

BOARD OF MAYOR AND ALDERMEN

December 7, 1999

7:00 PM

Mayor Wieczorek called the meeting to order.

The Clerk called the roll.

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

Absent: Aldermen Reiniger

Mayor Wieczorek recessed the regular meeting to allow completion of the public participation meeting.

Mayor Wieczorek called the meeting back to order.

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

The Spirit of Manchester Award Committee recently convened and selected a group to be honored in the month of December for outstanding service to the City of Manchester. The parameters of the award state that the recipient should have contributed to the improvement of the quality of life in Manchester, performing acts that are clearly above and beyond the call of duty. This month's winner is the National Association of Letter Carriers, Branch 44. This organization's volunteer effort is probably best known for its annual food drive to support the Manchester Food Bank. The drive, conducted each year on the second Saturday in May, has resulted in over 200,000 pounds of food for local people in need. In addition to the food drive, this organization has been involved in

annual fundraising for the Muscular Dystrophy Association where they raised between \$10,000 and \$15,000 on an annual basis. Branch 44 volunteers repair facilities at Camp Carpenter on an annual basis and have sponsored an American Legion Baseball team for 15 years. The award and commemorative pins will be presented by Aldermanic Board Member Dan O'Neil and I would ask the organization trustee, Brian Houghton, and other members of Branch 44 who are present to come forward and to accept the recognition from the grateful citizens of the City of Manchester.

Alderman O'Neil presented the award and pins.

CONSENT AGENDA

Mayor Wieczorek advised if you desire to remove any of the following items from the Consent Agenda, please so indicate. If none of the items are to be removed, one motion only will be taken at the conclusion of the presentation.

Approve Under Supervision of the Department of Highways

- B. Bell Atlantic pole petition #672842

Informational to be Received and Filed

- C. Official results of the November 2, 1999 Municipal General Election submitted by the City Clerk.
- D. Communication from the Finance Officer submitting a copy of the explanation of the State Education Property Tax Rate for Manchester.

- E.** Copies of minutes of an MTA meeting held on October 26, 1999 and the Financial and Ridership Reports for the months of September and October, 1999.
- F.** Communication from the Executive Director of the MHRA submitting a report of estimate of payments to be made to the MHRA by the City, as required by RSA 203:27.
- G.** Communication from Leon J. Cote on behalf of the Central High Class of '48 Committee inviting Board members to attend the Annual Winter Concert on December 15th at 7:00 PM at the William R. McAllaster Auditorium (formerly the Practical Arts) at which time the auditorium will be renamed in honor of Mr. McAllaster.
- H.** Communication from Executive Councilor Colantuono submitting the December 1, 1999 agenda of the Governor and Council meeting.
- I.** Communication from the President of St. George Greek Orthodox Cathedral Board of Directors advising that they may be interested in acquiring the property formerly known as the Somascean property west of the Cathedral.

REFERRALS TO COMMITTEES

COMMITTEE ON ADMINISTRATION/INFORMATION SYSTEMS

- K.** Communication from Attorneys Pestle and Miles submitting model documents, as enclosed herein, to help municipalities and attorneys with cable and cellular matters.

COMMITTEE ON HUMAN RESOURCES/INSURANCE

- P.** Communication from Ron Corriveau, VP of New England Risk requesting approval to

distribute employee benefit information regarding the PIP Automobile and Home Insurance Program.

COMMITTEE ON TRAFFIC/PUBLIC SAFETY

- Q.** Communication from the Airport Director wishing to brief the Committee on the progress to date of the Airport Entrance Roadway prior to proceeding with a more detailed engineering design.

REPORTS OF COMMITTEES

COMMITTEE ON COMMUNITY IMPROVEMENT

- S.** Recommending that a request from the Public Works Director to use the \$250,000 allocated for two high school auditoriums be reallocated to all three high school auditoriums for improvements.
- T.** Recommending that:
- 1) The Board of Mayor and Aldermen find a tract of land situation West of Canal Street, between Kidder and Commercial Streets, and East of the B & M Railroad tracks surplus to City needs.
 - 2) That the Board of Mayor and Aldermen find good cause to authorize disposition of said property to One Dow Court subject to conditions set forth in a Purchase and Sale Agreement enclosed herein, at a price of \$20,000. as determined a fair price by the Board of Assessors. The Committee notes that such finding is based on meeting infill parking needs in the Millyard area.
 - 3) That the Board of Mayor and Aldermen authorize the Mayor to execute the Purchase and Sale Agreement with One Dow Court subject to the review and approval of the City Solicitor; authorize the City Solicitor to prepare and review documents relating to the transaction; and authorize the Mayor to execute deeds releasing all rights, title, interest or claims in said property subject to review and approval of the City Solicitor.

V. Recommending that a Construction and Maintenance Agreement for a drainage easement to TRUSERVE Corporation, as enclosed herein, be granted and approved subject to the review and approval of the City Solicitor.

W. Recommending that a request for a sewer abatement for property located at 96 Laurel Street be granted and approved in the amount of \$410.75. The Committee notes that such amount was recommended to be abated by the Environmental Protection Division of the Highway Department.

COMMITTEE ON HUMAN RESOURCES/INSURANCE

Y. Recommending that the proposed A-STEP policy for the Achievement Pay Standards of the Classification and Compensation System, enclosed herein, be approved subject to adding the phrase "any combination of experience and training, which provides the knowledge, skills and abilities necessary to perform the work" to each job classification reference.

Z. Recommending that a request from the Public Works Director to eliminate the Financial Administrator's position and create a second Business Service Officer position in the Administration Division be granted and approved.

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

A. Copies of minutes of meetings held on May 25, 1999 (two meetings); June 1, 1999 (three meetings); June 7, 1999; June 17, 1999; and July 6, 1999 (two meetings).

On motion of Alderman Girard, duly seconded by Alderman Pariseau, it was voted to have the minutes from the balance of this term, as they become available, sent to all Aldermen who are leaving the Board so they can have a complete set of records from this term.

On motion of Alderman Girard, duly seconded by Alderman Shea, it was voted to accept the minutes.

- J.** Communication from Erica DeLuco requesting permission to extend hours at the establishment located at 865 Second Street until 4:00 AM on January 1, 2000.

Alderman Cashin stated I would ask that this be denied. It is asking for permission to extend the hours at 865 Second Street until 4 AM. We are going to be setting a precedent here and I don't think it is necessary. There has been enough talk about this.

Alderman Cashin moved to deny this request. Alderman Thibault duly seconded the motion. Mayor Wieczorek called for a vote. There being none opposed, the motion carried.

- L.** Communication from Steve Forbes requesting an Ordinance on Light Pollution and Light Trespass be adopted.

Alderman Girard stated I received several questions from members of the Board regarding this item. It is from Steve Forbes, not the Presidential candidate, from an organization that is addressing light pollution in the City and in the State. I asked that this be put on the agenda because apparently members of this organization had been working with the Planning Board for about a year to develop some zoning guidelines on

the use of light in commercial areas. Apparently...not apparently, but there are problems with too much light invading residential neighborhoods as a result of commercial development. I asked that this be placed on the agenda so it could be referred to the future deliberations on the Zoning Ordinance overhaul and would ask that the Bills on Second Reading Committee and the future Board review their request and see what measures, if any, would be appropriate to incorporate in the Zoning Ordinance so that this issue could be addressed.

On motion of Alderman Girard, duly seconded by Alderman Pariseau, it was voted to refer this item to the Committee on Bills on Second Reading.

- M.** Communication from the Chairman of the Manchester Development Corporation advising that The Grossman Companies, Inc. has elected not to proceed to acquire and develop the vacant property located at the corner of Elm and Bridge Streets.

Alderman O'Neil stated my concern is that MDC will be setting the tone for what will go there and I think that belongs at the Board and maybe before they get heavily involved in anything they need to meet with the Board to get some direction in my opinion. It is going to Committee, but the letter seemed to indicate that they were going to try to come up with a plan and then present it to the Board and that might be backwards as far as I am concerned.

Mayor Wieczorek asked would you like to have MDC here.

Alderman O'Neil answered yes. A meeting with the next Board might be appropriate. I don't think time is going to permit to meet with this Board.

Alderman O'Neil moved to have MDC attend a meeting of the next Board. Alderman Klock duly seconded the motion.

Alderman Girard stated there were several members of this Board, I think, who expressed concerns over the intended use of the property. I know that certainly I did, but in the end voted to proceed with that deal because the developer and MDC were going to do the due diligence necessary to determine whether or not such a project was viable and feasible. I am only bringing this up to show that the process this Board laid out in conjunction with MDC did actually work. While we don't like the result and would like to have seen something more productive come out of it, at least now the Board has information presented by the Grossman Company studies that the future Board and MDC can work with to come up with an appropriate development so while I had and expressed significant reservations over the use, at least the process bore fruit in the end and I think MDC should be commended for the process that they brought it through.

