

BOARD OF MAYOR AND ALDERMEN

January 20, 1998

7:30 PM

Mayor Wieczorek called the meeting to order.

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

A moment of silent prayer was observed.

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

Present: Aldermen Wihby, Klock, Reiniger, Sysyn, Clancy, Pinard, Shea, O'Neil, Girard, Rivard, Pariseau, Cashin, Thibault, Hirschmann.

Presentation to the January recipient(s) of the "Spirit of Manchester" Award.

Mayor Wieczorek stated The Spirit of Manchester Award Committee recently convened and selected an individual to be honored in the month of January for outstanding service to the City of Manchester. The parameters of the award state that the recipient should "have contributed to the improvement of the quality of life in Manchester," performing acts that are "clearly above and beyond the call of duty." This month's winner is Kathy Cook, a mother of three and a dedicated servant to the Queen City and its well-being. Over the last decade, Mrs. Cook has epitomized a selfless sense of service, both as a parent and a civic activist. Of late, she has answered the widespread discontent felt by Manchester citizens. Mrs. Cook has earnestly assumed leadership roles in several key initiatives. She helped coordinate festivities marking Manchester's sesquicentennial anniversary, leading a bus tour of the city and chairing a committee which fought for a park gazebo. Perhaps her most notable and recognizable accomplishment, though, is the downtown farmer's market, a project that made its debut last summer. Over a brief span of seven months, Mrs. Cook and the Farmers Market Committee, a board that she chairs, vigorously coordinated the drive to attract shoppers to an ailing downtown. Every Thursday during the summer, the market sprung into action to the rave reviews of shoppers and organizers alike. Asserts one colleague, "She shouldered the worries and burdens and deadlines almost singly. She has donated all her time, which often means a full work week, and talent to realizing this long held vision for the entire city of Manchester."

On behalf of the City, and the Board, Mayor Wieczorek extended congratulations for her recognition as this month's recipient of the Spirit of Manchester Award.

Alderman Wihby presented Mrs. Cook with the award.

Mayor Wieczorek recognized Mrs. Cook's husband and child who were present.

CONSENT AGENDA

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.

Minutes Accepted

- A. Minutes of meetings held December 16, 1997; and January 6, 1998 (Inaugural ceremonies and a business meeting).

Informational to be Received and Filed

- B. Communication from the Chief of Police submitting an outline of the Police Department's Program Development for 1998.
- C. Communication from the Director of the Manchester Water Works presenting their 126th annual report which summaries the activities of the State's largest water utility for calendar year 1997.
- D. Communication from the Director of the Manchester Water Works submitting their 1998 capital and operating budget.
- E. Communication from Thomas D. Noonan expressing his sincere thanks to the Board for his fifteen years as a member of the Police Commission.

REFERRALS TO COMMITTEES

COMMITTEE ON ACCOUNTS, ENROLLMENT AND REVENUE ADMINISTRATION

- F. City of Manchester, December 31, 1997 financial statement.
- G. Communication from the City Solicitor submitting a copy of a letter from UniFirst Corporation relative to the City's Procurement Code.

COMMITTEE ON ADMINISTRATION/INFORMATION SYSTEMS

- I. Copies of communications relative to the City's cable television contract.

COMMITTEE ON BILLS ON SECOND READING

- J. Ordinance amendment submitted by the Chief of Police relative to unclaimed, lost and abandoned property.

COMMITTEE ON COMMUNITY IMPROVEMENT PROGRAM

- L. Communication from the Health Officer advising of the receipt of a State Tobacco Prevention grant in the amount of \$12,000, requesting the Board accept same and expend in a manner consistent with its intent.
- N. Communications from the Deputy Director of Parks & Recreation and the Chairman of the Conservation Commission regarding the proposal to plant the American Liberty Elm tree in Downtown Manchester.

- O. Communication from the Director of the Manchester Water Works seeking the Board's authorization to proceed with the public sale of a 60-acre parcel of land in Auburn determined surplus to watershed and protection needs.
- P. Communication from Michael Robichaud requesting to meet with the Committee on CIP regarding the RFP submitted for 1037 Elm Street which was recently rejected.

COMMITTEE ON FINANCE

- Q. Communication from the Director of the Manchester Water Works requesting the Board's authorization for the issuance of \$1,250,000 in bonding for capital improvements to the water supply and distribution divisions as follows:

Reservoir System Improvements	\$ 750,000
Distribution System General Improvements	<u>\$ 500,000</u>
Total	\$1,250,000

- R. Resolution:
"Continuation of the Central Business Service District."
- S. Communication from Roland Gamelin, President of Riverfest, Inc., seeking the City's aid with their financial obligations.

COMMITTEE ON TRAFFIC/PUBLIC SAFETY

- U. Communication from Paul Miller, Director of Residential Services for the Greater Manchester Mental Health Center, requesting that a cone shaped device be placed in the middle of the crosswalk located in front of the Queen City Variety Store on Elm Street.

REPORT OF COMMITTEE

COMMITTEE ON TRAFFIC/PUBLIC SAFETY

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

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

- H. Communication from Bryan Murray relative to the recent cable television rate increase and requesting that the FCC initiate a Form 329 investigation.

Alderman Pariseau noted that the communication was requesting that the City initiate a Form 329 investigation and file it with the FCC. The correction was so noted by the clerk.

On motion of Alderman Pariseau, duly seconded by Alderman Wihby, it was voted to refer the communication to the Committee on Administration/Information Systems.

- K. Ordinance amendment submitted by Thomas Seigle relative to the cost for treatment of septage.

Alderman Girard noted that this item should be reviewed by the CIP Committee prior to referral to the Bills on Second Reading Committee.

On motion of Alderman Girard, duly seconded by Alderman Wihby, it was voted to refer the amendment to the Committee on Community Improvement Program.

- M. Communication from the Industrial Agent seeking the Board's approval to loan \$30,000 in MDC funds to Intown Manchester Management, Inc. to allow for the continuance of a Downtown Facade Improvement Program.

Alderman Shea requested Mr. Taylor provide a little more information about the loan.

Jay Taylor addressed the Board stating if they recalled in the previous two fiscal years, 1998 and 1997, there was Community Development Block Grant money in the CIP budget to initiate the so-called facade improvement program in the downtown area. In fiscal 1997 there was \$120,000 appropriate, however in fiscal year 1998 that number was reduced to \$60,000. His understanding was that at calendar year end, Rich Davis has pretty much committed the entire \$60,000. and in the interest of trying to keep the facade improvement program active -- he thought they would all agree that there had been a substantial positive result as a result of the program -- they were trying to find some additional ways to find money to hold Mr. Davis over until the new CIP budget is approved starting July 1, 1998. Mr. Taylor noted that Mr. Davis came to the MDC Board with this proposal to basically come up with an interest free loan to get him over the hump until the new budget takes place July 1. That was the basis behind this. This money would be a no-interest loan, it would be repaid from whatever appropriation the city provides in the fiscal 1999 CIP budget, and if in the event sufficient funding is not made available in that budget then In-Town has agreed by virtue of a promissory note to repay the money from its own funds over a three year period.

Alderman Shea noted the distinction that he wanted to make was that the money was being used to repair the downtown facades of businesses is taxpayer money. Mr. Taylor stated it was taxpayer money in one form or other, yes. Alderman Shea stated that this benefits the owners of properties in the downtown. Mr. Taylor replied that it benefited the owners of properties downtown and it also benefits the general property taxpayer to the extent that downtown properties are improved and their tax revenues increased.

Alderman Shea questioned if the businesses contributed anything to this. Mr. Taylor replied yes, there was a matching money requirement.

Alderman Shea moved to refer the item to the Committee on Community Improvement Program. Alderman Pinard duly seconded the motion. There being none opposed the motion carried.

- T. Communication from Aldermen Clancy and Shea requesting that signalization at the Jewett/Valley Streets intersection be installed.

Alderman Shea stated he and Alderman Clancy put in the request for signalization at the corner of Jewett and Valley Streets and wished to provide a brief background concerning this situation. Alderman Shea stated let me begin by saying that conditions are so critical and serious at this intersection that is, Jewett and Valley Streets, why because within the past year there have been 34 accidents at this intersection. On January 10th an elderly couple were critically injured requiring the jaws of life to extricate the woman passenger, and to my knowledge both the husband and wife are in intensive care in a local hospital. A photo of this accident was in the Sunday edition of the local paper. In addition the crossing guard at this intersection has frequently complained to both school officials and to the police department that the well being of primary level school children as well as his own well being are in constant and continuous danger because the speeding cars traveling on Valley Street and ignoring his presence. Residents living near this area complain of damage to fencing, bushes, hedges, their own personal property and most especially family members who are in danger in their own yards and in their own property areas caused by projecting vehicles, roll overs the like. Even the postman indicated to me that he fears for his life whenever he tries to cross Valley Street. Both the Police Department's Traffic Division, and the Traffic Department Director concur that signalization at this intersection is urgently needed and should receive the highest priority.

Alderman Shea requested the item be referred to the CIP Committee and to the Traffic Committee for immediate attention.

Alderman Clancy stated this is a real busy intersection. He had spoken with Mr. Lolicata. It was going to be a priority item for the Traffic Committee of which he was Chair, he would work hard to see that a light would go up this term at this intersection.

On motion of Alderman Shea, duly seconded by Alderman Clancy, it was voted to refer the communication to the Committee on Community Improvement Program and to the Committee on Traffic.

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

- W. Warrant for Collection of Sewer Charges in the amount of \$132,444.05.

Deputy Clerk Johnson noted that a listing of abatements totaling \$4,335.17 had been distributed.

On motion of Alderman Hirschmann, duly seconded by Alderman Clancy, it was voted to commit the warrant as abated.

Communication from Thomas Tessier submitting his resignation as a member of the Board of Water Commissioners.

On motion of Alderman Cashin, duly seconded by Alderman Rivard, it was voted to accept the resignation with regret. It was requested a letter and key be presented to Mr. Tessier for his service.

Mayor Wieczorek presented nominations as follows:

Elderly Services Commission

Koni Farr to succeed Marion McMillan, term expiring January 2001

Ira Royer to succeed himself, term expiring January 2001.

Heritage Commission

Alderman Cheryl Klock to succeed Alderman Mary Sysyn, term expiring January 1, 2001.

Highway Commission

James E. Connolly, Jr. to succeed Robert R. Rivard, term expiring January 15, 2001.

Police Commission

James A. McDonald, Sr. to succeed Dorothy Wageman, term expiring September 15, 1999.

Board of Recount

Paul Alfano to succeed Robert R. Rivard, term expiring October 1, 2000.

Manchester Water Works Commission

Thomas M. Robert to succeed Thomas J. Tessier, term expiring January 2000.

Robert Cruess to succeed Andre L. Dery, term expiring January 2001.

Board of Adjustment

Calvin T. Cramer to succeed A. Joseph Dion , term expiring March 1, 2000.

Board of Adjustment -- Alternate

Michael C. Naczas to succeed Robert Bouchard, term expiring March 1, 1999.

