

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

May 27, 1998

6:15 PM

Mayor Wieczorek called the meeting to order.

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

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

Absent: Alderman Rivard

Mayor Wieczorek advised that the purpose of the public hearing was to hear those wishing to speak relative to consideration of public need and the use of eminent domain with regard to the acquisition of a temporary easement and a permanent easement from owners for the Cohas Brook Interceptor - Contract #2; that the Chief Sanitary Engineer shall 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 Tom Seigle, Chief Sanitary Engineer, make a presentation.

Mr. Seigle stated you can kind of see how this all fits together. In 1970, the collector sewers from the City all discharged raw sewage in the rivers. In 1972, the City began the program of Pollution Abatement which included building a treatment plant and the first series of interceptor sewers to take that pollution out of the river. The treatment plant was completed in 1976 and went on line in 1976 and at that point the City proceeded to develop a Master Plan for sewer systems which would take the remaining discharges out of the river as well as provide sewage in areas of the City where it was needed. The Master Plan was completed in 1979, it was submitted to the then Water Supply & Pollution Control and it was approved and if you look in your handout the first drawing and the green lines are the interceptor sewers that were recommended in the plan that have been constructed and are operational. The orange line is the Cohas Brook Interceptor is recommended in the plan has not been constructed. I'm not sure why we didn't proceed with the Cohas Brook but probably the reason we didn't is it didn't eliminate any raw discharges o the river. At that point in time we were looking at an expansion of the waste water treatment plant for \$20 million and that set a higher priority and this is, in fact, a fairly expensive project and at the same time federal and state funds were drying up.

Between 1979 and 1981 we built all of the green interceptors and put them on-line. In '94 EPD was directed...that's when we completed the expansion of the treatment plant...EPD was directed to implement a capital improvement program to begin planning for the remaining sewer needs in the City and what we did at that point, we took a look at what was out there and it was decided by the Highway Commission and the Public Works Director that we should proceed with completing the Master Plan so that the first step we would take would be to begin work on the Cohas Brook Interceptor. We contacted the State of New Hampshire Department of Environmental Services, they indicated that if we intended to do that we would have to do another environmental study because from 1979 to 1996 regulations had changed particularly regarding wetlands, archeological, and sensitive areas. So, we contracted with the firm of Costello, Lomasney & deNapoli to do what we call a feasibility study. The feasibility study was completed in 1996, it was submitted to the State and it was approved. We had a public hearing on the facilities plan in February of 1996. The feasibility study recommended from the vicinity of the treatment plant (this purple line) and it would be done in three phases. This purple line would be Phase I, the black line running up in this direction would be Phase II, and the line running in this direction would be Phase III. Because Phase I was such a large project we decided to break it into three contracts. In June of '96 we received authorization to proceed with the design of Phase I and also the construction of Contract I of Phase I. Now, Contract I will run from the vicinity of the treatment plant, easterly out to South Willow Street near Dexter Shoe. In October of '97 we received authorization from the Board to proceed to construct Contract II and Contract III which would then complete Phase I of the Cohas Brook Interceptor Project. The current status of the project is that we have Contract I under construction, it's about 70 percent complete and we anticipate that it will be complete and operational this November. Contract II has been designed, we've received bids, and we have not been able to award that contract because we're missing this one easement along the project. Contract III is being designed and we hope that it would be ready to bid if everything else goes well by this fall. And, at this time I'd like to ask Leslie to kind of tell you how we determined the route of the interceptor, how the feasibility study was done and how the easement acquisition process was handled.

Alderman Girard stated, your Honor, just one question for Mr. Seigle before Leslie does her thing. Mr. Seigle, the Cohas Brook Interceptor Project as a whole, how much is that expected to cost the division.

Mr. Seigle replied the original estimate for all three phases was about \$20 million.

Alderman Girard asked is that still a realistic estimate.

Mr. Seigle replied the contract's that we've awarded so far for Contract I and the contract that we have bids on for Contract II are less than what the engineer's estimate was. I don't know what's going to happen in the future, but right now we'd be under budget.