Mayor Wieczorek replied I think you are right and I think Grossman spent about \$100,000 in developing a lot of that information and all of that is going to be given to the City so we have all of that.

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

N. Resolutions:

"Amending the 2000 Community Improvement Program, authorizing and appropriating funds in the amount of One Hundred Twelve Thousand Seven Hundred Ninety-three Dollars and Forty-one Cents (\$112,793.41) for various Police Projects."

"Amending the 2000 Community Improvement Program, authorizing and appropriating funds in the amount of Eighteen Thousand Seven Hundred and Fifty-one Dollars (\$18,751) for the 2000 CIP# 710200 Intersection Improvement Program."

"Amending the 1998, 1999 & 2000 Community Improvement Programs, authorizing and appropriating funds in the amount of Fifty-Six Million Dollars (\$56,000,000) for the 2000 CIP# 730100 Manchester Airport Capital Improvements Projects."

"Resolution Authorizing the Finance Officer to effect a transfer of Eight Thousand Twenty-Five Dollars (\$8,025) from Contingency to City Solicitor Incidental (Line Item 0905)."

"Authorizing the Finance Officer to effect a transfer of Forty Eight Thousand (\$48,000) Dollars from Contingency to the Health Department."

Alderman Shea stated this is a question for Randy, I guess, and the simple question is what is the request for, the \$8,025.

Mr. Sherman asked the contingency request.

Alderman Shea answered yes.

Mr. Sherman stated that is to fund a court ordered settlement payment on a case that was brought against the City by a retired firefighter. It was a worker's compensation issue and the judge determined that the City had inappropriately withheld some wages and this is his attorney's fee that we have been ordered to pay.

Alderman Shea moved to approve the items. Alderman Girard duly seconded the motion.

Alderman Girard stated not too long ago, well actually five or six years ago, Parks & Recreation was fined by, I believe it was the Department of Labor because they were not appropriately transporting youth during their summer work program and the Board of Aldermen at the time required Parks & Recreation to pay the fines which I believe were in excess of \$10,000 out of their operating budget. In as much as the Board has seen fit to cause departments who have violated the law to pay for it out of the budget, I wonder whether or not we shouldn't take the same steps here so that every department is being treated equally for the actions they take. That is my question.

Mayor Wieczorek stated I have a motion on the floor.

Alderman Girard withdrew his second.

Mayor Wieczorek asked for a second on the motion.

Alderman Wihby duly seconded the motion.

Mayor Wieczorek stated you have made your statement.

Alderman Girard stated it is a question actually.

Mayor Wieczorek replied I don't know what the answer is and I don't know that they have money in their budget to do it.

Alderman Girard stated Parks didn't.

Mayor Wieczorek responded I remember that incident.

Alderman Shea stated I wasn't aware of that information, but I concur with him so I will withdraw my motion to approve it. I wasn't aware of that. Somebody else can make the motion.

Mayor Wieczorek asked is there a motion to approve this as presented. Solicitor Clark, can you enlighten the Board?

Solicitor Clark stated this is a case where a firefighter was on a workman's compensation claim and prior to having the claim approved, he was receiving sick leave benefits so that when his worker's compensation got approve he, in effect, got paid twice. The Human Resources Department deducted what they felt was the double payment out of his worker's compensation check and the Department of Labor and the court ruled that we can't do it that way. In effect, he was double paid. We had a counter claim that our office brought against the firefighter and we won the counter claim so we did receive our money back, however, the court ruled that the way the Human Resources Department deducted the money was not the proper way to do it and thus awarded the firefighter attorney's fees.

Mayor Wieczorek stated I don't think it would be proper under those circumstances to have it come out of the department's budget.

Alderman Girard replied not the Fire Department, but perhaps Human Resources.

Mr. Hobson stated I am happy to say that this case actually began before the Human Resources Department became an entity. This case goes back several years and we inherited dealing with it in the past year with the department and the Office of the City Solicitor and the Finance Department. I don't remember the exact year that this began, but I want to say and Mr. Sherman perhaps you can help me out but I believe it started somewhere between 1994 and 1996.

Mr. Sherman responded I think the actual upholding was 1995.

Mr. Hobson stated we have been attempting to follow the law with all of these worker's compensation cases going forward. We have cleaned up a number of issues. This particular case was languishing and unfortunately the City lost it and has to pay the fees. I had a discussion with Fire Chief Kane and Deputy Director Sherman and we all believe that due to the nature of the case and the age of the case it was best to take the funds from contingency at this point.

Alderman Girard moved to approve the resolution. Alderman Pariseau duly seconded the motion. There being none opposed, the motion carried.

O. Bond Resolution:

"Authorizing Bonds or Notes in the amount of Fifty-Six Million Dollars (\$56,000,000) in Furtherance of the Manchester Airport Capital Improvement Program and Rescinding Certain Authorized but Unissued Borrowing Resolutions in the amount of Thirty-Four Million Nine Hundred Thirty Nine Thousand Dollars (\$34,939,000) Intended to Finance Certain Portions of the Manchester Airport Capital Improvement Program."

Alderman Hirschmann stated this is an item for the Manchester Airport Improvement Program. What I am asking this Board to do is because there is over a \$20 million increase in their program plan, all I am asking is that they report to the Committee on Accounts, Enrollment & Revenue Administration on a monthly basis and provide their program budget summary report provided by Edwards & Kelsey monthly to that Committee. Last April, if you remember, there was a vote on this Board to delegate all of our power and authority with the Manchester Airport away from us and we voted not to do that. We voted to keep our eye on the airport. Before us tonight is a bond resolution for over \$20 million that a lot of Aldermen didn't know too much about. I am sure it is quite legitimate and quite needed. All I am asking is that they appear, just like the Assessor's appeal and come to our Committee like they should and tell us about this most important bond program on a monthly basis and provide this report.

Alderman Hirschmann moved to have the Airport report to the Committee on Accounts, Enrollment & Revenue Administration on a monthly basis and to provide their program budget summary monthly. Alderman Rivard duly seconded the motion.

Mayor Wieczorek stated as you know, we have an Aldermanic Committee that oversees the Airport and the CIP Committee.

Alderman Hirschmann replied I understand that, but the Committee I am referring this to is an audit committee and when you are talking about \$56 million, this is a function of that Committee which you appointed me chairman of which I am probably not on anymore but it should, in fact, go there so that someone can oversee the progress and the good things happening down there.

Alderman Girard stated I am not sure that I have a problem with Alderman Hirschmann's request, but as you mentioned there are already two committees that oversee these projects and the Airport generally. Mr. Dillon is here from the Airport and perhaps since

there seems to be some concern about the amount of information the Aldermen received regarding this, he may want to address it. I know that at CIP we got a fairly significant packet of information regarding this matter and I know that I received a phone call and discussed it at length with Mr. Dillon so maybe we should have him address it so that everyone knows that everything is on the up and up.

Mr. Dillon asked are you looking for an explanation of the request that is before you tonight or just the Airport's philosophy regarding monthly reporting.

Alderman Girard answered I am looking for an explanation of the request, Mr. Dillon.

Mr. Dillon stated as you recall, last May the Airport went forward and asked for about \$35 million worth of appropriation. Since that time, we have done a comprehensive review of the program. I think we have a lot more information than we had last May. As a result of a number of scope changes in some of the key projects, particularly the Airport entrance road, the fact that we are advancing some of the Runway 1735 work that wasn't slated to be started until 2002, as well as the pedestrian estimate that we received back in May which was estimated to cost \$7 million and since we refined the estimate, it is not going to cost about \$10.5 million. When you combine all of those things, you come up with the additional approximately \$21 million that we are asking for.

Alderman Hirschmann stated I want to reiterate how important it is to move this to the Accounts, Enrollment & Revenue Administration Committee because I sat in the City Clerk's Office on Friday auditing the Committee on Airport Activities and they haven't met since last May. Mr. Dillon and Mr. Farren haven't met and told us what we should know on this. I am sure that everyone down at the Airport knows what is going on, but we haven't been informed so I do want to see them come in monthly and provide this report specifically.

Mayor Wieczorek asked, Mr. Dillon, did you speak to all of the Aldermen regarding this budget.

Mr. Dillon answered I did reach out to every Aldermen. Some of them I was not able to make contact with.

Mayor Wieczorek asked did you reach Alderman Hirschmann..

Mr. Dillon answered yes, I did.

Alderman Hirschmann stated he called me on Thursday. I should have known about it last May. I think we should bring it to an audit Committee. That is all I am saying.

Mr. Dillon stated as you know, I only started this past August. I am fully prepared to come here monthly and describe all of the activities that are going on at the Airport.

Alderman Shea stated I know that Mr. Dillon did contact me and he gave a very clear explanation and I compliment you for that. It was well developed. I have notes on it and so forth. I think that you are reaching out and I appreciate that personally and I am sure that the other Aldermen do.

