to try to reduce the more expensive plan that EPA has presented recently...the one that we think is more in line with what other communities have been required to do and get all of the financial benefit that we can.

Mayor Wieczorek stated, Greg, I know that in New Hampshire Manchester is certainly going to be number one regarding CSO and we will be dealing with our own department and the federal department and the regional department. Is there any community or any state that is ahead and what has the reaction been by the regulatory authorities in working with them.

Attorney Smith replied there are other communities in New Hampshire that have already been issued administrative orders or signed judicial agreements under the pressure of this program to deal with their CSO's. I believe Portsmouth has, I believe that Nashua is behind Manchester, but other communities have received more pressure to start moving down this path. The first wave was to eliminate dry weather overflows and then to move to wet weather overflows and Manchester is prominent just simply because of its size. Surveying from the research that we've done what EPA's course of conduct has been, I think since they issued the 1994 guidance document they have not imposed financial penalties on communities that have been working in good faith through the steps that were described to you; that is the nine minimum controls plan which you've developed and submitted to EPA which are suppose to be things readily doable and then followed by the development with the State and with EPA about so-called long-term control plan. When that plan is finally arrived at, at a level that the City agrees to and the State and EPA do, EPA contemplates that that will be wrapped into a written agreement. If it's a longer period than five years to accomplish then their guidance says that that should be a judicial decree, a court decree that would recognize that you would be given a longer period of time to come into compliance in order to lessen the financial impact; that is what they have been doing. Actually, I do have a list, I don't have it here with me tonight of what EPA has been doing in this region. We did request disclosure from EPA as to what they have been doing to other municipalities. You are not alone and you're not even the first one to receive some of the stronger effort from EPA. But, what we are concerned about in one respect is that EPA has generally been willing to recognize that when you get to the curve point where you are spending more money but you're not really reducing the pollution very much that is a pretty good place to think about stopping and not spending a whole lot more of public money and that has been the approach they have taken in a number of other cases and we have been trying to encourage them to stick with that approach. Here, what is disappointing is that they are going beyond that point as I think CDM may be able to explain to you and they could explain it in greater detail and they're going beyond that point by approximately \$30 million. We don't think that's necessary,

we don't think it is consistent with what they've done in other communities and we'd like to persuade them that they should settle in on the plan that is more consistent with other communities.

Alderman Domaingue stated I just have a very elementary question relative to the presentation on the State's requirements on the E.Coli, are we currently meeting the State's requirements relative to E.Coli.

Mr. Ditullio replied not at the Combined Sewer Overflows. And, the only way you could meet it was with some level of treatment of the elimination of those discharges. One of the other arguments and one of the things we think is very important for EPA to recognize is that the discharges are transient meaning that the coliform or the combined sewer flow is traveling downstream with the flow of the river and that when the rain stops and the overflow stops, the problem stops and that's a very important fact in our side or in our case here because the issue that they are focusing on is swimming. They believe that the Merrimack River once these CSO's are eliminated will bring flocks of people from all over New Hampshire to come and swim in this reach of the river. First of all, we argue that there is access to the river, there are very steep side slopes, there are some buildings built right on the edge of the river, the river itself flows at extremely high velocity, is shallow depths. We don't really believe that it is conducive to swimming, but the point is that once the rain event ends anyway this coliform is moving downstream and is gone, so it does not have a long-lasting problem.

Alderman Hirschmann asked are there any CSO stations above the dam.

Mr. Ditullio replied there is actually one CSO station above the dam, it's called Stark Brook.

Alderman Hirschmann stated I do want to point out that people above the dam do pleasure boat and do swim up there, in my ward specifically.

Mr. Ditullio stated this will be one CSO that will have to be eliminated because the other thing that happens as a result of the dam is that the transient nature of CSO's that I described before does not really occur above the dam and what ends up happening is that any solids would tend to sink to the bottom, so this is one that will require some kind of elimination either by separation or bringing the flow downstream past the dam.

Alderman Hirschmann asked did that one have a large frequency on overflows.