Ms. Leslie Nelson stated I'm an engineer with CLD here in Manchester and I've been involved with the Cohas Brook Interceptor Project through the very beginning of the feasibility study and as Tom said to you I am just going to explain a little bit about the background of the project and the process that we've gone through for the negotiation and the design. When we first started the feasibility study we established a number of design criteria or evaluation criteria to look at different alignment alternatives. There was four primary criteria that we established. The first criteria was to eliminate as many municipal and private pump stations within the Cohas Brook drainage areas as possible. The second criteria was to provide the maximum sewer service to all of the areas to be served. The third criteria was to minimize wetland impacts and environmental impacts and the fourth criteria was to minimize overall costs, both capital improvement costs and O & M costs. During the process, once we had criteria established there was also a number of secondary things that we had to look at when we were evaluating the different alignment alternatives. We needed to look at geological conditions. We looked at archeological sensitivity along the alignment areas. We looked at land acquisition issues where we would get easements or where we would have issues with easements. We looked at construction limitations and we evaluated community impact. For Phase I which Tom said is this purple line from the treatment plant up through 293 there was a number of design constraints that we needed to look at when we were looking at the different alignments. One of them was a gravity sewer design which is designed down near Crystal Lake and there was a certain elevation set for that sewer that we needed to be able to tie that sewer into the Cohas Brook Interceptor, so that was one of our design constraints. The interceptor has a couple of places where it actually crosses Cohas Brook; that was another design constraint and we needed to make sure that the elevations of the sewer line worked so we could do the brook crossings. A third constraint was the Great Cohas Swamp itself which is this big wetland area here because we knew that this was a really environmentally sensitive area and that the Wetlands Board, the State and the Federal people would be looking very closely at how we dealt with the impacts to this wetlands area. The fourth design constraint was again the pump station connection...we have five municipal pump stations and three private pump stations in the area of Phase I that we needed to make sure to the most part possible we could tie all those pump stations in because ultimately that was really the most important design criteria. In the feasibility study for Phase I we looked at a number of different alternatives and we looked at the pros and cons of those alternatives and I just want to go through those really quickly. One of the alternatives we looked at was actually putting the sewer up in Goffs Falls Road as opposed to where it ended up which was down lower closer to the brook. When we evaluated that alternative it was positive in the fact that we wouldn't need any easement acquisitions because it was in a public right-of-way already. The problem with that is that Goffs Falls Road is considerably higher than the elevation of the brook which meant that there was a lot of areas that we wouldn't have been able to tie in by gravity, we would have had to keep the pump stations on line, we would have needed additional pump stations and that really defeated the whole criteria of what we were trying to accomplish. So, we threw that alternative out. A second alternative that we looked at and this was trying to address

being able to tie in Crystal Lake, we did bring it down closer to the wetlands but it was about 20 to 30 feet deeper than the design is right now because we were trying to tie Crystal Lake sewer in by gravity. When we did our cost estimate for this alternative it turned out that this one was significantly more expensive than the third alternative which we ultimately picked which was pretty much the same alignment but what we'll have to do is put a small local pump station in at Crystal Lake to pump that up to the interceptor and what that allowed us to do was this whole length of interceptor, save \$10-15 million of construction costs because we could raise it up 20 feet. So, that was basically the alternative that we came up with in the feasibility study as the best from a cost standpoint, meeting the criteria that were established. Contract II starts from the South Willow Street area, will skirt the Great Cohas Swamp to the northern side of the swamp, will cross the stream, actually will go across Mammoth Road near Bodwell Road, will run down Bodwell Road and Contract II will stop at the intersection of Bodwell Road and Lone Pine Drive. Right now, it is about 9,665 feet of 36 inch pipe, it's designed at a minimum slope which means the sewer is very, very flat. We don't have a lot of flexibility in the design for making it higher or making it lower from an elevation standpoint just because of the length we are trying to go and the point we're trying to start at and the point we're trying to tie into from an elevation standpoint. During the design of Contract II we needed to make some changes in actual alignment from the time that the feasibility study was done as we got into the design and we had different people review different things, the New Hampshire DES, the Wetlands Board when they started looking at the design they asked us to make some revisions to try to minimize the wetlands impact further than we had done in the feasibility study which working with the Army Corps and the Wetlands Bureau we worked with them to accommodate those changes. PSNH has a bunch of power lines through/around the swamp in this area and in working with them we tried to coordinate with them to overlap some of our easements with some of their existing easements and the stipulations that they put forth on the alignment was that we couldn't criss-cross back across their easement, we had to run parallel to it and that we could overlap the temporary construction easements but not the permanent sewer easements over their easements. The other issue that we had to resolve as part of the design of Contract II was that we found some archeological sites that needed to be worked around and again what we ended up doing was moving the alignment slightly into the wetlands which had to be coordinated with the Wetlands Board to make that change. So, those are some of the adjustments that got made during the final design process of Contract II which weren't anticipated when we did the initial feasibility study. What I'd like to do is just very briefly describe to you the process that we go through when we do easement acquisitions for a project like this so you can kind of understand the process that we have had to go through. The first thing that CLD does is we collect all the pertinent information. We get tax maps, we get o the Registry of Deeds we get the property deeds, we get any plans that are available and then we prepare a draft easement document that basically gives the City rights to pass over the easement to take care of the sewer and a two-year temporary construction easement for the contractor to go in there and build a sewer. On these documents it shows where the easement is, describes the area, how many square feet the easement is and that information gets sent to a certified appraiser who uses that information and