Mayor Wieczorek advised that under the rules these nominations would lay over to the next meeting.

Mayor Wieczorek advised that he was appointing Mark D. Taylor to succeed himself on the Manchester Housing and Redevelopment Authority, term expiring December 31, 2002.

Mayor Wieczorek advised that he was appointing Ronald e. Ludwig to succeed himself as the Ex-Officio Administrative Official on the Planning Board for a term of two years.

Update to be presented by Elias "Skip" Ashooh relative to the proposed Civic Center.

Mayor Wieczorek recognized Mr. Ashooh and invited him to the podium.

Mr. Ashooh addressed the Board stating by virtue of the fact that there are a number of new faces here, let me take a few minutes just to back up and let you know how we got to where we are today. In February of 1997, the Board charged the MDC with the responsibility of doing a feasibility study on the proposed Civic Center. \$180,000 of MDC funds, economic development funds, were allocated for that task. Immediately after that charge, we went to work. To date, the committee has expended about \$176,000 worth of funds. I believe the Aldermen were given a budget update about two weeks ago that may have shown a balance expended of \$151,000. I have raised that to \$176,000 because we have received bills in the same time so those funds, with the exception of about \$4,000 for RFP expenses and underwriting expenses, have been encumbered. So we have about \$4,000 left. During that period of time, in the Spring of 1997, concurrently a number of things happened. Arthur Anderson and Company was retained to do a marketing study for the Civic Center to see if indeed there was market support for a Civic Center. At that time, the Civic Center sub-committee itself started on a search for a building manager and concessionaire, for an architectural firm and for a major tenant, the team for the Civic Center. In April of 1997, we recommended our selections for the architectural team, the team of Lavalley Brensinger and HOK Sport was selected. They immediately went to work looking for a site for us and to start soliciting community input for the design and use of the facility. In May of 1997, Lavalley/Brensinger and HOK announced their preferred site, which as you all are aware of by now is a 9 acre parcel at the intersection of Granite and Elm Street which is currently occupied most prominently by Staples. During that same time, the sub-committee started its search for a building manager/concessionaire. That process started in June. By September we had narrowed seven candidates down to three candidates. Those three candidates have been subject to two face-to-face reviews and three revisions of their financial proposals to us. In October we announced to this Board that our recommendation for building manager and concessionaire was Ogden Entertainment. Pretty much that was our work to date. What you weren't aware of at that time is that as early as June the committee had been involved in very preliminary discussions with the minor league hockey teams, representatives from a number of teams. Those discussions continued on and off until December when in December of 1997 in what I can only describe as a flurry of activity unparalleled by a volunteer board, the MDC sub-committee met with representatives from the American Hockey League, the International Hockey League, the East Coast League, representatives from minor league teams and some NHL teams as well. We have been very, very busy in the interim. At this point, we believe that we have gathered enough information, after talking to the principles of teams and leagues, to put before the City a public notice seeking an ownership group to own or operate a team in the proposed Civic Center. This process we do expect to take a little bit of time as well. We have been very, very careful and very diligent to take the time appropriate to find the right people for the right job in this Civic Center. So at this point, we would like to make the Board aware that the Civic Center sub-committee, along with legal council, is structuring what we hope to be a public notice process so that any interested parties, interested in owning or operating a hockey team in the Civic Center would have a fair and open process to participate in. As you know, Civic Centers have been on the table here for a number of years. A number of people have

information from previous efforts. We think at this point to give everybody a shot we would like to form a public notice and give everybody this process. Part of that process is going to allow our sub-committee to evaluate the ownership proposals that are put before us on some very, very level playing field terms. We are looking at several requirements, not the least of which is the owner or ownership group or representatives that come to us should have a net worth, we are looking in the \$10 million range net worth to come to us to be considered a viable owner for the team. They are also going to have to have significant operating capital to operate this team. We are looking probably somewhere in the range of \$3-5 million operating capital to get in the door of this thing. Lastly, because we are not looking for a short-term contract or short-term commitment, we are looking for an ownership group that has the demonstrable ability to perform on a tenancy contract in this building for 15 years. These are the types of things we are working on. Now they are not written in stone yet. We are working on them. But I want you to have an idea of what we are going to be looking for from a group who will come before us. In order to secure the materials, we are going to be preparing some fairly significant packages that will include the information that has been, financials that have been developed through this whole process over the last year and the participants in the process are going to be bound by several things. First we are going to ask for a cash deposit. If you want to be in the process, you are going to need cash to get in the door. It is going to be a refundable deposit if you don't win. We are looking at some fairly significant numbers to get a serious buyer or a serious participant involved here. We are talking, lets say we asked for a \$10,000 deposit, we would ask for a \$250 non-refundable document preparation fee and we hope to structure the public notice process and the response time in such a way to make it a timely event. We don't want to extend this process any longer than we have to, but we are willing to take the time that is necessary to do the job properly. At that point, once we can bring an ownership group of substance and a team together, the AHL, we have identified four franchises we think are prime candidates for the City of Manchester. The American Hockey League has restated their commitment to the Manchester market. They feel that the Manchester market is a very viable and exciting market and the commissioner there has told us that they are looking forward to working with a group that we bring to them to bring a franchise to Manchester and that the league would stand behind having a team in Manchester for that period of time. Once we complete this process it would be the last major part of our feasibility study. At that point, we could then make our final report to this Board with our recommendation. We have set some relatively high standards we think. When this process, when the public notice is filed, we would like to think that those that come to us and have met all these requirements will represent the best possible combination of an owner, a team, building manager and architect for this project. That is our report at this time. I hope to be back soon.

Mayor Wiczorek stated thank you Skip, just one question from Alderman Wihby.

Alderman Wihby said Skip, first of all I want to commend the sub-committee. You guys have worked hard on this and you have spent a lot of time and it is moving forward. As you know, I am in favor of the Civic Center and I think there is a lot of members here who are in favor of it

but they want to make sure that it is not going to cost the taxpayers a lot of money. Of course, in some cases, any money. But, my feeling though is as an Aldermen I sit here and get a five minute synopsis of what the committee has done and we have heard this three or four times so I might have 15 minutes of what is going on with this Centerplex, Civic Center, whatever you want to call it. I guess my concern is that I go out on the street and I talk to people and they ask me how it is coming and I say well, you know, we are getting our reports and it looks like we are going in the right direction. But I don't know if we are going in the right direction. I don't know all the scenarios that you have met with, all the proposals that you had, what your high standards are, what you are trying to do. I think if we want to this work, and I think we all want this to work and want it to come out right, I think the Aldermen are going to have to be more informed rather than at the end of this deal you come to us and you say here is our proposal now take it or leave it. I would like to suggest that under Rule 13 that I am permitted to form a sub-committee of five Aldermanic members to sit down with your group and Jay Taylor or whoever else is involved with this and learn more about what is going on and how your high standards have been and how your proposals have come to where you are trying to say that they came to; look at all the different proposals that were there. I am not trying to stop you from going forward on what you are trying to do and I would suggest that the motion would include allowing you to go ahead. I don't know if you need a vote on that or not to go ahead and do what you want to do today. But along with that I think the Aldermanic Board needs to know a little more information because I am feeling it out there and I am in support of the Centerplex, Civic Center, and I feel it out there that we are going to lose people if we don't let them know a little more about what is going and let them know that there is some Aldermen looking at it also that are concerned with what is going on and how the standards have been given and everything else. So would you be opposed at this point if a sub-committee was formed to have you guys sit down with us and whoever else wants, with what has gone on so far and let five Aldermen know what is going on.

Mr. Ashooh replied I think you have to understand that we work for you on this so I am not opposed to it at all. I will tell you that every factual piece that we, that we have available is made available to this Board. In terms of contracts and the like, we can't write in stone until we have the building manager and the team owners sit down and actually work out their leases, so that type of information we can put a lot of numbers together for you at that point. At this point in time, I have no problem working with the Aldermen on this whatsoever.

Alderman Wihby proposed that under Rule 13 of the Board a Special Committee be formed with five members and moved that he as Chair of the Board do so. Alderman Cashin duly seconded the motion to form a Special Committee with five members of the Aldermanic Board..

Mayor Wiczorek clarified that the motion was to form a committee no motion was required for the MDC sub-committee report, they could continue what they were doing.

Alderman Pariseau asked, Skip, is that location on Staples cast in concrete.

Mr. Ashooh answered no, that is our preferred site at this point and we have not given up on other sites. It is just that, according to the architect's profile, that had the best of all the characteristics they were looking for.

Alderman Pariseau stated well my thought was where Elm Street is not pedestrian friendly in that vicinity, nor is it pedestrian friendly down behind that area.

Mr. Ashooh replied the Staples location is the best use of space, the best access, visibility, and a connection to downtown at the same time. So it is not written in stone, but we are always open to better options.

Alderman Shea stated I am not attacking the messenger, the message I am to a degree, but how much private funding have you now received.

Mr. Ashooh answered none.

Alderman Shea stated no private funding.

Mr. Ashooh answered no private funding. That has not been our task at this time although I can tell you we have had conversations and we are in negotiations now with what we think could be some private dollars but I am not at liberty to say anything about those yet.

Alderman Shea replied so in other words we are talking about the concession Ogden, we are talking about a hockey franchise and we don't really know exactly how much money it is going to cost to build the Civic Center at this stage.

Mr. Ashooh answered that is correct.

Alderman Shea asked so when are we going to know.

Mr. Ashooh replied as soon as put everything together we can put all the numbers in black and white for you. That is what we would like to do. We believe once we have a team in place we can then market the luxury suites, the club seating and all those things and get commitments on those seats so that we can then define that type of private investment. There may also be other types of private investment we haven't anticipated yet but we have heard about that we would like to pursue. But none of those things I think can happen...we can't put the cart before the horse I guess is what I am saying. As soon as we can get the cart out there though the horse will be right with it.

Alderman Shea stated so in other words the general public will know how much private funding and how much public funding and it is still the concept that they will have a voice by referendum to either approve or disapprove is that...

Mr. Ashooh answered if this Board decides for a referendum, yes.

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

Mayor Wieczorek stated thank you very much, Skip, for your update and thank you very much for the hard work that you and the committee has put in.

Presentation to be made by the Board of Assessors.

Mayor Wieczorek recognized Steven Tellier and called him to the podium.

Good evening Mayor, Board of Aldermen. I have a short presentation. The Account and Enrollment Committee asked the Board to come before you to kind of elaborate on where we are today. In 1996, with the support of the Mayor and the Board of Aldermen and the assistance of the city auditor, we developed a very concise format to give the Board, the Mayor and Board of Aldermen, better tools and a little more information on the status of several articles that are of significant importance. First would be the status of the tax base, second would be the status of the appeals and the overlay monies that affect the budget. Additional to that would be reporting of the appeals themselves and so forth to give this Board better tools and a better reporting structure quarterly or every other month as you will and that is what we have developed. What I have available at this time is a copy of the report that was developed in November for the December meeting. At this time, we are presently computing all the figures and bringing forward to the Account and Enrollment Committee a more updated version that we will have on January 27. So at this point I will certainly open myself up to any questions that this Board may have for us.