Mr. Ditullio replied that is listed on the table that listed CSO Characteristics - 14 times a year. On an average of 150,000 gallons every time an overflow occurs.

Mr. Thomas stated, Bill, while you're on the subject maybe you want to briefly explain what the City's proposal involves.

Mr. Ditullio stated principally the CSO's that exist on the west side of the City, the ones that predominantly discharge to the Piscataquog River...the plan looks at building separate sewers and drains in those areas so that when the project we will have a two-pipe system, all of the waste water will go in one pipe to the treatment plant and all of the drainage will go out a separate pipe and discharge right into the river. If you were to turn to the page that's listed Comparison of CSO Control Plans and Costs, if you take a look at the City's revised CSO Plan under the column listed Strategy it talks about the alternative or the recommendation for each of those CSO's and I'll just talk in general about what these alternatives are. Separation is building a second pipe in the street. As you can see it Lorraine Street we're talking about raising weirs. At these overflow structures if you remember the first graphic I showed the waste water flow coming down the pipe and going to a certain point reaching what we call a weir; that weir directs the flow down to the treatment plant. For very inexpensive money at Lorraine and I believe there is another location we feel that we could just raise the height of that weir and not have to do any other work and that would eliminate the CSO's from occurring or reduce them down to less than four times a year and then take the rest of the flow to the treatment plant. We also talk about building a device called a swirl concentrator. I won't get into the technology but it's basically for the Cemetery Brook area, the largest of the CSO area. It's a treatment technology which takes the...it concentrates the pollutants and the discharge and brings it to the treatment plant and the less concentrated flow goes out to the river. Another alternative we have listed in that table is storage and pump back. Because of the volume we would put the flow into a storage tank and we'd size the storage tank large enough so that when a rain event ended then a pump would pump the water out of the tank and send it to the treatment plant. Those are the technologies included in the City plan.

Alderman Cashin stated just so that I'd understand. Frank, you said that to do from 1970 up to and including the present time we have spent approximately \$150 million or thereabouts to clean up 98% of the river/waterway that we're talking about. We're being asked now to spend between \$80 and \$120 million, someplace in that vicinity to pick up the additional two percent, is that right.

Mr. Thomas replied correct.

Alderman Cashin stated you talk about diminishing returns, there is something...I find it very difficult. I understand where EPA is coming from and I appreciate where they're coming from and I know what they are trying to do and I certainly agree with them, however, I think the city of Manchester has made a valiant attempt to satisfy the regulations of EPA and I find it very difficult that somebody somewhere in Washington isn't going to listen to us. Maybe I'm naive, but I don't think so and quite frankly I have been asked to reserve some time to go to Washington sometime in August and I want to be sure of my figures because I'm certainly going to talk about this.

Mr. Thomas stated we will be glad to sit down with you, Bill, at any time and give you all the information that you'd like to take with you and would support your trip down.

Alderman Domaingue stated my question is for Attorney Smith. The idea is obviously a necessary and noble one. You've probably had more inside conversations with the federal representatives than most people do, so my question is directed to you. Has there been no discussion at these sittings about the federal responsibility along with issuing mandates for clean water which I think we can all safely agree on is necessary, is there no discussion about the federal responsibility of taking financial part of this burden as well.

Attorney Smith replied I think your question is a very good one. To be clear, we'll I have interacted with the federal EPA in most of the occasions of the group that is appearing before you tonight I've not had the majority of the inside discussions. This has been going on for some time and the folks from CDM have had lots of discussions as have the people in the Manchester City government. So, to date, I have not been extensively involved in those discussions. We have had discussions, I guess it was explained to you that this planning has been going on for most of the 90's and I have been involved in this project for the past year, year-and-a-half. We did, as I alluded to earlier have some discussions along the lines of what you're thinking with representatives of our Congressional delegation. We know that this financial burden was a topic of which Congress is aware, but no one is yet predicting that Congress is going to provide any relief. Either by providing for a delay in the deadlines of achieving compliance or in altering the requirements or providing financial assistance to municipalities. It is something that our Congressional delegation is very much aware of. We thought it was an important part of proceeding to keep them advised of what was happening to New Hampshire communities. When we go to meet with the technical people in Boston that is usually not something that they feel they have much control over because they are following the laws handed down by Congress. But, our representatives could raise those issues in Congress and they have been very receptive to our explaining what kind of a burden this type of a program is imposing on a City such as Manchester and I know that they will continue to be receptive and raising a voice to try to assist us in that. I know that they have been very helpful. But, that's the right question and the right place to take it is Congress because Congress is where the law was passed.