conducts research, provides an opinion of cost based on current land use and the as is condition of the land which means he looks at the zoning, he looks to see if it's developed or not or developed and he gives us...it's not a full appraisal, it's the same process but it's basically a letter report saying in my opinion the as is condition, the value of the land is this amount. And, as part of that he uses the NHDOT formula for easement acquisition which is for a permanent easement it's 50 percent of the market value and for a temporary construction easement it's 20 percent of the market value of the land. Once we get this cost opinion from the appraiser CLD goes back and we negotiate with the landowner and typically what we have been directed by the City to do is negotiate either a cash value equal to the appraisal value or an exchange of services. For example, in Contract II there are a couple of residents that we needed to get easements from. One gentleman we are replanting some trees and fixing a retaining wall for him, another gentleman we are tying in his septic system to the sewer in exchange for any cash exchange which we're doing we're providing services. Once the agreement with the landowner is finalized the final document is signed by the City, is signed by the landowner and it's filed with the Registry of Deeds. The issue that we have right here, as Tom mentioned we do have one property owner that we have not been able to come to an agreement with at this time and I've got two different plans here...one a little bit more detailed, I just want to kind of give you a sense of the overview here. Contract II is going to be coming up behind the new Marriott on Dick Nault's property, will be coming onto Sears Avenue and at the end of Sears Avenue by Edna Avenue will be coming off Valentine going behind the properties on Sears Avenue and then will be crossing over skirting the wetlands around here...there's a piece of property owned by PSNH here and there's a big PSNH easement that goes across this property; that it's this property right here tax Map 856, Lot 4 which is outlined here in black on this plan which is the property that we have not been able to obtain easements for at this point and the shading on this plan shows you...this line here is the edge of the wetlands, the jurisdictional wetlands that were mapped by our wetlands sub-consultants...all of this down here is jurisdictional wetlands, its the Great Cohas Swamp, so you can see that what we did in our design was try to stay and skirt that swamp as much as possible. Across this property right here, again because of our work with PSNH what we did was we straightened the alignment out to run parallel to this easement so the sewer line is basically 10 feet off the edge of that easement. Our temporary easement overlaps with the PSNH easement, the permanent easement runs parallel right next to the PSNH easement, but the orange line is the sewer interceptor, this just kind of gives you a sense of the entire property and where our impact is going to be.

Alderman Wihby stated the whole thing in the black is the parcel.

Ms. Nelson replied yes, it follows the center of the Cohas Brook.

Alderman Wihby asked why do you need that, to do what.

Ms. Nelson replied we need to bring the sewer line across here.

Alderman Wihby stated if that dark part is owned by PSNH.

Ms. Nelson stated no, just this little green part, they own an easement.

Alderman Wihby asked can we use their easement.

Ms. Nelson replied no because they won't allow piggybacked easements, they will allow us for a temporary construction easement, but not for the permanent easement.

Alderman Wihby asked who won't.

Ms. Nelson replied PSNH.

Alderman Wihby stated PSNH won't allow us to do something.

Ms. Nelson stated PSNH doesn't allow piggybacked easements, it's their regulations. We've met with them, we've negotiated with them, we've talked to them. We can run it parallel but we can't.

Alderman Wihby stated everytime we do a telephone pole isn't that PSNH, can't we just stop those until they give you the easement, really.

Mr. Seigle stated what we're looking for is a 20 foot live permanent easement 42 by 10 temporary easement. What we've done is a special temporary easement.

Alderman Wihby asked how wide is PSNH's easement.

Ms. Nelson replied 135 feet wide.

Alderman Wihby stated you only need 20 for a permanent and they're calling piggyback what, so many feet from each other or what.

Ms. Nelson replied they won't let us overlap our permanent easement with their permanent easement. They said we can overlap the construction easement, but not the permanent easement.

Alderman Wihby asked does anybody from public utilities or anybody else who's in concern with this care if PSNH didn't have this policy there would be no problem.

Ms. Nelson stated from a design standpoint, no. But, remember PSNH wouldn't be granting us the easement because the landowner, Mr. Giovagnoli still owns the land, PSNH just has an easement.

Alderman Wihby stated we could use their easement if they let us, we could still go on the property...

Ms. Nelson stated we'd have to purchase another easement that would be over the top of their easement.

Alderman Wihby asked from who, PSNH or the landowner.

Ms. Nelson replied the landowner.

Alderman Wihby stated so it's not a matter of PSNH digging up their easement.

Mayor Wieczorek stated why don't I have our City Solicitor shed a little light on that.

Solicitor Clark stated, Alderman, even though PSNH has an easement across the property we can't go in there and use their easement, their easement is for a specific purpose which they bought from the landowner, I'm not sure how they got it. For us to get an easement even to use theirs we'd still have to deal with the landowner and buy an easement from him.

Alderman Wihby asked is the landowner against, oh well, I guess I can ask him when he gets up there.

Alderman O'Neil asked how wide did you say the PSNH easement is.

Ms. Nelson stated let me just explain what this plan shows here. The property of concern goes from this property line and then the other property line runs through the middle of the brook. We're bringing the sewer again across...these two red lines from here-to-here is the PSNH easement, it's about 135 feet wide. The brown area is our 20 foot permanent easement that runs parallel to that. This little pink strip through here is where we're overlapping part of our temporary easement with the PSNH easement and the yellow strip is the other side because generally what you do is put the construction easement around the middle of the pipe so the contractor has the room to drive and pile his dirt and that kind of stuff and this will be...again, this 15 foot wide strip over here is just a temporary easement on the other side, but the pink overlaps with the PSNH easement.

Alderman O'Neil stated my question is is PSNH utilizing the 135 feet.

