

**SPECIAL MEETING  
BOARD OF MAYOR AND ALDERMEN  
(PUBLIC HEARING)**

**April 22, 1998**

**7:00 PM**

Mayor Wieczorek called the meeting to order.

Mayor Wieczorek called for the Pledge of Allegiance, this function being led by Alderman Thibault.

A moment of silent prayer was observed.

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

**Absent:** Alderman Wihby

Mayor Wieczorek advised that the first purpose of the public hearing was to hear those wishing to speak with regard to consideration of the public need and the use of eminent domain, with regard to the extension of Runway 6-24 and 17-35 including discontinuance and relocation of a portion of Harvey Road; that the Airport Director will be requested to make a presentation following which those wishing to speak will be heard; that anyone wishing to speak must first step to the nearest microphone when recognized, recite his/her name and address in a clear, loud voice for the record; that each person will be given only one opportunity to speak and any questions must be directed to the Chair.

Mayor Wieczorek requested that Fred Testa, Airport Director, make a presentation.

Mr. Testa stated I'm the Director of Manchester Airport and I'm here before this Board to ask their determination for public need for certain properties and pieces of land and in certain cases slope easements that are related to the implementation of the Master Plan of the Airport which has taken the past two and a half to three years to do and was adopted by the Airport Authority last year. During that process, during the Master Plan, a plan that took a little over two years to develop was subject to some 30 meetings that were open to the public, extensive publicity in the newspaper every step of the way, seven public information sessions which everybody around the Airport was invited by flyer and public information mailings and public participation through the Study Advisory Committee which consisted of 34 citizens and users of the Airport that were involved in the whole process from beginning to end to determine the need for the Master Plan and each and every construction project and how to best go about getting the results wanted in the end. We studied from the no-build to the medium-build to the far out build, we put no constraints on the way we looked at the Airport and the constraints that would be put on in the end. During that process, we had many people put their input in and we dissolved into many sub-committees of which were run by many of the citizens on the Citizens Advisory Committee and came up with some very novel solutions as to where to put runways, why,

engineering testimony was brought forth and the condition of the runways and what was needed and many of those suggestions were actually taken, worked on and brought back. No single suggestion was ever out-of-hand and put off. We looked at putting runways in very novel places at the Airport. Some of them so novel that it would have never flown. But, we did, we looked at something like 25 or 26 different options for realignment of the runways, redoing the runways, dropping it down, building a parallel...buying a lot more property, but we were constrained by topography, one. Many of you who have seen this Airport grow from its infancy and some of you who have been here since it was a World War II base know that it isn't a topography that relatively limits what can be done when needed. This hearing is to determine public need, it has absolutely nothing to do with valuation, has absolutely nothing to do with the process used, we followed the statutes of the State of New Hampshire and the process by which it was done. Public need determines whether or not there is a need by a public facility for something. Once that need is determined, the State has established by statute a process by which valuation if it cannot be negotiated can then take place. All during this process negotiations can take place and often do. Most of the times they do. And, when some impasse is reached then the process is going forward by a public hearing, a public declaration of public need and then if the impasse stays there with the valuation of the property, not what it was used for or what it was needed for or how it's been appraised or whatever it then goes to the next level for valuation determination which is set up by statute as the Board of Land & Tax Appeals; that Board is empowered by the State to make the valuation determination. It was set up specifically so that public bodies such as yourself and other town councils, boards of commissioners and counties where you have to go before county commissioners to find public need would not be put in the place of having to be experts on value. Both sides to the dispute then get all their evidence which is usually appraisals which by statute you have to do as the condemnor, get their valuations and their appraisals and present it to this Board of Land & Tax Appeals; that Board of Land & Tax Appeals then has the statutory obligation to find a value and then they will let you know the value. If either side disputes the value they then have another step which is the court system of the State of New Hampshire and by the way this is not unique, this is in place in many states, in many jurisdictions around the country. Usually, bodies such as this do not make determinations on value, they don't impose and it is an imposition on a body to try to make you experts on everything which is why these Board's of Land & Tax Appeals are set up, they can make the determination and in effect everybody get off the hook because if we're ordered to pay "X" number of dollars, we have to pay "X" number of dollars unless we go onto an appeal and as such the other side also has that right of appeal. If they don't believe in the value set by the expert board they have the right to appeal. Now, our appraisers and their appraisers will then make their testimony, but I wanted to go through the process because I want you to understand that the two parts of this hearing; one, for the 6-24 operation runway extension and safety areas is where we're looking for a lot of little pieces of land to create the roadway that was designed in conjunction with NHDOT and the Manchester Highway Department, so that we could go around the Harvey Road section and abandon that Harvey Road section and I hope to establish before you tonight the idea of "public need". The Airport is a public transportation facility, much the same as the roads, sewers and other facilities owned

by the City. It's a publicly-owned facility. Airport is used by the public for their transportation needs. Therefore, the Airport is a public facility under the determination and the standards set by State law. I'm going to call before you several witnesses who will establish, what I think will establish the "public need" for your benefit and I first want to call Jim Downar. Jim, would you state your name for the record please.

My name is Jim Downar, I'm with Hoyle Tanner & Associates.

Mr. Testa asked, Jim, what is your educational background.

Mr. Downar replied I hold a Bachelor of Science in Civil Engineering from the University of New Hampshire and have done post graduate studies in Civil Engineering there also.

Mr. Testa stated you have certain licenses.

Mr. Downar replied I am a licensed Professional Civil Engineer in the State of New Hampshire and four other New England states.

Mr. Testa stated your years of experience in airport design.

Mr. Downar stated I have 20 years of experience in airport design.

Mr. Testa asked how about your experience in Manchester.

Mr. Downar replied I have 20 years of experience working in Manchester.

Mr. Testa stated in fact, you cut your teeth in Manchester, did you not.

Mr. Downar replied that is correct.

Mr. Testa asked isn't that when Hoyle Tanner was actually stationed at the Airport.

Mr. Downar replied shortly thereafter.

Mr. Testa asked are you familiar with the runways at Manchester.

Mr. Downar replied yes I am.

Mr. Testa stated I am going to ask Jim to do two parts. One, for this part and then we'll go through the other part later. Jim, how old are the two runways.

Mr. Downar replied the runways are approximately 60 years old, they were built between 1936 and 1942.

Mr. Testa asked have they ever been reconstructed.

Mr. Downar replied, no they have not been reconstruction. Runway 17-35 was overlaid in 1979, Runway 6-24 was overlaid in the mid-1980's in several phases.

Mr. Testa asked when they were overlaid how much asphalt was put on top of them.

Mr. Downar replied, three inches.

Mr. Testa asked has the underlayment under that ever been touched in 60 years.

Mr. Down replied no.

Mr. Testa asked when they were originally constructed what standards were used.

Mr. Downar replied the Army Corps of Engineers for what was then the U.S. Army Air Corps.

Mr. Testa stated that Army Air Corps flew in planes such as.

Mr. Downar replied Manchester was a medium heavy bomber base, I believe they had typically B24's and B17's.

Mr. Testa asked which weighed what.

Mr. Downar replied 25,000 to 30,000 pounds.

Mr. Testa asked what is the largest aircraft that lands in Manchester today.

Mr. Downar replied probably the Boeing 767.

Mr. Testa asked which weighs how much.

Mr. Downar replied 325,000 pounds.

Mr. Testa stated 325,000 pounds landing on runways that were designed for 35,000 pounds. Do those two runways meet today's standards.

Mr. Downar replied no.

Mr. Testa asked can you just run through fast some of the problems that you've seen on the Airport in general and we'll get to the main runway later.

Mr. Downar replied aside from age which is it's biggest problem, the criteria that FAA uses today such as line of sight, runway profile, transferous grades, just to name a few, and runway safety areas are not met by the current runways.

Mr. Testa stated, Jim, I am going to go through some questions on the main runway, but first on Runway 6-24 which is the crosswind runway...for identification purposes I show the Board tonight...this is downtown north. This is an aerial view of the Manchester Airport. This is runway 17-35 running from north to south and actually has two numbers. When I say Runway 35 you just add a zero to it and that's the compass heading. So, on Runway 35 you're heading 350° which is almost due north, if you're heading on Runway 17, add a zero to it, it's 170° almost due south. So, each runway has two designations and sometimes when I speak of four runways I'm really talking about four approaches to two strips of asphalt. Now, 6-24 is how long.

Mr. Downar replied 5,847 feet approximately.

Mr. Testa asked in it's present condition and length, is Runway 6-24 usable by commercial jet traffic.

Mr. Downar replied not under most circumstances.

Mr. Testa asked just explain why not.

Mr. Downar replied under most conditions the runway has insufficient length for takeoff for the commercial service aircraft that are using the Airport, the only exception being when you have a strong wind out of either the south or the east it blows right down the runway.

Mr. Testa stated while Runway 17-35 is being constructed, the only runway we will have to use is Runway 6-24, so in order to make it usable for today's traffic and today's aircraft what has to be done to 6-24.

Mr. Downar replied we need to length it.

Mr. Testa stated but in addition there is one other case, do we meet today's safety standards.

Mr. Downar replied no, you do not.

Mr. Testa stated we do not. We are grandfathered by the federal government.

Mr. Downar replied that is correct.

Mr. Testa asked in what ways don't we meet current safety standards.

Mr. Downar replied current FAA criteria requires a 500 by 1,000 foot safety area on each end of the runway.

Mr. Testa asked do we have such length on each runway.

Mr. Downar replied no we do not.

Mr. Testa asked do we have any length on the end of each runway.

Mr. Downar replied it varies from runway end and I think the most you have at one point is about 400 feet on one down to less than 50 feet on one of the others.

Mr. Testa stated so, in fact, this runway has to be lengthened. Now, can we go in this direction towards Brown Avenue at all and add any length whatsoever, why.

Mr. Downar replied not very easily because of the terrain.

Mr. Testa asked what do you mean the terrain.

Mr. Downar replied those that are familiar know that the road itself that goes around the ends sits much lower than the end of the runway and on the other side of the road it drops off even steeper down to Brown Avenue.

Mr. Testa asked if we could possibly fill in from the end of this runway all the way to the river, would we still achieve a thousand feed overrun.

Mr. Downar replied possibly.

Mr. Testa asked how much fill would that take.

Mr. Downar replied I have not estimated that amount, but a lot.

Mr. Testa stated so during the Master Plan an alternative was agreed to by everyone involved, am I right.

Mr. Downar replied that is correct.

Mr. Testa stated and that was the length of this runway where.

Mr. Downar replied on the 24 end going towards South Willow Street.

Mr. Testa asked does the Airport Authority own all this property.

Mr. Downar replied yes.

Mr. Testa stated, thank you, I'll call you back later. Mr. Bailey, state your name for the record please.

I am Brian Bailey and I work for McFarland Johnson, Inc. We're Consulting Engineers for highway, bridge, environmental.

Mr. Testa stated you are under contract with Manchester Airport.

Mr. Bailey replied that is correct, for various projects.

Mr. Testa stated I am going to go through each one of these steps/pieces that there had to be public meetings and that's because there are 12 of these pieces and three other whole pieces and it's because they are all small, little strips of land. Now, Brian, I turn your attention to this Master Plan of this whole area. Did you design the roadway around the end of the runway.

Mr. Bailey replied that is correct.

Mr. Testa stated this is your work.

Mr. Bailey stated that is correct.

Mr. Testa stated I bring your attention to the intended area 6-24. This is the section of Harvey Road that is scheduled for abandonment at a hearing next Tuesday night.

Mr. Bailey replied that is correct.

Mr. Testa asked what is this.

Mr. Bailey replied that would be the relocated portion of Harvey Road.

Mr. Testa stated the relocated portion of Harvey Road that would go around the end of the runway.

Mr. Bailey replied that is correct.

Mr. Testa asked do any businesses in the area lose any access with this plan.

Mr. Bailey replied no, Sir.

Mr. Testa stated this plan is designed to handle traffic till what year.

Mr. Bailey replied the year 2018.

Mr. Testa asked was this designed in cooperation with the New Hampshire DOT and the Manchester Highway Department.

Mr. Bailey replied that is correct.

Mr. Testa stated it was all done cooperatively.

Mr. Bailey replied very cooperatively.

Mr. Testa stated all of the curves and everything else was done according to standards.

Mr. Bailey replied that is correct.

Mr. Testa stated this is one of the easements, noted it is a small sliver of land along Harvey Road and this is what kind of easement.

Mr. Bailey replied that is a temporary easement for traffic control, actually that easement would be temporary and would be replaced at the end of construction.

Alderman Cashin stated, Fred, all of these are going under eminent domain, is that what you're asking us to do.

Mr. Testa replied no, not eminent domain...public need declaration only...some of these are involved in declarations only.

Alderman Cashin asked how many of these would have to go to eminent domain, do we know yet.

Mr. Testa replied we would have to file a declaration. Some of these properties I am going to show you are involved in negotiations, some are only temporary easements and are only needed for a short period of time to make a slope, some might very well go to eminent domain. All we're asking you tonight is for public need; that there is a public need for this.



Alderman Cashin asked once we establish public need doesn't that give you an edge to go with eminent domain.

Mr. Testa replied it gives me the right to establish a declaration.

Solicitor Clark stated the motion would be to find public need a necessity and in the event that negotiations failed our office would proceed with eminent domain.

Mr. Testa stated the first piece is this little sliver of land that is only a temporary easement right here on the beginning of this property that we have to change the slope because of the curve. The second piece is the AirPark Condominiums and involves some temporary easements and permanent slope easements and some permanent taking for the curve and asked does it affect their entries at all.

Mr. Bailey replied no, it does not.

Mr. Testa asked does it make them anyway not conform to whatever standards they have to meet.

Mr. Bailey replied, no it doesn't.

Mr. Testa stated the relocated Harvey Road is already owned by the city, but it has to be transferred to the City because it is owned by the City through the federal government and by taking, you're taking it out of the federal government's domain and transferring it to the Highway Department and we don't expect it will be taken by eminent domain as it still has to go through this process to find a public need and also includes some easements.

Mr. Bailey stated some easements to protect the slopes.

Mr. Testa asked what easement he was pointing to.

Mr. Bailey replied that would be a permanent slope easement to allow Highway to maintain the roadway.

Mr. Testa stated this was on City-owned land.

Mr. Bailey replied that is correct.