Alderman Domaingue stated, your Honor, I know that you have had discussions as well with our Congressional delegation and I hope that the point will be made again even more strongly. I can't conceive of not doing a project like this for the health and safety of communities, but by the same token we all admit and agree that Congress could save additional monies, waste monies and the kind of wasteful spending that goes on in Congress; that kind of money can be put toward this kind of project and also help the people in local communities to fund it; that to me seems like a better way to approach it than the heavy hand of a mandate.

Mayor Wieczorek stated I don't think there is any question about it. As you know when they first presented the plan and they were talking about two hundred million dollars, I think it's a

matter of continuing to refine the process and that's why I asked you the question, Greg, of what's happening in other communities and the other states regarding this process because at some point EPA is going to make a decision that we'll only go this far rather than negotiating individually hoping to get somebody up to here and somebody else down to here depending upon your ability to pay and there's no question that we will continue to keep the pressure on our Congressional delegation to make sure that we get whatever assistance we can and that Congress is going to try to react favorably to not force communities to do something that they want that doesn't enable the communities to do other things in our communities that are of high priority and this is what I see as the real danger.

Alderman Shea stated, Attorney Smith, when you go to negotiate, do you always negotiate with the same group or do you have to negotiate with different types of EPA representatives.

Attorney Smith replied we haven't really entered the final phase of negotiations. There has been a lot of work in developing assessment of your current Combined Sewer Overflow situation. The methodology that CDM explained to you is somewhat standardized and the EPA expects and Manchester has conducted an evaluation of your current system and there's been an on-going technical discussion with EPA for some time now and then these alternative plans must be developed for guidance for different ways of eliminating the problem. Only recently have we received EPA's preferred plan, eight weeks ago and they have seen what our plan is and there hasn't been a series of negotiations. We're still following the process and providing the information per the guidance document. To further answer your question there are people from different perspectives that come to the table representing the federal government. There are technical people concerned about water quality, there are people who write permits, there are representatives to the office of legal counsel in Boston and at some point start to reach legal agreement, but that stage really hasn't gotten started yet. We are just at the point where we heard at the last meeting their proposal, we're disappointed in that. Our proposal is consistent with what others do and should be acceptable and there is work to be done to keep that process and I think it's going to require the involvement of the City of Manchester, the State government Department of Environmental Services and we're due to return to meet with EPA within the next few days. One thing you should keep in mind is that our proposal we think addresses the criteria that they're using in the Guidance Policy. The Clean Water Act as you all know has been around for decades has as a national objective wratcheting down the surge of clean water, so if you went with us to meet with the people in Boston we are on a path of trying to continue to reduce the level of pollutants going into the nation's rivers. We know it's going to take a long period of time and that's some of what they are saying now is that their current plan is somewhat more stringent than some of the others they have approved and we don't think they should do that with Manchester.

Alderman Shea stated my question was directed to the layers of bureaucracy in terms of state one do you meet with one type and so on.

Attorney Smith stated we are on a path, the City officials have all been directly involved in this.

Alderman Clancy asked when do you anticipate starting and what would be the average cost to a homeowner.

Mr. Thomas replied it's pretty difficult to answer that question. First of all, I don't know when we are going to start up because as we have been discussing we are still trying to reach closure on exactly what plan and then we have to sit down and decide on what period of time implementation is going to take place. I think Joe Ridge touched on that in a couple of different cases. Again, depending on the amount of time, depending on what money is available at the State level, the sewer bill could go from two to three times depending again on what is available. If the State funds are available and it's spread out over a longer period of time, it may only increase the sewer bill two times.