Ms. Nelson replied not the whole 135 feet, they do have a power line that runs down through there, that is this little white and you can't see very well. It's about 50 feet from this edge of the easement, the actual line. So anyway, this is the alignment through the property. The opinion of cost that came back from our appraiser gave this land a market value based on the current use which is farmland, gave it a market value of about 22 cents per square foot which made the total area of this easement, the value of it about \$3,960. Before we came here, before we start in this process we have to have an actual full appraisal with the whole report and everything done with all the backup, so we had that done and at the time it was several months later. At that time, which he just completed a few weeks ago he increased the value slightly to 27 cents per square foot which gave the easement value of \$4,860. The negotiation that has gone on with this landowner through the history of the project I just want to hit on briefly so that you know what it is we've done and what we've offered him and where it stands right now. During the feasibility study which as Tom said was being done at the end of '95 and early '96, we contacted the landowner because we had to do wetlands evaluation and we were doing survey work. During the design phase of Contract II we paid the landowner to move his bull out of his field so our people could go out and actually do the wetlands delineation and flag it in the field. Later during the design process we needed to do boring operations, we needed to get our boring rigs out there so we could look at the subsurface and again we paid the landowner to come out and make sure that the cows stayed away from the boring rig. Last summer, during the time when we had given this information to our appraisers to work on Paul Clinghan from Hoyle Tanner and myself went out in the field and walked the alignment with Mr. Giovagnoli and we talked about different issues that he wanted to see as part of this construction project to make sure that the farm could keep operating during the construction period. We discussed items to mitigate and minimize the impacts such things as providing a temporary fence along the far side of the easement so that he could keep the cattle on the southside, providing a gate that he could get through. We talked about he's got several piles of firewood and he's got some buried granite blocks, we talked about writing into the easement removing those things to get them out of the way and keeping them because he wanted to be able to maintain the granite that was back there. Replacing some existing fence that would have to be torn down and that sort of thing, so at that time I was under the assumption that we had pretty much worked out what the items were that he would be needing to keep the farm operating and then it was a matter of finalizing documents. At that time, I needed to wait for the appraisal or the cost opinion to be completed before we could finalize negotiations with him. My personal feeling was that I didn't have any feeling that the landowner was not willing to negotiate the easement with us at that point in time. When we got the final cost opinion we wrote up the final document, gave it to Mr. Giovagnoli and he was out of the country to several months, so the negotiations got put on hold. When he returned we started negotiations up again and Mr. Seigle and I went out and met with him one evening with the documents hopefully to get him to sign it and at that time a lot of additional things started coming up and he wanted a bunch of changes made, he wanted chain link fence put up instead of barbed wire fence, he asked for special seeding and fertilizing on the soil, he wanted only organic fertilizer and special seed mixes used, he asked that the top soil be

screened because he needed to mow it and didn't want rocks and stuff to hurt the mower, he was concerned that it was going to cost extra money to buy hay while the cows were down in the south field, so we negotiated a cost of some hay so he could feed his cows during this construction period. He requested that the stockpiled wood piles be moved by hand and put back once the sewer was finished and because we were in the bid process we wanted to get this easement signed so we agreed to all of these items and amended the documents, brought the documents back to him and at that point he asked us what the values were of the other properties that we had obtained easements from. We gave him that information and because those cost opinions are done based on as is condition those costs varied significantly from \$3.00 a square foot for some of the small residential lots that had a house on it to some of the other areas down here, his was 22 cents a square foot, the property on the other side was owned by Mr. Cowette was evaluated at 22 cents per square foot because it's mostly wetlands, because of the use. So, we gave him that information and at that point he didn't feel that he was being treated fairly, he felt that his land was worth more than what we had said it was worth and he refused to sign the documents. So, we were sort of at an impasse and what I wanted to just do here is the last three pages of the handout that we gave you are basically the first two pages of the easement deed which just talk about the different stipulations that we've already written into the agreement with him and the final page what we did was work with the contractor to kind of get a handle on all of these things that we had already agreed to with Mr. Giovagnoli, what is a dollar value for those items and basically we came up and working with our contractor and stuff he researched prices and stuff for us and basically told us that all of the services plus the cash that we're giving to him is worth about a little over \$45,000 and at 27 cents a square foot our appraiser says that this easement is worth \$4,860. So, you can see that we've tried to go out of our way to try to accommodate his needs to keep his farm operating way above and beyond what the value, what our appraiser has said the value of the land is and on that note I'd like to thank you and if anyone has any questions.

Alderman Girard stated from the time that you started the negotiations to the time that you basically came to an impasse, how long a period of time are we talking about.

Ms. Nelson replied like I said we met with him last summer and although the documents weren't ready at that time...

Alderman Girard stated from the time that the appraisal was done then.

Ms. Nelson stated we didn't realize he was going to be out of the country, so we gave him the documents and it was like the day before he was leaving so he really didn't have a chance to look at them. He got back at the end of March, beginning of April and so we've really been in trying to do heavy negotiations since that time.

Alderman Girard stated this April and this came to the Board of Aldermen to be referred to public hearing how long ago, two meetings ago. So, really it's a matter of weeks between the time you were able to sit and negotiate with the appraisal to current times.

Mr. Seigle replied not exactly. We had documents prepared in December that were presented to the property owner. At that time, he didn't have time to look at them and left the country until March, which when he came back is when we started.

Alderman Girard stated the question is from the time he came back to April 21st which Alderman Pariseau just brought to my attention, a matter of, thank you, your Honor, I have my answer.

Alderman Thibault stated if I might go all the way back to the Southeast Interceptor on Brown Avenue asked is this all part of this operation here which is beyond the Airport. Is that all part of this.

Mr. Seigle asked are you talking about all of the construction that you are seeing going on now.

Alderman Thibault replied no, I'm talking about the Southeast Interceptor, is that all part of this.

Mr. Seigle replied it was all part of the City's Master Plan, yes.

Alderman Thibault stated I see it goes beyond the Londonderry Town line, are we handling some of Londonderry's sewage and in fact are they involved in this and are they paying this share of this.