Alderman Thibault stated I have to say that Mr. Dillon also contacted me and I was very, very impressed with the fact that he was able to reiterate exactly where he was at with this and I had no problem, however, I am sure that if Alderman Hirschmann wants it to come to our Committee I have no problem with that and I don't believe that Mr. Dillon would have a problem reporting to us intermittently whenever he had to. I would support what Alderman Hirschmann is saying, but I would certainly like to extend to Mr. Dillon the fact that he has gotten to most of us to let us know where things are at. I knew this was coming tonight and I didn't think there was going to be a problem with it.

Alderman O'Neil stated I did speak to Mr. Dillon. In my opinion, I think that what has happened here is that...and we kind of ran into a discussion about a year and a half ago with this, I think the program manager low-balled the cost of all of these projects. Probably the best example is the parking garage. I think if we could build a garage in the City for \$10,000 a space, which is what the Airport ended up building the new parking garage for at about \$48 million, we would say that is pretty good. The consultant originally said it would cost \$40 million. They were way off. I think we found over the last couple of years that they have low-balled a lot of these projects.

Alderman Girard stated the original estimates for the garage, not to take issue with my colleague at large, but were for a smaller garage and \$10,000 a space is a pretty good one, but I think we have to remember here that in the numbers that are coming here first there is over \$4 million that is going to be spent just to relocate the Airport entrance to accommodate the neighborhood and a lot of money that is being added here is being

fronted to move up the construction on Runway 1735 so it is not additional project costs. While there are some additional expenses like the walkway, I am not sure that is necessarily low-balling as much as it is a result of the economy that we have seen in projects citywide. The Somerville Street Fire Station, I think, is a primary example. We have seen this citywide with contractors coming in much higher than our budget estimates when they were made simply because they can demand it in this economy. I think the Airport by and large is, over its history with this expansion, has not only been on time but has been under or at budget. I am not sure that is an entirely fair critique of past performance.

Alderman Thibault stated there is just one more thing that I would like to bring up that I didn't say a few minutes ago. It is interesting to note that Mr. Dillon has checked with the FAA and they have approved that this loan should go forward because they see the need for it and maybe as what Alderman O'Neil just brought out, some of these projects may have been low balled and Mr. Dillon just coming into this job was saddled with these problems. I think that this Board should go along and look at what Mr. Dillon has done with the Airport and try to support him on this. I would certainly like to go along with that.

Alderman O'Neil stated I hope it wasn't taken that I was bashing Kevin. That is just an opinion. I know that the consultant...those numbers go back many years. I think Mr. Dillon has done an outstanding job reaching out not only to us but to the community. That is just my opinion based on some of the information that I had that I think they were very low in their estimates of what it would cost to do these projects.

Alderman Rivard stated I just want to jump in here too and say that my experience with Mr. Dillon has been very, very encouraging. He has been a joy to work with. He is very open. He is available. He is a great listener. He has made the effort to relocate the entrance, which everybody in South Manchester was eager to do so I can't compliment

him more and I am sorry I am leaving and I wish him the best. I want to thank him for his few months of friendship and working relationship.

Mayor Wieczorek stated the motion on the floor is to go ahead and approve the bond resolution and to require that the Airport report to the Committee on Accounts, Enrollment & Revenue Administration on a monthly basis to bring the Kelsey report.

Deputy Clerk Johnson stated the motion on the floor is to refer it to the Finance Committee. You are referring the bond resolution to the Committee on Finance with the recommendation that it also be a monthly reporting situation to Accounts & Enrollment.

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

Report of the Committee on Community Improvement

R. Recommending that requests to accept and expend funds for various projects be approved as follows:

- 1) accept and expend funds in the amount of \$112,793.41 for FY2000 various Police Projects;
- 2) accept and expend funds in the amount of \$18,751.00 for FY2000 CIP 710200, Intersection Improvement Program (changing the budget to \$325,000 Bond, \$260,000 State and \$18,751 Other);
- 3) accept and expend funds in the amount of \$56,000,000 for FY2000 CIP 730100 Manchester Airport Capital Improvements Project;

and for such purpose amending resolutions and budget authorizations have been submitted.

On motion of Alderman Hirschmann, duly seconded by Alderman Wihby, it was voted to approve the requests.

Report of Committee on Community Improvement

- U. Recommending that Amendment #3 to the Londonderry/Manchester Intermunicipal Agreement for Sewer Service, as enclosed herein, be approved; and further that the Mayor be authorized to execute such agreement subject to the review and approval of the City Solicitor.

Alderman Shea stated this says recommending that Amendment #3 to the Londonderry/Manchester Intermunicipal Agreement for Sewer Service and my question...I am not sure if it should be directed to Mr. Thomas or Mr. Seigle, but what will the impact of this agreement on the Combined Sewer Overflow problem have and how will our sewer facilities be impacted if at all.

Mr. Thomas replied this amendment of the Intermunicipal Agreement will have no effect on the Combined Sewer Overflow Program. Basically, what it is is a reallocation of where Londonderry will discharge their flows into Manchester. It is basically a new connection point into Manchester for some of their sanitary flows. This connection is going to be out at Bodwell Road.

Alderman Shea asked will this Bodwell Road connection ultimately be involved with the Combined Sewer Overflow when we implement that.

Mr. Thomas answered no. We are really talking about two separate issues here. The Combined Sewer Overflow is a result of combined sewers and the need to provide separation so that those flows don't get discharged into the river directly. Again, these are strictly sanitary flows that are coming into Manchester at a different location than was previously identified in the Intermunicipal Agreement. That flow will go into a private pump station in that area and it gets pumped all the way down to another City owned pump station on Sheffield Road. The bottom line is there are separated sewers all the way down to the wastewater treatment plant.

Alderman Girard thanked Alderman Shea for pulling this item off the agenda. As Alderman Pinard and the members of the CIP Committee know, this Intermunicipal Agreement is being amended to accommodate a residential development in Londonderry called Mill Pond. It is being developed by the same developer who developed Megan's Meadow and that are down at the end of Bodwell Road. At Committee, there were letters submitted by Tom Seigle regarding the developer's written commitment to assure that the residents in the Bodwell Road area who currently use the private system that Mr. Thomas has spoken about will not see their rates increase as a result of the extension of the system. Now the CIP Committee took an action to add those two letters to this Intermunicipal Agreement so that it would be forwarded for the Board's review and forever be part of the public record and that the developer would know that the Board of Mayor and Aldermen approved of that commitment and stood behind it. I do not see it attached here in the agenda. I am wondering where it is and I think it is important for the residents down at Bodwell Road, all 403 households down there that are currently on the system, that they know that the Board of Aldermen will not amend this agreement without insuring that their private sewer rates which went up about 30% last year, will not go up any further as a result of this action. I guess the question is to the Clerk. Where are those letters?

Deputy Clerk Johnson replied the only thing I can tell you is that I would have to go back and review the file.

Alderman Girard stated CIP did take an action to attach those letters to this agreement

Deputy Clerk Johnson replied if they are not contained within the agenda, than my only suggestion would be to either add that on as physically part of it as an amendment to the report now and we will contain them within the final document.

Alderman Girard stated I have a question for Mr. Thomas whether or not there is any time sensitivity to the approval of this agreement. I would like to see this tabled until they are physically attached and the Board can take it up as a package, see the letters and know that it is part of the public record.

Mr. Thomas replied I don't believe that there would be a problem if it was tabled for a two-week period.

Alderman Girard moved to table this item until the Clerk can locate the letters. Alderman Shea duly seconded the motion. Mayor Wieczorek called for a vote. There being none opposed, the motion carried.

Report of Committee on Community Improvement

- X.** Recommends that a request for a sewer abatement for property located at 889 Beech Street be denied. The Committee notes that a denial was recommended by the Environmental Protection Division of the Highway Department and the Water Works Department.

Alderman Wihby stated I got a call from the gentleman. He had some additional information and asked that we send it back to the Committee and he was going to present something.

Alderman Wihby moved to refer this item back to CIP. Alderman O'Neil duly seconded the motion. Mayor Wieczorek called for a vote. There being none opposed, the motion carried.

- 5.** Communication from Shari Hastings submitting her resignation as a member-at-large of the Manchester Board of School Committee effective, December 3, 1999.

On motion of Alderman Hirschmann, duly seconded by Alderman Thibault, it was voted to accept the resignation with regret and asked that a letter of appreciation be sent to Ms. Hastings.

Alderman Pariseau asked would it be appropriate for this Board to appoint the person elected on November 2 to complete Shari's unfinished term.

Mayor Wieczorek answered there is only one school board meeting left and that is next Monday.

Alderman Pariseau moved to nominate John McDonough to complete Shari Hasting's term on the School Board. Alderman Girard duly seconded the motion. Mayor Wieczorek called for a vote. There being none opposed, the motion carried.

