

BOARD OF MAYOR AND ALDERMEN

February 3, 1998

7:30 PM

Mayor Wieczorek called the meeting to order.

The Clerk called the roll. There were thirteen aldermen present.

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

Absent: Alderman Pariseau

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.

Approve under Supervision of Department of Highways

- A. Bell Atlantic petition # 159649

Informational to be Received and Filed

- C. Communication from the Airport Director submitting minutes of the Airport Authority meeting held November 20, 1997.
- D. Communication from the Finance Officer submitting documentation relative to the sale on January 27, 1998 of City issued general obligation bonds in the amount of \$26,206,000 at 4.653% to Salomon Smith Barney.
- E. Communication from the Director of Planning submitting minutes of the Planning Board meetings held October 9, October 23, and November 6, 1997.
- F. Communication from Executive Councilor Normand noting items of interest and submitting an agenda of the January 28, 1998 meeting of the Governor's Executive Council.
- G. Communication from Executive Councilor Normand submitting copies of correspondence forwarded to UNH President Leitzel and the UNH Board of Trustees relative to the UNH Manchester campus and the Hackett Hill Road property.
- H. Communication from Amy Gotsill, St. Patrick's Parade Committee inviting Board members to participate in the St. Patrick's Day Parade scheduled for Sunday, March 8, 1998 and requesting that Jim Sheehan be contacted at 623-1977 with your reply.

REFERRALS TO COMMITTEES

COMMITTEE ON ADMINISTRATION/INFORMATION SYSTEMS

- J. Communication from Mayor Wieczorek submitting a copy of HB-1651 regarding the establishment of a study committee to review cable rates.
- L. Communication from Henry Wieglos regarding problems he has encountered with recent changes made to the cable channel line-up.

COMMITTEE ON COMMUNITY IMPROVEMENT PROGRAM

- M.** Communication from Fire Chief Kane requesting to meet with the Committee to present a status report relative to the 800 MHz Radio System.
- N.** Communication from Fire Chief Kane requesting that surplus radio equipment be declared surplus and released for disposition to the State of NH auction to be held on Saturday, May 16, 1998.

COMMITTEE ON FINANCE

- O.** Bond Resolution:

“Authorizing Bonds, Notes or Lease Purchases in the amount of One Million Two Hundred Fifty Thousand Dollars (\$1,250,000) for capital improvements in the water supply and distribution areas.”

- P.** Resolutions:

“Amending the 1998 Community Improvement Program, authorizing and appropriating funds for Respect Committee Activities and Planning.”

“Amending the 1997 Community Improvement Program, transferring, authorizing and appropriating funds for the 1997 CIP 2.20725 NCADD Carpet Replacement.”

“Authorizing the Finance Officer to effect a transfer of Two Thousand Five Hundred Dollars (\$2,500.00) from Contingency to the Meet Me In NH Program.”

COMMITTEE ON PERSONNEL/INSURANCE

- Q.** Communication from Cheryl Caza-Tobey, a representative of the NH Division of the American Cancer Society requesting permission to approach all City departments with their annual “Daffodil Day” kit which is simply a way to raise funds to fight cancer.
- R.** Communication from Shirley Frank, Chairman of the Concerned Taxpayers of Manchester requesting a ruling by the City Solicitor be made not more than sixty days relative to the overtime pay received by employees of the City Finance Department.
- S.** Communication from Ellen Malloy, Sales Representative, Sam’s Club, seeking permission to extend to March 31, 1998, distribution of Sam’s Club passes to City employees.

COMMITTEE ON TRAFFIC/PUBLIC SAFETY

- T.** Communication from Louis Craig, Executive Director of New Horizons for NH, Inc. requesting permission to erect two signs at the two entrances of East Industrial Park from February 2-14, 1998.
- U.** Communication from Sam Reddy, Executive Vice President of the Home Builders & Remodelers Association of NH, requesting the closure of Pleasant Street from Elm to Franklin Streets from March 9-16, 1998, for the placement of a modular home for their 1998 NH State Home Show.

- V. Communication from Jon Erdahl, General Manager of WGIR AM/FM, requesting the use of Arms Park and the Bridge Street Bridge for their 7th Annual Memorial Day Weekend Fireworks display scheduled for Sunday, May 24, 1998, with a rain date of Monday, May 25, 1998.

REPORTS OF COMMITTEES

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

- W. Advising that it has accepted the enclosed report from the Board of Assessors and submitting same to the Board for informational purposes.

COMMITTEE ON BILLS ON SECOND READING

- X. Recommending that Ordinances:

“Amending Sections 33.0240 and 33.025 (Lifeguard, Senior Lifeguard, Head Lifeguard, Pool Supervisor) of the Code of Ordinances of the City of Manchester.”

“Amending Sections 33.0240 and 33.025 (Reorganization of the Personnel Department to Human Resources Department, Grant Administrator) of the Code of Ordinances of the City of Manchester.”

“Amending Section 33.041 (Establishing Summer/Seasonal/ Temporary Compensation Schedule ID) of the Code of Ordinances of the City of Manchester.”

ought to pass.

- Y. Recommending that Ordinance:

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

ought to pass.

- Z. Recommending that Ordinance:

“Amending Section 31.32, Disposition When Property Unclaimed, of the Code of Ordinances of the City of Manchester by deleting words “60 days” and inserting in place thereof the words “180 days” for consistency with RSA 471-C:13, Property Held in Police Department Property Rooms.”

ought to pass.

- AA. Recommending that Ordinance:

“Authorizing the Mayor to dispose of certain tax deeded property known as Phillip Street City Map #862, Lot 62.”

ought to pass.

AB. Recommending that Ordinance:

“Amending the Zoning Ordinance of the City of Manchester by rezoning parcels of land currently zoned B-1 (Neighborhood Business) in the area generally including the east side of S. Main Street between West Hancock Street and Goffe Street, to B-2 (General Commercial).”

ought to pass.

AC. Recommending that a communication from Attorney Kathleen Sullivan regarding a rezoning petition for property located on Holt Avenue on behalf of Norris Viviers, President of Krysnor Homes, Inc., be referred to a public hearing on Tuesday, February 24, 1998 at 7:00 PM, School Administration Building, 196 Bridge Street.

AD. Recommending that a communication from William and Linda Sirak requesting that Lewis Street be returned to its former zoning designation of R-1, be referred to a public hearing on Tuesday, February 24, 1998 at 7:00 PM, School Administration Building, 196 Bridge Street.

COMMITTEE ON COMMUNITY IMPROVEMENT PROGRAM

AF. Recommending that the 1997 CIP Resolution be amended by transferring, \$9,200.00 in ESG grant funds from 1997 CIP 2.50606 MEH Operational and Rehabilitation Assistance to a new project, 1997 CIP 2.20725 NCADD Carpet Replacement; and advising that for such purpose an amending resolution and budget authorizations have been submitted.

AG. Recommending that the 1998 CIP Resolution be amended by authorizing grant funds for the Respect Committee Activities and Planning Project at Weston School in the amount of \$8,450.00 from the Walker Foundation; and advising that for such purpose an amending resolution has been submitted.

AH. Recommending that authorization be given to EPD to submit State Aid grant applications for projects as follows:

- CIP 7.40321 Paquette/River Road Sewer
- CIP 7.60321 CSO Engineering, Planning & Design
- CIP 7.60322 Treatment Plant Odor Control
- CIP 7.60323 Cohas Brook Interceptor Project

AI. Recommending that a \$60,000 grant from the Robert Wood Johnson/ Kellogg Foundation's "*Turning Point: Collaborating for the Next Century in Public Health*" initiative be accepted and expended for the purpose intended.

AJ. Recommending that a \$100,000 donation from the Kiwanis Club to the City (over a 7-year period) for the purchase of a new dental van be accepted and that the matter of financing a new van in a manner consistent with the terms of this award be referred to the Finance Department.

AK. Recommending that the request by Mr. David Chapdelaine for the City to purchase his two lots on Cleveland Street (#64 and #65) be denied. The Committee notes that the Highway Department has advised that they are currently attempting to remedy the problems with the West Side Pumping Station and will re-evaluate this situation over the summer.

COMMITTEE ON JOINT SCHOOL BUILDINGS

- AL.** Advising that it has accepted the enclosed project summary and contractor's report relative to the new Middle School and is submitting same to the Board for informational purposes.

COMMITTEE ON PERSONNEL/INSURANCE

- AM.** Recommending that actions taken approving items on agenda PC 1-98 as follows:

FINANCE - Assistant Deputy of Finance/Treasury Manager position classification update. Reviewed and recommended by Yarger, Decker & Thomas.

HIGHWAY - Communication from Frank Thomas requesting approval for nine Highway Department employees to continue receiving overtime through the completion/acceptance of the Yarger, Decker & Thomas Classification & Compensation Study and/or July 1, 1998.

HUMAN RESOURCES - Communication from the Employee Relations Manager submitting a change in class title of Building and Asbestos Program Manager to Building Program Manager.

LIBRARY - Communication from the Library Director regarding approval of organizational changes of the Technical Support Staff.

POLICE - Amendment to Salary Schedule II(D), Grade 22 due to Information Systems changes approved by the Board of Mayor and Aldermen on December 2, 1997.

POLICE - Communication from Chief Driscoll requesting Certified Police Officers continue to be hired at entrance step corresponding to previous experience. As previously approved by the Board of Mayor and Aldermen, June 2, 1997.

POLICE - Communication from Chief Driscoll requesting Certified Police Officers continue to be hired at entrance step corresponding to previous experience. As previously approved by the Board of Mayor and Aldermen, June 2, 1997.

POLICE - Communication from Deputy Chief Robinson changing the status of temporary Parking Control Officer to regular status.

be accepted and approved.

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

- B.** Communication from Mayor Wieczorek submitting a listing of existing vacancies vacancies on various City boards and commissions.

Alderman Shea stated at the last meeting he had brought up the fact concerning the posting of vacancies that exists on Boards and Commissions as appointed by the Mayor and we did receive correspondence dated January 28th. In response to vacancies on city boards and commissions my question is, is the procedure in accordance with Section 3.14 (II) according to membership

limitations consisting of posting vacancies at the City Clerk's office, the Library and the Mayor's office and listing of vacancies placed on the consent agenda of the first regular meeting. Is this the procedure that you plan on using, your Honor?

Mayor Wieczorek replied well, I don't know...we also release it to the media so that they know. I am assuming...

Alderman Shea stated well see my question, your Honor, is members of the Charter Commission, and I think Leo is going to research that, I think that they, at least the one who contacted me, believed that a written procedure would be developed and I am wondering...I have no objection to the posting of these particular vacancies where you are suggesting they be posted. My point is that if a written procedure, according to the new Charter, was the intent of the people then I believe that there should be developed a written procedure. That is what I am asking.