Mr. Testa asked about Mr. Mailloux's property

Mr. Bailey stated it is at the southern end of the Route 28/South Willow Street which is there.

Mr. Testa asked does it affect any entrances.

Mr. Bailey replied there are no current accesses that I'm aware of now.

Mr. Testa stated third is William Ryan's property of which one is an easement and also taking a portion of smaller piece. Next is a piece 854-4.

Mr. Bailey stated I think they are temporary driveway types.

Mr. Testa stated that also goes to the Highway Department to maintain the slope, none of this comes to the Airport, but when you're doing the roadway a certain amount of sides, shoulders, and slopes have to be produced. In reference to 854-3, Mr. Testa stated this parcel would also be deeded over to the Highway Department and does not mess with anybody's entrance. David Donovan/Diane Downes - the next piece is also a strip about 20 feet wide and perhaps 15 feet is also a piece of property that goes to the Highway Department. Next is Patrick Brodsky 854-1, followed by property owned by Public Storage which is a small piece of property 854.1(a) a tiny sliver to do what.

Mr. Bailey replied that is a permanent Right-of-Way taking for the curve and goes to the Highway.

Mr. Testa stated the last piece is at North River Road where that is now a T section where Icon is here, Office Products and some other kinds of businesses where the Triangle Building is located. This property 721-14 is owned by the City of Manchester, actually land owned by the Airport that was deeded over by the federal government and the little curve would make it easier to get around the corner and taken out of the Airport and deeded over to the Highway Department.

In reference to where the runway now ends, noted this is where it would end in the future across Harvey Road. In the red section there is self-storage which the City entered into a lease agreement in 1984 noting it had to be repurchased back. The three lots for taking was a Ryan property with two homes on it and would be taken for what reason.

Mr. Bailey replied for several reasons. The Ryan property which is shown in green is within the runway protection zone and also the site for the instrument landing system for Runway 6.

Mr. Testa stated this also provides a protection for the landing system much like we installed on Goffs Falls Road.

Mr. Bailey replied that is correct.

Mr. Testa stated these three properties are in the runway protection zone.

Mr. Bailey replied that is correct.

Mr. Testa asked the runway protection zone means protection from what.

Mr. Bailey replied it's by FAA definition, it's supposed to be protected from congregations of people and construction of obstructions.

Mr. Testa stated when talking about extending 2,000 feet on this runway, 2,000 feet is extended for mainly what reason.

Mr. Bailey replied to turn the runway into a lane useable by the air carriers and to provide runway safety areas/overrun areas.

Mr. Testa stated that ends the presentation for Runway 6-24, the Harvey Road area. I apologize for it's having been so time consuming, but I think it's important that you understand each one of those pieces and its relationship to the Highway as most of those pieces already belong to the Airport and need to find declaration of public need and that is what I would humbly ask you to vote public need on.

Alderman Girard asked, Mr. Testa, do you need to have a declaration of public need even on those properties where the City or the Airport are able to come to agreement without eminent domain proceedings.

Mr. Testa replied, not really. We're looking for public need declaration because time is of the essence here because of certain projects that are taking place and have impingement on other projects. Last night, this Board voted as a Board of Mayor and Aldermen to go to a public hearing and public need for a sewer easement; that particular individual has stopped the sewer interceptor and I remember the impassioned plea of Alderman Rivard asking that time was of the essence, this sewer interceptor project had to be done, found out today they have been in negotiations for three to four weeks total. In fact, it hasn't even been appraised, but they're asking for public need which this Board did not even debate last night. So, what I'm saying to you in a roundabout way is that as we go forward with the requests for public needs it's to backup our time constraints.

Alderman Clancy asked, Mr. Testa, of all of these parcels of land that you want to take for the Airport, has any individual or company down there given you a hard time.

Mr. Testa replied, I wouldn't say a hard time, no.

Alderman Clancy asked have they given you a rebuttal.

Mr. Testa asked what do you mean by rebuttal.

Alderman Clancy replied they don't want to give up their property.

Mr. Testa replied not so far, no.

Alderman Clancy stated so, so far all of those people you've talked to...

Mr. Testa stated the ones we have talked to already have indicated there may be a problem with one valuation and I won't go into that because discussing valuation on property that the City is about to take or will negotiate with should be done in closed session and not in open session, but there has been one or two, Izzy, two, how many questions of value.

Mr. D'Orsi replied three.

Mr. Testa stated three questions of value have arisen through the appraisal process. By law, by own City law also, City ordinance and State law and the eminent domain procedure, but mostly by federal procedure. I'm guided by even stiffer federal concerns. We have to hire an appraiser, locally, who knows the local market, goes out and appraises it taking every factor into consideration. We then have to give his appraisal to a check appraiser, another local area appraiser licensed in the State of New Hampshire; that check appraiser then checks the work of the first appraiser and makes adjustments...in conference they will make adjustments. If they see that a mistake was made, somebody forgot something, somebody added something that wasn't supposed to be added; that combined effort is then taken to the land owner and an offer is made based on the value. We don't undercut any values, the highest value they have come up with is then offered to the land owner and that's the process we use and then negotiations take place based upon that, if they're within reason. Sometimes, negotiations have a wide split and it's almost impossible to come to...listen, don't describe any bad motives to any of the side here. Some people have an idea of what their land is worth, we have another idea of what their land is worth, all in good faith, it doesn't have to be an adversarial position. In fact, we have gone through eminent domain on prior parcels, they've been in the Londonderry side, we've gone to the County Commissioners in Rockingham, but they have been friendly...eminent domain proceedings meaning that we both understand the need for the Airport to have the land, we had a valuation problem and went to the County Commissioners and they found and went to the Board of Land & Tax Appeals, it's been done before, it's been done by this Board before in Manchester, but it's a way of doing things.

Alderman Clancy stated that is one of the fairer ways, right.

Mr. Testa replied we think so and I think that is why State law was set up that way, it's fairer for everybody, we've got an independent third party a tribunal that has no ax to grind on either side and we'll take all the evidence as objectively as possible.

Alderman Shea stated there is one runway now...

Mr. Testa interjected there are two runways now.

Alderman Shea stated 17-35, okay, you're proposing that there be a second runway 6-24 in order to service the needs of the...

Mr. Testa replied no, there are presently two runways at the Airport - 17-35 and 6-24. They both have to be reconstructed, they have not been touched since 1940. So, when you put a shovel into the ground and reconstruct the runway and it's something that you all understand and know, I know, is when if you add a room to your home and you built your home 30 or 40 years ago and you had 60 amp service, you go to Leon and get a building permit to add a room he makes you upgrade your current service to either 100 or 200 amp service, I don't know what the minimum service is. You must bring your home up to present standards when you're redoing the home. I live under the same rules and regs, I must bring those runways up to the present standards which means the minute I sink a shovel in to fix all the sinkholes and everything that have showed up and we'll go to that, I must bring it up to today's standards and add 2,000 feet to each runway.

Alderman Shea stated so, basically there are two runways now and the intent is to make them according to standards for 1998. Will that involve additional aircraft coming into the City, in other words because of the upgrading will people in Manchester expect more planes to come, I realize you're negotiating with different, but what do you anticipate the increase in air traffic to be.

Mr. Testa replied I don't think that the runways themselves will lead to increased air traffic, the increased air traffic is a direct result of the market demand. Right now, there is a market demand for service which is why you see a lot of airlines starting now. Runways are not being done for increase in traffic. Right now, UPS runs two 767's in a day with freight...freight is one of the big stores at Manchester Airport and they can't get that 767 any further than Louisville, they'd like to send it to Oakland, they need a little bit more length to carry more fuel, to go a little bit further because a lot of the freight they're carrying in Manchester is due to the west coast and the Far East and it's that kind of thing and I will quote you one anecdotal story and you'll understand why...about three or four months ago there was a flight to Chicago full, it was a United Airlines flight and they can only carry on so much fuel in that aircraft off of 7,000 feet, it was a very humid day, a lot of moisture in the air rather which reduces the amount of oxygen, I won't go into the technical things. They had a choice of cutting either 35 people off the plane and telling them to stay back with all their baggage or stopping for fuel, they had to stop in Detroit for extra fuel because they couldn't carry enough fuel off of 7,000 feet. Runway length has nothing to do with size of aircraft as it does with efficiency and length of stage, so that we have easier length of stage and that's what the length if you lengthen them does. These lengthenings were not originally designed for length of stage, they were originally designed for

safety overruns. By the same time we said if we use some of that safety overrun as runways in a technical sense using it as the calculation we can get more runway length. The same runway length but it's used in calculations a different way.

Alderman Thibault asked, Mr. Testa, if in fact we would vote to give you public need doesn't that put all the people that you are negotiating with at a disadvantage once you've got this public need you can more or less put a lot of pressure on them as to settle their claim.

Mr. Testa replied there is no pressure put on. But, let me tell you what the process is. I can't vary much...by federal law I can't vary much from the appraisals that we've already done. We hire a local appraiser, that local appraiser does not get direction from us, they go right to the site, many times make appointments with the people, walk the land, look at all the factors and if it's a home look at all of the upgrades or whatever the case may be, if it has a pool, a garage, or whatever you may expect and then does an appraisal on its own and when that appraisal is given to a second appraiser for a check...that is the number we offer. Negotiations take place from there on up in a very narrow range because we're pre-limited in what we can. Usually, it's a pretty fair amount. I'm not going to say all of the time, usually it's a pretty fair amount. On occasion, you'll find a difference. I'm only limited in a very narrow range in what to go, so there is really no pressure as such because if I've got an appraisal for your house and it's \$120,000 and you want \$350,000, there's no way under the law I can give you \$350,000. If I did and we handed in that appraisal to the federal government, I'd probably be taken up on fraud because I'm limited.

Alderman Thibault stated I guess maybe what I mean is that if, in fact, you have public need and these people for whatever reason don't come to terms with you, all you can say to them is well, I'm going to take it by eminent domain, so if you will they've got that kind of pressure.

Mr. Testa stated well, I guess you could look at it that way except that we try to go up a little bit from there and try to negotiate. We have gone, in many instances, above and beyond the appraised value by at least two-fold sometimes. I don't want to get into specific numbers nor parcels at this time, but we have doubled the value in an effort to get a negotiated settlement and it's not malice that has been turned down. I don't want anybody to ever think that, what it is is a bonafide, good faith difference of opinion and we all have them. When you go shopping for a home and you want to buy that house for \$130,000 and the seller wants \$160,000 you can't come to a...it's a realistic difference of opinion, it doesn't mean that you're a crook, he's a crook, they're a crook, we're all crooks, it just means that there is a decent difference of opinion.

Alderman O'Neil asked, Fred, on the Hoyle Tanner plan you show the three lots, 854-3/4 & 5, are you buying those pieces of land.

Mr. Testa replied yes.

Alderman O'Neil stated on the McFarland drawing you're just showing taking parts of that land for easements and that, so it's a little confusing...those three pieces you need to buy.

Mr. Testa replied yes. There are two reasons here and the reason it's indifference is because I need a public need for the Highway portions, okay and those are all of the ones you find in the McFarland/Johnson and the public need declaration for runway protection zone and I need this because if we went with this alone and forgot all of the McFarland/Johnson ones, we would then own another piece under the federal auspices and I would then have to come to you and ask for you to find a public need and transfer City-owned land to the City, much as I'm asking on many of those. It's a combination of processes. Yes, it's technical.

Alderman O'Neil stated so these three parcels are the only large portions that may have to be taken by eminent domain, but you're in negotiations with the same owner of two of the parcels.

Mr. Testa replied yes and I'm not saying that they won't work, we have some time and we are negotiating with them now and I hope and we're making every effort to end it by negotiations.

Alderman O'Neil stated there are currently two homes there.

Mr. Testa replied yes, one is a rental home and one is a regular home.

Alderman Girard stated, Mr. Testa, just to follow up on Alderman Thibault's question, so that I am entirely clear on the concept, if the Airport were to initiate eminent domain proceedings against any landowner, it basically is a controlled process that uses the State Board of Land & Tax Appeals for value, it's a regulated process that considers the appraisals and all of the evidence that both sides have to offer and if either side is dissatisfied with the Board's position or the Board's findings then it can appeal to the court system of the State of New Hampshire, it's really not eminent domain then and does not necessarily hang as a threat over a property owner, it provides an open to the public impartial process with third parties involved.

Mr. Testa replied actually what it does is gives both sides the access to a third impartial party. Neither hired appraiser, if you want to call them a hired gun by property owner, hired gun by City and everybody understands or everybody knows or everything thinks they know that this guy is strictly City oriented and this guy has been paid by the homeowner or the property owner so they are going to find for them, it's not that. These are two professionals that are licensed in New Hampshire who may have an honest difference of opinion, maybe they don't, but that goes to an impartial third party and that's the process that is set up; that is the process that the State has set up so that there doesn't have to be battles.

Alderman Girard asked, Mr. Testa, would you say that this impartial third party process is more or less likely to come up with a fair and equitable settlement than a negotiation process.

Mr. Testa replied more than likely than less.

Alderman Hirschmann stated, Fred, just briefly the new taxiway and strip, is there any concern when a plane turns that it is going to generate noise toward that triangle building.

Mr. Testa replied it turns this way.

Alderman Hirschmann stated topographically the runway is lower than the building.

Mr. Testa replied no, that runway is 17 feet higher than South Willow, South Willow Street will come 17 feet below the end of the runway.

Alderman Hirschmann stated the new Harvey Road, I know we have that new big Cotter distribution company were they shown this road.

Mr. Testa replied we've been in constant meetings with Cotter & Company for two reasons. Cotter & Company is a large employer here in the City of Manchester. So, we have taken especial consideration of that and we are...Cotter & Company used to have the largest warehouse in southern New Hampshire until WalMart built and they had this, what we are doing with this runway and taxiway is replacing the parking lot. We are building at our expense a parking lot for them, knocking down the granite hill there so that they can have the ability to extend this building. One of the things we found out at the same time is that they asked us...they have just merged with Service Star and they have a distribution center in Webster so we are bending over backwards, in fact we're spending about a million dollars here to create the ability for Cotter to build an extension to that building of 2 stories, in fact, the determination from FAA just came back today saying how high they may do this, we're working very closely with them, with all of the businesses and neighbors around.

Alderman Shea stated, Fred, you mentioned about public need, let's assume that being the devil's advocate as I usually am here that the Board decides not to give you public need, what are the options that you have or what are the options that the owner's have.