6. Ordinance:

"Amending Sections 32.027 and 32.031 of the Code of Ordinances of the City of Manchester relative to an Art Commission."

On motion of Alderman Wihby, duly seconded by Alderman Klock, it was voted to suspend the rules and place this Ordinance on its third and final reading by title only without referral to the Committee on Bills on Second Reading and without referral to the Committee on Accounts, Enrollment & Revenue Administration.

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

On motion of Alderman Klock, duly seconded by Alderman Sysyn, it was voted that the Ordinance pass and be Ordained.

Alderman Girard asked why are we suspending the rules to do this tonight.

Mayor Wieczorek answered because we wanted to get this Commission resurrected. We had a problem here in that we had given all the authority that we had here as an Arts Commission to the Federated Arts. We are trying to bring it all back in house.

7. Mayor Wieczorek presented nominations as follows:

Conduct Board

Janice Higgins to succeed Sister Carol Descoteaux, term to expire October 1, 2002.

Conservation Commission

Christopher Hall to succeed Jack Rice, term to expire August 1, 2002.

Elderly Services

Walter A. Stiles to succeed Nathan Bowen, term to expire January, 2003.

Board of Health

Dr. Richard B. Friedman to succeed Dr. Robert Duval as the physician representative , term to expire July 1, 2001.

Water Commission

Thomas M. Robert to succeed himself, term to expire January, 2003.

Arts Commission

Althea Haropulos, term to expire December 1, 2000

Georgina M. Reagan , term to expire December 1, 2001

Grace F. Freije, term to expire December 1, 20002

Mayor Wieczorek advised under the rules of the Board, the nominations would lay over until the next meeting of the Board, and noted he would appreciate their consideration.

- 8.** Confirmation of the nomination of Christine McMahon to succeed Normand Gamache as
a member of the Elderly Services Commission, term to expire January, 2003.

On motion of Alderman Cashin, duly seconded by Alderman Pariseau, it was voted to confirm the nomination of Ms. McMahon to the Elderly Services Commission, term expiring January 2003.

- 9.** Confirmations of nominations to the Heritage Commission as follows:
Walter Milne to succeed himself, term to expire January 1, 2003;
Linda Sirak to succeed herself, term to expire January 1, 2003; and
Francis Cartier to fill a vacancy as an alternate, term to expire
January 1, 2003.

On motion of Alderman Girard, duly seconded by Alderman Klock, it was voted to confirm the nominations of Mr. Milne and Ms. Sirak to the Heritage Commission, terms expiring January 1, 2003; and Francis Cartier as an Alternate to the Heritage Commission, term expiring January 1, 2003.

- 10.** Confirmation of the nomination of William W. Boyd, III to fill a vacancy as an alternate member of the Planning Board, term to expire May 1, 2000.

On motion of Alderman Girard, duly seconded by Alderman Thibault, it was voted to confirm the nomination of Mr. Boyd as an Alternate member of the Planning Board, term expiring May 1, 2000.

- 11.** Update by representatives of Parks, Recreation & Cemetery Department relative to the Manchester Skate Park.

Mr. Ludwig stated I would like to thank you for appropriating money towards the skateboard park this year. It has been a long time coming and I know that a lot of the members of the Board have been wondering for some time when it is actually going to happen. We did have a groundbreaking. I want to give you a little bit of the background and history of the skateboard park. As you know, we were approached by several members of the business community and members of the skateboarding people out there who were interested in seeing a facility constructed in Manchester. Through the good graces of this Board, money was appropriated. The difficult part of this process was to try and find an appropriate site. That did take some time. We did engineering on several sites to find out that for some reason or another those sites were not going to be appropriate. Aside from that, once we located a piece of land that has been under the direction of the Parks Department for some time...it was a small swimming facility behind the Maple Street garage, we have done some demolition and we did break ground there as I just alluded to. We are underway. Beyond that, we have been entering into several fundraising efforts. There has been an active committee and donations have been coming in. Some of them are small, they are coming from skateboarders, but they are forthcoming and we continue with those efforts. It is important for us to see the children, the skateboarders who are going to use this park, to have a buy-in to it that they can relate to. It will be their park that they can use that they actually put some money into and we think that is a good thing. Beyond that, we have recently received and that is mainly the reason for us being here tonight, we have received a proposal from Manchester Coca-Cola to award the City with a \$20,000 donation. Now it is a proposal at this point and at the suggestion of the City Solicitor we are here tonight to bring that forward to you prior to entering into any formal agreement to accept the \$20,000 towards the skateboard park. We would be interested to hear any concerns that the Board may have as it relates to that project. I know that you haven't seen that proposal and that you are at a bit of a disadvantage at this point, but we would certainly be happy to share that information with any members of the Board who would like to see that. We will sit down with representatives from Coca-Cola in the near future to hammer out the particulars as it

relates to the location of the machines and whatever else is tied into the language of the agreement, but because it was a 10-year agreement they were looking for as a result of a 20 year donation, we felt it was important to come before the Board prior to finalizing any agreement with Coca-Cola. We will go back and develop language with the City Solicitor once we are at that point and come back to you with a final product. It looks good. It doesn't look to be a difficult thing. We think it is a very nice donation. Their donation tied in with some of the donations that have already come in will allow us to make application to the Madelyn G. Webber Trust for a match of about \$25,000 so that in itself is a wonderful thing and we are well on our way to building, what I think, is a state-of-the-art skate park. This is not what you see...not to make light of any efforts in surrounding communities, but this is a top-notch skate park. I am very happy with the design although it is a little on the expensive side. I think it lends itself to a very maintenance-free facility and that is a good thing for our department. We always look to try and construct things that do not require a whole lot of maintenance. We will be required to provide some supervision, but I think if this things errs on the side of anything at all it errs on the side of I think it is going to be too popular. It is going to make businesses happy. We are going to have kids off of railings and sidewalks and benches and all of the things that they are out there skating on now and I think that each and every one of you here will be proud of that. We do have a representative from Coca-Cola here, Mr. John Raleigh with us. He is sitting in the back. I would like Ron to address the timetable because I don't want to take a lot of your time. In the spirit of Christmas, if the Board would like to give us the \$10,000 back that we lost and were fined by the State for riding kids in the back of the truck that is fine too. We will add that to the skate park. Beyond that, I will turn it over to Ron and he will fill you in on the timetable.

Alderman Pariseau asked could we work a better deal with Coca-Cola. They are looking to have a 10-year use of the nine parks or eight parks or whatever and they will be getting \$93,000 and we only get \$20,000 back. Could we up that or see what Pepsi would offer us?

Mr. Ludwig asked could you quote the figures again, Alderman.

Alderman Pariseau stated they are proposing to have a 10-year full service vending agreement with the City in eight City parks and they say that those machines would generate \$9,351 a year times 10 would be \$93,510. I am just looking to see if we can do better than \$20,000. We ought to at least break 50-50.

Mr. Ludwig replied we are willing to negotiate anything. Coca-Cola has been very good to us in most of our other facilities and that is not to rule out Pepsi-Cola by the way.

Alderman Pariseau asked have we given Pepsi a chance.

Mr. Ludwig answered we have not and I suppose we could.

Alderman Girard stated I certainly applaud Coca-Cola for coming forward and offering the City money, but to follow-up on what Alderman Pariseau was saying, I have concerns with any company coming in and saying I will give you a grant as long as you give me access to all of the people who use your facilities so I can make money. I don't know if that is an end run around the procurement code, which if we were to go out and decide we wanted soda machines at City pools and parks we would have to solicit bids so I don't know if there are any procurement code issues there. The other concern I have is given some of the problems that we are aware of at some of the facilities they want to put these vending machines in, I would be concerned about them being vandalized and being maintained and how is that going to happen. My first question to the Solicitor is whether he thinks there are any procurement issues here.

Solicitor Clark replied no. I have met with the Parks Department on this. There is only a procurement issue if you are buying something. We are not buying anything here. We

are getting a grant and they have asked to place the machines at locations where we do not have machines presently and they are going to pay a percentage of the revenues from those machines to the Parks Department. There is no procurement issue.

Alderman Girard asked what if Pepsi or Snapple or whoever were to send a letter to the Board or to the Parks Department tomorrow saying we will give you \$40,000 and we will give you 60% of the revenues. It seems to me that we are opening ourselves up for an unstructured free for all, which in this case may be to the City's advantage, but how do you judge a proposal like that. I don't understand?

Solicitor Clark answered there is nothing preventing another company from making an offer. It is not a procurement issue and there is no liability on the City at this point.

Alderman Girard asked could another company, if they were to send us a better deal, if they were denied because we had already accepted one from Coca-Cola, could another company come back to the City and say that you used this as a device to procure services and get around your own procurement code.

Solicitor Clark answered no. As I said, it doesn't fall under the procurement code.