Mr. Seigle replied the answer is yes, the Manchester plant is a regional plant. We handle part of Bedford, part of Goffstown, and part of Londonderry. Londonderry has paid their share of the line that runs basically the Southeast Interceptor which is the line that brings Londonderry's flow to the treatment plant, they've also paid their share of the treatment plant capital cost. On an annual basis they also pay us for use and the same is with Goffstown and Bedford also. They would not be part of this project because they don't use it.

Alderman Thibault stated this project then stops before he hits the Londonderry line towards the Bodwell Road area.

Mr. Seigle replied right now it does, I don't want to confuse the issue but Londonderry has requested that they be allowed at some point in time to use the Cohas Interceptor which would be Phase III...they will have to pay their share at that point.

Alderman Klock stated this is Phase II of the project.

Mr. Seigle stated this is Phase I - Contract II, we broke Phase I into three contracts.

Alderman Klock stated part of it has already been done.

Mr. Seigle stated it is under construction right now.

Alderman Klock stated I guess my question is I'm not understanding if you knew there were three parts to this why didn't you get the authority or the land, the okay to have this part of it done.

Mr. Seigle stated we felt that the public hearing was on the overall project, the entire project and everyone had a chance to comment at that point. The way we proceed you can't actually obtain the actual easement until you start doing the final design, you know exactly where that pipe is going to be and at that point you do survey work, you find out whose property your impacting and as part of the design you begin to obtain the property and we've done that. Contract I is done, Contract II we have all easements except this one and as Leslie said we never felt at any point in time that we were not going to be able to negotiate with the property owner. In fact now, the only sticking point is that he feels we're not paying him enough money.

Alderman Wihby asked what's the difference, how much is the difference.

Mr. Seigle replied I am not exactly sure. What we're trying to say is that we don't have any room to negotiate because we're basically putting in a lot of improvements...the fence, the specific restoration and so forth that is a cost. If we weren't having to put in a chain link fence we may be able to increase the purchase price, but the appraisal price is only \$4,860.

Alderman Klock asked what happens if you're not able to obtain it, what happens then.

Mr. Seigle replied that is why we are here tonight to ask for eminent domain to be able to take that one piece of property. If we can't take it, then Contract II would have to be rejected and we would have to redesign and would have to go another route which would obviate the criteria by which we designed this project, was to have everything flow by gravity so that we don't have to pump it and to be able to serve as many houses as we can.

Alderman Klock stated I guess I'm still not getting my question answered. If you have three phases of contracts or whatever you're calling it and part one is under construction and you still have to draft it out, why are you coming to us now to get...

Mr. Seigle stated the feasibility study is a general layout saying this is where we are going to go, we submit it to the State for review from the Wetlands, etc. We cost it, try to figure out which is the cheapest way to get where we want to go. Once that's done we were authorized to do the design which is the actual contract documents (plans, specifications, etc., details) to do the design of Phase I and also to construct only Contract I. So, we did that. The following year we were given authority to construct Contract II and that's where we're at now. For Phase II and Phase III we really can't take any easements yet because we don't know exactly whose land we're going to be touching or how much of it.

Alderman Thibault asked just what kind of an impact would you be doing to this land if in fact you put this sewer line there, the manholes, percentage wise could you give us an idea of how you would impact this land as far as this farmland.

Mr. Seigle replied I don't know the percentage but I think I can tell you that we've done everything that we can to minimize the impact, this plan doesn't show the extent of the property because it has the profiles down here, but what we did was we came in this way and instead of kind of bisecting the property, we paralleled an existing easement, we're as close to that easement as we could get. When we get down where we're outside of the easement we parallel the brook, so basically there is no way you could construct there anyway. When we're done the land would revert to the owner, he could do pretty much anything he wants with it except build a building over it which he wouldn't be able to do anyway.

Alderman Thibault stated so in other words what you're saying here is that you've offered this man \$45,000 plus in order to...

Mr. Seigle interjected cash plus improvements to the property.

Alderman Thibault stated in order to try and get this easement and this he's not agreeing with you.

Mr. Seigle stated that is correct.

Alderman Girard asked, Mr. Seigle, are you aware...has the property owner been willing to provide you, if he thinks that your appraisal is unfair with an appraisal of his own, has he been willing to entertain doing an appraisal.

Mr. Seigle replied I can't answer for him. He hasn't provided us with anything at this point other than he wanted to be paid \$3.00 a square foot for the property.

Alderman Girard stated that \$3.00 was for...

Mr. Seigle stated based on what we had paid for another easement somewhere along the project which may or may not have any direct relationship.

Alderman Girard stated just to follow-up on Alderman Thibault's point, you're looking at \$45,000 or so dollars worth of improvements on the land that the appraiser has valued at about \$4,800.

Mr. Seigle stated cash payment of whatever the appraised value was plus we negotiated extra feed for the cattle because we will restrict his operation plus the fence and that's where the \$45,000 comes in.

Alderman O'Neil stated, Tom, with improvements you said the estimate's around \$45,000 at \$3.00 a square foot it's around \$54,000, is it \$54,000 plus the improvements that he was looking for or just the \$54,000.

Mr. Seigle replied plus the improvements. He wanted cash payment in addition to the improvements that we've offered such as the fence, the special restoration, etc. and we just can't do that.