Mr. Testa replied I can't take the property or I have to pay them what they want.

Alderman Shea stated there's no negotiations.

Mr. Testa replied oh, yeah. We can negotiate, but where do we negotiate to. So, a property owner can then say my land's worth three million dollars and we have an appraisal that says \$300,000, I don't think there's much negotiation room there, we can go to \$500,000...we've got an appraisal now for \$300,000, could go to \$500,000, \$1 million, \$1.5 million. Then you want me to go to the FAA and say that even though it's \$300,000, the Manchester Board of Mayor and Aldermen ordered me to pay this money. I don't think I can do that. There's room where



we can negotiate or if I get ordered by a court of law to pay that money, I can then pay the money or the administrative tribunal which is the Board of Land & Tax Appeals that they say Airport, pay that person \$1.5 million, I'm under administrative order to do so, therefore, the load lifts off of this body and off of the Airport; that is why that tribunal was set up.

Alderman Shea stated on the one hand if you get the public need approval, the ball is and I don't mean this in the wrong sense, the ball is in your court. If the Aldermen don't give you the public need the ball is in the other court whether the other court be whatever.

Mr. Testa stated there are secondary reasons here which I'll go into the next sessions because that has more to do with the next portion of this hearing about where do we go from here, okay, if you can hold off for a little bit, I think my next presentation will take care of that answer.

Alderman Shea stated there are a lot of courts out there.

Mr. Testa stated there is only one court they can go to.

Alderman Shea stated I mean the ball in your court, the ball in somebody else's court.

Alderman Cashin asked, Fred, before we establish a public need have you gone to these people and tried to negotiate with all of them, all of them, not just...

Mr. Testa interjected not all of them, no.

Alderman Cashin asked wouldn't it be better before you came here and asked us to form a public need that you at least approach these people and try to negotiate with them.

Mr. Testa replied in some instances yes, but some of these things are easements from the City to the City.

Alderman Cashin stated we're not talking about the easements from the City to the City, we're talking about...

Mr. Testa stated of all the large parcels, yes, we've approached everyone.

Alderman Cashin reiterated all the parcels, I said, not the large ones only.

Mr. Testa stated no, some of those smaller parcels have not been approached because we've just gotten some of the drawings and the engineering done with exactly 10 feet or 15 feet which is why I tried to show you that it really does not affect their...they don't become non-conforming, they don't lose access...let me finish please...and it has not adverse impact on them.

Alderman Cashin stated okay, but that is not really material to what I'm asking you. Let me ask you another question, are some of these people going to find out tonight that we're interested in some of their property.

Mr. Testa replied oh, no, they've been notified a long time ago, at least a month-and-a-half/six weeks.

Alderman Cashin stated okay you've notified them about a month-and-a-half ago, six weeks, but you haven't talked to them or negotiated.

Mr. Testa replied on some of them, how many, the appraisals are not finished on the rest of them. We'll be going through that process.

Alderman Cashin stated the appraisals aren't finished, but you're here tonight asking us to give you public need before you have even gone through the process of approaching them, is that right, is that fair.

Mr. Testa stated the process of appraisal, we've approached them, we've sent them a letter notifying them of the process and what was happening.

Alderman Cashin asked have you sat down and tried to negotiate with all of these people, all of them now, Fred, not the few, everyone.

Mr. Testa replied no.

Alderman Cashin asked then why are you here asking for public need until you do that.

Mr. Testa replied I'm asking for declaration of public need because I'm trying to demonstrate to you that we have a public need for the taking. Whether we have approached these people and...

Alderman Cashin interjected public need also gives you an extra hammer.

Mr. Testa stated no it does not, Sir, I beg to differ with you.

Alderman Cashin stated I expected you would.

Mr. Testa stated let me read something to you from the statute:

“failure to confer or negotiate shall not be a defense to condemnation of the property”

which means we don't have to do that under State law; that doesn't mean we're not going to.

Alderman Cashin stated, Fred, I didn't ask you what you had to do, I asked you what you have done.

Mr. Testa stated I know, I'm telling you we're following the statutes, Sir.

Alderman Cashin stated from a public relations point of view don't you think it would be better to approach these people before we give you the authority...

Mr. Testa stated we've approached every one of them, they all got the letter.

Alderman Cashin stated you have not sat down and negotiated.

Mr. Testa reiterated they've all gotten the letter, we can't negotiate with them, I don't have the appraisals yet.

Alderman Cashin stated then get the appraisals and get back to them. I've got the floor, your Honor.

Mayor Wiczorek stated, Alderman, you've got the floor but try to be reasonable.

Alderman Cashin stated I'm being reasonable. You haven't got the appraisals, you want us to give you public need prior to the appraisals, prior to even sitting down and talking to these people and trying to negotiate something that might be equitable to both parties.

Mr. Testa stated we might even be able to negotiate based on the appraisal for an easement and maybe nothing will be needed.

Alderman Cashin asked why don't you go ahead and do that and then come back.

Mr. Testa replied because I need interest in the property in order to start the engineering and road work in time to do all the work during certain construction seasons. I can't wait until next year to do this.

Alderman Cashin stated so you actually need public need from us in order to proceed.

Mr. Testa replied yes.

Alderman Cashin stated you can't proceed without public need.

Mr. Testa stated no, at the same time it's a dual tract like Alderman Rivard said last night, it's a dual track. Time is of the essence and we need public need even though the sewer easement has not been appraised...

Alderman Cashin stated we're not talking about...Fred, we're talking about the Airport, okay, let's not confuse the issue. You cannot proceed unless tonight we give you public need.

Mr. Testa stated that is what I am asking this Board to determine - public need.

Alderman Cashin stated because if we don't, you can't proceed without going to these people and sitting down and negotiating with them once you get your appraisals, is that fair.

Mr. Testa stated no, that is not what I said. We will not proceed if we don't get public need, that is absolutely need.

Alderman Cashin stated so, you won't go to them once you get the appraisals and sit down and try to negotiate.

Mr. Testa stated no, we will do that, absolutely try to negotiate once we get the appraisals. What I'm saying to you is during that process in order to set up another 60-day period we're all the way through one construction season and I don't have the time to lose this construction season because if I get the appraisals by the end of this month, next month it goes to check appraisers, after that we start negotiating and we're into June, hold on, let me finish. Then, we go to negotiations and we've reached a hard point, at that point I can then file a declaration for condemnation because you've already determined public need or I have to come back to this Board and then find a declaration of public need which means by the time we publish notices, publish all of the abutters list and everything else we've got another 60 days, then go through all of this process again, I'm at the end of a full construction season and cannot proceed.

Alderman Cashin stated, Fred, with no disrespect this is not this Board's fault, all right, we didn't hold you up. Now, you're telling me that you need public need in order to proceed, I'm asking you have you sat down and tried to negotiate...and you have not done that.

Mr. Testa interjected I've already answered that question seven times. No, we haven't because we haven't gotten appraisals, I cannot sit down with someone and negotiate if I don't have an appraisal in my hand.

Alderman Cashin stated well then, wait. Get your appraisals, you've got to wait for them anyway evidently and then go to these people, try to negotiate in good faith, and then if you can't why not come back here.

Mr. Testa stated because I lose a whole construction season by all the notice periods.

Alderman Cashin stated you're putting this Board in a pretty tough spot, you're asking us to give you authority that you didn't even go ahead and try to negotiate prior to giving you the authority and I think that's pretty tough.

Mayor Wieczorek stated, Fred, one question here with what Alderman Cashin is talking about. If you don't get public need and you do what he is expecting you to do or proposing that you do, then some of the people agree and some don't agree, then where are you.

Mr. Testa replied then we've got only part of what we need and the roadway that is supposed to start construction this summer gets put off till next construction season. The problem we have in New Hampshire is we don't have...if this were Orlando, Florida I'd have a 12-month construction season, this is New Hampshire and I don't have a 12-month construction season. With all of the notice provisions it's very difficult to get everything fit in.

Alderman Girard stated, Mr. Testa, if I understood what you said to Alderman Shea basically a declaration of public need levels the negotiation playing field between the City and the property owner, so instead of the ball being in one person's court or one party's court or another is it more fair to say that it's a jump ball at center court with a referee officiating.

Mr. Testa stated if I may, public need does nothing to change the playing field. Because if we can't agree to a price, if we have public need determined by this Board, it changes nothing except time tables and my ability to go forward because whether or not you do public need the appraisal process must go forward; that appraisal process sets certain things in motion and we'll either come to an agreement or not come to an agreement, whether public need is established or not we'll still either come to an agreement or not come to an agreement. If you do public need after I still have to go through the process and go to the Board of Land & Tax Appeals. We still have to have the third party determine value, so where you put these chips really makes no difference because if the negotiations will go smoothly, they will go smoothly either way. if they won't go smoothly then all we have done is put one before the other. It really makes no difference in process.

Alderman Girard asked, Mr. Testa, what happens to your...is it your Army Corps of Engineers license.

Mr. Testa replied we have an Army Corps of Engineers permit that ran out in December of 1997 with certain provisions we had to have certain interest in land by then. We didn't have them, so we thought we were negotiating in good faith, which we were and we got an extension until March 30, 1998; that Army Corps permit depends on interests in land, an Army Corps permit interests in land belonging to the City by certain dates, date certain and if that doesn't happen they can put a halt to the whole process, I don't want to get into penalties and everything else because there are several permits we already have...the Army Corps, 404, the Site Specific from the Department of Environmental Services, Air Quality, Water Quality, Fish & Game, Fish & Wildlife, EPA, all those permits are in place but they all depend on interest in land being taken for certain points.

Alderman Girard stated the only way to gain that interest is to have a declaration of public need.

Mr. Testa replied yes.

Alderman Clancy asked is there anybody out there in the audience tonight that is having trouble with the Airport taking their land other than Mr. King who is having problems with the Airport taking their land, if they want to get up and say anything, would you please raise your hand.

Mayor Wieczorek asked, Alderman, what are you trying to get at we have speakers coming up next.

Alderman Clancy replied, your Honor, I just want to find out how many people are out there

Alderman O'Neil stated, Fred, knowing that the construction season safely probably started April 1st and today is April 22nd you're operating under an extension with the Army Corps of Engineers, why weren't you here in September of '97 with this.

Mr. Testa replied we were still in negotiations on some of these pieces, some of these pieces weren't engineered, the road was finished engineering recently. It's a sequence of events that we just had the Master Plan approved last year; that Master Plan was approved and from that approval came...we had certain...we had environmental impact statements that had to be approved and accepted by the Army Corps and the FAA and the Federal agencies, there is a 6-month comment period in which you have to get comments based on EIS and that 6-month period ended in October of 1997. Right after that, we started into all of these things and that's the time constraints, this is not something that we have just left go by the boards.

Alderman O'Neil stated I kind of agree with Alderman Cashin, we're being asked to...I don't think anybody disagrees with where you want to go with this thing, but we can't sit here and try and rush this thing because you're late in a construction season and you're on a permit extension, in my opinion. Thank you, your Honor.

Alderman Girard stated, Mr. Testa, maybe you should explain more fully to this Board what happens if you lose any of those permits.

Mr. Testa stated that will come up in the next hearing, I'd rather do it then.

Mayor Wieczorek asked are there any other questions of Mr. Testa. If not, thank you very much, Fred.

Mayor Wieczorek called for those wishing to speak.

David Donovan, South Willow Street, Manchester, NH, stated:

Good evening Ladies and Gentlemen, I'm one of the individuals who raised my hand before and I appreciate the opportunity to speak in front of you. I'm here essentially representing my father tonight. As landowners and I can understand the concerns the Airport has with a short construction period and everything, but listening to a couple of the Aldermen speak, we do think that there is a possibility of an unfairness and I wouldn't say that we've had a problem yet. But, we have been receiving certain letters in the mail regarding the inspection of the property, we've received certain information...it seems to be somewhat limited and the main reason we are here tonight is to get more information. Now, my father and I had the opportunity to speak with Mr. Testa before the hearing and I think in that five minute period we spoke with him we learned more than all this documentation I have right here. So, I think part of the problem is that the Airport and the Airport Authority isn't giving enough information to the abutters as far as what our rights and if, for example, let's face it I think what he said is that they get an appraiser chances are we'll get an appraiser and then the negotiations begin just like in any business deal. But, we've been receiving mail since January and February and we haven't even received an appraisal, it's going to take time and I think a couple of the Aldermen have raised the issue that yes, there is kind of a gun to our head because then we have to decide do we want to take their appraisal, can we really negotiate here or do they have this hammer over our head that they can just swing if we can't agree and I think that is our biggest issue right now. Not that we've had any problems yet, but the fact is we haven't really had a chance to deal with them and here they are asking tonight well, give us the hammer we'll be fair and I think there has to be some concerns especially when you're dealing with a multi-million dollar airport and essentially a lot of small abutters who have properties who certainly...the value of which probably doesn't even come close to the total value of the airport when you stick them all together and that's all I really wanted to say tonight.

Alderman O'Neil asked are you the Donovan of parcel 854-2.

Mr. Donovan replied yes.

Alderman Hirschmann asked, Mr. Donovan, I drove down South Willow Street two days ago, doesn't your property have a "For Sale" sign on it.

Mr. Donovan replied actually it's been for sale for almost three years. We had it under agreements several years ago back when the economy up here was doing great like the rest of New England when the economy went down the toilet the deal we had in place fell through.

Alderman Hirschmann stated so it is "For Sale" though and you do have an appraised value of the land.

Mr. Donovan replied it was for sale when we learned about this and the sign was still up there and we told the real estate agent you can leave your sign up there.

Alderman Hirschmann stated so negotiations either way with the City or with someone else is going to happen.

Mr. Donovan replied sooner, but chances are probably more later than sooner.

Alderman Cashin asked has anyone from the Airport approached you personally to talk to you or your father.

Mr. Donovan replied we've received letters in the mail, my mother made a follow-up call to Mr. Bailey, I believe who spoke earlier.

Alderman Cashin asked has anyone from the Airport taken the time to go down to your house or wherever and talk to you at all.

Mr. Donovan replied we live in Massachusetts, but no. There has been a limited amount of contact from parties both representing the Airport and the Airport itself.

Alderman Clancy stated, Mr. Donovan, you must have an idea if you've got the property up for sale, right.

Mr. Donovan stated one of the reasons we put the property up for sale was to get an idea because as I said ten years ago we had it under agreement for almost twice what we've been offered recently, within the last 6 to 12 months.