Alderman Girard stated, your Honor, I still have a problem with the idea that they are willing to give us a grant in exchange for access, which of course is going to make them money and they will more than make back their donation to the City. I don't know if this is the latest trend in corporate philanthropy but I don't like swapping grants for access.

Alderman O'Neil stated I don't know if I am missing something here but after it says approximately \$9,300 in revenues, it says these revenues would be allocated to a new revenue account to establish recreational improvements in our department. Is that money going back to Coke or is it going into a trust fund of some sort?

Mr. Ludwig replied the revenue would be going back to the Parks Department.

Alderman O'Neil stated it is not going back to Coke so we are beating them up for nothing here. The money is going to stay within the City of Manchester. They are actually donating over \$100,000 to the City.

Alderman Girard replied some of the money is coming back.

Alderman O'Neil responded that is not what it says here, Alderman.

Alderman Clancy stated Coca-Cola has been good to the City. Every time you turn around and look for a sign, Coca-Cola gives the City one - all of the little league parks and skating arenas. As far as I am concerned, we should go with Coca-Cola.

Alderman Clancy moved to approve the request. Alderman O'Neil duly seconded the motion.

Alderman Wihby stated at Livingston we had talked about putting up scoreboards and stuff. Was that Coke that we were talking to or Pepsi? I would hate to see a Pepsi scoreboard and then tell them I am sorry we are going to sell Coke there.

Mr. Ludwig replied the scoreboard that has been installed at the new track was donated by Coca-Cola.

Alderman Cashin asked the City Solicitor is going to approve this prior to it going through, right.

Deputy Clerk Johnson stated the Clerk has it recorded as a motion to support the request to proceed, which is all they have asked for at this point. It will come back to the Board and the Solicitor will work with them. They stated that as part of their request.

Solicitor Clark replied as I understand it, they are going to negotiate with Coke on a contract and we will bring it back to the Board.

Alderman Shea asked what is the projected completion date of the Skateboard Park.

Mr. Ludwig answered Ron can talk about that.

Mr. Johnson stated just to update everybody on the status of the park, the park was redesigned this fall to accommodate the new location at the Maple Street Youth Center. Again, we have worked with the youth in the City and the consultants on the project. It is currently out to bid and bids are due on January 14. At that time, we will have an idea of the construction costs. This past year, \$100,000 was allocated in the CIP budget and for the process of the CIP budget, the Committee has asked the skateboard community and our department to help with fundraising to get the additional funds. As Ron alluded to, we have raised \$5,000. We sent out fundraising brochures and to date we have raised \$5,000 in monies through the City. Those can also potentially be matched through the Von Webber Trust so we hope to have \$50,000 additional money raised so that we would have approximately \$150,000 towards the project. We would begin construction in the spring as soon as the weather permits and our goal is to have it open by the first part of June when school is out for the summer. I would just like to clear up one thing on the Coke proposal. The way we got it is we did solicit the business community. One did not go directly to Pepsi, but they were sent out into the community and the business community came back. Really, Coke is the one large corporate sponsor that came forward. We had a few other smaller places like Ken Jones Skateboard Store that came

back with a donation and a lot of attorney firms and individuals in the City have come forward to get us to that \$5,000 level.

Alderman Thibault stated I would like to take this moment to commend Parks & Recreation and the Commission for going forward with this thing and getting some of the kids out of our parks and off of our sidewalks and streets, which is a very dangerous situation. I believe that when this park is open, we are going to see many of the children that we are seeing now on the streets and on the sidewalks go into this park. The only other thing I have to say about it is I wish it could have been in a place where it was more visible for the people of the City to see what these kids are doing on these skateboards. I believe that this is what they are trying to project. They are trying to show the people what they can do and what they have accomplished. That is the only thing I don't like about that area is that I don't think it is going to be as visible as the place that we had picked out previously. I want to commend the Parks & Recreation Department and the Commission for taking the lead on this and seeing to it that it gets done.

Alderman Girard stated the concern that I have is if companies are going to come forward and agree to provide financial assistance in return for advertising and sales we open ourselves up to a precedent that I don't think we are going to want to deal with down the road. If St. Mary's Bank, just to pull someone out of the hat, said we will fund the renovations of the West High School auditorium as long as across the stage we get to put St. Mary's bank and call it St. Mary's Bank Auditorium at West High School, would we do that. I am not sure that we want to prostitute ourselves in that way where we are willing to sell off...I just think it is a poverty mentality, a poor sister mentality that says in exchange for money we will give you this, that or the other thing. I don't know that that is the proper way for a public body to conduct itself and I have some real concerns about the, and pardon the term, the Hoxsan's Choices that may be presented to the Board in the future as a result of this precedent. I don't think we really want to be selling off access to our assets or our souls in order to get money. It is not Coke that I have a

problem with. It is more the practice in general, which is being seen more and more in different places.

Alderman O'Neil stated that is exactly what we are doing with the civic center.

Mr. Ludwig replied again, this is a proposal and that is why we brought it here in the first place. We wanted to hear from this group and I think we are hearing that. One of the concerns that Alderman Girard had about vandalism was one of our concerns also. Out of the 13 machines going into like 8 locations, I would say that 12 of those machines for sure right now would go into lobby areas that are lockable. I didn't want to see the City sprinkled with Coke machines lit up at night anymore than I would want to see portable toilets sprinkled throughout the parks. I don't think it looks nice and I don't think that Coke really wants it that way either. That was an issue. The other issue was I actually instructed Coke to make certain that we didn't want to be in competition by putting a machine in a location with a little league. We didn't want to see a machine chained to a telephone pole outside the concession where volunteers were selling Coca-Cola in the first place. They should be aware of that. We have certainly tried to make them aware of that and we don't want to be in competition with other groups that are fundraising or trying to make a living.

Alderman Cashin asked, Mr. Ludwig, your letter states that the Weber Foundation will match up to \$25,000. Is that right?

Mr. Ludwig replied yes.

Alderman Cashin asked could we use this \$20,000 as matching towards that.

Mr. Ludwig answered yes.

Alderman Cashin stated this could be \$40,000.

Mr. Johnson replied we have \$5,000 already so we could get up to \$50,000.

Alderman Pariseau stated I misread this letter and I apologize to the people from Parks & Recreation. I wish them luck in making the deal with Coke. There is a total of \$113,510 coming to the City over a 10-year period and I suppose we should thank Coca-Cola of Manchester.

Mayor Wieczorek asked the Clerk to clarify the motion on the floor.

Deputy Clerk Johnson stated the motion is recorded as a motion to support the request to proceed to negotiate the contract.

Mayor Wieczorek called for a vote. The motion carried with Alderman Girard being duly recorded in opposition.

Alderman Rivard stated I just want to take a moment to publicly thank the Board for funding the project and to thank the Parks Commission and Ron Johnson for supporting and completing the construction of the fantastic tennis facility at Memorial High School; a facility that has been long overdue and that the students at Memorial High School will enjoy for many years to come and the neighbors will also be able to participate. It is a great facility. If you have an opportunity, take a ride by it. I want to thank you and I want to thank the Board for a project that has been long overdue and will serve the people of Ward 8 and the south end for years to come. Thanks again and I might even buy a tennis racket. Thank you very much.

Alderman O'Neil stated, your Honor, we should recognize Brenda Dwyer who runs the Youth Center on Maple Street and will be greatly involved with this.

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

Mayor Wieczorek called the meeting back to order.

14. A report of the Committee on Finance was presented recommending that Resolutions:

“Amending the 2000 Community Improvement Program "Amending the 2000 Community Improvement Program, authorizing and appropriating funds in the amount of One Hundred Twelve Thousand Seven Hundred Ninety-three Dollars and Forty-one Cents (\$112,793.41) for various Police Projects."

"Amending the 2000 Community Improvement Program, authorizing and appropriating funds in the amount of Eighteen Thousand Seven Hundred and Fifty-one Dollars (\$18,751) for the 2000 CIP# 710200 Intersection Improvement Program."

"Amending the 1998, 1999 & 2000 Community Improvement Programs, authorizing and appropriating funds in the amount of Fifty-Six Million Dollars (\$56,000,000) for the 2000 CIP# 730100 Manchester Airport Capital Improvements Projects."

"Resolution Authorizing the Finance Officer to effect a transfer of Eight Thousand Twenty-Five Dollars (\$8,025) from Contingency to City Solicitor Incidental (Line Item 0905)."

Authorizing the Finance Officer to effect a transfer of Forty Eight Thousand (\$48,000) Dollars from Contingency to the Health Department."

ought to pass to be enrolled; and further recommending that Bond Resolution

"Authorizing Bonds or Notes in the amount of Fifty-Six Million Dollars (\$56,000,000) in Furtherance of the Manchester Airport Capital Improvement Program and Rescinding Certain Authorized but Unissued Borrowing Resolutions in the amount of Thirty-Four Million Nine Hundred

Thirty Nine Thousand Dollars (\$34,939,000) Intended to Finance Certain Portions of the Manchester Airport Capital Improvement Program."

ought to pass and layover.