Alderman Clancy stated I thought I heard one of the gentlemen say that the increase would be 35%.

Mr. Ridge stated under the EPA Affordability Guidance the three-tiered rate of affordability is one percent - one to two. Your present rate is about .65 of median household income. Anything between that and one percent is sort of no burden from the City's perspective. So, from EPA's perspective you could increase rates 35% and still not have any adverse impact on households, that is what the 35% was.

Alderman Reiniger asked, Mr. Thomas, do you have any diagrams for us to see showing the swirl device and location for the swirl device.

Mr. Thomas replied I don't think we have one with us, but the location, the site is the Hobo Jungle area and we have been coordinating any future potential work with the people that are developing the soccer stadium. Right now, it is our hope that if we can go with the proposal that we have on the table now, it appears that we may be able to build this to the south of the soon to be existing soccer field.

Alderman Reiniger stated so, under your current proposal there may be no effect on the Riverfront Stadium.

Mr. Thomas replied minimal, if any.

Mr. Taylor stated it just occurred to me that this hasn't come up during the discussion, the impact on individual taxpayers has been discussed, but to some degree I'm concerned about the impact on the business community to the extent that it is my understanding that these increased sewer fees are not going to be able to be passed along to the surrounding communities that are using our treatment facilities and if that's incorrect I'd like to hear about it, but if it is correct the

implication there is that the surrounding communities that have all of the land are going to be able to beat our brains in when it comes into competing for new and expanding businesses over the next 15 to 20 years and that seems patently unfair to me.

Mr. Thomas stated we can't pass off Combined Sewer Overflow costs to the abutting communities because they are not the ones contributing to these discharges into the river. Most the surrounding communities have a separate sanitary line that is connected into the interceptor sewers, so we can't pass those costs onto the surrounding municipalities. Obviously, any increase in sewer fees is not only going to have a impact on the residential payer of these fees but also have a dramatic impact on the commercial/industrial base of the City and that's why I think we all have to work as hard as possible to arrive at a minimal plan, the lowest possible plan that we can reach closure on and try to implement it over the longest period of time and do everything in our power to minimize these increases in the sewer fees. But, Jay's right that is a concern and that is an issue that has been considered in these affordability studies, these are issues that we raise when we sit down and talk to the State and to EPA. So, we share that concern.

Mayor Wieczorek asked, Jay, are you any better off now than you were before.

Mr. Taylor replied no, but I wanted to bring that point up because it didn't come up tonight and it is a great concern because as you all know we are basically out of land in the City of Manchester to recruit new businesses and industry. All the land that is available in the Manchester area is in Bedford, Goffstown, Hooksett, Londonderry and those are the communities we will be competing with over time to attract business and to the extent that they can undercut us in sewer use fees, clearly the advantage is theirs and not ours. I just wanted to bring that point up.

Mayor Wieczorek stated I also wanted to let you know that I talked to the Governor about this to let her know of our potential problem and she is now aware of it and we will be copying her on every correspondence we have that is going out regarding the problem.

Mr. Thomas stated I'd like to close by saying I think history has shown that Manchester has been always environmentally responsible and I think that Manchester will continue to meet its obligations in this area and I think what I would like to leave you with tonight is if we have to go ahead with CSO projects that we want to do it in the most cost-effective manner and again as it's been stated over and over again tonight that there is a difference right now between two plans that are on the table of about \$35 million that doesn't do much to improve the quality of water in the Merrimack River. So, what we're saying is let's try to focus in on what is cost-effective, and hopefully we can continue to sit down and talk to the State and the government and hopefully reach agreement on our plan. Thank you.

Mayor Wieczorek stated thank you, Frank, and I want to thank Greg and also representatives from CDM for your presentation tonight to just kind of clear up some problems that could be in the minds of people and knowing full well that we have a major problem that is facing us and that we will just continue to work on it to try to work it out the best way we possibly can.

This being a special meeting of the Board, no further business was presented and on motion of Alderman Cashin, duly seconded by Alderman Pariseau, it was voted to adjourn.

A True Record. Attest.

City Clerk