Alderman Clancy asked how long would it take to get an appraisal.

Mr. Donovan replied I'm not in the real estate business, I would probably say 30 to 60 days, but that's a guess off the top of my head.

Alderman Clancy stated I'm just wondering because you say it's for sale, but you're going back 10 years when the real estate was up here. I new of a parcel of land here in Manchester near the Valley Street Shopping Center and they were asking \$800,000 for at one time and they just sold it recently for \$175,000, it's a corner lot, so you can see how the real estate's gone.

Mr. Donovan stated that's what I'm saying. We had it sold for an amount and I don't want to say it, I certainly don't want to hurt my interests here, but approximately ten years ago we had it sold for "X" dollars, the amount that we were offered recently after that deal fell through is approximately half of that. So, the people we've talked to about selling it to, I think they know what's going on with the Airport, I think they're trying to take us.



Alderman Clancy asked so I would say if you get an estimate within 30 days and give it maybe to the Airport Authority, Airport Commissioners or something like that or the City Fathers you have no problem in selling your land then, right.

Mr. Donovan replied again, from what I understand it's just an easement strip on the front of it. We own a lot of it beyond that, but again I have no idea what that is worth because I'm not evening sure...they say 15 to 20 feet tonight...that's the first time we have received any information in regard to how much they're taking. Again, we've learned more here tonight than I have by receiving all of this mail in the last three to four months.

Mr. Testa stated I would like to submit that was given to Mr. Donovan...Daniel G. Donovan, Jr., Donald F. Donovan, & Dianne M. Downs who are the registered owners of that property as to the amount of information that was handed to them as follows:

Re: Harvey Road Relocation Project, Letter of Intent to Acquire a Portion of Real Estate, South Willow Street, Manchester, NH

Dear Property Owner:

We have been contracted by Manchester Airport, NH. Our role is to help them purchase land on Harvey Road and South Willow Street, Manchester, NH, for the Relocation of Harvey Road. This project is a necessary part of improvements for the safety and operation of the Airport. One purpose of this letter is to describe the project's proposed impact on your property:

A permanent acquisition of 4,795 square feet for the widening of South Willow Street; a permanent easement on 53 square feet for that portion of the highway slope which extends onto your property; and to restore the ground surface disturbed by construction on the said strips of land.

Secondly, you should know that you are entitled to compensation for these acquisitions. Therefore, the Airport contracted an independent appraisal firm, R. G. Bramley & Company, Inc., to decide the financial impact of the proposed acquisition. Another independent appraisal firm, Crafts Appraisal Associates, Ltd. will review Bramley's appraisal report. By now, you should have received a letter from Bramley. In the future, Crafts may need to speak to you. Please extend your usual courtesies to them.

Also, enclosed for your information is a brochure issued by the Federal Aviation Administration entitled *LAND ACQUISITIONS FOR PUBLIC AIRPORTS*. Please take the time to read it.

Finally, our office is in the State of Rhode Island. If you have any questions, feel free to contact me at: I. V. D'Orsi Real Estate Services, Inc., 15 Polly Drive, North Providence, RI 02911-1123; or telephone 401-232-2665; or fax 401-233-0239; or E-mail IVDRES@mcione.com.

Thank you for your cooperation.

Sincerely,

s/Isidore V. D'Orsi  
Acquisition & Relocation Assistance Consultant

Mr. Testa stated this was the information that was handed to them by letter, I don't want it to be thought that they had no information. I'm sure that is not what Mr. Donovan meant, so I wish to submit this letter for the record.

Mr. Donovan stated the owner of the property now is an Eileen Donovan so whether the registry isn't up-to-date or whatever, it should be just Eileen Donovan and not the rest of us.

Mr. Testa stated we go by the land records in the Assessor's Office.

Mayor Wieczorek advised that all wishing to speak having been heard, the testimony presented would be taken under advisement and considered by the Board of Mayor and Aldermen at a later date.

Mayor Wieczorek advised that the second purpose of the public hearing was to hear those wishing to speak with regard to determining whether there is a "public need" for the use of eminent domain to acquire land for the Airport Mitigation Project; that the Airport Director will be requested to make a presentation following which those wishing to speak will be heard; that anyone wishing to speak must first step to the nearest microphone when recognized, recite his/her name and address in a clear, loud voice for the record; that each person will be given only one opportunity to speak and any questions must be directed to the Chair.

Mayor Wieczorek requested that Fred Testa, Airport Director, make a presentation.

Mr. Testa stated again for the record, I am Fred Testa and I'm the Director of the Department of Aviation for the City of Manchester and I'm here to present to you tonight the second hearing and the need for public need for certain properties to the south of the Airport in the Trolley Crossing Area for Wetland Mitigation portion of this Master Plan project. Let me give you just a general outline and I won't go through the whole Master Plan process since the Master Plan process was explained beforehand. The property we are talking about now is located directly to the south of the Airport off of Brown Avenue between Trolley Crossing...it is where the gravel bank was when this photograph was taken and since that time the owner's have spread seed and other things here to cover the gravel, to reclaim the property and they have done that, so this is an older picture but it shows you exactly where the property is that we are talking to. I'd like to recall Jim Downar from Hoyle Tanner. Jim, you were introduced last hearing, Mr. Solicitor, do I have to or should I reintroduce/reestablish his credentials.

Solicitor Clark replied that is not necessary, you're on the record.

Mr. Testa continued by stating, Jim, we were talking before about Runway 6-24, in particular, and we talked about how long it had been since it was reconstructed and we talked about how old they were and how they were really constructed under standards, could you talk to some of the problems that have come up on the main Runway 17-35 over the past several years.

Mr. Downar stated as I said before the runway's are approximately 60 years old. The primary problem with it now is that the drainage system which is within the area of the runway pavement is failing; that since the last 1980's there have been five or six, at least, sinkholes develop on that runway and the taxiways that serve it. There was one incident that was on the front page of *The Union Leader* of a DC 9 with a nosewheel where the pavement had failed into a sinkhole, fortunately there was no real damage to the aircraft, but at points the runway has had to be closed in order to excavate some of the damage drainage and to repair the runway.

Mr. Testa stated I call your attention to this particular area, now that was done when in 1991, spring of '91.

Mr. Downar replied that is correct.

Mr. Testa asked in the fall of '91, about a month after I got here, I call your attention to this dark area at the southend of the runway, what appeared there.

Mr. Downar replied it was a very large sinkhole within the runway pavement.

Mr. Testa asked did the runway have to be closed immediately.

Mr. Downar replied that runway was closed immediately.

Mr. Testa stated we applied for emergency expenditure funds from the FAA.

Mr. Downar replied that is correct.

Mr. Testa stated we went out immediately and dug that out.

Mr. Downar replied that is correct.

Mr. Testa asked how far down did we have to go to repair the damage.

Mr. Downar about 25 feet down under the runway.

Mr. Testa asked what about the drainage and drainage basins throughout.

Mr. Downar replied that is a constant maintenance problem to you now. Most of the drainage structures on the runway are made out of brick and mortar and haven't had a lot done to them since they were constructed, they are in need of replacement. You have replaced numerous ones over the years as problems occur you go in and replace them one at a time.

Mr. Testa stated the problem with the drainage structures themselves is that these are not like roads where the sewers or drain structures are on the sides of the roads, these are right in the pavement, are they not.

Mr. Downar replied that is correct.

Mr. Testa stated when they fail the pavement fails.

Mr. Downar replied that is correct.

Mr. Testa asked in your expert opinion, say 10 years from now, will those runways be able to...especially 17-35 be able to continue in operation.

Mr. Downar replied you will need to do continued maintenance, you will continue in my opinion to have sinkholes develop, you will continue to have to repair catch basins. If you don't, the runways won't last.

Mr. Testa inquired, then in your opinion, do they have to be reconstructed.

Mr. Downar replied yes.

Mr. Testa stated when reconstructed they have to be brought to today's standards.

Mr. Downar replied that is true.

Mr. Testa asked what specific standard are we talking of on 17-35.

Mr. Downar replied a number of them, the first of which is to get the drainage out from under the runway. The second of which is line of sight, the runway profile is deficient, has a high spot, a hump in it.

Mr. Testa stated it actually goes downhill halfway through the runway.

Mr. Downar stated it is not quite halfway, but yes it goes downhill especially on the 35 end.

Mr. Testa asked how high is that runway going to have to be lifted.

Mr. Downar replied the proposal is to lift it about 27 feet.

Mr. Testa asked what about the safety overrun area.

Mr. Downar stated as we discussed before, the FAA says that when you touch that runway you have to provide for the extended runway safety areas on both ends.

Mr. Testa asked what brought about the addition of safety overrun areas in the FAA, do you remember two specific incidents in this country's aviation history.

Mr. Downar replied I know that...I'm not sure I remember the specific instances, but the reason for the safety areas is that the FAA has done a study that did a statistical analysis of where the most common problems occur on landings and takeoffs and for the ones that happen within the airport environment which is basically within the borders of the Airport, the two most prominent problems are landing short and rolling long.

Mr. Testa stated I am going to call your attention to...just like 6-24 we have to add a thousand feet to each end of the runway.

Mr. Downer stated that is correct.

Mr. Testa stated I call your attention to the northern part...during our discussions with all these outside agencies...by the way, during all this process Federal EPA, Federal Army Corps, State DES, State Fish & Game, Federal Fish & Wildlife were all part of the process of designing these, we had to meet all of their requirements and all the federal volumes in all of the federal handbooks.

Mr. Downer stated yes.

Mr. Testa asked during this process we were told what about the Cohas Brook up to the north of the Airport.

Mr. Downar replied basically we were told to stay out of the Cohas Brook Watershed.

Mr. Testa stated not to do anything at all in that area.

Mr. Downar stated in that area, that is correct.

Mr. Testa stated then they were told if you need the 2,000 feet of safety overrun to go where.

Mr. Downar replied to go on the southend and into the Little Cohas Brook Watershed.

Mr. Testa asked why the Little Cohas Brook Watershed.

Mr. Downar replied because, I believe, and Rich Roche from the Corps of Engineers isn't here, but his statement was the brook's been moved at least three times in the history of the Airport, so okay we'll let you move it again.

Mr. Testa stated so no matter what to have safety overruns we have to go into the wetlands in the south of the Airport in order to provide two 1,000 foot safety overruns because actually a thousand feet of the runway at the northend has to be chopped off.

Mr. Downar stated yes.

Mr. Testa stated even if we keep it at today's length and don't use any further length we still have to go into the wetlands.

Mr. Downar replied that is correct.

Mr. Testa asked who's jurisdiction is the wetlands.

Mr. Downar replied the Environmental Protection Agency, the State of New Hampshire, and DES.

Mr. Testa stated then they really dictate what one has to do in order to mitigate the actions going into the watershed.

Mr. Downar replied that is correct.

Mr. Testa stated if I may analogize when the DOT was building the 101 they had to go through certain wetlands, they had to replace wetlands that they were going to fill, am I right and the EPA forced them to replace, at a certain 10 or 15 to 1.

Mr. Downar stated I really wouldn't not, but yes.

Mr. Testa asked, Melissa, would you give your name for the record, please.

Melissa Smart stated I have a BS from the University of New Hampshire in Ecology and Environmental Conservation and an MS from Sunney ESF in Water Resource and Land Use Planning, 22 years of experience in environmental work.

Mr. Testa asked you own your own firm, Melissa.

Ms. Smart replied yes, I do.

Mr. Testa asked and that is called.

Ms. Smart replied The Smart Associates Environmental Consultants, Inc.

Mr. Testa asked where are you located.

Ms. Smart replied in Concord, New Hampshire and Boston, Massachusetts.

Mr. Testa stated you are the environmental consultant for the Manchester Airport.

Ms. Smart replied yes, we're responsible for all of the environmental compliance issues.

Mr. Testa asked, Melissa, you've been the environmental consultant to this Airport for how long.

Ms. Smart replied since 1994, the beginning of the Master Plan process.

Mr. Testa stated when this Master Plan process including the environmental impact statement started and I just want to pause for a minute, when we were doing the Master Plan we actually did a Part 150 Noise Study, a Master Plan Update, and an Environmental Impact Statement all at the same time. How many different locations were identified as areas having potential to mitigate our needed taking of wetlands.

Ms. Smart asked would you like me to show...during the search for mitigation, the resource agencies identified 10 sites and then The Smart Associates identified an additional 25 sites.

Mr. Testa stated so in effect the Manchester Airport team or the environmental team identified 35 total sites as possible mitigation for this Airport project as having potential for mitigation. What was the process from then on.

Ms. Smart replied once we identified these and these are identified via aerial interpretation and then brief site reviews there are some basic criterias...we were looking for a large site because wildlife habitat was the major issue with the resource agencies. We had to make sure they was hydrologic feasibility, suitable soils on the site and proximity to other wetland areas as well as being within the Little Cohas or Cohas Brook Watersheds.

Mr. Testa asked how many areas was the original list reduced to.

Ms. Smart replied we went from the 35 site down to two sites. One, being the Lewis property which then was eliminated because NHDOT was planning on using it for its various mitigation requirements.

Mr. Testa asked that was where.

Ms. Smart replied that was in Auburn. And, the second site the Army corps of Engineers directed us to was their priority site and it was the Trolley Crossing site which was slightly north of the current site.

Mr. Testa stated the Army Corps, DES, EPA, Fish & Game, Fish & Wildlife all agreed that the Trolley Crossing site was their primary site for wetland mitigation even after we had gone and looked at 35 sites.

Ms. Smart replied that is correct.

Mr. Testa asked what was the original Trolley Crossing site.

Ms. Smart replied that site was where the residential.

Mr. Testa asked that site included these homes right here.

Ms. Smart replies yes, that is correct and some of this hillside area and it would require changing the drainage, taking homes, major socio-economic impacts as well as acquisition costs.

Mr. Testa asked they wanted to take these homes off the property, why.

Ms. Smart replied they were trying to reestablish the original connection and create a wildlife corridor.

Mr. Testa asked you remember Mr. Killoy, he is who.

Ms. Smart replied he is one of the chiefs at the New England Army Corps of Engineers.

Mr. Testa stated it was actually under his jurisdiction and in a conversation at a meeting, we talked about the Trolley Crossing site that they pointed us to with all of the homes that would have to be bought and people moved and he decided what.

Ms. Smart replied that we would be redirected south of that site to the current site.