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

15. A report of the Committee on Community Improvement was presented recommending

that in accordance with RSA 80:80 that the Mayor be authorized to dispose of certain property situated on James Pollock Drive and known as Maps 579, Lot 83 by executing deeds releasing all rights, title, interest or claims in said property. Said property formerly owned by Charles McNamara was acquired by the City of Manchester by virtue of Tax Collector's deed dated November 21, 1994 and recorded in the Hillsborough County Registry of Deeds on November 23, 1994 in Volume 5593, Page 1648; and the subject property under subdivision plans and lot consolidation having been approved and passed by the Planning Board on July 9, 1998.

The Committee recommends that said property be deemed surplus to City needs and disposed of through sale to owner of abutting property, Cecile Pelletier, at the price Seven Thousand (\$7,000), the only offer received on the property, and negotiated following report from the Board of Assessors. The Committee recommends said sale to be subject to the review and approval of the City Solicitor.

The Committee advises that it has found just cause to sell such property to an abutter as it would benefit only an abutter, will place the property back on the tax roles, and provide for consolidation of lot lines.

The Committee further recommends that the Tax Collector and the City Solicitor be authorized to proceed with disposition and prepare such documents as may be required, and that the Finance Officer be authorized to credit tax deed accounts as deemed necessary, following adopt of an Ordinance and property conveyance.

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

Alderman Girard stated I would like to thank the Planning Board and the Planning staff in particular. This item has been lingering for longer than a decade and thanks to the efforts of members of the Planning Board staff it was finally brought to resolution and as Alderman Cashin knows, it has been a long time coming.

Deputy Clerk Johnson stated the Clerk would request to submit an additional report that was submitted with the same memorandum to the Board.

A report of Special Committee to Review Energy Contracts and Related Projects was presented recommending that the City continue participation in the PSNH settlement agreement hearings and proceed with Option 2 recommendation at an estimated cost of \$76,000 as enclosed.

Alderman Wihby moved to accept, receive and adopt the report of the Committee.

Alderman Sysyn duly seconded the motion.

Alderman O'Neil asked this \$76,000 would cover us from what time period. This thing could drag on for years, correct? Is this budgeted for the year?

Mr. Thomas answered at the last Energy Committee meeting there was a presentation of a status report given to the Committee as to what has transpired to date. In an effort to keep the Board, or at least this Committee informed of what is going on, the settlement discussions are ongoing. They keep evolving. This is a proposal to carry us through the remainder of this budget year. It is to offer settlement testimony and emerging testimony for the six-month period.

Alderman O'Neil asked what is the funding source.

Mr. Thomas answered it is coming out of the Aggregation budget.

Alderman O'Neil asked have we started receiving any revenues into the Aggregation budget.

Ms. Parsons answered only for the fee that was charged on a construction project. Those fees are by issue, if you will. We have our energy efficiency measures ongoing and we are in different stages of those projects. Those will all have a fee associated with them.

Alderman O'Neil asked is that enough to cover these legal expenses.

Ms. Parsons answered not these, no.

Alderman O'Neil asked is that the appropriate place to be getting the money for this. I am not doubting that we need some representation, but taking it out of a fund where there are minimal revenues coming to, I don't know if that is the proper funding source for this.

Mayor Wiczorek stated let's have the Deputy Finance Officer tell us if there are alternate sources.

Mr. Sherman replied your only other alternative would be to take it out of the general fund contingency.

Alderman O'Neil stated it is almost like voodoo financing. There is no money in a fund, but yet we are taking money out of it.

Alderman Shea stated at the meeting that we conducted, there were four options.

Mr. Thomas replied that is correct.

Alderman Shea stated I voted against this because I felt it was exorbitant, wasn't needed and the same kind of coverage, if one were to look at it, if we needed any kind of City participation, a monitor could serve just as well for \$25,000. Is that correct?

Ms. Parsons replied no, Alderman; the coverage is not the same.

Alderman Shea responded no, but I am saying that you would have a monitor for that amount. The coverage wouldn't be as extensive, but the coverage still would allow the City to have coverage.

Ms. Parsons stated you are looking at the coverage. I am it. I would sit at those hearings and for the \$25,000 that we had discussed at Committee level, what that would allow is for a consultant to review the transcripts everyday just to be aware of any issues that may arise as they come up at the hearings. The City would have no position at those hearings and just simply would report what is going on at those hearings, as it may or may not impact the City. The largest concern is the merger; the ongoing merger between PSNH and Con-Ed and the impact of that and the Amoskeag Hydro Procurement has a huge impact. There are provisions in the settlement agreement that effect that.

Alderman Shea replied I watched a program on Sunday and Jeb Bradley from the State Legislature gave a detailed background about kilowatt hours and difference between three points and one point more and so forth. Our point is that this particular situation has been going on like forever as far as the Aggregation is concerned. You are involved with it. You can monitor the situation and if there is a future need because of the complexity of the situation, you then can come back, in my judgement, come back to the Board or to the Energy Committee and recommend certain things. At this time, I really don't feel that we should be spending upwards of \$77,000 or \$76,000 to have, not the

lawyer, but a consultant in the office, a paralegal or somebody of that sort to go to Concord and sit in on meetings. We really haven't wrought anything from this for several years now and you know pretty much what to look for if, in fact, you have been in charge of this for how ever many years now. It is up to us to have confidence in your judgement in order for you to fulfill your responsibilities.

Ms. Parsons responded that is true, Alderman. I would caution the Board that those are legal proceedings. The time to make your argument and to have an impact on a position that could impact the City in an adverse way, considering that this Board may want to, especially if they want to procure the Hydro facility, that once that record is created and those hearings end, you can't go back and then have an argument to a position. The record that is created is the basis for the commission to issue their order. Once you are at the conclusion of those hearings, you then cannot go back and come up with a position on something that you may have had a problem with, as the hearings were ongoing. That is the crux of the dilemma is that if you are not there prepared to testify on the City's behalf, if and when the hearings end, you can't then go back and bring up your position.

Mr. Thomas stated just to summarize that, basically the difference is that we could have Tina go up and monitor the proceedings so that we have an understanding of what is going on, however, there would be no testimony that would be submitted on behalf of the City and through this whole process I realize everybody's frustration because it keeps dragging on and it seems like there is always a new twist or a new wrinkle, but right from the beginning it has always been stated that it is hard to quantify the benefit, however, if through testimony that the City introduces there is one little minor improvement out of the ultimate settlement that comes down, it could mean millions of dollars for a long period of time. It is hard to quantify. The difference being professional input to no input and just listening.

Alderman Girard asked, Mr. Sherman, when we appropriated the FY2000 budget, did we make an appropriation for the Aggregation Fund.

Mr. Sherman answered yes, you did.

Alderman Girard asked how much was that appropriation.

Mr. Sherman answered I believe it was \$808,000.

Alderman Girard asked how much has been spent of that appropriation.

Mr. Sherman answered close to \$150,000 at this point.

Alderman Girard stated so despite the fact that we have yet to realize revenue in that fund, there is money appropriated and in that account.

Mr. Sherman replied that is true.

Alderman Girard asked were there appropriations in prior years.

Mr. Sherman answered yes.

Alderman Girard asked and we are holding those years open until revenues can come in to satisfy the expenditures.

Mr. Sherman answered what you have is a situation where you have adopted the Aggregation Plan in accordance with state statute which allows you to generate revenues through an administration fee through your participants in the Aggregation Program. Once the program starts and maybe Ms. Parsons can correct me, but I know that you are

also aggregating natural gas at this time and there is a fee attached to the natural gas provision as well. Right now, it is only City of Manchester and City of Nashua accounts due to the limitations set by the PUC on the size of accounts that you can aggregate or that are eligible for participation. There are revenues that are going to start coming in. You are right. You have an appropriation there and it is going to take some time obviously...the longer it drags on the longer it is going to take you to get those funds back.

Alderman Girard stated the only liability then to the property taxpayer is if the revenues are not realized and the general fund has to pay those expenditures. Is that correct?

Mr. Sherman replied what the general fund is doing now is effectively fronting the cash, but the Aggregation Program is charged an interest rate on that and that is accumulating. Now obviously they don't have any cash to pay the interest, but again it is being accounted for as a cost against the Aggregation Program.

Alderman Girard responded in other words it is actually going to generate some revenue to the general fund when it is paid off. This is basically an Enterprise account.