Alderman Clancy stated, Mr. Seigle, this is designed as farmland, so farmland...do you know what he's paying for taxes on this right now.

Mr. Seigle replied I don't know.

Alderman Cashin stated, Tom, you made an offer of \$45,000 for improvements.

Mr. Seigle stated part of the negotiated settlement was that we would put up the fence, we would restore the property with organic fertilizer, we would move the wood piles by hand rather than with heavy equipment and also pay cash of \$4,800 plus \$3,000 for additional hay that he would have to purchase because we would be disturbing the pasture land.

Alderman Cashin stated your number here is \$45,000...

Mr. Seigle stated that is what we calculate all those improvements are worth.

Alderman Cashin asked on top of that what does he want.

Mr. Seigle replied on top of the improvements that he's requested he wants \$3.00 per square foot for the easement which I guess is close to \$50,000.

Alderman Cashin stated we're looking at \$95,000 here for a 20-foot easement.

Mr. Seigle replied yes, Sir. Now, if we go to condemnation the way it's been explained to me by the City Solicitor's Office is if we proceed to condemnation all offers that have been made by the City for improvements are off the table and it reverts back to whatever the court decides its worth.

Alderman Cashin stated the owner understands that, I hope.

Mr. Seigle stated I've explained that to him several times.

Mayor Wieczorek called for those wishing to speak.

John Giovagnoli, 401 So. Mammoth Road, Manchester, NH, stated:

I own the property at 401 So. Mammoth Road the land that is in question now. Now, I have my own pass outs here today. I'll pay out to each and everyone of you...I don't know if you're all familiar with this property or not but the map is in front of you right now and if you've noticed you have land right on the 401, well it's on the South Mammoth Road not 401 because 401 is where I live. Now, the reason why I am here is because I know there's something wrong somewhere and what they had said here is sure different from what they offered me because the first thing here...we'll start right here with the number 2 page - Land Use - it says farm land use is 11 cents a foot and forty-four; that's what they value my land at - farmland, alright. Now, on the next page you find that the appraiser you had hired considered my land to be zoned as residential land. Because it's farmland it also is residential land. And, as residential land if you noticed here is a much different price than farmland. You're trying to give me farmland or

wetland price for land that is residential land, land that can be well-developed if you want it to be well-developed. Now, I don't care to have it developed. I just want a regular farm. If I wanted it developed I could have developed it years ago, I turned down many offers. I still want it to be farm and I still don't want them to go through my property, but if they do go through the property I want to get paid exactly like they pay the others. Now, in fact, I offered them land for free wetlands further back off where it does not disturb my farm. This is a working farm, it's not a farm that was built up yesterday. We have approximately eight or nine buildings on this farm. It's been there for 50 years, it's good residential land. My house is on the same land that the farm was on and I offered the City of Manchester for free, don't give me a penny, don't put up no fences, get out of my hair, leave me alone, build it in the back, I give them free property, free land, don't cost a penny. You paid other people \$3.20 a foot for wetlands and I'm going to give it to you for free and they didn't want it. Now, he said they offered and you noticed before they said they offered me \$45,000, \$45,000 for what...to replace what I already had. I have good farmland, good pasture land, is well-fertilized and produces some good hay...my cattle there you can see it on the highway, the cows get good and fat, good productive land, it's all organic farming and I don't want no commercial fertilizer on it, I can haul in organic material if it's necessary. They never...what they're trying to tell you is that they're doing all of these favors. I just want this thing to be done because it's not something they're giving me, I have it there, I just want them to replace what I have. Give me back my farmland the way you took it before you took it. My wood piles are there. They were there before you came in, you know you came in there before, you see cows there. I have a bull out in the field, I just had to get rid of one two weeks ago, he challenged me and when they challenge you, you can't be second, he went out. You can't allow people on your property with animals around. Now, we'll go back to the fencing deal. The fencing is a most important thing to have on the farm. The first time the City of Manchester came on that farm they said we're going to survey. I said don't survey, wait. Of course, my house is on one side of the property, the farm is on the other side of the property, they do exactly what they wanted. To hell with him, excuse the language. They went over there and they surveyed it just the same. I didn't know a thing about it. The first thing I knew I had a call, the cows are on the turnpike, cows are on the turnpike imagine that. So, I went over there, I talked to the cows, I called them back my time to find out where they got over. When the surveyors surveyed the property okay, they see the fence, they go over the fence, push the fence down, put a tag, they tied a little ribbon on the fence, over the fence to have the surveyor survey it, okay. My cows walk up and down and see the fence down, over the fence they go. The State had problems with their fence, the fence was down on the highways there was Boston radio, my son was in Boston and heard it over the radio in Boston, cows out on the turnpike on 93, big deal. The farmer can't take care of his livestock. I read in the newspaper my cows knocked the fence over, six foot chain link fence. The fence is on this side, it's impossible for my cows to knock the fence, they had to jump the fence and push it over this way, the fence was down. But, the newspaper said it, nobody believes it. But, we're lucky, we lucked out on that deal and no one got hurt. If a car hit that cow Giovagnoli would had had a lawsuit on his hands, they're just looking for accidents, right. And, what did the newspaper say the farmer's cows knocked the

fence over, six foot chain link fence, so that's why I insist that we must have a six foot chain link fence. You come at my house right at this Mammoth Road 401, you'll see a six foot chain link fence, I had a chain link fence through my fields. All the fences were replaced now with chain linked. It's nothing that I'm asking for, it's a safety for myself and the contractor and the people; that is why I offered the City of Manchester land for free, get out of my hair, get in the back, put it through the back, it wouldn't cost you a penny. Look in here you'll see that they gave \$3.20 a square foot, okay. We'll turn to page...I didn't have all of these charts, we'll look back in there and you'll see \$3.20 many of them, excuse me \$3.00. This is all information that I received from the City of Manchester and you see how they compare with what they offered me.