Mr. Testa asked why.

Ms. Smart replied because there would not be the socio-economic impacts.

Mr. Testa stated he was worried about taking the homes as much as we were.

Ms. Smart replied absolutely.



Mr. Testa stated the Airport was then directed to this area by all of the agencies that have the permitting power under both the federal law and state law.

Ms. Smart replied that is correct.

Mr. Testa stated the permits necessary for the Airport to reconstruct the runways were issued based upon doing what, what are some of the conditions in the federal permit for mitigation.

Ms. Smart replied for mitigation it was to have the...first of all, we had to delineate the wetlands on the Trolley Crossing site.

Mr. Testa stated we moved the Trolley Crossing site from Trolley Crossing and moved it out a way from the homes with undeveloped sites between the two Trolley Crossings and then in back of the homes on this site.

Ms. Smart replied that is correct.

Mr. Testa stated that site was then investigated both through aerial and topographical surveys and walked and mapped.

Ms. Smart replied that is correct.

Mr. Testa in reference to the map stated this is the piece and it goes this way; that this is Brown Avenue right here and here is Trolley Crossing with all of the homes directly abutting noting this is the Manchester/Londonderry town line. Directing your attention to this particular map and originally that parcel that was identified was how much.

Ms. Smart replied the original part was larger than this, what they had wanted was approximately 100 acres of property and wanted to have a hundred foot buffer and then renegotiate it down from that.

Mr. Testa stated some of these crazy lines we have in here instead of squaring it off are marked off for what reason.

Ms. Smart replied it's showing the limits, they wanted a hundred foot buffer negotiated down to a 25 foot buffer on the top which is showing the sloped areas and in this area there is quite a bit of groundwater and then all of this area outlined in blue is existing wetlands on the site.

Mr. Testa stated these cut outs were done to protect as much developable property as possible...we finally negotiated down from a hundred to what.

Ms. Smart replied to approximately 55 acres.

Mr. Testa asked why the enstopman or the uplands, would you explain why the steep enstopment and the wetlands are necessary.

Ms. Smart replied the concern was that much of the hydrology in the site is dependent on the ground water and this deep slope was to provide a buffer as well as insure the hydrology on the existing wetlands to be created on the site.

Mr. Testa called upon Mr. Fugere. Jim, you work for Smart Associates in Concord.

Mr. Fugere replied yes, Sir. For the record, my name is Jim Fugere.

Mr. Testa asked could I have your education and accreditation.

Mr. Fugere stated I have a Bachelor in Science from the University of Massachusetts in Wildlife Biology.

Mr. Testa asked how long have you been working in this particular field.

Mr. Fugere replied in the wetlands field I have been working the last ten year and in environmental resources in the last 19 years.

Mr. Testa asked did you do the studies in this area.

Mr. Fugere replied yes I did the wetlands delineations for the Trolley Crossing parcels.

Mr. Testa asked what did you studies entail, how did you go about this.

Mr. Fugere replied the delineations were carried out using the State criteria which is using the 1987 Army Corps of Engineer's Delineation Manual which includes the criteria of finding wetlands soil, vegetation and hydrology on the site. It's written into the wetlands regulations that you use that manual.

Mr. Testa stated this wetland regulation that is in the '87 Army Corps of Engineer's Manual applies to all lands at all times whether they are used for wetland mitigation, house building or anything else.

Mr. Fugere replied yes, Sir.

Mr. Testa stated you also walked this area with other agency representatives (Army Corps of Engineers, EPA, DES, and everybody else).

Mr. Fugere replied yes, we did.

Mr. Testa stated they've walked it many times...were they all in agreement with your delineation of the wetlands in this area.

Mr. Fugere replied several times, right they were.

Mr. Testa called upon Mr. D'Orsi. Izzy, how long have you been working in the real estate field.

Mr. D'Orsi replied since 1970.

Mr. Testa stated specifically you had to do with what...were you not the Assistant Director to the Rhode Island Department of Transportation Right of Way.

Mr. D'Orsi replied yes, the Assistant Director for Real Estate from 1970 to 1987.

Mr. Testa asked after that you were the...

Mr. D'Orsi replied the Property Manager for the Rhode Island Airport system.

Mr. Testa stated you also wrote a handbook the FAA uses for property relocation and assistance.

Mr. D'Orsi replied I can't take credit for all of that.

Mr. Testa stated you have been involved in this area for land takings, relocation assistance, payments, and everything else for a long period of time.

Mr. D'Orsi stated in Manchester since 1991, but again my expertise happens to be in the property acquisition and relocation for public facilities. So, I work for municipalities and states and so on and I have been doing that since 1970 and since 1989 as a consultant.

Mr. Testa asked when did this process begin with the homeowners, the property owners in this case, Mr. D'Orsi.

Mr. D'Orsi replied in October of 1996.

Mr. Testa stated in 1996, we started this process. There was a letter written in 1996, October of 1996 from whom.

Mr. D'Orsi replied Richard Fixler the Airport's Assistant Director for Engineering.

Mr. Testa stated from that process, from '96 through '97 and '98 the process has unfolded.

Mr. D'Orsi replied yes.

Mr. Testa stated there have been some meetings, some not meetings, some walkings, some not walkings...how many acres...was a survey done of the original area to be purchased/appraised and then to be purchased.

Mr. D'Orsi stated we had to survey the entire property because we weren't sure of the boundaries, we weren't sure of the size of the parcel. There was at least five acres that were floating.

Mr. Testa stated when we finally got the right boundaries how much was the total plot.

Mr. D'Orsi replied 175 acres.

Mr. Testa asked how much was the total piece that we were going to purchase including that right of way.

Mr. D'Orsi stated 56 for the wetland mitigation and another 15 acres for the access road to the Airport.

Mr. Testa asked when this original plot was shown to the owners what happened then, did they ask us to remove a certain portion from that particular plot.

Mr. D'Orsi replied in the process of negotiation at the first...when we presented our written offer the property owner asked us to take the 15 acres out for the access road.

Mr. Testa stated I am going to show you a colored version of this map. This is the piece for the wetlands mitigation which was the 15 acres for the access which goes onto Brown Avenue to the Airport which we thought was about where the access road from NHDOT was going to go.

Mr. D'Orsi replied yes.

Mr. Testa stated that as a result of conversations with the owners, we took this 15 acre piece out of the original mix, did we not.

Mr. D'Orsi replied yes.

Mr. Testa asked and left him how much frontage on Brown Avenue.

Mr. D'Orsi replied over 300 feet.

Mr. Testa stated we then reappraised...sent back to the appraiser to take this piece and then start negotiations on the rest, am I correct.

Mr. D'Orsi replied yes. It wasn't as simple as saying all right you have 15 acres how much is that worth, take it out because...the highest rate as proposed by the State was limited access which leaves that there would not have been access from this side to that side, so it was part of the appraisal...the determination was that they would then just do the remaining property here in Londonderry. So, now when we took this portion out we had to look at it again with the access here and without the problems of trying to get access restored to this area because the State had not at that point committed to an interchange at Brown Avenue, had not committed to anything...I guess the town was trying to talk to them about another location that would be northeast of here. So, that was a very serious concern to the property owner actually, but again the appraisal process in order to determine what the value was without this was not as easy.

Alderman O'Neil asked can you show what is Manchester and what is Londonderry.

Mr. D'Orsi stated this is the Manchester/Londonderry line, actually it's east of that. This is the Manchester side (approximately 11 acres) and the balance is in Londonderry.

Mr. Testa asked did you meet again with the owners to show them the new plot without the 15 acres.

Mr. D'Orsi replied yes.

Mr. Testa stated that is all I have for now and this witness.

Alderman Pariseau asked would that easement on Brown Avenue allow the property owner that 300 frontage on Brown Avenue.

Mr. Testa replied there is no access there, it has to be...what we have is right here and...

Alderman Pariseau asked could he get into his property in Londonderry that way.

Mr. Testa replied I would say, but I would have to say that he would have to have a roadway that goes in there. There is Pettengill Road right there and that's actually the way if you notice...there is this driveway that's been used for years, this roadway that goes in here up to Pettengill right of way and that's been used for years as a whole road right there, that would remain in the owner's hand. We would only take this portion and leave most of this portion to the owner.

Alderman Pariseau stated the land in Londonderry would not be landlocked,

Mr. Testa replied no, Sir.

Mayor Wieczorek stated let me let Fred finish with his presentation, are you done.

Mr. Testa replied no, I've got one more. I was going to call Kevin Clougherty to establish public need because what we are talking about is not valuation which I haven't gone into. We have not deliberately gone into valuation because this is not the time to talk about valuation, what we've gone into is the process we've gone through on this particular piece. But, since we're talking about public need, Kevin, would you feel comfortable answering a few questions. Kevin, you are the City Finance Officer.

Mr. Clougherty replied that is correct.

Mr. Testa stated I am going to show you a table and I'm also going to hand you a piece of the plot that we are asking to have public need declared. Kevin, I'm showing you those two charts. The first shows the historical number of passengers at Manchester Airport, you're familiar with those numbers, we talk about them almost every day, right.

Mr. Clougherty replied we've seen those in the feasibility study by Lee Fisher, yes.

Mr. Testa stated I'll also show you a graph of the relationship between jet flights at the Airport and the number of passengers using the Airport, you've seen that also haven't you.

Mr. Clougherty replied yes, I don't know if I've seen this one exactly, but I've seen something like this yes.

Mr. Testa stated the only reason I am showing you these two graphs is, is there a relationship between the number of passengers that use the Airport and the number on the amount of income that comes into the Airport.

Mr. Clougherty replied the amount of income, definitely.

Mr. Testa stated so, the more passengers that use the Airport the more income comes in and the feasibility studies used to support the 1992 bond issue required the number of passengers that are really coming in to support the debt payments.

Mr. Clougherty replied yes, the City had to do some projections, it hired Lee Fisher to do the consulting work and make the projections in order to determine that there would be sufficient revenue flow.

Mr. Testa stated without going into a lot of detail if something were to happen to this Airport and it closed down, for whatever reason or was unable to continue the particular role of which it is playing now, I call your attention to the 1992 bond issue...they were issued in what amount.

Mr. Clougherty replied \$42.730 million.

Mr. Testa stated those bonds were issued with a State guarantee.

Mr. Clougherty replied yes.

Mr. Testa stated we have a bunch of money to put in the bank to, as a harbinger against any particular problems that might show up, we have about three months of O&M money put in reserve and one year of bond principal and interest.

Mr. Clougherty replied, right; that was required by the State as part of the negotiations for the guarantee, it's a common practice to set aside a year's worth of debt service. What that does is it insulates the State so in the event that there is a disruption in service or something like that they wouldn't have to step up to the plate and start paying the guarantee or pay the debt service, this bond reserve would be used for that initially and it serves as a cushion for the State.

Mr. Testa asked does the State have the right if we fail to make payments to come in and take over the Airport under that bond guarantee, one of the rights among all of the rights, they have the right to come and take over and operate the Airport.

Mr. Clougherty replied conceivably, yes.

Mr. Testa asked in addition what guarantees has the City made to the federal government on the operation of the Airport.

Mr. Clougherty replied again, I think this is maybe a legal question more than a financial one, my understanding is that when we took the Airport, we took on a stewardship responsibility for it, the federal government is asking us to maintain the Airport and keep it operational as an Airport, a public Airport, not a military Airport and the State with the Master Plans and the things that are submitted to them and the FAA think they're expectations are the same, the City will operate the Airport as a public Airport and maintain it.

Mr. Testa stated I reserve the right to make a closing statement, your Honor. But, I'm going to rest right now.

Mayor Wiczorek called for those wishing to speak.

Daniel Noury, 357 North Bend Drive, Manchester, NH, stated:

I own the property at 8001 South Willow Street which on your map, I guess, is 844-7. My only concern is I'm not being affected by any land taking or any of that. My concern is that bottleneck and if I can show you on this map with the new Harvey Road here, my property is here which is Jeni Realty, LLC. There is almost a bottleneck and anybody coming north into Manchester, if anyone has ever taken that route and tried to turn into the property it's very difficult because people are coming in and the Harvey Road interchange is quite large. Why wouldn't they continue widening the road from this point to the Harvey Road where it widens out because there is no way if you are in that left hand turn lane people are coming at 40 and 50 miles an hour on South Willow Street and it's difficult to turn into our property especially with the traffic that stops right here, it's going to make it more difficult to turn in. I just don't understand why they don't widen the road and put in turn lane when they're going to do all of the rest of the way; that's my only concern.

Mr. Testa stated if I may. I talked to Mr. Noury just before the hearing and I said we would visit that issue with the Highway Department since this is a Highway Department...actually, it's Route 28, a DOT issue. From Abbey Road to a certain point it would be narrow and then wide again, but we would gladly revisit that issue, we don't want to create a bottleneck anymore than he wants a bottleneck and I don't know why it stopped at that particular point, but we will certainly and I will guarantee the land owner that we will look at that.