Mr. Sherman replied yes, it is an Enterprise account and it is actually not generating any more revenue for the general fund than if the general fund had the cash it had fronted them in the first place. One thing I did think of in relationship to what Alderman O'Neil said, you do have an intermunicipal agreement with the City of Nashua so when this program starts and you have participants, the residents and businesses in Nashua and the municipality accounts in Nashua will be participating in this and they are also responsible for any of these costs. Again I caution and again I don't know and I am sure that Solicitor Clark isn't prepared to answer this at this point, whether if you charge those costs to the general fund whether you can recoup them through the Aggregation fee later. That may be an issue that you may want to be aware of.

Alderman Girard stated in summary, this is the appropriate account to take the money from, there are funds available to take and once the program's revenues are realized all of the expenditures will be paid for and there is no liability to the property taxpayer.

Mr. Sherman replied that is true.

Alderman Thibault stated I sit on that Committee, your Honor, and I was certainly all in favor of looking at the facility at the dam for generating and all of that and also for the savings that could have come about with this if, in fact, the City got involved in that and I was glad that the City did. However, in view of what the Governor has been able to arrive at with Public Service where there is a potential savings now coming down the pike of about 18%, I wonder if we are still at this point running after a dead dog if you will. If, in fact, there is a great possibility with what the Governor has done that we are going to save 18%, I believe that when we started this we were looking for a savings of 15% to 20% so what are we pursuing here and for what reason.

Ms. Parsons replied, Alderman, I would like to think that the settlement agreement was that simple. That 18% is an average. The resident will not see 18%. Commercial business will see a higher percentage. That is an average in the very first year. As you go out over time with the stranded cost provisions that are in the settlement agreement, they change that net present value or that average savings calculation percentage. There are all kinds of complicated provisions in that settlement agreement for recovery of stranded costs. Probably the simplest one that I could give you, for example, is the price that they set as part of that structure, that percentage savings structure. The cents per kilowatt-hour that a resident and a business will pay for power and they have that set in the first year at 3.7 cents. Now if, in fact, the market price of power is higher than that, the difference between that market price of power and that artificially low rate gets a tag on. It tags on to the end of the recovery period. Such that you end up extending that

recovery period. They looked to get to some kind of meaningful savings as you point out and it is a structured, complicated deal. Most parties don't...you know we look at that and say you are going to have to give something to get something but there are a lot of other things in that settlement agreement as a whole that give the company a huge advantage in competition if competition is important. Then, the whole issue of the Consolidated Edison merger. The provisions in the settlement agreement...there are a lot of parties out there that don't feel that there is enough of a sharing mechanism, if you will, of that windfall profit to the shareholder to come back to the ratepayer. Another big component in there is that there was an ongoing rate case. This company has not been subjected to scrutiny of costing, if you will, for 10 years. This settlement agreement proposes to freeze rates for a period of 30 months initially with 6 months to start up and could have the potential of freezing rates for 42 months without ever looking to see if, in fact, there are cost savings there. There are parties at these hearings that feel that the savings that the company has proposed and some of the write-offs that they have proposed basically just offset what the ratepayer would have been entitled to anyway. I would like to think that it was as simple as that, Sir.

Alderman Thibault stated so in other words we have not been informed of that either and I guess that is why I am posing this question is that I didn't realize that if, in fact, what the Governor got PSNH to agree with, if that was no going to come back to the ratepayers, I don't think I knew that. I go by what I read in the paper on that stuff.

Mr. Thomas stated it should be made very clear here that we are not fighting the settlement. We support it 100%. We support the efforts that the Governor has made. What we would like to do is see it maybe become a little bit better. Again, we are not taking an adversarial relationship here. What we are trying to do is raise issues that potentially will benefit the ratepayers and improve the entire settlement package. In addition, there are issues there that could make the purchase, if the Board elects to go ahead with the Amoskeag Dam project, more favorable than it stands right now. You

will be hearing a little bit more about that later tonight. Again, what we are trying to do is raise issues and if those issues get addressed, quite frankly, in our opinion the settlement that will finally come down will be a little bit better.

Alderman Thibault stated if I heard you right a minute ago, you said that industrial users or business users would get a lot more of a benefit than the normal household ratepayer and I forgot what the discrepancy was there.

Ms. Parsons replied my understanding is that it could go from 21% to 15% so the industrial customer is going to get a larger savings initially and probably over the course of it depending on how the stranded cost is unbundled.

Alderman Hirschmann stated Ms. Parsons and Mr. Thomas, I hold absolutely no animosity towards you here and I want you to know that this isn't a personal thing, but you do know that I opposed these funds to be expended in this fashion to pay consultants to go up and testify and be part of these hearings. Last year, the Committee of Accounts, in its audit function, we sat in our Committee and Alderman O'Neil, myself and others saw payments of \$50,000 a month to the same people that you are proposing to give \$76,000 to tonight. What was the amount last year? How many hundreds of thousands and the year before that, how many hundreds of thousands? It is over \$1 million. I know it is.

Mr. Thomas replied you are correct.

Alderman Hirschmann asked how much is it.

Mr. Thomas answered I don't have a total that has been spent.

Alderman Hirschmann asked does Mr. Sherman have that number so the public can hear it. You don't have it, do you?

Mr. Sherman answered I don't have it.

Alderman Hirschmann stated no animosity towards you either because this was put in your lap. This wasn't in your department last year.

Mr. Thomas replied I think you are right. There has been a lot of money spent to date and quite frankly I can't tell you that we are not going to be back here come July with another proposal to spend more money.

Alderman Hirschmann asked are you saying this is the final \$76,000 you are willing to spend.

Mr. Thomas answered for this budget year.

Alderman Hirschmann replied oh, for this budget year. I am just going to go on record and I am not going to insult anybody, I am just going to go on record that there are a lot of people who are worried and fiscally conservative thinking that this isn't going to give a return to Manchester. When the City Finance Office got a management letter from an independent auditor this year that said pull the reins in on this particular thing and you have...the Board appropriated \$800,000 and I guess you have only spent over \$100,000 this year but overall you are really in the red I think about \$2 million.

Mr. Thomas stated again, when Aggregation had been turned over to us, what I did promise was to keep the Board informed of all expenditures and I think we have made a real valiant effort to keep the Special Energy Committee informed of every expenditure we have made and where that money is going and as a result we are here again tonight.

Alderman Hirschmann replied you have done a good job. I am all done but I am not willing to turn the tap back on.

Ms. Parsons stated in respect to one of your numbers, actually the deficit in the Aggregation Program is \$737,000 to date.

Alderman Hirschmann replied that is not the total number because I have the management letter for two years and it is over \$1 million.

Ms. Parsons responded the due to general fund in terms of the cash liability is \$1.2 million. That is my balance sheet right now. \$1.2 million.

Alderman Wihby stated there were three different proposals and the Committee voted the middle one in instead of going to the top level where they were actually going to have more people there and instead of choosing the bottom level which was just sending one person. There was a fourth proposal to do nothing and cancel the whole thing, but the Committee was trying to keep on going with this project knowing that we have an investment in it and trying to pursue it with the lowest level that we felt was comfortable and the vote was 3-1.

Alderman Shea replied no, it was not. The vote was 2-1. I voted against it and Alderman Thibault wasn't there and you didn't vote.

Alderman Wihby stated if I would have voted it would have been 3-1.

Alderman Pariseau asked, Mr. Thomas, have we expended any of that \$76,000 yet.

Ms. Parsons answered yes, we have.

Alderman Pariseau asked how much.

Ms. Parsons stated I do have that figure if you go to Option 2, Alderman.

Alderman Pariseau asked is that why there was some reluctance on bringing this matter to the full Board.

Ms. Parsons answered no. There was confusion on our part.

Alderman Pariseau asked on whose part.

Mr. Thomas stated there was some confusion. This part of our operating budget, the Aggregation operating budget, these funds for consulting fees. After we went to the Special Energy Committee and because of the time requirement to prepare the testimony, authorization was given to the consultant to go ahead. As soon as we found out that we should come back to the full Board, all authorizations were withdrawn so there was a minimal amount of funds spent.

Ms. Parsons replied if you refer to Option 2 of the budget that was proposed, I can tell you exactly which steps have been completed and which ones remain open. I calculated an approximate billing figure.

Alderman Pariseau asked do we have any money left over out of that \$76,000 before you got the authorization to spend it. What have you spent so far, \$44,00?

Ms. Parsons answered no. The first item is prepare the merger data request and that has been completed. The next three to prepare the settlement agreement testimony issues for \$5,280 that has been done. Review testimony of other witnesses. There have been

submissions and I am sure they have started that process before we stopped them. Prepare testimony regarding the merger. They would have done some element of that as they prepared the other testimony. I don't know if all of it has been done, but I am sure a percentage of that has been completed. Then reviewing the testimony of other witnesses, that stuff has come in and they had started that process too. If we were to take all of those budgeted items, Sir, it would come to about \$17,760.