Mayor Wieczorek answered all right, we have the Assistant City Solicitor here so we could have him research that and come back with a response.

On motion of Alderman Shea, duly seconded by Alderman Wihby, it was voted to receive and file this item.

- I. Communication from Mike Pelletier requesting that a special committee be established to investigate the Combined Sewer Overflow (CSO) Unfunded Federal Mandate.

Alderman Shea stated that has to do with a letter from Mike Pelletier requesting a special committee be established to investigate the Combined Sewer Overflow referred to as CSO Unfunded Federal Mandate. I think that a special committee be established to investigate the Combined Sewer Overflow Unfunded Federal Mandate because of the financial implications that will impact every tax payer. Recently, a special Aldermanic Committee was appointed to work with the Civic Center subcommittee to become better informed about this project. How much more important and critical to tax payers is this matter? Initially, we were told that this project, the CSO, would cost over \$130 million. Most recently, figures in the \$80 million. Put another way, your Honor, the cost of two and possibly three Civic Centers and may I remind my colleagues that this is an unfunded federal mandate. I think the taxpayers should receive as much information as possible relating to this matter so I am suggesting that a special committee be assigned, your Honor, to keep Aldermen informed about this matter. I think it is a very critical problem.

Mayor Wieczorek answered, Alderman, there is a committee that does respond to that and it is the CIP Committee which is part of Public Works also. So you have five Aldermen that are already on that committee. Regarding the CSO problem, I have met with the Governor, I have met with our Congressional delegation, I recognize the severity of this problem and certainly I would be the last one in the world that would want to say that we want to spend \$130 million on something that is not our priority that is going to solve a very small part of the problem. We are

talking about spending this enormous sum of money to be spent to take care of about 2% of the problem, if I remember correctly. So you know beside the consultants and the EPD and the Highway Department and the Committee of Public Works which is part of CIP, I think we do have a lot of people who are working on this and believe me I am not happy and I said you know I don't want anybody playing mind games with me telling me that well we are going down from \$130 million to \$80 million and I feel good about that. I don't feel good about it because that is still something that we have not set as a priority, but is something that the federal government set as a priority. It is, as you say an unfunded federal mandate. Well the feds they just tell you what to do but they don't send money a good part of the time. In New Hampshire, that can't happen because under the law 28-A they can't pass down unfunded mandates to the communities now, but the federal government still does it. Do I like it? No, I don't and we certainly try to watch that as judiciously as we can.

Alderman Shea responded well I know at one time that Alderman Cashin indicated that he possibly was in a position to speak to Vice President Gore. I am not sure if it would be helpful if we did designate him to speak to him again or at least when he comes here in March. I am not sure if he plans on visiting and I think Alderman Thibault is friendly with him as well. It is a thought that was passed on to me.

Alderman Cashin replied I will be happy to work in conjunction with any committee you set-up.

Alderman Shea responded well this is what I was thinking about if we could delegate a particular representative which would enable us to be helped. Regardless of your discussion with us concerning this matter, it is something we are mandated to do whether we like to do it or not, we are mandated to do this according to what we have been told. So whether it is the federal government, the state, the local or whatever we still have to do this so the more help and the more ideas we can get, the better. I really would think that this should be one of the higher priorities we have as taxpayers to be able to handle this matter.

Mayor Wieczorek stated it seems to me that the Head of the Highway Department made a presentation to this Board.

Alderman Shea answered that is where I am getting all my facts, your Honor, concerning some of these matters. He did and an engineer, as well.

Alderman Rivard stated Alderman Shea I discussed with Frank Thomas, the Public Works Director. As you probably know, the Manchester Highway Commission and the consultants have been working on this for four or five years now and obviously we are not excited about spending \$130 million. Before we form a committee and before we develop a plan, I believe we should invite Mr. Thomas and other members of the Highway Commission and the consultants down to this Board to brief this Board on where we stand. We are making progress. Before we develop a political plan if that is what you want to call it, I believe you should know all the facts. I think you should know what we are facing and what the recommendations of that particular

Board are...Frank Smith who is with the Attorney General's Office, you know we have specialized legal help here and we are making progress. We expect that within the next, or the Highway Commission expects to receive a consent decree from the federal government within the next four to eight weeks explaining exactly what they are going to ask the City to do, commit themselves to. We believe that it will be reduced considerably and extended considerably. Once you hear the plan I think maybe we can develop a plan of action and move forward. I am not sure that an Aldermanic Committee would be beneficial at this time. I think we might be just reinventing the wheel because of the Commission and the staff who have spent a lot of time on this project. The Mayor has been to the Commission meetings along with Alderman Wihby, Alderman Cashin have been up there. We have kept them apprised of the progress or lack of progress and so we are very sensitive to this. We know that it is going to cost between \$800 and \$1,000 per household so we are very concerned about making sure that we have minimum impact on the taxpayer.

Alderman Thibault stated Alderman Cashin and I were just discussing this before the meeting and I intend to get to Vice President Gore and hopefully get some answer on that as to if anything can be done from the federal government to us. I hope to be doing this within the next week or so, sending a letter to Vice President Gore.

Alderman Girard stated I would like to suggest perhaps that this letter be referred to CIP so that whatever work is taking place that Alderman Rivard has advised us of, if there is any need for any Aldermanic Committee to follow-up on anything it be CIP because as you pointed out it is the committee with jurisdiction in this matter.

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

- K.** Communication from Fire Chief Kane advising that the current contract with the City's emergency ambulance service provider, Rockingham Regional Ambulance Company is due to expire on December 31, 1998 and suggests negotiations and/or draft request for proposals begin.

Alderman Hirschmann stated the content of Item K is the ambulance contract for the City. What I would like to do is make a motion to recommend that this go to the Public Safety Committee because of the content that it is the ambulance service.

Mayor Wieczorek responded so you want to refer it to both Administration and Public Safety or are you saying take it out of Administration.

Alderman Hirschmann answered well I think discussion would happen in Public Safety and the contract would happen in Administration so a joint referral would be fine, your Honor.

On motion of Alderman Hirschmann, duly seconded by Alderman Thibault, it was voted to refer Item K to the Committee on Traffic/Public Safety and the Committee on Administration.

Report of Committee on Bills on Second Reading

AE. Recommending that a communication from Attorney Callaghan submitting a rezoning petition for property located in the area of Zachary Road from R-2 (Residential) to I-2 (Industrial) on behalf of O.O.C.K.E., L.L.C., be referred to a public hearing on Tuesday, February 24, 1998 at 7:00 PM, School Administration Building, 196 Bridge Street.

Alderman Shea stated as a member of the Bills on Second Reading, I disagreed with the majority report to grant a petition hearing on February 24 regarding the petitioning for property located in the area of Zachary Road from R-2 (Residential) to I-2 (Industrial) on behalf of O.O.C.K.E., L.L.C. The reason that I disagreed with the referring this for a petition hearing was because of possible negotiations with the Lake Shore owners and the City on behalf of the School Department for the purchase of this property in this particular area. I felt that it would just be non-sacretore at this time to proceed with that and the second reason was the failure of the petitioner to adequately address in their petition matters relating to definitive rezoning areas, lack of input regarding drainage problems to residents on the part of residents living nearby, and because this is a sensitive environmental area because of wetlands and a report from the Conservation Committee relating to this matter was lacking. My minority report consisted of tabling this item until such time as the other important matters were resolved. I wanted to make that known to the Aldermanic Board.

Alderman Wihby responded what AE does is sets up a public hearing for them to come and let us know what the area is, let us know the drainage problems, let us know what is going on over there. At such time as we were voting, we felt that we don't know what is happening with the Lake Shore property. We were going to go forward with this, let them come to the hearing and at that time it has got to come back to the Committee and if it is detrimental to Lake Shore and we are going to move forward with Lake Shore we can kill it in the Committee and it still has to come back to this Board, but we didn't want to hold up the process. We figure we can just keep it going. We still have a long way to go. A couple of more votes.

Alderman Wihby moved to accept the report referring the petition to a public hearing on February 24. Alderman Cashin duly seconded the motion. A vote was taken with Alderman Shea being opposed. The motion carried with Alderman Shea duly recorded in opposition.

Confirmation of nominations to the Elderly Services Commission as follows:

Koni Farr to succeed Marion McMillan, term to expire January, 2001.
Ira Royer to succeed himself, term to expire January, 2001.

On motion of Alderman Wihby, duly seconded by Alderman Sysyn, it was voted to confirm the nominations of Koni Farr and Ira Royer to the Elderly Services Commission, terms expiring January 2001.

Confirmation of the nomination of Alderman Cheryl Klock to succeed Alderman

Mary Sysyn as a member of the Heritage Commission, term to expire January 1, 2001.

On motion of Alderman Sysyn, duly seconded by Alderman Reiniger, it was voted to confirm the nomination of Alderman Cheryl Klock to the Heritage Commission, term expiring January 1, 2001.

Confirmation of the nomination of James E. Connolly, Jr. to succeed Robert R. Rivard as a member of the Highway Commission, term to expire January 15, 2001.

On motion of Alderman Rivard, duly seconded by Alderman Wihby, it was voted to confirm the nomination of James E. Connolly Jr., to the Highway Commission, term expiring January 15, 2001.

Confirmation of the nomination of James A. McDonald, Sr. to succeed Dorothy Wageman as a member of the Police Commission, term to expire September 15, 1999.

On motion of Alderman Clancy, duly seconded by Alderman O'Neil, it was voted to confirm the nomination of James A. McDonald, Sr. to the Police Commission, term expiring September 15, 1999.

Confirmation of the nomination of Paul Alfano to succeed Robert R. Rivard as a member of the Board of Recount, term to expire October 1, 1999.

On motion of Alderman Rivard, duly seconded by Alderman Girard, it was voted to confirm the nomination of Paul Alfano to the Board of Recount, term expiring October 1, 1999.

Confirmation of the nomination of Thomas M. Robert to succeed Thomas J. Tessier as a member of the Water Works Commission, term to expire January, 2000.

On motion of Alderman Thibault, duly seconded by Alderman Rivard, it was voted to confirm the nomination of Thomas M. Robert to the Water Works Commission, term expiring January 2000. Alderman Reiniger was duly noted as abstaining.

Confirmation of the nomination of Robert Cruess to succeed Andre L. Dery as a member of the Water Works Commission, term to expire January, 2001.

On motion of Alderman Wihby, duly seconded by Alderman Rivard, it was voted to confirm the nomination of Robert Cruess to succeed Andre L. Dery as a member of the Water Works Commission, term expiring January 2001. Alderman Reiniger was recorded as abstaining.