Alderman Wihby asked you know when you sold PSNH the other easement, how much did you sell that for.

Mr. Giovagnoli replied that's been so long ago, I don't remember.

Alderman Wihby asked how many years ago.

Mr. Giovagnoli replied I've been here for 50 years, so I don't know.

Alderman Wihby stated you're talking about the ones that are \$3.00, but there are a lot of them that are \$1.50, \$1.75.

Mr. Giovagnoli stated here's another one there, here's what gets me. Here's land that adjoins my property, here is my property, I have property that they are taking on the map, land right on the 401 South, right on South Mammoth Road. Now, Rosenberg they own two pieces of property. Their land adjoins my land, in other words you can walk in my fields and go into Rosenberg's and you wouldn't know their land from my land, I'd have to show it to you, but yet they offered them...their land is landlocked in other words they have no way of getting on this land, their land is next to mine, look what they offered them, right there.

Alderman Wihby stated they offered them \$1.50, would you settle for \$1.50.

Mr. Giovagnoli stated would I settle for \$1.50, I'd like to go in between. Here's what I can't understand...you see what they offered me. Even the appraiser appraised my land as residential on their appraisal. When the City paid \$3.20 for wetlands and they fixed up their land the way the customer wanted. I don't want them to fix up mine, I want them to fix it up to where it was, they're not giving me nothing, they're not giving me no \$40,000 for fences; that's a necessity.

Mr. Giovagnoli stated they're not giving me special seeding, they seed it all the time, that's a lot of bologna, they're just giving me back what I had. I have to pay for what I had, do you follow what I'm talking about.

Alderman Klock stated, Mr. Giovagnoli, it seems like it's an underground easement and they're just putting a pipe in basically and it sounds like they're giving you a heck of a deal, they're giving you a fence, they're giving you a...

Mr. Giovagnoli interjected wait a minute they're giving me nothing, I don't need the fence, excuse me, the fence is for their protection, not my protection. I have a fence already, I don't need another fence, that's why I offered the City land in the back in the wetlands to get out of my hair, let me finish. If the City would build where I want it built way in the back they wouldn't have to put up a fence, they wouldn't have to go through my land at all. They could be totally free of all of this. I'll have nothing to do with them.

Alderman Girard asked, Mr. Giovagnoli, if the City is going to restore what you now have after it puts the sewer line through, I guess I don't understand what your problem is. If it's going to be after the fact what it is now, then I don't understand your objections.

Mr. Giovagnoli stated it's just like saying I have this shirt on, I take the shirt off, I have to have another shirt to put back on. So you're not giving me back my shirt.

Alderman Girard stated I understand, but the point you're trying to make is that the City "is not giving you anything", they are just going to be restoring what you have. So, if the City is going to be restoring what you have after it does its work what's your objection.

Mr. Giovagnoli replied I don't object at all, but what I can't understand is where they say I'm giving them \$45,000, they haven't given me no \$45,000 because I already have the cows, I already have the pasture land, I already have the grass seed, if they don't go on the property I wouldn't have to reseed it, it's seeded now, it's in good shape.

Alderman Hirschmann stated I empathize with your situation and I respect your farm and what you're doing and I'm right there with you, if they were coming across my land I'd have all these things right to the tee just like you did and my question isn't for you, I like the proposal where you are given the deep setback and we're out of your hair, I like that proposal a lot, so I'd like to hear from CLD why can't we take that proposal, what's the problem here.

Ms. Nelson stated there's a couple of issues when we were looking at alignments through this property. Basically, what John is talking about is shoving the sewer down into the middle of the Cohas Swamp which we would never in a million years get permitted through the Army Corps for the wetlands impact because they kept wanting us to push it farther and farther out of the

wetlands as it was and what we ended up with was a compromise with them. The other thing that I did mention is that this section of sewer Contract II is...9,600 feet is at minimum slope which means I don't have any play in elevation and if I shove it down into the swamp which is at a lower elevation, the pipe is going to be out of the ground. Now, another thing that we looked at that I didn't mention was that we looked at the possibility of taking the pipe up and maybe putting it in the right-of-way of the highway instead. The problem there is we gain about 30 to 40 feet of elevation, so that pipe is now going to be about 50 feet in the ground and that's just unrealistic from the standpoint of trying to construct it in an embankment of a highway. So, we did look at some of those other options.

Alderman Hirschmann asked how much money would you save because I saw you gave the Rosenberg's almost \$1.25 million.

Mr. Seigle replied no, half the market value, so when we paid the Rosenberg's for a permanent easement \$89.4 and for a temporary \$1,088.

Alderman Wihby asked if you used the same rate as the Rosenberg's for this property, how much would you have to pay.

Mr. Seigle replied first of all it's a swamp...