A handout was distributed to members of the Board.

Mr. Tellier stated we have the previous report for your information and we will have an updated report January 27 for the new committee that I am quite certain will be forwarded to the next full Board of Mayor and Aldermen as a consent item. Tax base is up and it seems that appeals are down so that is good news. On the first page is the tax base summary. The very bottom number balance as of 10/27/97 when we closed the books and prepared to develop the warrant, that was the total value of the City at that time. That did not include exemptions. However, as you recall last Summer we came to this Board and asked for a small amount of monies to requalify the elderly exemptions as a result of recent legislation. So, as a result of that the exemptions went down. It was originally around \$68 million. It has gone down to approximately \$54 million as to the point of this reporting. The next page regards the overlay

summary. That is linked with all the appeals that are part of the property tax system. The third page is the valuation summary. That would entail the value portion of those appeals. The ensuing pages would be all the appeals specifically, Board of Tax and Land Appeals and their years, 1995, which is through 1996, BTLA and 1996 Superior Court. Also in this packet would be the local appeals that were originally filed in the 1996 tax year. At the end of the report is a list of payments in lieu of taxes and the very last page is just a summary of the computerized report that we worked together with Information Systems.

Mayor Wieczorek asked if there were any questions from the Aldermen.

Alderman Clancy asked, Steve, if a person doesn't pay their taxes for a number of years, what do you do. Do you put a lien on the property?

Mr. Tellier answered that would be a proper answer, properly answered by the tax collector, however, that is eventually what is done Alderman.

Alderman Clancy asked after how many years.

Mr. Tellier replied after one year the notification begins and then the second year and subsequently the property is deeded.

Alderman Clancy asked what if there is a hardship.

Mr. Tellier answered the only possible entity that can abate taxes is the Board of Assessors. The hardship can only be granted by the Board of Assessors and those are usually, when they are granted, are on a case by case basis.

Discussion relative to municipal taxation of telecommunications poles and conduits (HB 707-Local).

A letter was distributed to members of the Board, reading as follows:

Dear Chairman Kurk and Members of the Committee:

Pending before your Committee is House Bill 707, an act relative to municipal taxation of telecommunications poles and conduits, which has been re-referred to Finance from the 1997 session.

This new tax proposal will undo the careful balance the legislature constructed in 1990 concerning telecommunications taxation policy when the Communications Services Tax was adopted. The Finance committee has the challenging task of reviewing individual tax proposals in the context of overall tax policy. AT&T urges the Committee to see this proposal as it is: a new tax that violates the spirit of the policy developed previously by the legislature. The Finance committee came to this same conclusion during 1997 when they voted to kill HB563 (a proposed tax on telecommunications easements).

This proposal will have a negative impact on telephone consumers in New Hampshire. New Hampshire's businesses and consumers are demanding the highest quality, most

advanced telecommunications infrastructure for their communications requirements. The legislature in 1990 had the foresight to move from a state property tax to a service tax basis for telecommunications in order to remove the investment disincentives a property tax creates.

Telecommunications is a key driver for New Hampshire's economic development. Continued investments must be encouraged so that businesses, schools and our homes have the most advanced services available to them. New Hampshire needs to continue to attract telecommunications intensive firms, such as Fidelity, to sustain our economic growth. At the same time smaller, entrepreneurial firms need advanced services to compete nationally and internationally. HB 707 is a tax proposal that will result in a disincentive for this investment.

AT&T respectively urges the Finance committee to vote ITL on HB707. This new tax proposal will undo the thoughtful tax policy balance the legislature previously established. SB73, which will come over from the Senate this session, also will give the Committee a vehicle to resolve the concerns of the municipalities concerning this issue, while maintaining the policy balance previously developed.

Thank you for your consideration

Sincerely,

s/William P. Leahy
(AT&T, Law and Government Affairs)

Mayor Wieczorek stated this is a bill that was in the Legislature last year and currently as it stands now the electric utility company pays a property tax on the poles that they are responsible for. The telephone company and I guess the cable companies don't pay any taxes on the poles they are responsible for, every other pole for the phone company, and they don't pay a tax on it. But I wish this were a very simple, clear cut problem here but it isn't. It is actually quite complex. So complex that last year the Legislature re-referred that bill this year. This year, they held a hearing, I guess they re-referred and I see we have State Representative McCarty here. Are you on that committee?

State Representative McCarty replied no.

Mayor Wieczorek went on to say they did have a referral, I guess it is going to the Committee on Finance and I still don't know where this is going and that is the reason why we brought it to the Board so we can see if there is a position that the City wants to take on this particular issue. It's, as I see, not as clear cut as we would like it to be because my understanding is that when the phone company had the communications tax passed in 1990 then they did that in lieu of the property tax that people were going to be paying. But it is not a tax that comes to the City. Mayor Wieczorek referred to the letter that went to Neil Kurk stating it was from AT&T and they explained a little bit of what the situation is with them. As I said, the municipal association is supporting the tax, but it is a new tax. From my standpoint, personally, I think the thing that I would be interested in is seeing that there is some equity, that it is going to be fair. Whatever they do has to be fair and I, just, there is no easy answer to it and I think the Legislature is going to grapple with this. I think you will have the House come up with probably some potential solutions and you will have the Senate who has got some strong feelings probably the other way, so I don't know what really is going to be the result.

Alderman Girard asked, Assessor Tellier, do you have an assessed value of the poles that PSNH pays taxes on in the city.

Mr. Tellier answered no, we don't. As a matter of fact at this point the City of Manchester is in an agreement with Public Service until 2002. Also, I went the further distance and spoke to Jeff Earls, the Deputy Director over at the Property Appraisal Division, DRA, on Friday. At this point, he does not have the information to extract what the poles and conduits would add or subtract in additional value.

Alderman Girard replied the reason why I asked that question is if memory serves me correctly, the various electric utilities around the state are challenging cities and towns for levying this tax using the argument that it is unfair taxation because the telephone and cable companies are not paying the same tax. I know that there is great concern at the municipal association that if the electric utilities are successful in their challenges that cities and towns could see significant reductions in their taxable value. So, the other part of this equity question is, gee if we are not going to tax the poles of the telephone utilities and the cable utilities, what then are we going to do with the electric utilities. I am not sure that one utility paying a property tax and another utility paying another type of tax is necessarily a fairness issue and I think, you know, in the City here given the number of poles we have that is not an inconsequential consideration.

Mayor Wieczorek answered well, I think you know there is no question this is a very confusing problem and as I say it was not easy for them to sort out last year and I don't think it is going to be any easier to sort it out this year. The fact that it is complex is the reason why I brought it here to find out if there was any opinion here on the Board on what the position should be, the official position of the City regarding this particular bill. Because you have two bills here. You have got this bill, you know, that would force the telephone company to be paying a pole tax. You have a bill in the Senate that effectively, I think it is Senate Bill 73 if I remember correctly, and that one is to maintain the status quo. Frankly, I don't know what direction this is going to take. I think that from what I hear from different communities, they don't want to give up the taxes that they have, but if you are talking about something that is a brand new tax then that is a different situation. I believe the Senate looks at this as a, State Senate, as a new tax and so I, my feeling is that they are probably not going to be supporting the telephone company paying the pole tax. So, it is a very confusing issue. Any suggestions here from any Aldermen?

Alderman Hirschmann stated just in reading AT&T's letter to the Board it says this proposal will have a negative impact on telephone consumers in New Hampshire. The end users are the people who are going to end up paying this tax. You can tax the phone companies and the providers as much as you want, it is going to be passed on to all of us and this is a new tax. I wouldn't want to go down this road.

Mayor Wieczorek replied well, that is the reason why and incidentally it was addressed to Neil Kurk, Chairman of the Finance Committee, and that is the reason why I am bringing it here because as I said it is not an easy issue.

Alderman Girard asked, Your Honor, were the telephone poles taxed prior to this 1990 telecommunications tax by the State.

Mayor Wieczorek answered they paid a property tax because at that time, I think back, I don't know what they did in 1990. In 1970 is where they changed it when they had the stock and trade tax. So you actually had a property tax on the property that they had businesses were paying a tax on their inventory and that is where the business profits tax came from. Supposedly this is where the communities were to get 40%. Well the communities never did get 40%, but this is the part of the rooms and meals tax that is coming in here and the business profits tax that rolls in here to try and get us up to the 40%.

Alderman Girard asked so they never paid a property tax per se as say the electric utilities pay or the gas utilities.

Mayor Wieczorek replied not that I know of.

Mr. Tellier stated Assessor Porter has been on the Board of 17 years and I think he can lend a little bit more insight on that if...

Mayor Wieczorek interjected who.

Mr. Tellier answered Assessor Porter.

Mr. Porter stated there are two bills. The 707 is the House Bill and Senate Bill 73 is in the Senate. Prior to 1990, it goes back to 1970 when there was a stock and trade tax. That was then thrown out and in 1990 there was a business profits tax that was paid by the telephone company. Their poles and wires and conduits were considered personal property by the Supreme Court so that they were not taxed. They were never taxed for wires and poles. They were, however, always taxed for the real estate they owned, the land and buildings. This bill basically, of the two bills, what happens is that Senate Bill 73 allows telephone poles and wires and conduits to be taxed, but not to be taxed by the or to the carriers that are presently paying a communications tax of 5 1/2% so that in Manchester, Nynex is just about the whole ballgame in terms of telephone carries. So, in Manchester there would be no negative impact if Senate Bill 73 were passed because Senate Bill 73 does allow the continuation of the taxation of the telephone company poles.

Alderman Girard stated for clarification then, a property tax would be levied on any cable or telephone utility that is not currently paying the State telecommunications tax.

Mr. Porter replied correct.

Alderman Girard stated so in other words if this bill were to pass, the City essentially has nothing to gain.

Mr. Porter replied it has nothing to gain, but by the same token it would also eliminate the Public Service from being exempt from taxation on the poles as well.

Alderman Girard stated so in other words we would lose Public Service's...

Mr. Porter interjected no. No we wouldn't. That is the point. Senate Bill 73 allows you to tax the telephone poles and wires to the telephone company and to the Public Service, but then there would be an exemption for the carriers whose subscribers are already paying that 5 1/2% communications tax.

Alderman Girard asked basically then it would keep the status quo in the City.

Mr. Porter answered I would say yes it would because it would not allow the Public Service to be exempt.

Mayor Wiczorek stated and they have applied for abatement, not they specifically. I guess maybe they have in some communities and other power companies have also in other communities. They have already requested abatements if, in fact, that bill passes.

Mr. Porter stated in Manchester the agreement we have is that the Public Service has agreed not to appeal their taxes through the year 2000.

Alderman Wihby asked, Paul, it is not going to, if the bill passes...

Mr. Porter asked which bill.

Alderman Wihby replied the one in the Senate that you are talking about. All it is going to affect is PSNH right.