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

On motion of Alderman Reiniger, duly seconded by Alderman Girard, it was voted to confirm the nomination of Calvin T. Cramer to succeed A. Joseph Dion as a member of the Zoning Board of Adjustment, term expiring March 1, 2000.

Confirmation of the nomination of Michael C. Naczas to succeed Roger Bourchard as an alternate of the Zoning Board of Adjustment, term to expire March 1, 1999.

On motion of Alderman O'Neil, duly seconded by Alderman Sysyn, it was voted to confirm the nomination of Michael C. Naczas to succeed Robert Bouchard as an alternate of the Zoning Board of Adjustment, term expiring March 1, 1999.

Mayor Wieczorek presented nominations as follows:

Building Board of Appeals

Leo Boisvert to succeed himself term to expire January 1, 2001;

Robert R. Bussiere to succeed Jeffrey Trexler, term to expiring January 8, 2002.

Heritage Commission

Albert Cappannelli to succeed himself, term to expire January 1, 2001;

Gregory Goucher to succeed himself as a alternate, term to expire January 1, 2001;

Verna Perry to succeed herself as a alternate, term to expire January 1, 2001.

Planning Board

Joan Bennett to succeed Victor Goulet, term to expire May 1, 1998.

Board of Recount

John A Durkin to succeed William Gardner, term to expire October 1, 1999.

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

Mayor Wieczorek advised he was making appointments as follows:

Planning Board

Peter Capano to succeed himself as the Mayor's designee, term to expire January 1, 2000.

Board of Recount

Alderman Timothy S. Reiniger to succeed himself as the Aldermanic member, term to expire October 1, 1999.

Mayor Wieczorek advised that as Chairman of the Board, Alderman Wihby had appointed Alderman Klock and Alderman Pinard to serve on the Oversight Committee for the QM Team.

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

Mayor Wieczorek called the meeting back to order.

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

“Authorizing Bonds, Notes or Lease Purchases in the amount of One Million Two Hundred Fifty Thousand Dollars (\$1,250,000) for capital improvements in the water supply and distribution areas.”

ought to pass and layover; and further that Resolutions:

“Amending the 1998 Community Improvement Program, authorizing and appropriating funds for Respect Committee Activities and Planning.”

“Amending the 1997 Community Improvement Program, transferring, authorizing and appropriating funds for the 1997 CIP 2.20725 NCADD Carpet Replacement.”

“Authorizing the Finance Officer to effect a transfer of Two Thousand Five Hundred Dollars (\$2,500.00) from Contingency to the Meet Me In NH Program.”

ought to pass and be Enrolled.

On motion of Alderman Wihby, duly seconded by Alderman Klock, it was voted to accept, receive and adopt the report of the Committee.

Communication from the Finance Officer expressing his gratitude to the Board for their apology relative to the recent issue regarding HTE overtime, and requesting that the enclosed legal billings totaling \$3,392.00 be paid out of the Legal Incidentals account.

Alderman Girard moved to approve the request. Alderman Wihby seconded the motion for discussion.

Alderman Wihby stated he did not know if they should go into recess for this or not but when they were in the other room and talking about different things Solicitor said to us, when we asked him how come there was a police investigation and why Mark Driscoll was involved and everything, I thought he told us that he had needed some additional help and there was an inquiry and everything was being done to help him and that everybody knew that it wasn't an investigation that was going on. Alderman Wihby asked if that was true.

Assistant Solicitor Arnold responded that when we requested the assistance of the Police Department we did so for an administrative investigation, and certainly I think it was made clear that it was not a criminal investigation.

Alderman Wihby asked it was clear to everybody that had these Police down visiting them that it was administrative.

Assistant Solicitor Arnold

stated I can't speak for what other people understood Alderman, I can say that when we requested the assistance we did so in an administrative capacity and certainly not in a criminal capacity.

Alderman Wihby questioned if he could ask the Chief if he knew what went on or what was said.

Mayor Wieczorek said sure, let's have the Chief get to the microphone.

Chief Driscoll stated in our meetings with the City Solicitor's office we were asked to do an administrative review. We were asked to look at what happened. How it happened. Why it happened. And then we as you know came up with recommendations to assure that it wouldn't happen again.

Alderman Wihby asked who actually went to the department heads or whatever.

Chief Driscoll responded Captain Glen Leidermier is the one that actually spoke with them.

Alderman Wihby stated he actually told them that they were there as administratively and there wasn't an investigation going or do we know that.

Chief Driscoll responded yes that's true, and in fact we told them right at the beginning that it was an administrative review.

Alderman Wihby stated that he knew there was another department, and he was sure there were more than one other one, that had incurred some bills also.

Mayor Wieczorek stated right, this isn't the end of it, it was the beginning.

Alderman Wihby stated I imagine if you are going to pay one you would have to do them all, and that's a policy decision he was sure Mr. Arnold was going to say it was up to this Board as to if they wanted to pay it or not. I know that in the past when there has been investigations going and nothing came up we paid it but I don't know if we are in inquiry or administratively process is done if we have ever paid anything or not. Do you know if we have?

Mayor Wieczorek stated I know that we have.

Alderman Wihby asked do you know administratively that this has been paid. I guess that where I'm concerned if they tell them we are here just to get the facts, they aren't there to investigate the people.

Mayor Wieczorek stated I'm assuming that when the investigation was taking place here with the City Clerk that was not criminal was it.....It was criminal. Okay. You're still here that's a good sign.

Alderman Clancy asked if we are going to set some guidelines here for the City employees. Who's working overtime and who's not working overtime and stuff like that. It's going to go to personnel but the Board of Mayor and Aldermen should set the guidelines who works overtime

and who doesn't. I think there was a little mistake here made, there may be a major mistake here before because certain people knew who was working overtime. And that includes what happened here in the Finance Department. Certain people only knew. I'm sure that most of the people here on the Board of Mayor and Aldermen didn't know, they were left in the dark. It just came out in the end. So I would like to set some guidelines.

Mayor Wieczorek stated you know that the Yarger Decker is coming up, I think they have their first draft report out, and hopefully that will go a long way towards settling a lot of the human resource problems that we have here in the city. If I were to tell you that that was long overdue I would be understating how strongly I feel about it. There is no question that that is long overdue, and we will get a lot of these things straightened out with that.

Alderman Clancy asked if the Board of Mayor and Aldermen going to see it first before we put it out.

Alderman Sysyn stated isn't it going to go to personnel first, it will be on our next agenda.

The Deputy Clerk noted that her understanding was that it was to be presented at the next Personnel Committee meeting.

Mayor Wieczorek stated the draft, that would be going, it would be going through the process. Believe me you are all going to see it. Because you have to vote on it.

Alderman Shea stated I concur with Alderman one that it was my understanding that no one was accused of any criminal act, and that an administrative report was conducted by the Police Department which was requested by the City Solicitor's Office, and Chief Driscoll delivered the results of this administrative report to the Board of Mayor and Aldermen on the 20th of January and made it crystal clear that his department conducted an administrative review for general information and therefore he answered most of the questions that his department sought to have answered. I'm concerned that if we grant one employee this particular request that we would be setting precedence for other employees to come back to us and use this precedence as a means of gaining financial compensation. So I submit that taxpayers money should not be used to pay legal fees in this matter, or in previously incurred legal expenses relating to a previous matter as the person requesting this has asked.

Mayor Wieczorek stated Aldermen I can't tell you how much time was spent by how many people investigating this. A tremendous amount of time and money was tied up in this. I think things could have gone along a lot smoother had we waited until we have all of the information before we started with this stuff. Once this started people got lawyers.

Alderman Shea stated what we are talking about is people seeking compensation because they felt that they needed to have legal advice. It's perfectly all right but if they are not involved in a criminal act or accused of a criminal act I don't see any reason why we should pay for their expenses. It was up to people to go and seek whatever help they need at their own expense.

Mayor Wieczorek but the reputations were on the line.

Alderman Shea stated we'll leave it at that, but that 's for them to judge whether it was or was not.

Alderman Sysyn stated didn't we vote to tell the solicitor go after that money, to try and get the money back. Well I would hire a lawyer if you were going after my money.

Mayor Wieczorek stated yea, that's exactly right.

Alderman Wihby stated we weren't after this money.

Mayor Wieczorek stated well they were after all the overtime money, don't you remember when the board first voted you abstained.

Alderman Wihby stated that had nothing to do with this bill.

Mayor Wieczorek responded that's why they hired a lawyer.

Alderman Wihby stated Alderman Sysyn's comment would be for when we get the bill for the individual people who were involved that we said go back and get the money that's a different story because we were going to get back their money and we are doing an injustice with that but we never felt that there was an investigation going on, this is a different bill. This isn't the same bill. I know Hugh Moran for instance didn't feel comfortable representing himself so he went ahead and hired representation too because officers went down to his department and asked him some questions, but it wasn't like we were doing anything to hurt him, he didn't get overtime.

Alderman Clancy said yeah, you're right.

Alderman Hirschmann stated I do agree with Alderman Sysyn in the respect that the Finance Department came under intense scrutiny from this Board, there was a majority decision in December of 1997 and they directed the solicitor at all costs to get the money back. As soon as that vote was taken, and I was on the minority end of that vote, a lot of people secured attorneys because they had to. Because like you said their reputations and their professional careers were under scrutiny.

Alderman Thibault stated what we need here is an ordinance obligating the finance officer never to issue a check to any grade more than what that grade pays unless it has proper authorization from this Board. And if this was done you would eliminate all these problems.

Mayor Wieczorek stated this is the reason the Yarger Decker study is going to hopefully take us a long way toward clarifying a lot of these things.

Alderman Thibault stated this is going to end up costing a lot of money here for sure.

Alderman Girard stated I would like to explain why I moved this item, and Mr. Clougherty for clarification is actually seeking to be reimbursed for actually not one but two investigations that have been launched at him and his department. The first one back in 1994 if I read his letter correctly having to deal with the special committee that was set up to investigate the Finance Department for alleged wrong doing again. This most recent investigation was launched by the Board for alleged wrongdoing and although it's been argued that these were administrative reviews I think had those administrative reviews turned up calculated violations of the City's Ordinances the City may have very well proceeded in a criminal manner against those who violated the ordinances. This Board has in the past reimbursed legal expenses of the City Clerk as we heard earlier for an investigation that was started by this Board. It reimbursed the attorneys fees of department employees who sued the city after consolidations of their departments were effected. I think given that the reputation of the Finance Officer and his department was under attack not once by twice since 1994 and that both of those attacks could very well have led to criminal charges I think this Boards owes the Finance Officer and perhaps any other employee that was subject to these investigations reimbursement for the legal fees and as a following comment I would say that if there is any fault it lies with the Board here because there are no administrative procedures to review or investigate any alleged wrongdoing and most of these things have kind of flown off the handle with no substantial reason whatsoever, at least not in my opinion so that is why I made the motion.