Martin F. Loughlin, 135 Pepperidge Drive, Manchester, NH, stated:

Mayor Wiczorek and Board of Aldermen. I am Attorney Martin F. Loughlin and together with Attorney Jim Winston we represent the Peter King Irrevocable Trust and Anna King. The property in question was purchased in 1964 by Peter King and the late Governor, John W. King. Anna King is Governor King's widow. From hearing Mr. Testa talk tonight I don't think there's any issue here of any construction restraints as far as this property is concerned. I am going to present as succinctly as possible the factual situation which I am sure you will agree after hearing it that Peter King is not the ogre that he has sometimes been painted as. After my brief presentation with the acquiescence of this Board, I would like to have David Eaton who is much more qualified than myself describe to you the real estate in question. At the outset, the King's agree as to the importance of the Manchester Airport and do not want to be considered as a stumbling block to its future success. One suggestion that I have for the Board or a Committee from the Board is to take a view of the frontage of the property which is 300 feet on the eastern side of Brown Avenue and it might be helpful because this will be an issue to view the 1,500 foot frontage on the westerly side of Brown Avenue. In a nutshell, the stumbling block is that Mr. Testa on behalf of the Airport Authority wants to take the 300 foot frontage of the easterly side of Brown Avenue which in effect would completely landlock the property. This would be detrimental as it would curtail mining operations and future development of the property. All that the King's desire is access to the 11.96 acres contiguous to Brown Avenue on its easterly side. The Airport which you're not aware of wants to use this as wetlands by transporting muck four miles to the King site. As I understand it and I may be wrong on the figures, this could cost



close to a million dollars. We are willing to negotiate but cannot agree to losing all of the frontage. This property has not been dormant as there is evidence that mining has taken place since 1964. Much expense has been incurred in surveying, feasibility studies, and conditions which have been approved by the City of Manchester and the Town of Londonderry. One must understand that there is a 1,500 frontage from the easterly side of the Merrimack River to the westerly side of Brown Avenue and the westerly side of Brown Avenue is zoned for 80 townhouses and the easterly side, the part that the Airport wants to take right now which includes 11.96 acres is zoned for housing for 80 or more units. Now, with respect to fairness and I'm glad this issue was brought up, I would like to state the following for the record. On February 1, 1998, Mr. Testa requested this Board to take the King property by eminent domain. In his letter, he copied eight people but never, never notified Mr. King of what his actions were going to be. Mr. King found out what Mr. Testa was up to when he heard about it in *The Manchester Union Leader* on March 9, 1998. Now, talk about high handedness and I don't think Mr. Testa is to blame for this, but without the permission of Mr. King 14 permanent markers were installed on his land and also to show the good faith of Mr. King I would like to quote from a fax dated July 14, 1997 from Mr. D'Orsi..."you have been very cooperative and understanding with us so far and we appreciate that. I also understand that what we are now asking of you is most unusual." Now, we're not contesting the fact that we need runways, we're not contesting the fact that the Airport needs improvements, but we are contesting the fact and I think that this is a red herring that he is throwing up to you. We are contesting the fact that it is necessary to take the 11.96 acres, now we can't get into damages and this is not a threat. If the City does that, you can imagine going before a Superior Court or the Tax Commission, the damages in this case would be astronomical...landlocked land completely. Does anybody have any questions.

Alderman Pariseau stated I asked a question concerning the land in Londonderry being landlocked, the response from Mr. Testa and company was that it will not be landlocked, show me.

Attorney Loughlin stated I think Mr. Eaton is going to show very conclusively that it is going to be landlocked, no question. He's much more qualified, Alderman Pariseau, than myself.

Alderman Girard stated, Judge, you stated that the property in question is zoned for 80 townhouses on one side and hundred plus houses on the other, has Mr. King actually received site plan approvals to develop this property because there is a difference between the property being zoned and the property being able to be constructed because the City owns some industrial wetlands in East Industrial Park that is zoned but we can't build on it.

Attorney Loughlin stated I think Mr. Eaton will cover that too, it has been zoned.

Alderman Girard stated it's zoned but he does not actually have site plan approval to build.

Attorney Loughlin replied again, I will leave that up to Mr. Eaton.

Alderman Clancy asked, Mr. Loughlin, has Mr. King got an appraisal of this land.

Attorney Loughlin replied no because Mr. Testa brought out that we are not here to talk to valuation.

Alderman Clancy stated we're just here to talk about the land itself, the need.

Attorney Loughlin stated under State law a landowner, New Hampshire is unique. A landowner can testify as to the value of this land unlike most jurisdictions and he has a valuation on it but I don't think that this is the time or place for it.

David Eaton, Eaton Partners Real Estate Consultants, Manchester, NH, stated:

We have been real estate consultants to the King Family for about 15 years and have been intimately involved with this land for in excess of 10. I'll try and give you a better overview or an overview of the property that the King's own down on Brown Avenue. This is the Merrimack River down in here, Brown Avenue and Hazelton Avenue converge here, the Trolley Crossing development with all the houses that Mr. Testa spoke about is to my left, the 11.96 acres that is in the City of Manchester is bounded in this pink area, the area here begins Londonderry outlined in green is the area in Londonderry that is the subject of the proposed taking. The 18 acres that we spoke about for the townhouses is located here which is on the westerly side of Brown Avenue, the apartments that Mr. King owns is here, this is the Pettengill Road that was mentioned and this again is the proposed Access Road for the Airport which is really not part of this hearing this evening, but has been I believe and correct me if I'm wrong as the intended Access Road. As you can see that property takes the frontage that Mr. Testa has been talking about having taken out of his initial plan. Are there any questions about where the property's located and what it consists of at this point.

Alderman Girard stated, Mr. Eaton, I'm a little confused, I wasn't aware that the Airport was taking any of the property to the west of Brown Avenue.

Mr. Eaton replied this is the Airport Access Road and the Airport is not proposing to take that land.

Alderman Girard stated that is the area that is zoned for the townhouses.

Mr. Eaton replied this area here outlined in pink to the west of Brown Avenue.

Alderman Girard stated the 80 townhouses that have been spoken about.

Mr. Eaton replied yes, the area that is zoned for 80 townhouses.

Alderman Girard stated so you are lumping that into this proceeding because the State DOT is looking at that for the Access Road.

Mr. Eaton replied we're not looking at anything other than trying to orient you to the entire King parcel, it was brought up and I wanted to explain to you what it was.

Alderman Hirschmann asked, Mr. Eaton, aren't we just discussing 11 acres that this Board of Aldermen...in Manchester 11 acres, we're not discussing Londonderry, we're not discussing the other side of Brown Avenue, we're discussing 11 acres on the easterly side of Brown Avenue, is that right.

Mr. Eaton stated this is the area located here in Manchester which I believe this Authority...

Alderman Hirschmann interjected let's talk about that then, let's stay on track here, you're getting us confused.

Mr. Eaton stated I wasn't trying to confuse you, I was trying to orientate you, but confused you and I apologize.

Alderman Girard stated, Mr. Eaton, if I understand what you're saying right, is it your contention that Mr. King is going to lose access to the Londonderry side of his property because the State Access Road is proposed to go through this area.

Mr. Eaton replied I am stating as I'll show you in another plan that surprisingly the 300 foot frontage that is being left by Mr. Testa is the same 300 foot frontage what's being proposed to be taken as Airport Access Road by the Highway.

Alderman Girard stated if I understand what was said earlier that's the parcel that Mr. King asked the Airport to remove from its original proposal.

Mr. Eaton replied it is and I'll show you exactly that on a plan coming up.

Alderman Clancy asked, Mr. Eaton, do you want to show us where that 300 feet of land is that the Airport is going to leave.

Alderman Cashin asked, your Honor, can I ask a question before he puts that away, please. Dave, just so I understand. We're talking about the same 300 feet that Fred mentioned was giving the King land.

Mr. Eaton stated what we'll be interested in here is to have a little equity in discussions with the Airport Authority. The King Family has not intentions of trying to halt Airport expansion, in

fact, we all enjoy the wonderful job that Mr. Testa's done at the Airport, it's a much easier place to get in and out of and I certainly enjoy it, but our concern is with the classification of the 11.96 acres as wetlands. I clearly am not qualified to suggest that this is not a wetland, but in 1986 we had a feasibility study done on this property to try to identify whether it could be developed as a residential property and at that time we analyzed density, wetlands, sewer, water, and drainage. This assessment was done by Provan and Lorber a Consulting Engineering firm out of Contoocook and the plan that you see before you is an example of what could be done for a concept of 108 detached houses and the various areas that you see "PIACU" are land classifications, soil classifications. The findings in that study indicated that there were 79 to 104 homes that could be put into the area; that there was a 12" water line that passes through the property that provided adequate water supply to service those homes; that there is waste water disposal with a sewer easement that goes through the property. There was also surface drainage that could be captured on site and piped through the Trolley Crossing land. Now, this feasibility study was done in conjunction with the development of Trolley Crossing because utilities needed to run through the King property to service Trolley Crossing mainly a forced main for sewer and a water line and those easements were, in fact, granted to those developers and the property was developed. We're not suggesting that this property is by any means a high and dry site, it has wetlands on it but it is not completely wet and with the same development kind of permits that Trolley Crossing had this property could be developed into a single-family project. In considering the lack of single-family land available in Manchester, clearly a higher and better use may be for the development of single-family properties than for a wetlands mitigation area. Further analysis was done on this property and I'll orientate you here, it's upside down but I wanted to keep you oriented the same way. This is Brown Avenue and Hazelton coming together, Londonderry is here, this is the parcel in question, this is a proposed access road into Londonderry from Brown Avenue, this is the sewer easement I spoke about, and the water easement I spoke about. In 1988, a conditional approval was granted by the City of Manchester for this Access Road. This actually was a subdivision and was brought before the Board and there was a letter of conditional approval granted the purpose of which was to grant access to Brown Avenue into the Londonderry piece of this property. In April of 1989, the City Planner requested the King's by letter to wait for the Airport Access Study before they developed the property and at that time the Airport Study was to be completed by June 30, 1989. We all know that didn't happen and the property was never developed in this configuration with the road. We would hope that tonight the Airport Authority could address their plans for access to the King property with their understanding of the potential taking for the Airport Access Road. On February 1, 1998, Mr. Testa sent a letter to the City Clerk who questioned the Board of Mayor and Aldermen to determine the Airport's Wetlands Mitigation Project as a public need to acquire the King property under eminent domain. I believe you all have a copy of that letter. In that letter, in the first paragraph it talks about and I'll quote it "Manchester's Airport Master Plan Update and Environmental Impact Statement recommended solutions to potential wetland impacts by proposed Airport projects." So, solutions there were many solutions. "These solutions are collectively referred to as a Mitigation Program. One recommendation called for a wetland mitigation site." We'd like to know what some of the other recommendations were and

why this was arrived at. This plan here addresses a number of wetlands involved in the Manchester Airport area. In fact, the King property was chosen as the mitigation site where we think there might be many, many other alternatives. I'd also like to question the statement in the fourth paragraph of that letter that the appraisal better defined the mitigation site. Most of the appraisals I've read deal with the identification of value and highest and best use. I would be very surprised that the highest and best use identified for the King property was in fact for a wetland mitigation location. And lastly, in that letter it talks about a permit being granted by the U. S. Army Corps of Engineers and that permit was granted on property apparently that the Airport Authority did not control at the time and had not to my mind made a proposal to acquire. The two plans that I want to show you will help explain this 300 foot frontage, I have never met with Mr. Testa and I do not know what happened at those meetings because I was not there. But, from what my client tells me initially there was a proposal for this area outlined in gold and Mr. Testa came or his representative came to the King offices and proposed a taking of that property, a purchase not a taking. Through queries as to why this 300 foot road area was being purchased by the Airport Authority they decided at the request of the Airport Authority the King's apparently backed off. So, there are alternatives to what the Airport Authority is proposing because clearly they are able to very quickly backoff their initial proposal. They then came with this proposal which identifies the area in question which I think we all agree with today. The area in yellow here is Londonderry and this is the piece of land in Manchester, this area is the area in Manchester which was taken out for that 300 foot frontage. Our proposal back to the Airport Authority is very simple. We would be happy to trade for equal value, trade at no cost all the land in Londonderry to the Airport Authority for a similar piece of land in Londonderry. We'd like them to change where they're going with the Manchester piece and let us keep our land and not develop it and develop it at some future stage. We would be happy to cooperate and have made that proposal to the Airport Authority. Again, I did not make it, so I'm not sure exactly what happened, but I understand it was made. And, that's pretty much our proposal this evening. I'd be happy to answer any questions if I can.

Alderman Pariseau stated, Mr. Eaton, we're here to determine whether there is a public need for this property or not. The Airport Authority has put forth their reasons of why it is a public need that they need the land and you haven't shown us why it isn't other than the possibilities of it being converted to townhouses or whatever, but I don't think you've addressed the issue of it being a public need as far as I'm concerned and we can't get into economics.

Mr. Eaton interjected we are not here to discuss economics.

Alderman Pariseau stated I don't know, I think you missed the point somewhere along the line.

Mr. Eaton stated well, let me try to reemphasize it. What we're concerned with is if eminent domain is granted to Mr. Testa or to the Airport Authority that they're able to, I've been through eminent domain and in fact the corner of Elm and Central Street I own the building that was there for the park that is there today and we disagreed at that time with the City of Manchester

about the value. They deposited money at the State of New Hampshire and the party was over. At that point, I could hire all of the appraisers and attorneys and everybody I want to battle it at tremendous cost. What we are suggesting is that we would like the opportunity to have Mr. Testa address why there is an alternative location for this wetlands, why the City of Manchester's land cannot be...

Alderman Pariseau stated according to their testimony they've had 35 sites selected and with the feds and the State regulators they narrowed it down to the King property. Now, you tell me why the King property isn't suitable for what they're proposing.

Mr. Eaton replied I don't know why it's not suitable, I'm suggesting that their clearly...

Mr. Loughlin interjected it's landlocked.

Alderman Pariseau stated I'm told it's not landlocked, who am I to believe.

Alderman Girard stated if I understand what was said and I have not heard contested of the 15 acre parcel that has the 300 feet of footage was removed from the Airport's original purchase offer at the request of the landowner. So, if the landowner feels that the property is going to be landlocked as a result of these 300 feet potentially being used by the Access Road why did he ask to have it removed from the original purchase. If the original intention was to give them access to the Londonderry property, how can they turn around and say now that it doesn't provide access.

Mr. Eaton replied I'm a little confused by the question, but...

Mayor Wiczorek stated why don't we get the question framed clearly.

Alderman Girard stated the question is, Mr. Eaton, as I understand the testimony that has been presented here the Airport originally sought to purchase that 300 feet of frontage, my understanding is that at the request of Mr. King that part there along the top which is supposedly slated for the Airport Access Road was removed from the original purchase offer at the request of Mr. King because he wanted to be able to provide access to the back parcel in Londonderry. So, now you come to us and say that it doesn't provide access.

Mr. Eaton asked why do you need for your wetland mitigation area a 300 foot swath of land up through into Londonderry, what purpose did that serve the wetlands. The answer was it didn't serve any, we'll pull it out. Our next question is how much more of this can we pull out and we're suggesting that by giving the Airport Authority the Londonderry parcel and asking them to reconsider the Manchester parcel that there may be another alternative; that by giving them eminent domain we have no ability to argue this point at all, the hammer is down, it's over, party's done, the ball is over.

Alderman Girard stated if I understand again the testimony that was presented by Ms. Smart and Mr. Testa the Federal EPA, the Army Corps of Engineers, the State DES, Fish & Wildlife and God knows who else have all said that that property is wetland and what you have done is show us here a 12-year old site plan of a potential development that may be built or could have back in 1986 and I don't think wetland regulations have changed for...in the developer's favor since then, what do you have to offer really that that site has been testified to a wet side.