Mr. Porter answered it won't affect them because they are paying taxes now.

Alderman Wihby asked so won't they have to pay the pole, are they paying taxes on the poles.

Mr. Porter replied the poles, they are paying taxes on the poles.

Alderman Wihby asked here in Manchester.

Mr. Porter answered yes, they are. That is part of the overall valuation for Public Service.

Alderman Wihby stated so if we were to go and oppose the bill, why would we go to oppose the bill. Why don't we just let it pass? What is the negative or why should we go...give me the other side of this.

Mr. Porter answered it won't affect them because they are paying taxes now.

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Mr. Porter answered passing it would retain the status quo. Not passing it could allow the Public Service to be exempt if they win their case in court. It is not a guarantee that they will be exempt.

Alderman Wihby replied so it sounds to me that we would want to pass it. Just to cover ourselves. Remember we had a discussion a long time ago and I just wanted to...does this have anything to do with the controversy we had at one time where we had told you or we were looking into doing something different and you guys said no we shouldn't do it and then something happened with a lawsuit or something and it turned out good thing that we didn't do it. Does that have anything to do with this?

Mr. Porter answered no. Well, it has to do with the reason for the legislation. If you recall, back in 1994 a number of towns, like sharks at a feeding frenzy, jumped all over the telephone company and they subsequently had to abate. For example, Nashua had to abate \$3.8 million and take \$54.5 million off their tax roles. Manchester's exposure was zero.

Alderman Wihby replied cause we didn't do it and so now that is why the bill is being presented so that it is going to allow them to do it if they want to. Your Honor, my question would be why not go ahead and favor the bill.

Mayor Wiecezorek asked 73. That is to maintain the status quo.

Alderman Shea asked what about House Bill 707.

Mr. Tellier answered House Bill 707 the figure that was bantered around in Concord at the House Finance Committee was approximately \$6 million for the poles and conduits and that was statewide. It didn't amount to any windfall by any means. That was a statewide figure that was quoted at that finance hearing. The thrust of the argument was to circumvent appeals by electric utilities by their argument of only half the poles being taxed.

Alderman Shea asked so would this be beneficial for us to support, not support, I mean we just saw this tonight you know.

Mr. Tellier answered the NH Municipal Association is supporting the bill at this point.

Mayor Wieczorek asked 707.

Mr. Tellier replied 707. That taxes the poles and conduits only. That does not take into consideration the wires or the central switching which they consider either personal equipment or pertinent to the communications tax. Again, the thrust of most of this legislation is to circumvent further appeals by the electric utilities. That is my understanding on it.

Mayor Wieczorek stated and I think, you know as I said, I think what everybody would like is to see some equity in the situation. Whatever is fair is fair. The state, when they bundled up these taxes in 1990, the money went to the state you know. It didn't come to the communities.

Alderman Shea stated at one time, I believe more recently than not, the delegation to the State Legislature would meet down at the City Hall and discuss these problems. Wouldn't it be a good idea, before their vote or if a vote were to be taken, there would be someone from city government that would be briefed and then bring back that approval or disapproval to the Board.

Mayor Wieczorek replied we still do that and as a matter of fact we met last week. This is where the situation came up and we were discussing it and I said well lets bring it to the Board and find out what their feelings are on this. Whether we support it or don't support it. That is the reason why it is here.

Alderman Shea asked well what was the consensus of that meeting.

Mayor Wieczorek answered I think they are looking to find out what the City wants to do, you know, if we can stake out a position then hopefully most of the people there will support that position. I just don't know what that position is.

Alderman Hirschmann asked was the bill filed on behalf of the Nashua loss.

Mayor Wieczorek answered 707. I don't know who...

Alderman Hirschmann asked is this just so Nashua can get their tax base back.

Mayor Wieczorek answered well, Nashua I know does support the bill. You know the Municipal Association portion of the bill.

Alderman Hirschmann stated cause they had such a large exposure. We had zero.

Mayor Wieczorek answered yeah, well.

Alderman Hirschmann stated that is why I am asking. Did they file this bill?

Mayor Wieczorek answered no they didn't file this bill. I don't know who filed that bill. Do you know, Sean? Have you got it there? This is not new. This has been around here for a number of years.

Alderman Girard stated given what the Assessors have been presented here tonight it seems that Senate Bill 73 would protect the City after the year 2002 should PSNH decide to come and have its property values abated. Senate Bill 73 seems to maintain the status quo.

Alderman Girard moved that the Board endorse Senate Bill 73 to protect itself from any electric utility appeals after the year 2002. Alderman Pariseau duly seconded the motion. Mayor Wieczorek called for a vote on the motion. With twelve Aldermen in favor, Alderman Shea abstaining and Alderman Cashin opposed, the motion carried.

Alderman Shea stated I am not sure exactly if amendments are going to be added or not added to the bill and if we endorse the bill we would have to endorse the amendments as well Your Honor. So I think that we should see how the bill develops. I don't think there should be any haste in this matter. That is my own opinion.

Alderman Clancy noted that Senator King from Manchester was one of the sponsors of Senate Bill 73. He stated the sponsors noted were: Senator Whipple, District 8; Senator McCarley, District 6; Senator J. King, District 18 and Senator Beverly Harlingsworth, 23, who is out of Hampton.

Alderman Shea stated well this was in 1997 Your Honor.

Mayor Wieczorek responded yes, that is still the bill I guess that is there.

Presentation to be made by the City's independent auditor, Melanson & Heath Company, regarding the 1997 Comprehensive Financial Report.

Good evening Mayor. My name is Frank Biron, I am the President of Melanson-Heath CPA's and also to my right is Scott McIntyre who is the Manager of our municipal audit services. The two of us tonight are going to walk through some of the highlights of the annual audit. There are two documents in front of you. One of the, the thick document, is the comprehensive annual financial report. That is a report that was prepared by the City Finance Office summarizing all the financial activities of the City. Scott is going to walk through some of the numbers in there, some of the highlights of the operations for fiscal year 1997. When he is completed, I am going to go through and talk about the management letter which is the other report where we discuss some of our observations during the course of the audit and some areas where we think recommendations, areas of improvements could be made. Before I turn it over to Scott, I just want to commend the City in actually preparing this comprehensive annual financial report. As the name implies, it really is a comprehensive document. There is 142 pages of information in there summarizing the results of operations for Fiscal Year 1997 and the report is really broken into three distinct sections. The first one is an introductory section which is a narrative which summarizes, using words, the results of operations during the course of year. Whether it was a good year or a bad year and the reasons why. It also talks about, you know, some of the distinct areas within the City's finances such as the Enterprise Funds. Each of the Enterprise Funds and how they did and it talks about current economic development and the outlook for the City of Manchester going forward. The next section is the financial section and that is really the audit. Those are the numbers. The balance sheet, the budget versus actual, the revenue and expenses for the year. That is the information that we audit and those are the things that Scott is going to talk about. Then the third section is the statistical section. That is a summary of the results of operations really for the last 10 years in a number of cases. It will summarize the revenues for the last 10 years, expenditures for the last 10 years, the tax base and how that has changed, tax rates and how that has changed, who the major tax payers are in town. It is just a lot of valuable information in there. Now it is not every community that prepares a comprehensive annual financial report. In all of New England, there is probably less than a dozen communities that put together this report. In New Hampshire, there is probably about three or four so it is a major accomplishment to put this together. As far as the City of Manchester is concerned, especially this year was a major accomplishment because this was put together at the same time that the City was undergoing the major computer conversion that is going on right now. So, I really do have to commend the City for being able to put together this report and present it to the Board in a timely manner as it did. At this point, I am going to turn it over to Scott who is going to talk about just a few of the key numbers in here and summarize the results of the current year operations.

Mr. McIntyre addressed the Board stating I am going to try and walk through some of the highlights without asking you to turn too many of the pages. Before I jump into some of the numbers, if I could just draw your attention to Page 19 of the report though. As Frank mentioned this report was put together by the City. What we give to the City is our opinion on your financial statements and that is what exists on Page 19 and the issue here to talk about on 19 is that there are no qualifications in our opinion. What that means is that these financial statements are totally in accordance with generally accepted accounting principals. That is one

of the requirements for being able to put together a comprehensive annual financial report is that you be totally in compliance with generally accepted accounting principals. If I could draw your attention now over to Page 24, I will highlight some of the key numbers. On Page 24, in the first column of numbers, the key highlights are the third and the fourth number from the bottom of the general fund column. What the sum of these two numbers represent is the City's unreserved surplus that existed as of the point in time of June 30, 1997. You have it in two components. You have the revenue stabilization fund which is established by ordinance. You have the \$4,531,000.00 and you have an undesignated fund balance of \$758,000. Combined, that is the City's surplus and it is just under \$5.3 million. Again, I just want to point out that that is as of the point in time of June 30, 1997. To compare that with say a prior year, the City's fund balance has increased by about \$1.4 million and to see how you got from where your surplus was at the beginning of the year to the currently \$5.3 million that exists here on Page 24, if you could just turn to Page 29 this statement shows the City's general fund results of operation compared with the budget and I had mentioned on the prior page that your surplus increased by \$1.4 million. If you look at the middle column of numbers of Page 29, way down at the bottom, you see \$1.4 million in revenues in excess of expenditures. The other highlight on this page, in addition to showing you the increase in your surplus, it shows the detailed results of operation of the revenues compared to what the estimates and the expenditures compared with appropriations and you can see the various variances that exist which generated an increase of \$1.4 million. There is just one more page I would like to turn your attention to. It is in the back, it is Page 98 and 99. These two pages show the results of operations of the City's four Enterprise Funds. The key numbers on this page, in each of the columns is the third number up from the bottom. It is called an increase in retained earnings and you see in all of these columns that each Enterprise Operation had a solid fiscal year where results of operations increased the equity of the funds. That just shows the strong performance by all of its Enterprise Funds. That is an awfully quick overview of a very comprehensive report. Unless there are questions, I will turn it back to Frank to speak about some of our recommendations.

Alderman Shea asked the figures that you use here, were they given to you by the different departments or do you audit their books. How do you arrive at these figures?

Mr. McIntyre answered the City Finance Department compiles these from the City's general ledger. From there, we do most of our work at the Finance Department but we also go to all of the, well I won't say all, a majority of the departments throughout the City in order to help facilitate the testing of these numbers.

Alderman Shea asked so that is an external audit. Is that correct?

Mr. McIntyre answered this is an external audit, yes.

Alderman Shea stated as contrasted to an internal audit. Would you explain what an internal audit might be?

Mr. McIntyre replied sure. An internal audit is done by employees of the City where they would go out, those employees who are designated as internal auditors, would go out and audit a department or function. What Frank will talk about in a few minutes in our management letter is one of our recommendations in the past has been that the City use its internal auditor to go out and test the departmental receipt procedures employed by the various departments that collect currency. Part of our testing has been going to some of those, some are very good. What we think can be achieved by using an internal auditor is perhaps some more consistency amongst all the departments that collect currency.