Alderman O'Neil stated I just want to make a few comments about this HTE overtime. After a follow up meeting with Chief Driscoll and Captain Leidermier I've reached the conclusion that the HTE overtime should have come before the Board of Mayor and Aldermen, if for informational purposes only. In my opinion the Mayor, Finance Officer, Info Systems Director, and Personnel Director are the ones accountable for this lack of communication with the Board of Aldermen, and that hopefully in the future there will be revisions to the policies and procedures regarding personnel issues so that this type of mistake won't happen again. I have a problem with supporting the motion to pay this bill.

Alderman Wihby noted that the numbers did not add up asking if they knew what they were looking to do. It says \$3,392 but the bills add up to \$3,492.50 and that would be for just the first one not the second one which would be \$1,597. So are we paying \$3,392 plus \$1,597 which is the two or are we paying \$3,392 which is \$100 off the first one or what are we doing.

Mr. Clougherty stated I am submitting the entire bill for both sides so it's the amount for the previous one.

Mayor Wieczorek stated which is.

Mr. Clougherty stated the second one is the \$1,597, and the first one is the \$3,392. No, \$1,597 and \$992.50 is what is currently outstanding and there was \$2,500 paid before that.

Alderman Wihby asked him to say that again.

Mr. Clougherty stated there was \$2,500 paid before, \$992.50, and the \$1,597. If I can speak to the reason why I am submitting this.

Mayor Wieczorek stated yeah, go ahead.

Mr. Clougherty stated at the time that each of these were undertaken the term investigation was used and it's in the record. You will recall that members of this Board as well as and minutes will reflect the use of the term illegal payments, and that's why we were required to go out and get it and you get legal assistance. You can say whatever you want regarding whether something is administrative or criminal but when someone calls the police on you, you get a lawyer. And that's basically what happened to us and it happened as a result of what we felt were unfounded charges and that has I think been proven and we are requesting that there be a payment made. And we've submitted the bills and we would like to have compensation.

Alderman Wihby asked so its for \$4,989.

Mr. Clougherty responded affirmatively.

Alderman Cashin stated well, first of all you are asking for \$3,392 to be paid out of legal and I am assuming that is in Tom's department, the City Solicitor's Office, and now you are asking, tonight, you are asking for \$4,989 and it was an administrative investigation. It wasn't a legal investigation as far as I know. Is this Board, every time that we have a question with any department and we look into it are we going to pick up any legal bills that they may feel that they have to encounter? I hope not. You know everybody on this Board knows how I feel about this whole incident and I still don't agree with what has happened here. I think it was wrong. I think the taxpayers got the short end and there is no question in my mind about that. That is how I feel. I have said it publicly before and I will continue to say it and now to come in here and ask us to pay for bills for an investigation that this Board has every right to look into it, in fact we have an obligation to look into. We can't afford to pay this. Once we do this, you are going to open up the doors to...you know it will be horrendous what happens if you do this.

Alderman Shea stated just to add, the taxpayers will get a double whammy. They will be paying twice for the fact that we are paying people to serve in our City and then they, in turn, are trying to recoup from the taxpayers monies that they spent at their own free will, nobody asked them to spend this money. They decided to spend it through their own free will. People can say what they want, but people's reputations have always been on the line. Always been on the line in all public services and well do I know that your Honor. So basically they took upon themselves, through their own free will, to get legal counsel which they are entitled to. The taxpayers shouldn't, should never have to pay for legal expenses. It will set a bad precedent and it will open the Pandora's box to every whim and fancy that would come down the line. Not that I am saying this is a whim and fancy, but I am saying and as Alderman Cashin has indicated, every time the Board of Mayor and Aldermen feels a necessity to act, then they are going to incur the

expenses of someone that feels slighted by their particular, either probing or investigation. I say we should take a roll call on this and see how the Board members stand on this, your Honor.

Mayor Wieczorek replied we will take a roll call on this.

Alderman Wihby asked how do you expect that a new Board where the majority of these members weren't even here in 1994 are supposed to vote on something giving money away that they don't even know what the investigation was about. That is the bulk of the \$4,900, this \$3,300.

Alderman Girard stated just a couple of things. I think it is horrendous to begin with that the Board of Aldermen, prior to those of us currently being seated, ordered the City Solicitor's Office to do everything it could to recover and I think it is horrendous that the City Solicitor's Office, although I understand what was told to me, that the Solicitor saw fit to enlist the Police to do this and while we are talking about the idea of free will I would like to point out that the City employees who sued the City after we consolidated their departments they, of their own free will hired lawyers. They, of their own free will, took the City to court and the City was proven wrong. Then the City turned around and at great expense reimbursed them for exercising them their free will to get attorneys. Now, once again an employee has used their free will to hire attorneys to defend themselves against the City's action and once again the City has been proven wrong. I don't see where we are breaking new ground. I don't see where this is a new precedent and I think it is horrendous, frankly, that we have now twice as a Board, though most of us weren't here back in 94, are going to go after or have gone after departments that were doing their jobs to the best of their abilities without having the guidelines necessary from this Board to carry out the process.

Alderman Hirschmann stated, your Honor, this whole sorted affair, I mean I had to publicly apologize to the public for other people's actions. I didn't vote to go on a witch hunt, to sick the Solicitor on everybody and to have the Police involved. That wasn't my idea. I mean \$1,597 was this case which I could see. The rest of it, I really abstain from the rest of it because I wasn't here in 1994 and I don't even know what happened. This has to be moved.

Alderman Wihby stated we asked...definitely something was wrong in this case. I don't think anybody doubts on this Board that something was not handled the right way. It never came to the full Board to vote on and so, therefore, something went wrong and we have that right, as Aldermen, to find out what went wrong and to look into it. Just because, I think if the City Solicitor had called everybody up and said well come in here and talk to me, I don't know if they would have hired attorneys for that, but if they were instructed that listen this is not an investigation we are trying to get the fact together we should have the right to do that without having to pay attorney's fees to do that. It is not like we charged Kevin or Hugh Moran and said to them look we are looking into the guys doing something wrong. We never said that. All we said to them was is we want to find out what happened, find it out and they came back there was nothing that happened and it would have been over. So I don't see and again I guess I could...I think asking for the money back was wrong and I could probably see the \$1,597 but I don't

think we should go back to 1994 for \$3,300. It doesn't make a lot of sense and even in the \$1,597 we were just doing our job, your Honor.

Alderman Clancy stated, your Honor, if we go out and investigate a department, I don't care which one it is in the City and we ask some of the employees questions, the Police Department asks them a question, that doesn't give them a right to hire their own attorney and we hire the bill. If they haven't done anything, why should they call a lawyer? I don't understand this.

Alderman Shea stated I want to respond to Alderman At-Large Girard's comments, your Honor. If someone feels that they can recoup legal expenses because of any type of litigation, they are welcome to do that. The example he gave proved that there was something wrong that was incurred and I concur with that if something is wrong they are perfectly within their rights to go get it. But to say that people should pay legal expenses for people at any stage is incorrect. Mayor Wieczorek replied you know, Alderman, I think that with all due respect, I think that when this whole thing first started we received an opinion that referred to some administrative regulations that nobody can find. This is really what got the ball rolling here. I think it is unfortunate that a situation like this occurs, but I think people in our City remember the headlines that they had on television, "Illegal Payments", you know virtually calling people crooks. You do expect that people are going to have get something to defend themselves. You can just sit there and say well, you know they said I took an illegal payment, when everything...the investigation is done and they find out nobody took an illegal payment and really, if the facts were really known, these people that were working did the job that we would have had to contract outside to have done. It is much better to have it done by the people that are going to be working with that system now that are in the employ of the City.

Alderman O'Neil replied, your Honor, I don't disagree with what you just said but that should have been decided here and it never was brought before the previous Board of Aldermen. I don't disagree. Was it cheaper to do it in-house, sure, but it belonged here. I just want to go back to something Alderman Girard said about the City proven wrong. I don't believe that that is what this is all about. The Police Department was asked to collect facts. That's it. Am I correct Chief?

Chief Driscoll responded yes.

Alderman O'Neil then went on to say to collect facts. It wasn't to prove anybody wrong. What are the facts of this situation?

Alderman Thibault stated every time we question one of our department heads are we going to have to hire them a lawyer every time we want to have answered questions. I mean these people could have waited till all the facts came out before they went out and got a lawyer. I mean we hadn't brought anybody to jail yet. When the process would start would have been plenty of time for them to get a lawyer. That is why I am against it and I wasn't even here last year but it bothers me to see us pay a \$5,000 bill I will tell you that.

Alderman Girard stated the City Solicitor, back in December, issued a letter that said that the overtime payments were made illegally as in violation of City Ordinance, violation of what. Now I am no lawyer but anytime someone tells me I have acted illegally that seems to me that I need to do something to defend myself. The facts in this case, as Alderman O'Neil pointed out, clearly show that nobody acted willfully in violation of the Ordinances and I think something else this Board needs to remember is that well we are not just merely checking into something to see if there is irregularity. An investigation by a Board that has subpoena power was launched. The Solicitor was told to pursue an investigation. He was given a charge by this Board and he enlisted the resources he needed to do that. Those are very serious charges. This is not just asking a department head a question about something that doesn't seem quite right and the facts vindicated the department heads so trying to pawn this off as an incidental anytime we want to ask a question of a department head we have to pay a lawyer's fee I think is a bit disingenuous and way understating what this Board did in this case.

Mayor Wieczorek stated I can't tell you what those accusations really did for the morale of the people that were really breaking their backs to really try to get this thing installed.

Alderman Wihby stated this Board did not tell the City Solicitor or the Police Department to investigate department heads. This Board said go back and get the money that is owed from the individual employees. If their bill was in front of us, it might be a different story because we might have done them some harm if their bill was in front of us but we never told the City Solicitor to go and talk to the department heads and looking for what they did wrong. It is different. I could see if the employees were in front of us because yeah they probably had to defend themselves because we told them to go out and get the money. But we never said you know to the department heads all right we are looking into something is wrong with guys or...it doesn't make much sense on why this is front of us. We never told anybody we were after the department heads. All we said was get the money back and again I didn't vote, but the Board said get the money back. Those are the people whose bills should be in front of us and we should be debating what we did to them, not what we did to department heads. They should, they have every right to be department heads to answer those questions and we have every right as Aldermen to get those facts.