Mr. Eaton replied I do not have anything to contest the experts, what I'm suggesting is that the progress of these negotiations have been come in, take this big parcel of land, then queried why do you need that big piece...we really don't for our wetlands mitigation area, we can take a 7 acre spot I think, a 15 acre spot out without any problem, no problem at all. Our question is then if you grant public domain over this what ability do we have to negotiate the next step with.

Alderman Girard stated according to the testimony presented to this Board it is a third party process in which both parties have to go to the Board of Land & Tax Appeals if they fail to reach a negotiated settlement.

Mr. Eaton stated that's the economic aspect, we're not here to argue the economics, it's not about price.

Alderman Girard stated okay, but to follow-up on Alderman Pariseau's comments you really have not shown this Board where the Airport does not have a public need to take any property for the extension of this runway.

Mr. Eaton stated okay, if I could just address that. Would you suggest they had a public need to take this piece of land then for their wetlands mitigation area.

Alderman Girard stated that is not under consideration at this time for public need, Mr. Eaton.

Mr. Eaton stated I agree with you, but that is simply because we had the ability to negotiate which you're taking away from us if, in fact, you grant to take it by way of eminent domain; that is our only point. Let us to continue to negotiate and see if there are alternatives.

Alderman Thibault stated we have been going back and forth with that 300 foot piece here and I might still be confused. Do I understand that this 300 foot piece that they have asked to retain in order to reach that Londonderry land is the same 300 feet that the State is proposing to put the Access Road to the Airport, well if that's the case then that would become landlocked, am I correct in saying that.

Mr. Testa stated I will address that in my own time.

Mr. Eaton stated that is our understanding.

Alderman Thibault stated that is why we're confused, I guess.

Alderman Rivard stated for clarification if, in fact, the Airport Access Road wasn't being considered and 300 feet of access was going to be available, so you would have access to the back lot we wouldn't have this discussion, is that correct, is that what I understand. Access is a concern here this evening. Access to the property is the concern, isn't that what you're telling me. You said it's not money, it's access.

Mr. Eaton stated the concern is our ability to negotiate with any kind of strength about trying to eliminate some of this land being taken in Manchester. The end result of the State taking that 300 foot piece...there's nothing that we can do with and that will probably be an eminent domain. But, the point that we'd like to...that I guess I'm not getting across and I apologize is that already once we've been able to negotiate a lesser impact to the land we own because they've withdrawn their requirement to take that piece from us, it was done through negotiation.

Alderman Rivard interjected you probably would have lost anyhow if they put the Access Road in.

Mr. Eaton stated it will be lost if the Access Road is put in. But, what we'd like is the ability to continue to negotiate to see if we can mitigate their taking of the property in Manchester. We're happy to work with...in the end if there is no access it will be an economic issue, yes, Mr. Rivard.

Alderman Rivard stated we're arguing access here. Attorney Loughlin, didn't you say that the issue here was access to the property in Londonderry - access. So, if in fact, there was no plan to put an Access Road into the Airport and that 300 feet of frontage which they under the King's ownership probably wouldn't be an issue.

Attorney Loughlin stated I think that's coming next from Mr. Testa; that area that the Highway is taking and I talked to Fred Monday he proposes...sure, it's landlocked but if Pete spends a half-a-million dollars and paves Pettengill Road then the State has to give him access, another half-a-million dollars the onus is on him and there's no construction constraints.

Alderman Rivard stated that's the question if in fact the 300 feet on Brown Avenue remained in Mr. King's ownership and he had access to the property in Londonderry we wouldn't be having this discussion.

Attorney Loughlin replied that is right.

Alderman O'Neil stated I guess my questions would be more toward Mr. Testa.



Alderman Cashin stated everybody is using "if this happened or that happened" if I could refer to the City Planning's Board letter to Mr. King dated April 5, 1989 it said "it would then be possible to review more specifically improvements and other cooperation action addressed to the spirit and intent of the particular action" and that in reference to King's asking to build townhouses or houses there and the Planning Board as I understand it said well, would you hold up and wait until we find out about the Access Road. Now, had he not waited we'd have buildings there wouldn't we.

Mr. Eaton replied you could have buildings there; that letter though, Alderman Cashin, was really addressed to...

Alderman Cashin stated it was approved with the condition that they wait until they found out about the Access Road.

Mr. Eaton stated let me clarify what was approved. The subdivision in question that you are speaking to in a letter that was addressed from Mr. Prentiss to Mr. King is regarding this roadway that was proposed as a subdivision of an access road into Londonderry. There was no specific development plans, no site plan...there was much discussion in those meetings and that letter addresses the fact of getting together once this access road is identified.

Alderman Cashin stated my question is, Dave, had the access rod been discussed and this has been going on since 1986, had everything fallen into place like it should have but didn't, it's conceivable...I'm not saying it would have happened, but it's conceivable that we would have buildings on that property today, is that fair.

Mr. Eaton replied very conceivable.

Alderman Cashin stated if that's the case, why wouldn't that be given the same consideration as they gave Trolley Crossing, they walked away from Trolley because there were buildings there, they don't want to tear the buildings down...that makes sense and now you have buildings on both areas, now what do we do.

Mr. Eaton replied they would have had an alternative site, I'm sure.

Alderman Cashin stated exactly, thank you.

Paul Dwyer, 113 Hall Street, Manchester, NH, stated:

Mayor, Members of the Board. I'm here to speak on the very issue that you're asking about Planning Board back in 1989. I was an Ex Officio Member, Aldermanic Member of the Planning Board. Also, I was on staff at the New Hampshire Aeronautics Commission and I knew the plans of the road to come into the Airport. It was in the study process. Mr. King came

into the Board that night to ask for this subdivision and I took him aside and asked as a favor if he would hold off until we knew where that road was coming in and he agreed and that is when the Planning Board sent that letter out, shortly after. Year after year after year we could not reach a decision. In fact, I think we went through about 10 Master Plan if not more and we're just coming to a decision now and that's not even certain. I have worked for the Aeronautics Commission for 25 years, I've done airport inspections, I've done accident investigations, I've gone out with the Master Planners to do planning out there. There's just a thing out there as a waiver which Manchester has had for many years, it's an air transport airport and it's been operated under waivers and they still issued those things the last thing I knew. But, in this process here all we're asking for is to mitigate the land. Now, you can mitigate this land in Londonderry, you don't have to...because there is a certain provision that says this would be a good spot, there's other good spots. Thank you.

Alderman Cashin stated, Paul, you're saying in your professional opinion there are other spots there that might be just as well serve the Airport as what they're looking at. Mr. Dwyer replied it could be right on the Airport itself.

Alderman Pariseau asked what is your expertise to say that, Mr. Dwyer.

Mr. Dwyer replied we had several reconstructions: one, was Rochester and we ended up mitigating the land right in the center of the airport and it's now a wetlands.

Alderman Pariseau asked didn't you have DES and all the other federal agencies. Mr. Dwyer replied absolutely. But, we told them where we would put it.

Mr. Robert Haines, Manchester, NH, stated:

I would like to share with you some thoughts and also I hope a little guidance, perhaps a little wisdom. I first came into Manchester Airport in January of 1995 and it is a very handsome airport, very nicely built. It is a very nice facility. I came from Colorado and I'd like to share a little bit of land use planning from Colorado to help guide you in your decision-making here because there are meetings going on like this all over the United States. There were similar things being planned in Denver, Colorado with regard to the Denver International Airport, this happened to be the largest single engineering project in the world, the price tag \$1.3 billion, but the end price tag was about \$10 billion, there was a lot of debate regarding it, a lot of land use planning issues, eminent domain issues, mitigation issues, construction issues, and so on. I'd like to just share with you some of those thoughts because they apply here as they do in other meetings like this across our country. We're talking about a public facility here and we're talking about eminent domain and taking private land for public use, it's been done throughout the history of the country particularly with the railroads. What it gets into is you making a valid decision that fair to everyone else that's involved financially for the cost of the land, access, so on and so forth. This won't be the first expansion to the Airport, there will be many other expansions. Personally, I'd like to see the SST flights into Pease, I suggested that when I first

arrived here and then a lot of connecting flights into Manchester. I had difficulty personally getting over to Portsmouth; that's a side issue. The main issue here is regarding the land use planning and development. Now, a lot of it comes into the picture with regard to who owns the land, who's purchasing the land, and what interest that they have in it and fir market value for the land. A lot of it comes about with regard to investors going in in advance knowing that there is going to be an expansion, it happens all over the country. You have to be fair about it. I would be happy to talk to anybody privately after this, but believe me Denver International was debated for years. It became the largest civil engineering project in the world. I think the Channel Tunnel between London and France may have been a little bigger, but the eventual price tag was around \$10 billion. I won't spend a lot of your time, but I would talk with anyone that would like to talk privately after this about some of the issues involved, but try to be fair with everyone taking in these thoughts that are brought into consideration. A lot of people have a lot of interest out there besides just access road, wetlands, and so on. There are other issues that come into play and they will come into play in the future particularly regarding development and sometimes borrowing of the money. In the case of Denver International there were a lot of insiders who bought up the land before Denver International was placed there and there was a lot of money that was borrowed from Silverado Savings & Loan which resulted in one of the largest savings and loan failures in the United States of America and one of the largest financial scandals in the world. Read the book *Inside Job* and I thank you for the time that you've provided for me here. Afterwards, if you'd like to talk privately I'd be happy to talk privately about these issues and I'd be happy to consultant with anyone who would like to consult free-of-charge.

Greg Szot, 127 Westwood Drive, Manchester, NH, stated:

I live in the soundproofing area of this Airport. I guess I'm not here specifically, I have other proposals that probably eminent domain would be suitable. I support the Airport, we all need it, we all know that. The other question I have is access roads to the highway is almost like a private driveway to the Airport which I guess that's fine, but did anybody consider trying eminent domain on the old railroad bed that goes straight Downtown Manchester. You want to do a civic center, you want an airport. There is a hundred foot right of way there, did anybody even know that, has anybody even checked. I talked with Mr. MacKenzie years ago, I think it was in '87. They auctioned off the right of ways back then and the City of Manchester...what he told me he was hoping the State would buy them for Manchester, has it gone anywhere since that. I think that would be a prime way to deliver some people Downtown. If you're trying to do this Airport we should do it, yeah, it's a great idea. The other thing I had which I don't know if this is specific to just eminent domain or in regard to funding of the runways too, I thought it was for runways also. From reading reports after speaking or speaking at other meetings the one that I had read said that we're going to shift jet traffic, I think it's probably eight percent or ten percent or something like that on 6-24 now. They were proposing to increase to thirty percent...I'd like to share the wealth and could even make it 50/50, you'd have two runways and it would be 2,000 feet longer on each side, so let's distribute it so you can put it all over the City of Manchester and Bedford and surrounding areas because we're all going to benefit. The other

thing I had a concern on too is the City of Manchester and the Airport you keep talking about public need, but we have a whole neighborhood surrounding this whole Airport. I'm asking that the City Board of Mayor and Aldermen, maybe the Airport Authority could work with the neighborhoods, this is hurting a lot of neighborhoods with traffic. You have a million emplanements each year just to get to the planes, they've got to drive somewhere...Willow Street is bogged, Brown Avenue is bogged, what about the railroad bed. I think it would be a good suitable option. I happen to live in the soundproof area too of the houses on Westwood Drive and I've been going to meetings since 1990 in regards to this. At one point that whole neighborhood was buyout and remove the homes, you've seen what's happened to the trees and the homes that were all taken down, you have a nice wasteland now. At that time they had changed the DBA rating from one to another and it changed the buyup of the whole neighborhood to the ones that they destroyed. I had asked Fred for an explanation as to how that occurred and he told me they "tweaked" the numbers so that it didn't include their neighborhood and I asked him what "tweaked" meant and I never got an explanation, I don't know if anybody else could explain it. It would be nice to have a little bit more participation. Of all the meetings that I have gone to for the Airport I've seen Alderman Pariseau and a former Alderman of Ward 8, I've never seen anybody else from this Board there, I'm kind of disappointed. I happen to think too that it's a wonderful idea to do this Airport, but I think you have an engineer that's out-of-control, he's driving this train right over everybody that's in his way and that's Mr. Testa, thank you.

Mr. Testa stated I have just a couple of things to clear up before I close and I'll answer any questions you have about what seems to be a conflict. Number one, I'd like to speak to the original plot was indeed this including this piece and this piece and this piece was added and we told the owner right up front that this piece was added to it because we were going to purchase the right of way for the Highway access to protect that right of way. In negotiations they said well, gee, let us do whatever negotiations we have to do within NHDOT and can you get this faxed to us, we said certainly, no problem because we never ever, ever, ever intimated that this was part of the wetlands mitigation, never, ever, never. It was added in at the request of NHDOT as our contribution in having this site set aside before any buildings were put on, number one. Number two, yes indeed Trolley Crossing was taken out of there because this land was then and is undeveloped. There is less social impact than taking homes of people who have been living there for a number of years. This particular right of way is not a done deal as everyone knows NHDOT the Nashua Circumferential Road has been talked for the last twenty plus years and they still haven't built it and they still haven't purchased any property. What we wanted to do is get it out of that and we are not talking about the property on the west side or the housing development on the east side, I'm sorry, yes we are talking about the housing development or the right of way because it is not a right of way. There is 300 feet of access to this property as it exists today. If we are to speculate into the future 20 years, yes all areas will be developed eventually, but we don't know, we don't know under what restrictions. Number four, is the letter that Alderman Cashin presented and was talking to Mr. Eaton allows for conditional approval of a roadway access, has nothing to do...as Mr. Eaton said there was no site

approval, nor any site plans submitted to the Planning Board and, in fact, that site plan even if it got approval would have to go to DES for site specific permit, Army Corps of Engineers since 1977, Melissa, has had jurisdiction over that land. So, they would still have to get permits from the Army Corps to build any homes, DEC site specific, Wetlands Review Board and everything else. Just because the Planning Board says we may have conditional approval does not give the right to build homes. The next, Mr. Fremeau, would you come up here please. An illusion was made to whether or not this particular land was appraised at its highest and best value, Joe, would you please stated your name for the record.

Joseph G. Fremeau, a real estate appraiser and a Principal of Fremeau Appraisal, Inc. in Manchester.

Mr. Testa asked how long have you been involved in this business.

Mr. Fremeau replied in the real estate business since 1979.