Alderman Shea asked when has Manchester had an internal audit. Do you have any idea?

Mr. McIntyre answered an internal audit. I don't know the direct answer. Kevin, would you like to comment on that.

Mr. Clougherty responded the Finance Department has internal auditors. As you know we just added a Senior Auditor this year and we are putting in place that program. We have people going over receipts on a regular basis. The School Department, you may also know Alderman, has built in an internal audit function in their department at our suggestion and with our concurrence. We think that is a good move. A lot of times when you look at Federal agencies you will see that there is a Federal Department of Transportation and within that department there is an Inspector General. That Inspector General is doing internal audit functions. So, we would see that as similar. You have your School Department, like your Department of Education, and you've got an internal auditor providing the action of an Inspector General. So that is on an ongoing basis and these programs, really for the City of Manchester, have only been developing in the last few years and we are really starting to put a lot of muscle into that. Getting the new systems in place and the new procedures in place is that first step so the Committee on Accounts is going to be seeing more and more of those reports coming forward. We have talked about that, as you know, over the last couple of years in trying to strengthen that program.

Alderman Shea replied so in essence the School Department has had, or the mechanics or procedures for an internal audit are already existing in the School Department. Any other departments?

Mr. Clougherty answered that is in school since September. The Finance Department has two auditors, a Junior and a Senior, who are providing that function for the balance of the City. Now what we do is we focus on the review of major items. So we are looking at procurement compliance, we are looking at contract compliance and things of that nature and eventually we are going to be able to get people, the program strengthened so they can get out into the field and actually do some site visits, but we want to do that with the concurrence of the Committee on Accounts to get into a regular schedule. That would be similar, if you go to the State Department, go to the State government, you have the Office of Legislative Budget Assistance that goes out and performs that function on a regular basis following along the recommendations

of the Finance Committee up there and that is the same thing that we are trying to structure here and build going forward.

Alderman Shea asked but we don't have an outside agency ever performing an internal audit. Mr. Clougherty answered no.

Alderman Shea asked you have people from the Finance Office doing an internal audit, but no independent auditors. Is that correct?

Mr. Clougherty answered right. We pulled together these numbers Alderman and they are the City's numbers. We stand on them and then what we do is we back off and we have somebody entirely outside of the City, you know, in the form of Melanson, come in and take a look at this and validate that what we have done is right. These numbers are going to your investors, they are going to the credit rating agencies, they are going to, you know, academia, they are going to the Federal government to verify what we are getting for Federal funds and they want to hear from somebody other than the Finance Officer that this was done right. So, this is the external review that is done by Melanson. That is what they are addressing tonight.

Alderman Wihby asked, Scott, is part of your role in auditing to determine like where we should be on something like carryover or fund balance or...do you give that information to somebody.

Mr. McIntyre answered it is not our...we give an opinion on whether these are fairly presented. I spoke a little bit about your fund balance in the general fund. The combination of those two specific numbers that I talked about is a little bit under 4% of the City's annual budget and I bring that up because that is sort of a yardstick that is used by rating agencies and financial institutions. There is a method to judge credit worthiness of the City.

Alderman Wihby asked what is the percentage.

Mr. McIntyre answered right about where you are. One percentage that is often thrown out there is 5%, but you have to go a little bit deeper than that. The City isn't at 5%, but it has a lot of other attributes that make it in solid financial position. The tax base, you know I highlighted in the back of the report the Enterprise Funds operations. Those are totally self-sustaining and aren't subsidized by the general fund.

Alderman Wihby stated I look though at that number, retained earnings, and I see \$20 million in Water Works, \$27 million in EPD. I know we have an EPD project that is going to be going on that is going to cost a heck of a lot more than \$27 million eventually, but what about Water Works. Do you give a figure that that shouldn't be higher anymore, that we should, I mean is there anything like that that you would give in your audit?

Mr. McIntyre replied we have not been contracted to sort of give an opinion on whether or not that is too high. Those numbers, and there are departmental financial statements on the Enterprise Funds that I think get into a little more detail than this comprehensive annual financial report and I think there is value in those because, you're right, there are those huge

numbers there that aren't necessarily meaningful unless you look a little bit closer to see what makes up that \$27 million. Much of that is probably the infrastructure that exists in the City. That is not expendable dollars. You cannot use that \$27 million that you refer to in Equity to help subsidize a new project that might take place next year. So you have to really dig into these numbers to identify what they are.

Alderman Wihby asked so there is some outfit out there that would sit down and tell us where we should be and if the number is too high or too low.

Mr. Clougherty answered if Melanson-Heath were to come in and tell us what targets we should be hitting that would defeat the purpose of their objectivity if you think about it because then they would be setting the goals and then they would come in and audit and say hey you hit your goal. That is not really what you are trying to do. We are trying to, you know the reason the marketplace works is because you have these people who are CPA's and they are independent and they come in and say all right these are the facts, you comply with GAP and here is where you are. The exercise that Alderman Wihby is taking about really takes place as part of the credit rating. Where they are taking a look at whether you are solvent, whether you have sufficient reserves, whether you have a good plan in place to deal with the capital needs over the next five years and that is what your credit rating is based on. We will get a good measure of that because the City is in the market. The municipal bond rates right now are at an all time low so we're expediting our bond sale so that we can be in the market in the next two weeks. We have provided the information to Moodys and they will be reviewing the City's credit rating and we will get some idea from them as to what they think of these numbers that they have been provided with recently.

Alderman Wihby stated, Kevin, the credit rating is, I mean we could sit here and just keep putting money away and hope that our credit rating is going to go up. They are not going to tell us that you have too much money there. They are just going to tell us, yeah it looks good and the next year we are kick more money in and more money in and they are going to keep telling us we look good. I mean, who is going to tell us that there is too much?

Mr. Clougherty replied well, I think in one respect in the Rainy Day we did because we set that cap at 5% and I really believe that is a responsible cap. You can hire accounting firms to come in and do those types of projections for you. We would not advise that you ask these accountants to do it because they are already part of the internal controls and giving a separate opinion, but you can have people under a separate contract and go out with an RFP and ask them to come in and just take a look at these financials and see if they feel you are in good shape and help you put in place a plan over a five year period to meet some targets.

Alderman Wihby asked do you know that all the Enterprise Funds, if they have done that or not. I mean they could expend their own money to have that study done. Have they done that?

Mr. Clougherty answered I think each one of the Enterprises has regular consultants and as you know we are in the process of trying to do something with the airport so Pete Marwick is very

seriously looking at what we have here because we don't want the City to have any exposure with the airport expansion so there is a group looking at that actively. EPD has their consultants that come in and look at that, as does Water. But again, if you wanted something outside of those individual consultants, I mean, again if you called in airport we would be able to justify what was going on, but if you want a clearly independent review of these numbers to help you do some planning and forecasting, much along the lines of what Scott is doing here, we would recommend that you do that as a separate RFP.

Alderman Wihby asked it is not being done now in the Enterprises.

Mr. Clougherty answered no, and I mean that is not bad. I mean the consultants we have are working to get the projects done and I think that is appropriate but if this Board wanted to do something like that, again, that is periodically not an unhealthy thing to do either and the Committee on Accounts could consider that and we could structure something in the next budget to provide funding to do that next year.

Alderman Wihby stated I would like to suggest that the Committee on Accounts look at that Your Honor.

Mayor Wieczorek replied I think that is a valid suggestion. I can remember, you know, back in 1990 I guess when we went out to bond, I don't know whether it was 90 or 91, we were criticized because we didn't really have a fund balance you know we were at 0. That is where, you know, we came up with the 5% and came to the Board and asked them to take half of the fund balance and put it in the Rainy Day Fund and use half to reduce taxes so at least we're moving toward that target and we are pretty close, very close. Any other questions for Scott? If not, thank you Scott. Frank do you want to cover the management letter?

Mr. Biron stated okay, now if we could turn to the other document which is the management letter and as I mentioned before the management letter summarizes some of our observations during the course of the audit and some areas where we issue some recommendations where things could be improved. The letter really begins on Page 3. The first issue deals with reestablishing interim reconciling procedures. The City is currently in the process of going through a major computer conversion and it is a major effort to go through a computer conversion, especially for a City the size of Manchester and covering as many departments as this computer conversion is. Previously, the City had various different computer systems out there that were being used by the different departments. We had made recommendations in prior years that a comprehensive system be implemented so that the City could get better information, more timely information. That is all going on right now. When we were in here doing our audit, which by the way the audit was delayed a couple of months this year just because of these computer conversion issues. Normally, we would be in here in September. This past year we were in here in November. When we were in here in November, it was clear to us that the City's Finance Office was really consumed in these computer conversation issues. There is a number of areas that have to be covered through the conversion process of training and retraining and converting the information to the new system and then following up and

making sure that the right information is coming out of the new system. During this process, other things such as the normal reconciling procedures, I think weren't done as timely as they had been in the past. Before this conversion process, the City always had very strong internal reconciling procedures that all of the key accounts in the general ledger were reconciled on a monthly basis. We could see that there was a strain on the Finance Department employees in getting through the computer conversion, as well as getting through the audit process itself putting together the comprehensive annual financial report through the first half of fiscal year 1998. We understand now that the audit is over and the bonding the City is going through major issues relating to that are over and a lot of the computer conversion issues have been worked out now that the City is going back to reestablishing the procedures and policies that existed before the conversion started. We recommend that the City, you know, follow through and perform those monthly reconciling procedures on an ongoing basis through the second half of fiscal year 1998 and that will just place more reliability on the interim financial statements that the City prepares. The next issue deals with formalizing administrative rules and regulations. We noted that the City doesn't have any real formal administrative rules and regulations for the departments to follow for a lot of the daily procedures relating primarily to finance and personnel issues. The City does have a Code of Ordinances which is something that is adopted by this Board but they tend to be more general areas and not real specific issues. You know specific issues for departments such as dealing with petty cash, dealing with incoming receipts, a lot of the departments in a town receive receipts, but there are no formal policies and procedures as to what their records should look like. So, as a result things can be done inconsistently from department to department and there is the risk that some of the things that are being done may not always be fully in compliance with the Code of Ordinances. What we found is that in order to try to establish some consistent procedures from department to department, the Finance Office and the Personnel Office issue memos to all of the departments, but they are not a formal document. It is just a memo and, you know, they are read that day but there is no formal filing system for those and there is no system for updating them as needed. So, what our recommendation is, is that the City establish a method for having formal administrative rules and regulations that will provide some guidance to the departments for performing the day-to-day administrative requirements and it will provide some assurance that things are being done consistently city-wide. In doing so, we also recommend that care be taken to make sure that these rules and regulations concur with the City's Code of Ordinances as well as other Federal and State rules, regulations and statutes. The next issue deals with revising the Finance Department's Policy and Procedure Manual. The City's Finance Office does have a Policy and Procedure Manual to deal with the internal accounting of the department and the maintaining of the computer system, however, now because of the computer conversion from the old LGFS system to the new HTE system, a lot of things that are in that Policy and Procedure Manual are outdated. So we are recommending that the Policy and Procedure Manual be rewritten so that it will comply with all of the new requirements under the HTE system and any issues that deal with the departments and their role with this computer system we feel should become part of this other issue that we mentioned with the rules and regulations.