Alderman Shea stated maybe a distinction should be made or clarification for me. I thought that we, as a Board, asked the City Solicitor to investigate to see if we could possibly get the money back. I am not sure, I see Alderman Hirschmann shaking his head, but I thought that the feeling was that we were interested to see if it were possible to get the money back, not necessarily to unequivocally get the money back but to see if it were possible to get it back one way or another.

Mayor Wieczorek replied that wasn't my recollection. My recollection was that it was to get it back at any cost.

Alderman Girard stated I would like to move the question.

Alderman Cashin stated could we move the question, your Honor. Lets go to roll call and see what happens.

Mayor Wieczorek asked what amount are we going to be talking about here. I have got three.

Alderman Shea responded I would say the entire amount, your Honor.

Alderman O'Neil noted Alderman Girard made the motion. It would have to be...

Alderman Wihby stated I withdraw my second, your Honor.

Mayor Wieczorek asked is there a second then. Alderman Hirschmann seconded the motion.

Alderman Girard changed the motion to \$4,989.00.

Alderman Hirschmann stated I can't second that, your Honor.

Mayor Wieczorek asked is there a second. If there isn't a second, what do you want to vote on?

Alderman Cashin stated the motion dies for lack of a second, your Honor.

Alderman Hirschmann moved to pay \$1,597. for the costs incurred during this investigation.

Alderman Girard duly seconded the motion. A roll call vote was taken on the motion. Aldermen

Wihby, Klock, Clancy, Pinard, Shea, O'Neil, Rivard, Cashin, and Thibault voted nay.

Aldermen Hirschmann, Reiniger, Sysyn, Girard voted yea. Alderman Pariseau was absent. The motion failed.

Communication from the Public Works Director requesting approval of the retirement of Daniel B. Pinard as submitted.

On motion of Alderman O'Neil, duly seconded by Alderman Rivard, it was voted to accept and approve the retirement request of Daniel B. Pinard as submitted.

Resolutions:

“Amending the 1998 Community Improvement Program, authorizing and appropriating funds for Respect Committee Activities and Planning.”

“Amending the 1997 Community Improvement Program, transferring, authorizing and appropriating funds for the 1997 CIP 2.20725 NCADD Carpet Replacement.”

“Authorizing the Finance Officer to effect a transfer of Two Thousand Five Hundred Dollars (\$2,500.00) from Contingency to the Meet Me In NH Program.”

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

On motion of Alderman Clancy, duly seconded by Alderman Sysyn, it was voted that the Resolutions pass and be Enrolled. There were none recorded in opposition.

Ratification of agreement with the Airport Local 633 agreement under Rule 26 in accordance with the memorandum of agreement and cost calculations presented on January 20, 1998.

Alderman Wihby moved to ratify the agreement as presented. Alderman O’Neil duly seconded the motion.

Alderman Hirschmann stated I am going to vote in the negative on this and I am want to state my reason is I don’t know how many contracts in the past year we did negotiate and settle, but we did not give retroactive step increases to all of those parties...the Fire Department, Fire Supervisors, Police, everybody that we settled with we told them one at a time that we could not give them retroactive steps. I realize that there is some technicality in the language of this agreement for the reason that steps are warranted in the negotiator’s part, but because of past practice of not giving step retro to anybody, I am not willing to support this.

There being no further discussion, Mayor Wieczorek called for a vote. The motion carried with Alderman Hirschmann duly recorded in opposition.

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 Sysyn, duly seconded by Alderman Clancy, it was voted to remove this item from the table.

Mayor Wieczorek stated Alderman Cashin, I think you were one of the proponents of getting this group together.

Alderman Cashin replied I asked for this meeting. I want to thank you for coming. It just seems to me that, and I am only speaking for myself, I am not speaking for the Board, that we all want to try to build up the tax base in the City of Manchester. I don't think there is any question about that, but I think it is a question of how we go about doing it. I am concerned with what I see in neighborhoods. Neighborhoods in this City, as I see it, are very fragile. We are allowing minor industries to move in and it reflects on the whole neighborhood and somehow, and I don't know, I hate to talk about setting up new processes and all this stuff, but somehow we have got to find a way of accomplishing the need to increase the tax base without adversely affecting the neighborhoods that we all live in. I ask myself when I see certain zoning issues, you know, what is the impact on related services in the City, what is the burden on the infrastructure, how is it going to impact air quality, noise and the quality of life in neighborhoods and I don't think that we ask these questions. Maybe we need a checklist. Or maybe there has to be closer communication between the Board of Aldermen and the Board of Assessors, the Zoning Board and the Planning Board and the Building Department. I have had constituents call the Building Department about cars being parked all over the neighborhoods and being told well there is really not much we can do about it. Well, there is something we can do about it. It is against the law, you can't do it and it should be stopped. Now I understand the enforcement nature of the problems, but somehow these things have got to be handled. These are the things that impact neighborhoods and again, and I don't mean to pick on the Mayor, but when the Mayor sends letters to the Zoning Board stating that I expect you to reverse your decision, well I have got a problem with that too. I was under the impression, and I may be wrong and if I am correct me, that there was a statute that the Zoning Board is like a jury and they are not to be impacted by this Board of Aldermen or the Mayor and if this is going to continue to happen then we are going to have some major problems here. I want this City to grow, but I want it to grow in a planned sequence. Now we are supposed to have a Master Plan, but I don't think that we are adhering to it at all times. I mean I have got neighborhoods that have been impacted by, and I am not going to get into a long dissertation, everybody knows the problems I have down on Second Street. These things never should happen but they do and how do we stop it? I am not pointing fingers at anybody. I mean we are all in this together, we all have to take our share of the responsibility, but it has got to stop. That is why I have asked you to come and I think I am going to ask you people to try to explain to me how I can help you and how you can help me to solve the problems that exist here because I think you are aware of them just as well as I am.

Mr. MacKenzie stated I was going to lead off...I am not sure if the Board members know all of who is at the table here. To my left is Jack Brady, Chairman of the Zoning Board of Adjustment. My name is Robert MacKenzie, Planning Director. Leon Lafrenniere is Acting Building Commissioner and David Boutin is the Chairman of the Planning Board. Just to lead off, I was hoping to give a four minute primer on what is regulatory, I see two minutes, the regulatory process in the City of Manchester, why do we have it to begin with, what are the regulations and who are the players. Those are four important parts to start with I think. Why do we even have these regulations? I think that is really the first question to ask. The general reason that we have regulations is to protect the public health, safety and welfare. That is typically used as a basis for all of the regulations that are adopted. More specifically, though,

there are four key points that typically any community uses that is the main reason to adopt these regulations. They want to have safe buildings, they want to preserve the neighborhoods, they want to preserve and enhance property values and the tax base, and that is important, and finally they want to have ways to create economic development and typically that is done by creating the zoning for industrial parks. So those are the four main reasons that we have regulation and they have proven effective in communities. There are very few communities now that do not have these regulations. What are some of the basic pieces of the regulatory process? At the top of the pinnacle of growth management is the Zoning Ordinance. The Zoning Ordinance is adopted and amended by the Board of Mayor and Aldermen. What Zoning Ordinance does is divide the City into districts and it is intended to regulate the uses within each district, how big or how dense you can build on that lot, how many dwelling units for example, and what your setbacks are. Those are the primary reasons you have a Zoning Ordinance. That is administered by the Building Department. They are the official interpreter of the Zoning Ordinance. If somebody does not like a decision of the Building Department, they appeal that decision to the Zoning Board of Adjustment. There is four various types of appeals they can make, but generally they are all appeals of the Zoning Ordinance. These are what I typically call some of the toughest nuts and bolts decisions. I remember a view several years ago of a family with their inner tubes standing there asking why can't we have our swimming pool in the backyard. These are tough issues and they all relate to very detailed issues in the Zoning Ordinance. If the Zoning Board of Adjustment is appealed, that appeal typically goes to the next level which is court, Superior Court and there are appeals in the process because there are so many parties involved in each of these. So that is one main piece of the regulatory process. The second one is the subdivision of land. That is handled by the Planning Board. David Boutin is here tonight representing them. It is administered by the Planning Department, our Department. We assist the Planning Board in this case. Subdivision of land makes sure that if somebody wants to take a parcel and make three parcels out of it that, first each of those parcels is suitable for development, either for a home or a business and secondly that they have adequate streets to get there and utilities so that it is a safe lot. So that is the reason you have subdivision regulations. The next piece is site plan regulations and a good example of that is the Mall of New Hampshire. That is where we coordinate and make sure that the development and buildings are properly laid out on the lot, that there is enough parking, that you have proper access, and that everybody is coordinated in providing utilities and other issues dealing with that. So that is site plan review. That is also handled by the Planning Board and the Planning Department again provides support to the Planning Board. If somebody is aggrieved by the decision of the Planning Board, in both of those cases, subdivision and site plan, they go directly to Superior Court except in certain circumstances where they go to the Zoning Board of Adjustment. The fourth main category of regulations that we have in the City is the building code. The building code is directly administered by the Building Department. They handle the basic safety issues of every building. Any appeals of the decision of the Building Department on the building code go to the Building Board of Appeals. I think there are a couple of nominations to that committee tonight. Those are the four primary parts of any regulatory process in a City and what I refer to as the growth management process. There are, however, a number of other agencies that have an impact. The Fire Department reviews projects and when it gets down to near to the final opening, they become very critical in the review process. They

have a life safety code that they review buildings on to insure proper emergency fire access. The Health Department has regulations on septic systems. They also have regulations on, for example, kitchen facilities of restaurants, etc. The Highway Department regulates road development. They regulate sewer connections and storm drainage connections. The Manchester Water Works regulate access to water lines and making sure there is adequate water capacity for fire hydrants and fire emergency. Even beyond those four departments there other departments that are involved in the process. You have the Traffic Department, occasionally, the Police Department, Airport Authority, Parks & Recreation, Assessors and the Economic Development Office. What that boils down to is a rather complex process. You have five boards, from the Board of Mayor and Aldermen through these various other boards including the Heritage Commission for some of the Zoning Ordinance and the Conservation Commission. You have five boards involved in the process and twelve departments. Though it is a rather complex process to get through and that does not include the state or federal regulatory agencies that also become involved. The issue of coordination has become important and I think perhaps Mr. Boutin will speak about one initiative that the Planning Board has been working on to help coordinate that, the Technical Review Committee. That gives you a quick thumbnail. I think it was over 2 minutes, but it gives you a thumbnail of why we have the regulations, who is involved, and what they are. I do have to add though that these are extremely important issues. I think in most wards of the City you will find that some of the most contentious and divisive issues that a neighborhood can face relate to new development. There are no easy answers in this. Clearly we have to build a strong economic base to provide jobs and a tax base, but still we have to reflect that there are issues to protect our residential neighborhoods. So those are clearly the borders that we must look at. Alderman Cashin, in most cases you have to walk a tightrope down the middle in order to accomplish both. It is not always possible. Frequently a board is sued from either side, either from abutters or an applicant if they are aggrieved. I think it is important then that we have three basic things. You have to have boards that are fair and that have a positive attitude to accomplish things. You have to have staff that is experienced and dedicated to the job and you have to have Ordinances that are updated and user-friendly. I think certainly in the latter category that is where we are behind. I think the Zoning Ordinance and the building code are behind the times and are creating some of the problems that we have. We are trying to address those. You will see some initiative in both the Zoning Ordinance update and the building code this year. We are working on those. At this point that is all I have to say.