Mr. Testa asked, Joe, you are a licensed appraiser.

Mr. Fremeau replied that is correct.

Mr. Testa stated in the State of New Hampshire.

Mr. Fremeau replied yes, that is correct.

Mr. Testa stated I am only going to ask you one question, I don't want to go to value, I don't want to go into anything. Was this land appraised at its highest and best value, highest and best use.

Mr. Fremeau replied we considered the highest and best use to be single-family lots, yes.

Mr. Testa stated it was not valued as a wetland, it was valued at its highest and best use. Next, Melissa. You've seen the presentation about the possibilities of wetlands mitigation. I want to go through just a couple of things. Did the Army Corps and all of the agencies direct us to that property.

Ms. Smart replied yes, they did.

Mr. Testa stated they directed us to this property, the only way we're going to get permits was to use all that property in Manchester and Londonderry.

Ms. Smart replied that is correct. We actually negotiated down from what they had wanted.

Mr. Testa asked did they not want a hundred acres to be in with.

Ms. Smart replied that is correct.

Mr. Testa asked did we look at 35 possible sites identified by aerial survey, on foot survey, topographical surveys.

Ms. Smart replied that is correct and a point also, Fred, is that it's critical in the Region I we do not have wetland mitigation banking, as well, so that really they're looking for a parcel that is as close to the impact area as possible. At the same time, May of that year after we had identified this site FAA's new guidelines came in and the problem with doing it right on Airport property because there is a 6,500 to a 10,000 foot restriction within a runway approach for bird hazards. So, we had to do extensive coordination with them, as well.

Mr. Testa stated you may not put a bird hazard or a wetland on an airport in today's law, may you.

Ms. Smart replied that is correct.

Mr. Testa stated not within 6,500 feet to 10,000 feet.

Ms. Smart replied that is correct.

Mr. Testa stated the 35 sites we looked at, we looked at all of them and came down to this one site.

Ms. Smart replied that is correct with the agencies review. The agencies were involved in that dismissal process going through what we had found on the site, reviewing them and coming back to the Trolley Crossing area.

Alderman O'Neil stated, Fred, let's talk a little bit about the mitigation. They recommended that site the Army Corps of Engineers, is that correct.

Mr. Testa replied it is a condition of our permit, it is not a recommendation.

Alderman O'Neil stated absolutely, positively there is no other site that can be done.

Mr. Testa replied we looked at 30...

Alderman O'Neil interjected a yes or a no.

Mr. Testa replied no.

Alderman O'Neil reiterated absolutely, positively.

Mr. Testa stated every site we looked at was turned down by the Army Corps and the related agencies, this is the last site and, in fact, we had to change it.

Alderman O'Neil stated you talked about the original site was moved because of socio-economic impacts, isn't that the case with this particular...

Mr. Testa stated no, it is an undeveloped piece of property that if I may speculate a little bit because of the amount of wetlands we'll probably never get a permit for building. Now, that goes to value and I don't really want to get into that. But, the appraisal appraises it at its highest and best use for single homes.

Alderman O'Neil stated we're moving wetlands from the Town of Londonderry into the City of Manchester, the City is losing tax base and future increased tax base, is that a fair statement.

Mr. Testa replied no it is not.

Alderman O'Neil asked why isn't it a fair statement.

Mr. Testa replied the taxes the City loses is a total of \$3,000 a year; that is the present tax paid on that property. When you know, Alderman O'Neil, when single-family homes are built the increase in tax base is a false one at best because that normally brings children in which costs the City more than the taxes it brings in.

Alderman O'Neil stated so, you're saying if that land was developed it wouldn't provide the City any more than \$3,000.

Mr. Testa replied it is now paying out \$3,200 a year in taxes.

Alderman O'Neil asked if it was developed.

Mr. Testa replied I have no idea what it would bring it, but I do know it would cost more the way it was developed, yes.

Alderman O'Neil asked it would cost who more.

Mr. Testa replied it would cost the City more increased school costs. But, that's speculative in the future and I really don't want to speculate as to the future because we don't know even if they would get permits to build in that area. We're talking about now an undeveloped piece of property that is worth \$3,000 a year to the City. Don't forget as this Airport develops and we're

talking about developments you're worried about an assessed value of \$109,000. Right now, because this runway system is developing and I've been before the Planning Board we've got preliminary planning, Alderman Pariseau was there...there's a \$6.5 million facility going right here in Manchester which will bring in a couple of hundred thousand dollars a year in taxes because of the way the Airport is developing.

Alderman O'Neil stated on the mitigation site again, I'm kind of jumping back and forth would it be possible before you leave tonight to provide me a name and number of the Army Corps so I can call them.

Mr. Testa replied his name is Richard Roach and he's out of their Concord, Massachusetts office.

Alderman O'Neil asked could somebody provide me that number so I could call him in the morning.

Mr. Testa replied yes.

Alderman O'Neil asked what about this land trade Mr. Eaton talked about, has that been discussed at all.

Mr. Testa replied yes it has. The offer was made, a certain offer was made, a counter offer came back. The Airport...this 37 acres parcel of land and the original deed of transfer from the Federal government that came over to the Airport. Already there is about a hundred or a hundred and fifty foot easement along the Cohas Brook given to the Conservation Commission a month ago which cuts off that property. The rest of that property is high and dry and developable. It has always been the intention of the Airport Authority if the road came in here that would access to the Airport, but I will tell you one thing.

Alderman O'Neil stated so that land that can be developed is in Londonderry and not in Manchester.

Mr. Testa replied yes it is.

Alderman O'Neil stated secondarily, the Federal government will not allow us to swap land, I just can't do it. We're attempting that with the Federal government itself. Right now, the Federal government owns this 18 acre, we own a 34 acre piece up here, we attempted an even swap with the Federal government...they won't let us do it with their own Army. We have to appraise this case, how much is it worth and this piece...how much is it worth and give the United States Army the difference in value. If we have an appraisal for this piece of property and our appraisal says...I'm going to use some numbers that are not right, but I'm going to use them. Our appraisal says \$500 for this piece, the appraisal for here because it's all high and dry



says \$1,000, we may not swap those two pieces of land because under Federal law we have to get a check for \$500 which is a long negotiated process.

Alderman O'Neil asked will you show me where the access to his land is, if the Access Road is built by the State of New Hampshire.

Mr. Testa replied as part of our negotiations and I'm going to go to this one...again, speculation. We don't know if anyone will ever build this land, so it's pure speculation.

Alderman O'Neil stated pretty big priority by the Airport to get this built, correct.

Mr. Testa replied absolutely.

Alderman O'Neil stated so, shouldn't we speculate then that it is going to happen.

Mr. Testa stated I don't know, nothing has happened since 1986. I have no guarantee it's being done. But, this is the possible route. What we said and it was alluded to...what was alluded to was that they asked about access to this area and we said to them that it is a tip that if the developers or the owners of all of this property, in fact, it wasn't my suggestion, it was a suggestion that came from Peter Lowett, he's the Economic Director of the Town of Londonderry. If the developers got together and put together forty or fifty thousand dollars into the pot and paved Pettengill Road, DOT is bound to provide an access to them because it can't block off a road. All I did was repeat that suggestion that Peter Lowett made to the developers, one. Two, I'm willing to offer tonight if access is the question that we will carve out because we also said that we will go to bat for the King Family with them in combination before the Planning Board of this City and make sure they had access and I'm willing to offer right tonight it's it access to the question, we'll cut off a 100 foot width here so that they can always get...in fact, we talked about this. We talked about this saying that just as Frontage Road, if you know where Frontage Road is along 93 Candia and Hanover Street where it goes next to the grove...

Alderman Pariseau stated Frontage Road is in Ward 9.

Mr. Testa stated I'm not talking about that Frontage Road, but a frontage road if you go on 93 you get off exit 6 is a parallel road which directly adjoins 93 which gives you access to Candia and then access to Hanover; that was built by the Highway Department because they cut off access. So, all they would have to do in 300 feet is provide the roadway provide access next to it; that is also a possibility with NHDOT and if it need be we'll give them the 100 feet along the way in negotiations. We'll go back to the Army Corps and say I've got to give up a hundred feet, if access is truly the question. I promise you right now.

Alderman O'Neil stated that's new on the table tonight; that has not been presented to the King Family.

Mr. Testa stated everything I've told you right now has been presented to them before except for this 100 foot access because they're representative said to you access is the question.

Alderman Clancy stated, Peter, if that's is the question...I have no more questions because if they get the hundred feet they are going to have access to all their property in Londonderry, right. And, money is not the question tonight.

Alderman Cashin stated, your Honor, it appears to me that something new has come up here tonight that I don't think the King Family has been approached by. I certainly think that as long as somebody is here they ought to ask them how they feel about it, if you're going to negotiate here, let's negotiate.

Mr. Testa stated it's not a negotiation, Sir.

Alderman Cashin stated it sounds like it.

Mr. Testa stated no it wasn't, Sir. It was the first time it's been brought up about access to that point above and beyond this 300 foot approach. I don't want to get into an argument either. I'm sorry, but if that's the case I'd be glad to write it and swear it in blood right now to you.

Mr. King stated you never made this offer before, did you.

Mr. Testa replied the hundred foot, absolutely not.

Mr. King asked why didn't you.

Mr. Testa replied because when they asked and I don't want to get into a cross examination here, and the Judge did ask me is there access to this road because you're cutting it off and I said yes, there is 300 feet and that was the end of it; that's 312 feet because I believed that was the access that is there. But, if the King Family is worried that that access will disappear on a speculation now, if that happens, we'll provide them with a hundred feet. Yes, right there.

Mr. Eaton asked so, we can cut into the wetland.

Mr. Testa replied no, I told you it's subject to negotiation.

Alderman Cashin interjected you didn't say anything about negotiations.

Mr. Testa stated I have to go back to the Army Corps and tell them that's the condition imposed on me by the Board of Mayor and Aldermen and I'm sure the Army Corps will find some other way of doing it and if that means we have to do some wetland mitigation up in here that may

mean a little change right there. But, what I'm saying to you is that I promise somehow, someday, somewhere we will grant access.

Alderman Clancy asked is that near Pettengill Road.

Mr. Testa replied that is the other thing. If we grant them access here, I need access to Pettengill Road through the property, it's a combination kind of thing.

Alderman O'Neil, Fred, just a follow-up to that. You're going to go back to the table with that, you're really going to talk about leave the 300 feet out, 300 to 400 feet...

Mr. Testa stated no, just 312 feet are already left off the table.

Alderman O'Neil stated okay, 312 to 412; that should be now and not worry about access being the 312 feet originally, so that whether or not the State...we're not talking about more money later on down the road.

Mr. Testa stated the State might come in and not build the road and you'll have 412 feet access.

Alderman Pariseau moved to the question.

Mayor Wiczorek stated not in this meeting.

Mr. Testa stated I want to thank you for your attention and I just want to sum up by saying the public hearing was really to establish need; that I really just wanted to say that the Airport has established the public need in this particular instance for the need of the public facility. I think as a condition of the permits we are necessary pointed to this way. Without this and I want to reiterate because I know what the underlying reason is. The process that is in place was meant to deal with value questions; that process was set into law so that no onus would be placed upon public Boards like you, making you make a decision as to dollars and cents when you're not real estate experts. It was sent to a real estate board and that's why value is determine there. All we're here to determine tonight is was a case made for public need or against public need. Thank you for your attention, I really appreciate your patience.

Alderman Cashin stated something new has come up here tonight and I would like to ask the indulgence of this Board to allow Attorney Loughlin or someone to get up and tell us how they feel about this new proposal and give them an opportunity to at least speak to it, I think that's fair.

Attorney Loughlin stated frankly, I was shocked that he is now negotiating but it's a plus. If I could answer, some fellow talked about Denver, well we all know Pete was not a speculator he's been here since 1964. I don't know whether or not that was germane or not, but Pete tells me

that the City of Manchester owns wetlands right in that area, not the government, but my suggestion and again I'm not trying to run a meeting, but my suggestion is that this be tabled and let us negotiate. Time is not of the essence, there are no time constraints here. This is really shocking to me, but it's a pleasant shock.

Alderman Shea stated I'd like a question answered, your Honor, by Fred Testa or Kevin. Would the Airport close down because you failed to acquire the King property; that's what the inference was.

Mr. Testa stated the inference was that time is of the essence, oh no, no, no. Let me follow this through because you'd like to hear the whole truth. The inference was that there is a certain pressure on the Airport to pay its bills. The Airport has been neglected for many, many, many years...40 year old runways, they're in terrible shape. I'm not so sure that they'll last if we put this off a few years. I'm speculating just like many others have been speculating tonight. If we don't do any work to these runways we may have to restrict no jets, no jets mean no people, no people mean no money, and in the end there are other possibilities, it's pure speculation.

Alderman Shea stated you're dancing around my question very well. The question is if you do not acquire the King property would the Airport close down, yes or no.

Mr. Testa replied tomorrow, no.

Alderman Shea asked next week, next year.

Mr. Testa replied next week, no. At that time, we would have to start looking at it. Not closing down but restricting flights on those runways.

Attorney Loughlin asked, Fred, what about meeting with me on Friday morning. I'm leaving for Ireland on Friday night.

Mr. Testa stated in that case, I'll meet with you tomorrow night, tonight. Friday morning I have to give a presentation as Green Acres School.

Alderman Cashin stated maybe you could cancel that, maybe this might be a little more important. I don't know what your priorities are, but.

Mr. Testa replied my priorities are either children or the King's.

Alderman Cashin asked the Airport is not a priority.

Mr. Testa replied of course it is, you know my life is built around that Airport.

Alderman Cashin asked well, then wouldn't you meet with him, Fred.

Mr. Testa replied absolutely, anytime, anywhere. I've already met with him a couple of times.

Alderman Cashin stated he said Friday, so I guess you're going to meet Friday, then.

Mr. Testa stated I've got my schedule in my hand, Alderman. What time Friday morning, Sir.

Attorney Loughlin asked how about nine o'clock. Mr. Testa asked how about eleven.

Mayor Wieczorek advised that all wishing to speak having been heard, the testimony presented would be taken under advisement and considered by the Board of Mayor and Aldermen at a later date.

This being a special meeting of the Board, no further business can be presented, on motion of Alderman Pinard, duly seconded by Alderman Clancy, it was voted to adjourn.

A True Record. Attest.

City Clerk