Anything dealing city-wide with departments should be part of this Administrative Rules and Regulations.

Alderman Pariseau stated just a thought and I don't know...would it be helpful if a committee of this Board was formed relative to establishing these procedures. I know that we had hired a former aide back some time ago and apparently that project is not yet complete. I don't know if we could take it upon ourselves as members of this Board and come up with a committee and review the procedures and policy and...

Mayor Wiczorek replied well, I think we better think about this a little bit before we start getting, you know, the Aldermen involved in this thing and lets find out first precisely what has to be done. I know what happened, you know, in the past. We were going along fine in trying to establish at least the process in which to go through until we got bound up with the one sentence in there that said unless otherwise ordered and that meant, you know, if you are trying to put a procedure in and you put in unless otherwise ordered, I mean why not have a 15 foot hole that you can jump through.

Alderman Girard stated just as a reminder to the Board, it did actually adopt an ordinance for policies and procedures and as you mentioned it contained a catch phrase called "unless otherwise ordered". So since most of the policy decisions, if not all of them, since that time have been ordered to various committees the actual process that has been ordained has never been used. As a follow-up to that, we did design a procedure for departments on the departmental level to adopt policies. I believe that is probably still in your office files and maybe still even on the computer. That having been said that was put through a couple of dry runs at the department level. It worked just fine and I don't know where it went from there. I am not sure if it ever made it to the Board for approval or if it came here and died. That was almost five years ago and my memory is a little foggy.

Mayor Wiczorek replied okay, so let us take a look at that and see where we are at. Go ahead Frank, continue.

Mr. Biron stated the next issue deals with the Finance Office's Treasurer's Cash Book. Now, what the Cash Book is used for is to summarize all the activity that flows through the City's bank accounts and it is also used to reconcile the general ledger records for the cash accounts to the actual bank statement balances. What we found is that there is a lot of work involved on a monthly basis to reconcile from the general ledger to the bank statements because not all of the accounts are included in this cash book. So, put simply we are recommending that this Cash Book be revised to include all the cash accounts that are being maintained by the City, including all restricted accounts and trust accounts and things like that and that will make the reconciliation process a lot easier and it will be a more complete document. The last current year issue deals with the Manchester Development Corporation. Manchester Development Corporation is considered a component unit of the City of Manchester and is included in the comprehensive annual financial report. Their balance sheet, their summary of revenues and expenditures are included in the report that Scott just went over. Those numbers, though, are the only unaudited numbers that are included in this whole document. Our recommendation is

that that information going forward be audited. The accounting records for the MDC are being maintained by the Finance Office so it would be a very efficient process to just incorporate them into the annual audit of the City. It would make for a complete oversight where all of the City, as well as component units would be audited. The last part of our report is a follow-up on prior year issues and is really just a matter of putting closure to some of the items that were raised in a prior year. The first one deals with actuarial evaluations for some of the self-insured programs, primarily the general liability, employee health and workman's compensation. Generally accepted accounting principals say that periodically there should be an actuary evaluation done to determine whether all of the liabilities that relate to these operations are accurately reflected. We had mentioned in last year's report that an actuary report wasn't done since 1994. We recommended that one be done. We understand that that is currently underway and that a report will be issued shortly, within a month or so. So, that is a resolved issue. The next one deals with funding the teacher year end payroll. When we did the 1996 audit we noted that the first of the teacher's Summer pay happened to fall before June 30. As a result, a liability had to be recorded in the City's financial statements for about \$1.4 million. Well that had a detrimental effect on the City's fund balance that year. We recommended that that be funded so that that liability and the detrimental effect on the financial statements would go away. Again, this is a resolved issue. We understand that that is covered in this year's budget, the fiscal year 1998 budget. So, it is a resolved issue and it is going to go away. The last issue deals with considering internal audits of departmental receipts. Now, various departments in the City collect receipts. We made a recommendation a year ago that the City Finance Office perform internal audits of those departments just to make sure that all of the departments are reporting everything accurately, are leaving good trails and are turning over all the receipts to the Finance Office in a timely manner. We understand that the City Finance Office is about to undertake that internal audit function and that is going to begin shortly.

Mayor Wieczorek asked, Frank, since you audit as I understand it about 80 or 90 cities, do you. Mr. Biron answered yes.

Mayor Wieczorek asked overall, how do you rate the City of Manchester with the 80 or 90 cities you do around New England I take it.

Mr. Biron answered well, in two ways. In looking at the numbers themselves, the numbers are very strong in here. As Scott mentioned, the fund balance went up considerably over last year. That is dealing with the general fund. The Enterprise Funds all have very strong operations. They all had surpluses this past year. They all have very strong retained earnings balances. So, the numbers themselves are all in good shape. There are very few negatives for an outside agency like the Moody's Bond Rating Agency to look at this report and see negatives. Pretty much everything in fiscal year 1997 was positive.

Mayor Wieczorek asked so in your opinion you would say that the city is well managed.

Mr. Biron answered the City is very, yeah, the City is very well managed.

Alderman Shea asked could it be better managed.

Mr. Biron replied the point I wanted to make is that what it really comes down to is when you look at the budget versus actual page that Scott went over before you see all positive variances there. On the revenue side, the revenues came in better than anticipated. You know the City, somewhat conservative there, did a good job in estimating what the receipts would be. On the expenditure side, on the appropriation side, there were turn backs there and we are not seeing a lot of over expenditures so there is a lot of monitoring of the budget and a good job in putting together the budget.

Alderman Shea stated one of the concerns that I have, Your Honor, is the amount of bonding that the City has obligated itself to and we do have as the comprehensive annual financial report indicates several different areas that will be forthcoming as far as City obligations and this is a concern that I think as a Board we really have to be aware of. Obviously any appropriations we do make in a bonding area will obviously impact that particular amount and I think that as a community we should look to see if we have resources or revenue available so that we don't over bond ourselves. That is to say that if we do have revenues we should try not to be too prone to bond issues where we could pay the revenues out and not have to face this amount. I know that Kevin and I have discussed this at various times, but I think that is up to different departments to look into where they can, without coming before the city fathers, or mothers, or whatever people in city government and saying you know we would like to bond this or we would like to bond that and look and see where we could possibly meet that expenditure without going too far into debt as far as bonding because that has to be paid as we all know, one way or another.

Mayor Wiczorek replied well, as you know Alderman, the Federal government comes in, in their infinite wisdom with a lot of ideas on what we should be doing and they all have affordability studies but I don't think they talk to each other. Because when you get one group they tell you what you can afford and another group comes in and they tell you what you can afford but they never get together to find out if we really can afford it. I think there is a lot of work that has to be done upstairs by a lot of people there. You don't have a story behind a story there do you.

Alderman Shea answered no. You will be the first to know about it when I do.

Mayor Wiczorek asked if there were any further questions for Frank.

Alderman Reiniger stated the section on the recommendation about formalizing administrative regulations. Did you have in mind the subject of overtime?

Mr. Biron replied well that would be one that definitely should be included in there. I know that was an issue, you know, a current issue.

Mayor Wiczorek asked are there any other questions for Frank. If not, thank you very much Frank.

Alderman Hirschmann stated under Rule 10 of our Board I would like to move to reconsider the vote on Senate Bill 73. I feel that the comments that Alderman Girard put forth about going with the status quo would be to support this. I sat and read this and it says that as an act providing that telecommunications poles and lines will be subject to property tax and that is exactly what I didn't want to do because I think that will be passed on to us, the end users.

Mayor Wieczorek asked Mr. Tellier to clarify this for Alderman Hirschmann.

Mr. Tellier stated, Alderman Hirschmann, Senate Bill 73 provides for the taxation of those entities, however, exempts them if they are currently paying the communications tax. It is a fine line but that is the way that one is drawn up.

Alderman Hirschmann replied a few of us Aldermen did not understand that fine line and I do not want to support this. That is what I am saying and it was seconded Your Honor.

Alderman Wihby stated my understanding was that we are already doing it now. It is already being done right now.

Mr. Tellier replied the utilities are already, poles and wires, are taxed.

Alderman Wihby stated my understanding was is that right now this bill would do exactly what we are doing right now. It is not going to change anything.

Mr. Tellier replied it won't realize any additional funds. What it does, however, is make them taxable which they are not right now. But, on the other hand, in the same bill exempts them from taxation if they are paying the telecommunications tax statewide.

Mayor Wieczorek asked now who is not paying the telecommunications tax that would have a pole.

Mr. Tellier answered I don't have all of that information readily, but the cable companies come to mind on that.

Mayor Wieczorek replied but they don't have any poles by themselves. They are onto somebody else's pole.

Mr. Tellier responded that is correct.

Alderman Girard stated as I understand it, it is an equity issue. It makes the telephone poles subject to the same tax that the electric utility poles are so that you have that equality issue resolved for abatement purposes and then it goes forward and exempts the telecommunication poles from the property tax because they are paying the telecommunications tax. So, it has to set into place the equity issue in order to comply with the NH Constitution and then provide the exemption because it is already paying a tax.

Alderman Hirschmann stated again Your Honor, I would like to move to reconsider and vote in the negative. Alderman Thibault duly seconded the motion. A roll call vote was taken on the

motion to reconsider. Aldermen Wihby, Reiniger, Sysyn, Clancy, Pinard, O'Neil, Girard, Rivard, and Pariseau voted nay. Aldermen Hirschmann, Shea, Cashin, Thibault voted yea. Alderman Klock abstained. The motion failed.

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

Mayor Wieczorek called the meeting back to order.

OTHER BUSINESS

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

“Continuation of the Central Business Service District”

ought to pass and be enrolled.

The Committee noted that it approved an authorization for the Manchester Water Works to issue bonding in the amount of \$1,250,000., but that a bond resolution will need be submitted at the next meeting.

On motion of Alderman Wihby, duly seconded by Alderman Clancy, it was voted to accept, receive and adopt the report of the committee. Alderman Reiniger was duly recorded as abstaining from the approval of the Water Works bond authorization.

Communication from the City Clerk requesting the Board set polling hours for the Special General Election in Ward 11 from 11:00 AM to 7:00 PM on Tuesday, February 24, 1998.

On motion of Alderman Thibault, duly seconded by Alderman Rivard, it was voted to set the polling hours for the Special General Election in Ward 11 from 11:00 AM to 7:00 PM on Tuesday, February 24, 1998.

Communication from the Public Works Director submitting a retirement request for Mr. Roland O. Palmer.

On motion of Alderman Rivard, duly seconded by Alderman Clancy, it was voted to accept and approve the retirement of Mr. Palmer as submitted.

Communication from the Public Works Director requesting the Board accept State hazardous waste clean up funds, enter into a contract with the NH Department of Environmental Services, Waste Management Division for the Spring 1998 Household Hazardous Waste Collection project, and authorize the Public Works Director to execute such documents as may be required.