Mr. Boutin stated one of the things that I think we, as a City, can take great pride in is that we work, the board, the members of the Planning Board, work very hard and they spend lots of hours, not only in the nights that they are here but also working on the subcommittees that we ask them to serve on to do some of the things to make things better. One of them is that we have just implemented a program that has been passed now in the Site Planning Regulations. It is called a Technical Review Committee. The whole purpose of that is, the initiative was to take all the various City departments and have them sit around the table at one time, an applicant comes in and submits their plans and allows for a review and comment from all of the various departments so that hopefully will eliminate some of the problems down the road since everybody will have an opportunity to have some input. With regard to the issue of neighborhoods, please understand that the issues that we face are no different than the issues

that Nashua faces and that Portsmouth faces. Right now in Nashua the big issue down there is a McDonalds going in near a residential neighborhood. It is properly zoned and they are having some of the same issues. One of the things we find is, that I have experienced over the last six months is that notices will go out on a Friday to a neighborhood that a project is coming and before they have even seen the plans, before they have seen or heard what the applicant is intending to do, they have already formed a group. They have already gotten a petition together and that makes it difficult for us. A good example is Derryfield. We worked very hard with those neighbors to come up with a compromise solution that would solve them and you know it is difficult when they come in and they are already opposed to the project and then they start, as in the case of Derryfield, they start contacting their Alderman, they start contacting their Representatives, the Mayor, Executive Councilor, and on and on and suddenly something which is not supposed to be political becomes political. So that is the environment that we work in. We try our best. A good example is the Rite Aid on Elm Street. When they came in with that application they didn't have any sidewalks. They said we are going to be a neighborhood drugstore so the people from the neighborhood can walk to the drugstore. Well, they didn't put any sidewalks in their plan they said the elderly folks can walk down the street. So, obviously we did not approve the plan on the basis we required them to put sidewalks in. Now let me talk about the Zoning Ordinance for just a moment and I think you will all be interested in this. The Zoning Ordinance, once that is ready to go to the public, what I have asked Bob to do is to set-up four meetings around the City in which you folks will be hosting, essentially in conjunction with the Planning Department and Planning Board, you will be hosting the meeting. You will be asked to be an active participant in the process. Now if you don't show up, I don't know what else we can do, but you will be invited. We are going to have four locations, pick three wards, get a central location and then all of you that are in those wards will have the...obviously if you want to come to all four, if you don't have other things to do, you are welcome. That is an opportunity for you to be there to hear your constituents and what they have to say and participate in the process. Once that is all done, we are going to have, the Planning Board will have a hearing to get more public input and then when we are through with it we ship it over to you folks and then you will have your crack at it. So that is what we are planning to do with the zoning. My last point is that Alderman Pinard made a very good suggestion recently. As I understand it, you folks do not get copies of our agenda. Is that correct? Alderman Pinard has asked that we do that and I have asked Mr. MacKenzie beginning with this next meeting coming up for February 12 that we send copies of our agenda so you know what is going on, on our agendas. I will say that I know that some of the Aldermen here, Alderman Clancy is one, Alderman Pinard...if anybody has concerns or questions I don't mind you talking to me. I am perfectly willing. At the instigation of Alderman Pinard, there were two public neighborhood meetings in his ward and in some cases we do urge applicants to do that. So if that is something you want done we can do that. We will work with you and I don't view it as political pressure at all. I mean it is your ward, those are your constituents. We are going to do our job the best we can. In some instances you may agree with our decision and in some instances you don't, but we are going to try to work towards compromise so that everybody feels that they have been a participant in the process and make it a win-win and that is the best we can do. We are volunteers, we are trying to do the best for the City, and I don't know what else we can do for you, but we will certainly try.

Mr. Lafreniere stated with regard to the Building Department and what we anticipate will be some of the initiatives and the undertakings of the upcoming year. There are a number of things that we would like to bring on board and try as we get closer to the adoption of some of these newer standards. It actually is a fairly exciting time for us because there are so many changes and so many different efforts that we are undertaking simultaneously. Exciting and taxing at the same time. The first thing that I was going to mention that has already been mentioned this evening, that was the adoption of the updated codes. These are the codes that actually regulate the construction and maintenance of the buildings within the City property. We are anticipating at this time coming back to this board in the short term with a proposal to adopt the nationally recognized standards for the building, plumbing, electrical housing code standards. What we will be doing, in the form of a different approach that has been brought to this Board in the past, is that we are going to propose that the codes be adopted without significant local amendment. We feel that this will offer us some real competitive advantages with regard to how we can administer these codes in a fashion that will allow our community to be competitive with other communities, but at the same time afford safe occupancy for the structures. One of the things that this effort, if we are able to adopt the standards without a lot of local amendments, will mean greater flexibility with historic and other existing structures. Something we don't have a lot of flexibility with now. There is always a lot of pressure to try to accommodate some of the special challenges that renovating and rehabilitating some of the existing structures in the community have faced. Right now, what we have is a real lack of consistency across the state with regard to how these standards are administered and what the actual standards are. In that there is no state-wide building code, each community is empowered by the state to adopt its own code with its own local amendments so the challenge to people coming in subject to utilizing the regulations is that it is very difficult to plan for the reasonable development of projects without first coming into the community and finding out what all the local particular nuances of the Ordinances are and I think this consistency will offer us some advantages in that regard. It will also afford us an improvement in our communities ISO rating standards which are the Insurance Services Organization. These are the standards by which all the insurance rates are set for the community and they weigh very heavily on the building codes, how current they are, and how they have been locally amended. The points are deducted for each of these changes that are made locally as opposed to the national standards. Another initiative we are undertaking is steps to improve the communication and the information flow with the Zoning Board of Adjustment. I think that is an area where we have been lacking and I think that we have been unable in the past to offer the Zoning Board some of the support that they needed with regard to some of that information flow and we are going to work real hard to try to improve that. I have been communicating with the Chairman in that regard. We are going to do some in-house changes in regard to revamping our scheduling procedures. We hope it will afford some opportunities to increase our response times and our service delivery without increasing our staffing of it. We are very excited about participating in the Technical Review Committee. I think that is something we have long thought, at least from my perspective, would be of benefit to providing some connection and improving the information flow in that regard. A couple of other things, the relocation of the City Hall offices and the grouping of all the development functions I think will help to improve that information flow and make the whole process more user-friendly. A

new telephone system, the implementation, we hope, of the HTE system in our department, these are all efforts that will go a long way to improving our response and our service delivery. As has been mentioned earlier, one of the challenges of administering these regulations is really derived from the current status of the ordinances and regulations we have to deal with and I hope that at this point perhaps I can speak more directly to some of the comments that you had made, Alderman Cashin. The zoning ordinance we are dealing with is essentially a 35 year old document and although it is a living document that has been amended over the years, it frankly was not constructed in such a time where it fully anticipated the contemporary uses that we see today and Manchester being originally developed as an industrial-based community with pockets of industrial land that would intermix with the neighborhoods and the communities that poses some very distinct and difficult challenges with regard to how to strike those balances. The uses that these commercial districts that butt up to and integrate with the neighborhoods really are somewhat...have changed, have evolved over the times since the ordinance was originally developed and I think that the ordinance, just by virtue of the fact that it was developed as long ago as it was, did not anticipate some of the challenges that the interactions between these different types of users would have. So that is something that we are hoping and working with Planning on to try and bring up to date the zoning ordinance and we hope that will go a long way towards helping us deal with some of those problems with the interplay between the sometimes conflicting uses. I would like to, in this upcoming year, and I can't obviously speak for the Solicitor's Office, but it is my intent to request that they sit down with us and perhaps look at our entire enforcement effort procedure with regard to how the tools that we have available, how best we can use those tools as we have experienced...Alderman Cashin and some of the particular challenge areas in your ward. It has been very difficult with some of the current tools we have available to really respond to the nature of those conflicts. There are other parts of the country that utilize different tools than we have available to us. They have land use courts and they have different types of methods that they can use to actually approach the non-compliant issues. We have a more limited range of tools currently available to us and I think that there may be some room to both enhance and develop those tools, as well as perhaps to more specifically develop a policy where the existing tools we have can be utilized and so we can have a more consistent approach. So those are some of the areas we are hoping to be able to...the cars in the neighborhoods are a perennial problem because when these developed neighborhoods were originally developed and the businesses existed quite nicely and quite satisfactorily without parking because they serviced the neighborhoods that had pedestrian traffic that really utilized the services and all of these various dwelling units within the neighborhood didn't have two cars per unit to support the more transient population that we have now. These are things that we have got to deal with in the new ordinance, but we will always have some challenges there in terms of how to accommodate the vehicle traffic and that sort of thing. But, as I say it is an exciting time for us. We are...you know all of these initiatives and some of my other capacities have been a handful to handle one at a time and we are going to try and handle them all at once this year so it is going to be a...our plates are rather full but these are some of the efforts that I anticipate we will be undertaking to try to work towards this direction.