Alderman Wihby stated it would probably be cheaper to pay him what he wanted than to move the whole thing anyway, what's the total if you paid him like Rosenberg.

Ms. Nelson stated if you look at the very last page of the handout I gave you, what I did on the second table was I summarized...if the market value was \$3.00 a square foot it would be \$54,000, if the market value was \$1.50 a square foot which is what Rosenberg and Harrod got that would be \$27,000, so those numbers down at the bottom of the second...

Alderman Wihby stated he said he's looking between \$30,000 and \$50,000, he's looking for \$40,000, right.

Ms. Nelson stated I don't know what he's looking for. But, the other thing to remember...

Alderman Wihby stated I agree with him when he says he's getting back the \$47,000 number is your putting back the property the way it was, I don't see how he's gaining anything out of that. If you weren't on his property he wouldn't need any of that stuff.

Ms. Nelson stated you're right, but we are putting up 1,600 feet of chain link fence that isn't there now, well we're putting it up to protect the farm animals. When we bid the job we had a

barbed wire fence, but he doesn't feel that that is satisfactory, so we're putting up 1,600 linear feet of 6 foot chain link fence and a 12 foot double-wide, double gate for him to get through.

Alderman Wihby stated you're putting that up because you're working in that area. Once you don't work in the area...so, what happens if you gave him a temporary fence and you gave him half in between Rosenberg and the other guy and \$40,000.

Mr. Seigle stated he doesn't want the temporary fence, he wants the six foot chain link fence.

Alderman Wihby stated let's say he takes the temporary fence, you've got to negotiate here. If you gave him \$40,000 which is the number that he's looking for for the land and gave him a temporary fence and took it down once you were done, what's wrong with that.

Solicitor Clark stated, your Honor, the purpose of this public hearing is to find whether or not there's a public need and a necessity to put our sewer there and to acquire the easement. If the question is value that will be decided later if we have to go to eminent domain. We can only pay fair market value based upon appraisals with a little bit of leeway for some improvements here or there and that's what they've been doing is trying to negotiate. If the Board finds that there is a public need here and authorizes the use of eminent domain that doesn't mean we'll stop negotiating with the landowner, but it does mean that if the negotiations don't move any place we will file with the Board of Land and Tax Appeals and then they will determine what's fair, they'll take our appraisal, they'll take his appraisal or his testimony and determine what the value is. Right now, the purpose of this is to find whether or not there is a need for the City to put the sewer in.

Alderman Girard stated thank you, your Honor, the Solicitor just answered my question.

Alderman Thibault stated, John, I'd like to ask you a question if I could. Your Honor and Members of the Board, it looks to me like this gentleman is willing to let the City do almost anything they want provided he gets compensated for what they're doing to his land and I agree with him a hundred percent that he should. If, in fact, they appraise this land as farmland and he could sell it as residential land, I think what the City Solicitor just said right here should come into play here; that when the State or whoever evaluates that land may very well evaluate it as residential land rather than farmland, if it could be sold as that. So, I think that John is being very, very fair with the City here and I think it behooves us to look into this and see if, in fact, we can't compensate him over and above going by his land and doing whatever needs to be done to bring his land back to where it is.

Mayor Wiczorek stated, Alderman, I think you missed what the City Solicitor said. He said we're not talking about the value here. What you have to determine is, is there a public need for the property. If, in fact, a determination is made that there is a public need for the property and

you can't arrive at a satisfactory price, then the Board of Land and Tax Appeals takes over and they will come up with a satisfactory price.

Alderman Thibault stated that is exactly my point, your Honor. I think once it gets to that if, in fact, this land could be sold as residential land, if it could that the Land Appeals Board will have to look at that and give him the fair compensation for his land, that was my point, your Honor, maybe I didn't say it right.

Alderman Girard stated unless Mr. Giovagnoli has any evidence to offer that there is no public need for this land I would like to suggest that we perhaps adjourn this hearing and get onto the business part of...get onto the next Board meeting where we will discuss this and take a vote and then we can go from there. As has been said this is about public need and not about value.

Alderman Wihby stated, Tom, there is no doubt that there is a public need that this has to be there, okay, but it could be lower, it could be near the swamp, it could be dug 50 feet deep and into the street, who determines the public need then. There's a need, but who says it's got to be there if there's a couple of other options that they can use.

Solicitor Clark replied the same as with any other project, if you take your engineers and they give you a recommendation as to where the best place to put this is, if it's up to this Board to make the final policy decision where it goes, but they're recommending that this is the proper place to put it and this is where they need to put it in order to meet their requirements.

Alderman Wihby asked is it a vote that it is a need which we all know is a need or is the vote that we want them to go in this direction rather than go in a different direction.

Alderman Cashin asked, Tom, let's assume that this Board tonight voted that there definitely was a public need for this would they still have the opportunity, would Tom still have the opportunity to sit down with Mr. Giovagnoli to try to work something out.

Solicitor Clark replied certainly.

Alderman Wihby asked what's the additional cost if they went into the road, the other proposal.

Alderman Girard asked is it feasible to do that.

Mayor Wieczorek stated it's going to Committee anyway, no it isn't. We'll determine it at the next meeting.

Mayor Wiczorek 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 could be presented, on motion of Alderman Girard, duly seconded by Alderman Pinard, it was voted to adjourn.

A True Record. Attest.

City Clerk