On motion of Alderman Pariseau, duly seconded by Alderman Pinard, it was voted to approve the request to accept the State funds, enter into a contract with NH DES, and authorize the Public Works Director to execute such documents as may be required for the 1998 Household Hazardous Waste collection project.

Communication from Sean O’Kane requesting financial support to help sponsor the May 18th & 19th meeting of the New England Meeting Planners.

Alderman Pariseau asked, Your Honor, can we send this to the Chamber of Commerce.

Mayor Wieczorek answered the Chamber of Commerce is participating, the Airport is participating and they have asked the City if we would participate. This meeting is a meeting inviting I think approximately 150 of the convention and vacation planners to Manchester. These are the people that set the conventions and Sean O’Kane. Are you (Sean O’Kane) chairman of that committee?

Mr. O’Kane replied yes, I am.

Mayor Wieczorek asked that Mr. O’Kane address the Item 19.

Mr. O’Kane stated what we are trying to do in realizing currently that 40 or 42% of the state collection of rooms and meals taxes currently comes from the Merrimack Valley region. The State of New Hampshire has traditionally defined tourism travel as the individual traveler or the family traveler. What we are recognizing is that 40% of revenue that is generated already in this area is not coming from that typical traveler going to the mountains skiing or going to the ocean. It is coming from other sources such as business travelers, meetings and conventions. The CVB this year has made its sole purpose to focus on the promotion solely of meetings and conventions. It has never been done in this state. To do that, we have engaged on formulating the “Meet Me in New Hampshire” Conference which will be held at the Center of New Hampshire this year, May 18 and 19, as the Mayor said bringing 100-150 meeting planners from around the New England states, New York and New Jersey, which are our main feeder markets, to introduce them to Manchester and Southern NH as a very viable opportunity to hold their meetings and conventions. The beauty of this versus what the State has traditionally done is when you talk to one meeting planner you are talking about bringing groups ranging anywhere from 10 people to hundreds of people and we think there is a much better bang for the buck in that kind of promotion and in turn invite them back while they are on their individual vacation. The spin-off opportunities from this are pretty enormous and I think if you were to ask George Angolopoulos across the street from us does he benefit from the meetings and conventions and volume that our hotel produces, I think he would give you a pretty resounding yes. Other shops, restaurants, gasoline stations, liquor store or beer and wine, those people all benefit from these people coming into our City. It is currently money that is going other places, whether it be other states or other cities. They are spending it, they are committed to holding these meetings and our goal is to try to bring them to this area and capture those revenues. So our goal is to hold a two-day conference, May 18 and 19 and introduce these folks to our City and to our region. There will be a program. The Mayor has very kindly agreed to address the group and welcome them. Governor Shaheen has also agreed. We are going to introduce them at C.R. Sparks with an evening of cocktails, a welcome reception, and the following day will be a series of educational seminars held at the Center, along with a trade show which will focus on, we hope, 60 to 80 merchants in the local area, from hotels to catering houses that can benefit from the meetings and convention business. So that is our intent. We are asking the Board for a \$2,500

contribution. We currently do have support from the Chamber of Commerce, through Reedy in conjunction with the Airport. We have a rather substantial commitment from CFX Bank. There is a substantial commitment from the Center of New Hampshire. We are waiting to here from PSNH at this point. This money would help, and what we would hope to do is allow the City of Manchester to sponsor the program book which we expect to have shelf life which will go back to the meeting planners office and focus their attention on the City of Manchester.

Mayor Wieczorek stated I think the sixth best city in the United States in which to live ought to spend \$2,500 to bring people here and let them know that this is really the place.

Alderman Sysyn moved to approve a contribution of \$2,500. Alderman Clancy duly seconded the motion.

Alderman Hirschmann stated, Your Honor, if you are going to be giving a speech that day I think it would be good if you sponsored the breakfast, I think it was, to give you good exposure. Was it going to be a banner or breakfast? What was it going to be? \$2,500 I think you go to sponsor a whole event didn't you? A breakfast?

Mayor Wieczorek replied we are going to do the best we can to sell the City of Manchester. However we do it. Day and night. It should be a good program.

Alderman Pariseau stated, Your Honor, I don't know. Are we going to make civic contributions for everything that comes down the pike?

Mayor Wieczorek replied no, we are not.

Alderman Pariseau stated the home show was here last week. Why didn't we throw them \$2,500?

Mayor Wieczorek answered they didn't ask. But that is not the reason why they didn't get it.

Alderman Pariseau responded I think we are setting a precedent now where everyone that comes down the pike and visits...

Mayor Wieczorek interjected, no, I don't think so Alderman. The idea here is to bring people in whose job is to bring people to conventions and conferences to our community. I think it is a good idea to get people whose job, everyday, is to figure out where they are going to have a convention. I would like to have them consider Manchester. This is a very small amount to be talking about doing what we can for the City.

Alderman Shea stated one point that I picked up on. You mentioned that the revenues from the rooms and meals tax come essentially from Merrimack county and Hillsborough county. Is that correct?

Mr. O'Kane answered roughly 40% at this point in state-wide collection. Our attitude is it is coming from those other sources and it works. So why not promote it even more effectively. If

I may, and this is not just about the Center of New Hampshire, it is about promoting Manchester and the region but I will speak specifically to our hotel. A conference of a couple of hundred people to five hundred people can generate just in the hotel anywhere from \$75,000 to \$125,000 over a three to four day stay and that is rather substantial and that has a rather significant impact on the rooms tax and the meals tax.

Alderman Reiniger commended Mr. O’Kane and the hotel for their excellent lighting job. Many people have commented on that and it has made a huge difference. It was their initiative.

Mayor Wieczorek called for a vote on the motion to approve \$2,500. The motion carried with Alderman Pariseau duly recorded in opposition.

Resolution:

“Continuation of the Central Business Service District.”

On motion of Alderman Wihby, duly seconded by Alderman O’Neil, it was voted to read the resolution by title only and it was so done.

On motion of Alderman Wihby, duly seconded by Alderman Reiniger, it was voted that the Resolution pass and be enrolled.

Communication from Attorney Kevin Devine requesting the Board issue a public apology on behalf of the City for the unfortunate harm done to the reputation and morale of its employees in connection with the recent matter pertaining to overtime wages paid during the HTE conversion.

Mayor Wieczorek read Atty. Devine’s letter as follows:

Dear Mayor Wieczorek and Aldermanic Board Members:

I have been retained to represent certain unnamed City Employees whose reputations have been damaged by unfounded and inaccurate representations issued by various City Representatives, including, among others, members of the Board of Aldermen. My clients have been wrongfully accused in the public, both at official meetings and in the media, of having taken “illegal payments” in the form of overtime pay that they received in connection with their tremendous and laudable overtime work on the Computer Upgrade Project.

My clients are classified, due to their professional status, as “Exempt Employees.” Thus, under Federal, State, and Local Wage and Hour Laws, they are exempt from a mandate of overtime pay. Being exempt from a statutory mandate, however, does not prohibit the payment of overtime wages. This difference is dramatic, as in the case at hand. With all due deference to the City Solicitor’s published opinion, the City Ordinances (§33.054) do not prohibit the payment of overtime compensation to Exempt Employees. Instead, it mandates the payment of such compensation to Non-Exempt Employees.

By Executive Order dated February 9, 1988 [*Exhibit 1*], the Mayor’s Office delegated “the responsibility for screening overtime requests, both of a planned and emergency nature, to the Personnel Director for his review and recommendation.” By said Order, “[t]he final decision will continue to be made by the Mayor’s Office, in accordance with the attached revised Administrative Regulation.” The Revised Administrative Regulation, A.R. 4.5, specifically authorizes the Personnel Director to determine the legitimacy of the need for overtime work. The Regulation then directs the Personnel Director to forward the request to the Mayor “for final action.”

To all appearance and practical reality, this very procedure seems to have been followed in this very case, as evidenced by the March 26, 1997 Notification to Department Heads ("Payment of overtime or comp time to exempt employees during installation of new computer system for City") [*Exhibit 2*]. That Notification circulated at that time throughout the City, including to the City Solicitor's Office, openly and honestly disclosed the plan to pay Exempt Employees an overtime compensation package for overtime actually worked. That plan then became a contract with the affected employees once they undertook to work in accordance with it.

Yet now, after the work has been completed, and for reasons known only to those who have sought to gain notoriety or leverage of some sort, the employees' past receipt of compensation pursuant to that plan is being labeled "illegal" and "improper." And the reputations of those good City employees who worked day and night to help this City in a massive computer upgrade project is thus slandered and placed in a tortuous false light. These are not criminals; these are loyal employees who, in reliance on written and verbal assurance of payment for work performed, did in fact perform the work for the City. The City accepted those services, and is therefore absolutely bound to pay for them. See, e.g., Lucier v. City of Manchester 80 N.H. 361, 117 A. 286 (1922); Wiggin v. City of Manchester, 72 N.H. 576, 58 A.522 (1904).

One can quibble all one wants about whether the Administrative Regulations and Ordinances of the City should be updated and clarified. But for high-ranking City Representatives to defame and blame my clients in the manner that they have is inexcusable. We are presently securing copies of WMUR interviews given on this issue, with particular emphasis on those news broadcasts headlined by WMUR under the headline--"Illegal Payments." We are also securing copies of the audiotapes of certain Personnel Committee meetings, which we understand contain further evidence of this slanderous assault.

My clients have no interest in harming this good City. They do, however, have an interest in regaining their reputations. This, frankly, can be accomplished in one manner or another. The most preferable would be for the Board of Mayor and Aldermen to issue a public apology on behalf of the City for the unfortunate harm done to the reputation and morale of its employees in connection with this situation. Such an apology should, at a minimum, include a direct statement that those employees who donated so much of their time to the Computer Upgrade Project did so in the best interests of the City of Manchester, and were fully entitled to the overtime compensation that they received. In all probability, these employees saved the taxpayers significant sums that would otherwise have been spent on hiring third-party vendors to undertake the project.

The other manner of dealing with this situation is less preferable, but certainly available. We need not discuss it unless the requested retraction does not occur in the near term.

In closing, my clients' classification as "Exempt" Employees does not exempt them from enjoying the protection of those rights held dear by all citizens. Among those is the right to a reputation based on truth rather than prevarication. Or as better stated in our State Constitution, my clients, your dedicated employees, are guaranteed the right "*to a certain remedy, by having recourse to the laws, for all injuries [they] may receive in [their] person, property, or character.*" NH Constitution, Pt. 1, Art. 14.

We trust that the proper and decent thing will be done in this instance. We call upon you, as our leaders and representatives, to clear these tragically and wrongfully tarnished reputation.

Thank you.
Yours very truly,
s/Kevin C. Devine

Mr. Clougherty read his letter as follows:

Dear Honorable Board of Mayor and Aldermen,

Over the past several weeks, accusations have been made regarding the payment of overtime to certain Finance Department employees. These accusations are unfounded and simply not true.