Mr. Brady stated Aldermen, I would like to thank you for letting us come down here tonight. I don't have a lot of remarks to say other than that when cases before the Zoning Board of Adjustment, we just enforce the laws. That is all we do. We don't make the law, we don't change the law, we cannot give anything away. We just enforce the law. That is all we can do. We handle three specific areas: variance, a special exception or an appeal from the Building Commissioner's decision. Those are the three areas that we focus in on. I also think that the Aldermen, you should be getting a copy of our agenda every month. You should be I mean we started that a couple of years ago so at least you know what the cases are. You know who is involved with the case and you get the description the same as we do. Most of the members on our board put a lot of time in on this board. Last month, you probably heard last month was a real killer. We got done at 1:30 a.m. We had a couple of large cases, we had Osco then we had the one up on Hanover Street. As Chairman I have a tendency to let people speak because I think it is a chance for the neighbors, the abutters to come in, pro or con, and express their concerns about that particular case. I think that should happen. We try to let that happen. It is very difficult as the evening grows late to say to somebody just because it is 10:00 p.m. you don't have the right to stand up and make a comment as the person did at 7:00 p.m. or 7:30 p.m. We average, probably between looking at the cases, reading and going through the paperwork that is involved with, probably somewhere around 17 hours. If we are asked by the City Solicitor to go to court that means we give up a day and we get paid for none of this. This is all free. I would like to see that change. I would like to see some kind of compensation come back for the board members. I think it would make for a better board. One of the comments that was made here earlier is a competent board. I can tell you that myself and a couple of other of the board members there are law lecture series put on by the State of New Hampshire. We make it a point to go to these things and we give up full day Saturdays to go up to Concord and sit down and go through these courses so that we hopefully are a better person when people come before us on the board requesting a variance or a special exception. For staff, we have one person. Kathy Paine is our clerk in our office. She does a good job. Some days, some months it can be real difficult because of the caseload we have. The last one that I made the note here of, the updated ordinances, boy I wish that would happen. That would help us all a great deal. I agree with Alderman Cashin that we have a concern for the neighborhoods, we realize they are fragile, we realize there are a lot of conflicts between residential and commercial or residential and industrial. Bob made light here of somebody standing there two years ago I think with an inner tube in front of the board. I mean I can tell you that we are all human, boy, and some of these cases that come before the board are gut wrenching. I mean that very seriously. Some nights I go home and I am real upset because...with the decision we have to make. They are not easy in a lot of cases. We are governed by law of what we have to do. There are five points of law when you are looking at a variance and we have to look at those in order for granting a variance. The master plan, everybody has got a copy of that. I think that is very important. We try to use that in making our decisions. A couple of the areas that seem to be getting a lot of play lately are these communications towers that are coming into the City. They are sprouting up all over. I think that is something that you, as the Aldermen, should start to take a hard look at it and put some kind of ordinances or something together because we are definitely getting, last month I think we had two and the month before that I think we had two more. Everybody wants a tower so I think that is something that you people ought to take a look at. The other thing that I made

a note here was that Bedford, NH has what they call a performance zoning district. Bob, I think you are probably familiar with that. This is one of the things that we picked up a year ago at one of the law lecture series up there. I think that is something that maybe we ought to take a look at. Bedford is using it on a section of Route 3 right now. I think it is a good idea. I think it would help a lot on Second Street, South Willow Street, Hanover Street, areas like that I think it would certainly be worth taking a look at and exploring. Again, we just enforce the law. We are like the judge I guess you could say. We don't make the law, we just enforce the ordinances that you people make. We try to do the best we can. Thank you.

Alderman Shea stated a couple of observations. In going to the Zoning Board meetings, I commend John Brady and the rest of the Zoning Board members. They do an excellent job. I also have attended some Planning Board meetings and they equally do a very good job. I had the pleasure of meeting with Leon recently and again I was quite impressed with the work he is doing. Bob MacKenzie, of course, wears different hats. One of the questions I would like to address is...we were talking about a time-line for updating the zoning ordinances and whose responsibility, who does that burden fall upon? I am not sure who wants to tackle that, but...

Mr. MacKenzie replied I guess our office has been the lead but we have been working with a number of groups from the Solicitor's Office, the Building Department, a Sounding Board that has included Planning Board members, Zoning Board of Adjustment members. The process has been going on so far for about a year and a half. This is an ordinance that affects every single parcel in the City. There are 30,000 parcels of land. I think we have been trying to do a good job. We are getting closer to the point where we have a draft to start to review.

Alderman Shea responded so, again, I was a little distracted here and I am sorry but we can expect it within...

Mr. MacKenzie answered we expect to have a draft to the Planning Board later this month. The Planning Board will review, typically under state law they make recommendations to the Board of Mayor and Aldermen on the zoning ordinance. It will be later this Spring or early Summer before the Board of Mayor and Aldermen actually gets to see it and then under state law they have to hold a public hearing as well.

Alderman Shea replied I think that a lot of observations I have made is that a lot of problems that come before the Zoning Board are motivated because of the lack of updated zoning guidelines. We have different attorneys presenting opposite points of view. We have real estate people interested in coming into areas of the City and I think that certain wards are being impacted much more severely than others and there are residential concerns being expressed to me because of the fact that there is this impactation, I don't know if that is a new word or not, but the fact of the impacting of different situations in terms of residential and their quality of life. I want to shift just for a minute. In the Planning Board's approach I know that the Planning staff develops certain plans or at least they review certain plans but the final decision rests with the Planning Board. Is that correct? Now if amendments are added to different plans are these resubmitted? I noticed that in a recent dissent one of the members of the Board

indicated that she did not vote on a particular matter because she did not see the final amendments. My understanding is that it is the Planning Board's responsibility to see the final and to make the final approval of all amendments. Is that correct?

Mr. Boutin answered yes that is correct. I think what you are referring to Alderman is the...sometimes between an original public hearing and the business meeting where we are going to be voting on a plan, there may be a small change of a plan in terms of width of a driveway or location of a driveway or something along that line and then it is the Board's decision to determine whether it is a minor change and it has been a policy of some debate on the Board. We have just amended that policy recently and hopefully will...it is a matter of interpretation what is a small change, what is a large change, but those are decisions that are made by the Board as a whole and they vote on it and if it moves forward it moves forward and if doesn't it doesn't.

Alderman Shea replied but are you saying that a final amendment is not seen by the Planning Board because of being a minor amendment.

Mr. Boutin answered well no. We would normally see it as it is presented by the staff at the business meeting.

Alderman Shea responded I realize that but then when it has to come back to the Planning staff, does it come back to your Board for final approval or does it just...

Mr. Boutin answered if it is a minor change, you know maybe dropping off a parking space to add a little more landscaping or something along that, we give the staff the discretion to make those calls. I think the staff is pretty diligent about making those kinds of determinations and sensitive to the issues that we deal with and if they feel it is one that the Board as a whole would want to see again, they will bring it back.

Mr. MacKenzie stated I would add, Alderman, that there are situations called minor site plans that the Planning Board does not necessarily see. They have delegated authority for minor site plans. We recently had an addition to Velcro, one of the small ones for example, that we handled at the staff level. We do notify abutters and we give them the opportunity to have a hearing if they have any issues. Otherwise, we try to handle that expeditiously. So those minor site plans or the small additions, typically, are handled at the staff level by the Planning Department.

Alderman Shea asked now is this a written ordinance that you are following or an unwritten because of the litigation that could follow.

Mr. MacKenzie replied this very closely follows state law. State law provides that the Planning Board can act on all applications. They can delegate minor ones to a Planning staff or technically they can delegate all of them to a Planning staff. In Manchester, we found that it works best if the major projects, the larger ones, are handled by the Planning Board and the

Planning staff handles the small ones. In most cases, if there is any question that the staff has we do bump that up to a full public hearing before the Planning Board. Again, the abutters get notice and they get an opportunity to have a public hearing if they have any concerns.

Alderman Hirschmann stated thank you all for appearing and giving us this little crash course in comprehensive planning and building and everything else in town. My question was for Mr. Brady. I heard you use the word enforcement for a couple of times so my antennas went really up high. I know of a case in your ZBA meetings in my ward in 1994 there was an apartment complex ordered to enclose their dumpsters, these big containers in 1994 and I can see them from my bedroom window and they are still not enclosed. So who are you talking about when you say enforcement. Who enforces these rulings?

Mr. Brady replied the Building Department. We can make a condition in the variance and we do that in most cases involving dumpsters and things people don't want to see. We put that down as a condition. We don't have any enforcement powers. The Building Department are the ones that have to enforce these.

Alderman Hirschmann asked does your committee pass the ruling if you make a decision do you pass it on to the Building Department.

Mr. Brady answered yes Sir, we do. That goes in writing. That becomes part of the record. That variance, if it is granted, that condition has to be enforced.

Alderman Hirschmann replied so I guess I will be meeting with Mr. Lafreniere at some point in the near future.

Alderman Shea stated I just wanted to defend the fact that Glenn Gagne is the Enforcement Officer and he is out straight. He has to handle the entire City and in deference to him it is important that we, as a Board, realize how important particular individual are in the scheme of things and possibly use a little bit of discretion in terms of how many people we do want in a particular department to enforce different items that are very essential for the quality of life for people.

Alderman O'Neil stated first of all, I had the opportunity a week or so ago to attend a ZBA meeting and I would like to congratulate Jack Brady on how the meetings are conducted and that the tough questions are asked. I also want to applaud Dave Boutin. I think this Technical Review Committee is going to be one of the best things to come along in a long time in this City. Probably the toughest task in City government, or one of the toughest tasks is balancing the need to expand your tax base with protecting the neighborhoods. I don't know if there is a right or wrong answer there. One comment I want to make and I know that both Bob and Leon are aware of this because I have made this comment to them, is the need, both of them talked about ordinances becoming user-friendly, our process becoming user-friendly, but I think there is a real need for our staff to become user-friendly. I have heard, I am going to make a generalized statement here, but a developer comes to Manchester and they are told you will do

this that, etc., etc. They go to Bedford and it is what can we do to get your business here and I think that is hurting us, I believe, on expanding the tax base. I hope and I know that both Leon and Bob are aware of that and I hope we address that in the near future.

Alderman Girard stated I will echo the sentiments of Alderman O'Neil. I know I have spoken with everybody at the table there at one time or another, but just a couple of suggestions for the Zoning Board, Mr. Brady, and you can take them for what they are worth. As you know, I have been to several meetings in the past. I really think, particularly when you have long agendas it might be a decent idea to have more than one meeting a month. I realize that this is a volunteer thing but to keep people until 12 a.m., 1 a.m., or 1:30 a.m. in the morning it is not productive for anybody and that is not an all together uncommon occurrence with the Zoning Board I am afraid. Maybe there should be a cut-off time, beyond 10:00 p.m. everything gets rescheduled or, I don't know how you would do that. I think perhaps something else that might be beneficial is if at your business meeting you adopt some rules as to how the Board is going to proceed with matters, i.e. how they are going to receive information from people presenting it. I know there has been an issue with people dropping reams of paper on you the night of the meeting and I certainly agree that I don't find that to be acceptable, but they should know when they make the application what the rules are so that if you make a decision on a night they are not expected to follow it that evening because they are not prepared to follow that. Just a final question or final comment. There have been instances, as you and I have talked, that really sort of, I don't understand. There was one case, without going into any detail, at the last meeting where a gentleman had a corner lot and he erected a 6' fence where the zoning allowed for a 4'. He had all his neighbors come and say that they liked the fence, they are glad it is there because he had dogs and they had kids and so on and so forth and some of the comments from the Zoning Board members were well, I think fences in the front yard are ugly and they voted against it, even though everybody in the neighborhood was there to say we think it looks fine, we think it protects our children. You know that happens a lot at that Board and I think a lot of people end up leaving with a bad taste in their mouth because they don't understand where a decision like that comes from. I have some other comments, but I won't bother the Board with them tonight. For what it is worth, I think that some of those areas might be beneficial to the public, resident and developer alike if they could be worked on.

Mr. Boutin stated Alderman O'Neil, I have appointed a sub-committee that is working on putting together a booklet on how to do business. It is not my idea. I have a very simple mind. It is really the suggestion of the Mayor but I have the authority or power to appoint the committee on my Board and we have done that. Joan Bennett is chairing that Committee so I am sure we will get some good things out of it, but the idea is to put something out there and maybe eventually it will be supported by the Chamber of whatever that it will be a document that will be available. People can walk in, pick it up and it will tell them how to go through the process of getting a variance, how to go about the process of getting a piece of land subdivided and so forth so that is something we are working on. But to that point I will just say that the Planning staff, the Planning Department and the workload that they are under and our ability to implement new initiatives and new programs or approaches to things is fairly limited because as we have seen with the zoning ordinance, just to break one of the staff away long enough to be

able to review the ordinance and get it back to the consultant has been very difficult. The Department is understaffed and that is one of the reasons why some of things and initiatives that we want to do are not moving along as quickly as would like and maybe as quickly as you would like. So, I am hoping that is something that you might take into consideration when you deliberate in the next few months.

Mayor Wieczorek stated Alderman Cashin made a reference here to my contacting ZBA about reversing a decision and Alderman I am going to tell you yes I did, I did meet with the Board because I think as the Chief Executive Officer of this City I have a responsibility to look at things and try to get some answers. When I had a lot of complaints, and I know the ZBA Board works very, very hard long hours, but when you get a lot of complaints about the fact that there was a lot of rudeness and I am not talking about one or two complaints and that is the reason why I met with that Board and I have also made some changes on that Board. There is no excuse for anybody really being rude to a constituent and I recognize you know when people come in you always have to remember they are coming in because it is an exception that they want to get and other than that if we were going to strictly enforce the law, we wouldn't need a ZBA, we wouldn't really need very much. I think common sense really goes a long way in this so when they come and appear before the ZBA Board I think we ought to treat them with the respect that they deserve. I am not going to make any excuse for doing that and the business that I was talking about was Chalifours and Chalifours is the anchor tenant on South Elm Street and they were talking about leaving town.

Alderman Cashin stated, your Honor, every Aldermen on this Board has the same problem, okay. When constituents go to the ZBA some win, some lose. It is a 50-50 deal and if every Alderman sent letters to the ZBA like you have, I mean they would be inundated with letters. This is what I am saying. I don't think it is right and to say to the ZBA or to say to any Board whether you are the Mayor or an Aldermen that I expect you, and I believe that is the phrase, I expect you to reverse your decision, I find that to be pretty intimidating.

Mayor Wieczorek responded Alderman, I am not going to let it stop right there because I have been here, this is my ninth year and I know this is your twenty-ninth. Have I inundated you with letters at the ZBA?

Alderman Cashin answered I didn't say you inundated anybody with letters. I said if everybody did what you did as far as sending letters, they would be inundated with letters.

Mayor Wieczorek replied oh, I thought I was inundating them with letters. Okay. Well your responsibility and mine is a little bit different.

Alderman Cashin answered I don't think so, your Honor.

Mayor Wieczorek replied you don't think so.

Alderman Cashin answered no, I have a constituency just as you have.

Mayor Wieczorek responded I know it and I have got one that is twelve times as large.

Mr. Brady stated, Alderman Girard, you asked about splitting up the meetings. We have tried that and one of the problems I find is trying to get the members to be there for the second night and also getting the abutters to come back. Sometimes it is very difficult. When we put the announcement in the paper that it will be on a Monday evening as we do know, we will say, and we tried this, we would say at 11 p.m. we will have a cut off and the next thing you know someone is saying I can't come tomorrow night, I will be out of town on business.

Alderman Girard replied maybe you could just make a practice then of scheduling more than one meeting a month so that your agendas aren't that large.

Mr. Brady answered again, last month was kind of a long one.

NEW BUSINESS

Communication from Alderman Rivard regarding traffic in Ward 8 requesting that this be referred to the Committee on Traffic.

On motion of Alderman Rivard, duly seconded by Alderman Girard, it was voted to refer the item to the Committee on Traffic/Public Safety.

Mayor Wieczorek stated that at 9 a.m. right here on Monday, February 9, we are meeting with the Legislative Delegation so anybody that is interested in whatever is going on with the Legislature, we will be meeting with the delegation right here at 9 a.m.

Alderman O'Neil stated a couple of things and I thank you for informing us of that. You and I had an earlier discussion, along with Sean from your office. I asked a question about what do we know is going on in Concord. What positions are City representatives taking? Should the Board be taking positions? Alderman Rivard and I had a discussion earlier about the access road, should there be an overpass there, and I think it is important that we are all on the same page with many of these bills in Concord and I asked what the process was and we started to get into it a little bit but then we had to hold the meeting, so is there a process and if there isn't should there be one?

Mayor Wieczorek answered yes there is a process because we meet with the Legislative Delegation whenever we need to on any items. I believe that you (Sean) or the City Clerk gets the bills out that impact on a particular department so that that department can respond you know as to either yes for it or against it depending on how it impacts on the City. As far as the other elected officials, when we get an issue that I think is city wide such as we brought to this Board at the last meeting that had to do with the poll tax on the telephone companies and the utilities, then when I go to Concord if we take a vote of this Board then I state that as a, you know that the Board this is their position and it is the Mayor's position. Other times I am in

Concord I am there representing myself, the Mayor of the City. I don't say that I am representing the entire Board.

Alderman O'Neil responded I guess my question is and I am only speaking for myself, I would like to know what is going on.

Mayor Wieczorek answered come Monday morning, 9 a.m.

Alderman O'Neil replied but that is not always convenient for everybody and if other people are getting it, if department heads are getting what bills are affecting the City why shouldn't the Aldermen get the same thing. I guess that is what I am asking to make sure that...

Alderman Thibault asked don't you get the Legislative Bulletin. I get a Legislative Bulletin every week.

Alderman O'Neil responded good example, your Honor is what we just spoke about or what I spoke about earlier with Alderman Rivard. The access road. Now the Airport Authority could be up there saying we are in favor of it, we are in favor of it as proposed with traffic signals and that but just in casual conversations with Police, Highway, Traffic Department, they have some major concerns. I just want to make sure we are all on the same page with what is going on in Concord. That is my concern. I don't know if there is a right answer, but...

Mayor Wieczorek replied well I will give you an answer. It may not be the right answer for you, but when they said they had a public hearing at the Armory, that is the time you should be there. If you can hear the opinion of all the people that are there testifying and you can testify and that is the opportunity that you have.

Alderman O'Neil answered but that is me as an individual and there may be, this particular issue, is maybe an issue that as a City we have to take a position and that is what I am trying to get at. When there is a body, the 15 of us need to take a position.

Mayor Wieczorek replied that is a valid point.

Alderman O'Neil stated so you are right, any one of us and I encourage any Alderman to appear before any bill, any department head or any other representative, but I think there are certain issues that need to be addressed by the 15 of us and a position taken and all I am looking for, you know, if Sean could just get out to us what the bill is without going into full detail and if one of us wants to follow-up on it, fine.

Alderman Hirschmann stated just to follow-up on Alderman O'Neil's concerns what we did take up as an action item at the last meeting was Senate Bill 73 and I did read in my correspondence that that did not prevail up in Concord.

Mr. Thomas answered it did prevail.

Alderman Hirschmann responded it was an 8 to 14 vote.

Mr. Thomas answered it passed and it was sent to the House.

Alderman Girard stated I believe the ward Alderman are receiving the reports, the calendars that the Municipal Association puts out every week because I have spoken with a couple of them and they have mentioned it. I know I am not, so I assume that Alderman O'Neil is not. Sometimes the Aldermen At-Large get left out of these routes.

Mayor Wieczorek replied all right. I think probably we ought to notify the Municipal Association that we have Aldermen At-Large because you are right they get a listing.

Alderman O'Neil asked what I am bringing up is that addressed in what you receive from the Municipal Association.

All of the Aldermen replied yes.

Alderman Shea stated I would like to change the subject just briefly for a moment your Honor. I notice that Chief Driscoll is here in the audience and I want to commend his department for the superior work they did last Thursday. There was a very serious hostage situation which involved families and school children of my ward, Ward 7. At this time, I would also like to publicly extend the gratitude of my constituents to Beech Street Principal Nancy Tessier, members of her teaching staff and other faculty members for their example of loving care of students at Beech Street School. For over an hour after regular school hours, the children were protected from harm by school personnel without complaint and this truly is a community of caring about children. Why? Because they proved through their love towards their students that they care and this is another example of excellence within our school department.

Alderman Reiniger stated just to follow-up with Alderman Hirschmann, I have got a notice from the Business Industry Association of New Hampshire about the poll and wire tax debate. Now I have to say I didn't hear anything about it until it came up that night and it was put to a vote. I should have moved to table it or I should have not...at this point I want to withdraw what I did because as I look into it more it talks about how the Senate and the House are at odds. The Senate passed one thing that is completely different than what is now in the House. There are all kinds of legal complexities involving cable, other public utilities. This Board may have voted to support a new tax in the state and I don't know if we want to be on record doing that. I think that maybe we should be careful about taking public record, taking positions on issues we don't have to. Maybe it is worth reconsidering this. I don't know if it matters in Concord what positions we take anyway.

Mayor Wieczorek responded the reason Senate Bill 73 was introduced was because they looked at it as a new tax and they objected to it. That is the reason why they had 73. There is a couple

of wrinkles in there, but anybody that was paying a communications tax would not have to pay the pole tax, that is the way that bill read.

Alderman Reiniger replied well I am just reading what the BIA is saying about it. It seems very confusing to me.

Alderman O'Neil stated I was approached by a member of the School Board with regards to maybe the Board of Aldermen and the Board of School Committee meeting on a more regular basis. I know that in the past you have met for some specific issues, but his concern was that it might be better for communication, this Lake Shore Hospital for instance, we have all gotten involved in one way or another and maybe if we had all met at one time there might have been a little better communication. He brought up a concern about chargebacks. I leave that up to you, your Honor. If you think it is worth doing, I am open to it.

Mayor Wieczorek answered since I am the Chair of both Boards I will give that consideration.

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

A True Record. Attest.

City Clerk