As Finance Officer I am responsible for ensuring that the city's financial affairs are properly managed. I take my responsibilities very seriously as evidenced by the superior audit and credit rating reports that the City has received. Naturally I look to my fellow City officers when questions arise concerning proper procedure effecting their area of expertise. In the matter in question, I sought and followed the advise of the Personnel Director. As you know, it is the Personnel Director, under Charter, who is responsible for "administration of ordinances" relating to such payments. I also consulted with and received the approval of the Mayor. A copy of the payment procedure was forwarded to the City Solicitor's Office in advance of any payments. As you know it is the City Solicitor, under Charter, who is responsible "to exercise general supervision over departments, boards, commissions and officers to the extent that they perform their duties in accordance with law." It is also my understanding through conversations with the Personnel Director that he notified the Aldermanic Personnel Committee on this matter. The employees in question did an admirable job in undertaking a very necessary, complex and important project for the City of Manchester and should be congratulated not castigated for their efforts.

Unfortunately, since these unfounded accusations have been raised the City Solicitor has directed the Manchester Police Department to interview me on this matter. I met with the police and answered honestly and completely any questions asked. However, I find this pattern of any alderman making unsubstantiated accusations, the board, naturally being on the defensive, asking the City Solicitor to "investigate" and the Solicitor then calling in the police, very, very disturbing. This is the third time I have suffered through this treatment (once previously involving the Finance Department and once involving the City Clerks Office), only to find over and over again, that City ordinances are in conflict with federal laws, and required regulations do not exist.

I again remind the Board that they along with the Solicitor and Personnel Director are responsible to ensure that the City provides its employees with a clear legal environment in which to work. I ask this Board to recognize the injustice of the previous Board's action, and restore the valuable reputations of myself and all of the City employees so unjustly accused. I again ask the Board to take the overdue and necessary steps to modernize local ordinances to comply with federal law.

Sincerely,
s/Kevin A. Clougherty, Finance Officer

Alderman Pariseau stated, Your Honor, I just wanted to make a motion that we do, in fact, send a letter of apology to all affected employees. I don't need the City Solicitor to tell me anymore than what I know.

Mayor Wiczorek replied well, we have had a lot of people do a lot of work here, you know.

Alderman Cashin asked, Tom (Clark), do you stand by your letter of December 1 where you say that "absent such action, the payment of overtime compensation to executive, administrative, and professional positions is contrary to the ordinance". Do you stand by that statement?

Mr. Clark answered I stand by the statement that was made in the letter and I will explain it when I give legal advice to the Board.

Alderman Reiniger asked, Mr. Clougherty, in your letter you refer to the Personnel Director. Are you referring to Mr. Hobson?

Mr. Clougherty answered no, that would be the prior Director.

Alderman Cashin asked has anybody had an opportunity to get in touch with Wilbur Jenkins.

Mayor Wieczorek answered yes.

Alderman Cashin asked and what was his opinion.

Mr. Clark responded I have talked to Wilbur Jenkins, yes. He says in his opinion that under the Personnel Ordinance exempt employees were not entitled to overtime unless approved.

Mayor Wieczorek asked and what else did he say, anything.

Mr. Clark answered he said that he had not had a chance to formalize the Administrative Regulations but that those regulations were put into practice and they have been followed in a non-written manner.

The meeting was recessed to consult with legal counsel.

The meeting was called back to order.

Alderman Pariseau moved to issue a public apology to the City employees connected with the recent matter pertaining to overtime wages paid during the HTE conversion. Alderman Sysyn duly seconded the motion.

Alderman Rivard stated, Your Honor, I have a question about apologizing. I wasn't a member of the past Board and obviously I made no comments and took no positions so I don't think I have anything to apologize for, if the other members or how you want to handle this, but I never made any accusations. I wasn't involved in any decision-making. What I found I found in the papers so I don't feel that I want to enter into an apology for something that I was not involved in.

Mayor Wieczorek replied you can abstain.

A roll call was taken on the motion to issue a public apology to the City employees connected with the recent matter pertaining to overtime wages paid during the HTE conversion. Aldermen Pariseau, Hirschmann, Wihby, Klock, Reiniger, Sysyn, and Pinard voted yea. Aldermen Cashin, Clancy, Shea and O'Neil voted nay. Aldermen Rivard, Thibault and Girard abstained. The motion carried.

Mayor Wieczorek stated since so much time has elapsed with this particular situation, I know the Police investigation that...investigation in it was not a criminal investigation, I want people to understand that. That it was one to try to come up with the facts. I think there is some conclusions that they have and Chief, if you would like to please recite to the Board what the conclusions were of your investigation, of your department's investigation.

Chief Driscoll read the report as follows:

On December 12th, at the request of the City Solicitor's Office, the Manchester Police Department initiated a non criminal investigation into the issue of "exempt employees" having been paid overtime while working on the HTE project.

A thorough investigation was conducted and the conclusions reached were founded on facts, statements and documents.

It has been suggested that these employees have done something wrong. It is the conclusion of my Department's investigation that in fact, they have not. It is unfortunate that many valued City employees have been cast in an unfavorable light and have felt the accompanying anxiety.

Conclusion...

Through the course of this investigation, ever scintilla of information uncovered supports the theory:

- A. That in their endeavors to bring this computer system on-line in an efficient and expedient manner, every individual and group of individuals was always operating in the best interest of the City of Manchester.
- B. That no individual or group of individuals ever conspired to purposely create a situation that would require the payment of overtime to "exempt employees".
- C. That no individual or group of individuals ever conspired to purposely withhold from the full Board the fact that "exempt employees" were in fact receiving overtime compensation from the bond.

As for individual "exempt employees" that received overtime compensation, the Personnel Department under whose umbrella employee compensation falls, published a memorandum on March 26, 1997 that was issued to all department heads. This memorandum was entitled "Payment of overtime or comp time to exempt employees during installation of new computer system for City."

In approving the overtime for their "exempt employees", department heads referred to this Personnel Department memorandum for direction and in every instance, they remained within the memorandum's guidelines.

Each employee that received overtime compensation for work on the HTE project did so with the approval of and authorization from, their respective department head. These employees can not be held accountable for any possible ordinance violation or procedural oversight. In fact, they should be commended for their efforts on this project.

Recommendations...

1. Put this issue behind us. In my opinion the City of Manchester has no grounds on which to base any attempt to recover overtime monies paid to "exempt employees". Employees that received overtime compensation had been advised by their respective department head that if they worked additional hours, they would be compensated under the guidelines set forth by the City Personnel Department.
2. The City's overtime ordinance needs to be looked at. I recommend that the Board allow the Yarger, Decker and Thomas study address the issues of the City's current ordinances and employee classifications and how they relate to the Fair Labor Standards Act and any other applicable Federal and State law.
3. The notification oversight that took place within this issue, should not take place again. The City needs to craft a written policy that specifically and narrowly defines what types of information or decisions must be brought before an appropriate committee, the full Board of Mayor and Aldermen or both.

Chief Driscoll stated I can tell you that the members of my department worked long and hard. They scrutinized every bit of information in order to come up with some reasonable findings. There was absolutely no deceit or bad intentions. Everybody thought that they were doing the right thing and I believe that they have.

Mayor Wieczorek responded Chief, we want to also commend Captain Leidimere who did a really outstanding job here in conducting the interviews, gathering the information and I know that it has taken him a considerable amount of time to get all the information together.

Chief Driscoll replied very, very sensitive issues he was dealing with. He did do a superior job.

Mayor Wieczorek stated Glenn, please accept our thanks for a job well done.

Alderman Girard stated, Your Honor, I would like to withdraw my abstention and vote in favor of the apology. I realize that I was not a member of the prior Board but I still think the employees deserve it so I would like to withdraw my abstention.

Alderman Pariseau asked, do you need a motion to accept this report, Your Honor?

On motion of Alderman Pariseau, duly seconded by Alderman Rivard, it was voted to accept the report. Alderman Cashin and Alderman O'Neil were opposed.

Alderman O'Neil stated I, too, want to thank the Police Department for doing an excellent job in a very tough situation. I want to go on record as thanking the employees who did the work. I believe that they deserve the money and I believe we are over the effort to try to recoup it, but I still want to go on record as the process stinks that got us to this point and I am not convinced that we have resolved anything there.

Mayor Wieczorek replied I think it is unfortunate that it got the point that it did without having a lot of clarification.

Alderman Shea stated, may I add too, Your Honor, that it was in my judgment probably a judgment call, but we are elected officials. We have committees that are assigned to look into different things and unless people working for the City government do not follow procedures then it seems that we are elected by people but we can't serve them because other people because of either misjudgments or misinterpretations or perhaps the fact that they overlook certain procedures, do not honor the Ordinances that are set-up to insure that all the public interests are being served.

TABLED ITEM

Discussion with the Chair of the Planning Board, Planning Director, Chair of the Zoning Board and the Building Commissioner relative to the reasoning behind decisions being made, processes involved and future plans for the City.
(Tabled 12/2/97)

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

Alderman Wihby noted that this item had been on the agenda for some time.

Alderman Pariseau moved to receive and file the item. Alderman Wihby seconded the motion. Discussion ensued where Alderman Cashin commented that he understood these people were prepared to come to the next meeting. Other aldermen noted it was an important issue and felt the item should remain tabled until the various people could attend.

A roll call vote was taken on the motion to receive and file the item. Aldermen Wihby, Klock, Reiniger, Sysyn, Pinard, Shea, O'Neil, Girard, Rivard, Cashin, Thibault and Hirschmann voted nay. Aldermen Clancy and Pariseau voted yea. The motion failed.

Alderman Pariseau moved to table the item. Alderman Clancy seconded the motion. The motion carried.

NEW BUSINESS

On motion of Alderman Shea, duly seconded by Alderman Clancy, it was voted to recess the meeting to consult with legal counsel regarding item 22 and to hold a negotiation strategy session.

Communication from the Assistant City Solicitor requesting to meet with the Board regarding Trippleton v. City of Manchester (video poker Moratorium).

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

Mayor Wieczorek called the meeting back to order.

An ordinance amendment was presented by the Solicitor's office.

“Amending the Code of Ordinances of the City of Manchester by deleting Section 111.45.1, Electronic Video Poker Machines.”

On motion of Alderman Clancy, duly seconded by Alderman Shea, it was voted to read by title only.

On motion of Alderman Clancy, duly seconded by Alderman Sysyn, it was voted to refer the ordinance amendment to the Committee on Bills on Second Reading.

Chief Negotiator David Hodgen addressed the Board advising that a motion was in order to lay a proposed agreement for a unit at the Airport discussed in the strategy session on the table for ratification pursuant to rule 26 of the Board.

On motion of Alderman Pariseau, duly seconded by Alderman O'Neil, it was voted to ratify an agreement with Teamsters/Airport Local 633 under the conditions presented in the

memorandum of agreement pursuant to rule 26 of the Board. Alderman Hirschmann was duly recorded in opposition.

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

A True Record. Attest.

City Clerk