Alderman Shea stated, your Honor, we are the Board of Mayor and Aldermen and we should have control over the spending. In other words, with all due respect, we should have control over the spending. No one should proceed unless they get approval. A Committee meeting does not authorize spending and at that meeting I was very, very strongly opposed to this. You knew that, Frank, and so did you, Tina. There were two votes that favored the \$76,000 and I opposed it and the Committee Chairperson did not vote and Alderman Thibault wasn't there. So on a vote of 2-1 you proceed? That is not right. That is why many of the Aldermanic powers are being usurped by departments and that isn't correct and we found that to be true and other Aldermen have commented on this. You people have to wait until the Board of Mayor and Aldermen gives you permission. Whether you agree or disagree with that, that is the law. That is the rule. This is disgusting in my opinion.

Deputy Clerk Johnson stated I would like to note to the Board that I had spoken with Tina earlier in the week as we were preparing the agenda, informing her that I needed information for the Committee report. Up until that point in time, she was unaware that it had to go to the Board and we had a discussion about that at that point. It was her understanding at that point in time that the Special Committee had authorized it. I am not making a judgment call one way or the other, I am just stating that when I spoke with her she did not understand that and we did have a discussion about it and then I had a discussion following that with Mr. Thomas.

Alderman Wihby stated then what happened was Frank gave me a call and asked me if, in fact, it did have to come to the full Board of if the Committee had said it was okay and at that point I told him it had to come back to the full Board and that is why it ended up on the agenda but I think it was actually a mistake on their part. There was no intention of spending the money. They really did think that the Committee had the approval because they have the money in their budget to do it. It is not like we were allocating new money or it was coming from something else. The money was there.

Alderman Cashin replied it is not a question of whether it was new money or old money. There was an express motion made by this Board some time ago when we took Aggregation from Finance that any monies to be expended would come before this Board prior to be expended and the minutes will bear me out.

Alderman O'Neil stated I still have a problem that we are spending money in a "Enterprise fund" that for every dollar it takes in probably spends \$10,000 or \$20,000. I don't think it is the proper place. We probably do need some representation. I don't know if we necessarily need \$76,000 worth. There was some talk about the consultant's testimony with regards to the position of the City. Doesn't the position of the City...shouldn't that determination be made by the Board of Mayor and Aldermen as to what our position is?

Mr. Thomas answered correct.

Alderman O'Neil asked and we need to pay a consultant \$76,000 to go up there and just say well the Board of Aldermen voted this or that. Frank, this thing is continuing to be out of control and I don't have a lot of faith in it to be honest with you.

Ms. Parsons answered I would like to make two comments. One, we have introduced legislation in Concord that the City and any other municipality because there are more

municipalities involved in this process right now, that they be recognized as significant participants up there. As the old rules go under rate making and any proceeding before the NH Public Utilities Commission, it has always been a right by the utility to collect every dollar in legal fees and consulting fees in any ratemaking proceeding. So, we feel that any significant party to that proceeding, and it is a significant proceeding and this thing has, like an octopus taken on eight different legs and arms, that we be compensated as well.

Alderman O'Neil replied Tina, that is fine, but don't you think we should know that. That is the first I have heard of that.

Ms. Parsons responded I have brought that up on at least three different occasions.

Alderman O'Neil asked before the Board of Aldermen.

Ms. Parsons answered yes, Sir, including the Committee.

Alderman O'Neil stated I don't believe that at all.

Ms. Parsons stated the second thing I would say to you, unfortunately, when we started this process, deregulation was supposed to happen in July of 1997, excuse me, I take that back, January of 1998 with a drop dead date of June 30, 1998 and unfortunately for us to be prepared to enter that market and compete on a good basis and we were first out, I mean we are plowing snow and people tromp behind our path and we have done it with Amoskeag as you will hear about later. To be prepared to do that, and I think we did the right step, I think the Board took the right measure to prepare themselves both as a municipality and as a leader in the community to help the residents. I still believe this is a good public policy. The deregulation issue, I think, is what makes it so difficult for the

Board to deal with because it is a big dollar issue. I don't disagree with this Board that it is. It is a monster.

Alderman Girard stated I understand and to some degree share the frustration of several of my colleagues here, particularly those who were not on the Board when this whole Aggregation/Deregulation issue started. So, for those who are functioning without the history of how it started and what the Committee committed itself to early on, it can be annoying to say the least. The fact of the matter is that the participation of the City of Manchester in these hearings over time has been a significant factor in the deregulation process as it has proceeded in Concord. The NH Municipal Association, which is an alliance of most of the state's cities and towns, tried to participate and they were unable to do so. Several other municipal entities have participated and they have been unable to do so. The effort of the City of Manchester has literally changed outcomes to not only the favor of the City of Manchester and every city and town in the State of New Hampshire, but to all of the residential ratepayers that we represent here in the City. The opportunity that this activity provides not only the City but also its residents and those who have over time joined with the City, like Nashua, is enormous. What we need to do here, in my opinion, is being very patient as we proceed. The City has a significant investment in this at this point in time. It has retained professional services, which have served us well. This Board, on many occasions and its predecessors, have set policy direction, have set parameters within which they are to operate. It is not practical, nor is it possible for the Board of Aldermen to approve every single position and activity that these folks take on our behalf in Concord. We can't do that when we track State legislation. We can't do that with any proceeding of this type unless we are going to be in 24-hour session while these things are going on. I am not an expert on these matters and I dare say nobody else here with the exception of Ms. Parsons, is. It comes down to a question of whether or not the people who have been working on behalf of the City, successfully working on behalf of the City I might add, are going to be trusted to represent the best interests of the City of Manchester. There are outstanding policy

issues. There are many financial concerns, but whether or not it is going to cost \$25,000 or \$76,000 to do what the people who manage this process for us tell us they need to do, I don't think is really the purview of this Board. A special committee was appointed by this Board to more closely oversee these activities. It has been doing its job. Now with the exception of the confusion here, these folks thinking that they had the okay from the Committee and didn't need to come back to the Board, I don't see where they have deviated from the parameters that this Board set out and rather than beat this thing any further, your Honor, I would like to move that the recommendation of the special committee be approved and that they continue to do the work that they need to do and advise the Committee and this Board as they need to, to take direction and move further.

Deputy Clerk Johnson advised that there is a motion to accept the report on the floor already. I have it recorded as Alderman Wihby by Alderman Sysyn.

Alderman Shea requested a roll call vote.

Alderman O'Neil stated we have these consultants up there taking the City's position with regards to deregulation. I don't know why we can have City employees or members of the Board or even the Mayor up there with regards to our position. As I recall, when it came to poker machines we had 10-15 City employees up there taking positions on it. I don't buy that we have to have consultants taking our position to Concord.

Mr. Thomas stated I would like to say one thing before you do take a vote. I think maybe it has come down to a time where the Board has to give us some direction on what to do. We have been trying to keep the Special Energy Committee up to date on what is transpiring up in Concord and what the next moves are. Things are evolving very quickly up there. We went to the Special Energy Committee and gave them four options. One option to do nothing. We received what we thought was a green light to proceed. We started to proceed because the testimony had to be submitted by November 30. The

direction of the Committee was to submit testimony. If we didn't proceed at that time feeling that we had the right to do it, testimony wouldn't have been submitted. So, what I guess it is coming down to is do you want us to be involved in this process? Do you want us to take an active role as things develop up there? If you tell us you don't want us to take an active role, fine. It will make life a lot easier for us.

Alderman Clancy asked do all municipalities send representation to Concord.

Mr. Thomas answered no.

Alderman Clancy asked are we the only ones.

Ms. Parsons answered no.

Alderman Clancy asked how about Nashua.

Ms. Parsons answered no. We have an inter-municipal agreement with Nashua. We represent them.

Alderman Clancy asked do they pay us money.

Ms. Parsons answered no.

Alderman Clancy asked why not.

Ms. Parsons answered because there isn't deregulation so I can't charge them a fee.

Mr. Thomas stated when Aggregation takes place these costs will be passed on to the other municipalities that are part of the Aggregation Program, but right now, no.

Alderman Clancy stated out of the \$76,000, you have already spent \$16,000 and you have \$60,000. Are you going to come back to us in July for more money?

Mr. Thomas replied I have to be honest. If the settlement and deregulation doesn't get resolved by July, I am sure that there is going to be more spins and potentially the need for more legal work.

Alderman Clancy asked would it go on for another 40 months.

Mr. Thomas answered I can't tell you that.

Ms. Parsons stated no. The settlement agreement provides for the company to freeze their transmission and distribution rates for what could amount to a period of 42 months, which means that that side of your bill will not change for 42 months.

Alderman Cashin stated I would like to make this statement. No one is picking on you, Frank, or you, Tina. I want that understood. We have spent, and correct me if I am wrong, over \$1 million so far in Aggregation.

Ms. Parsons replied that is accurate.

Alderman Cashin stated this Board certainly has a right to ask any questions they want when you start paying that kind of money. Now if anybody had told me when Aggregation first came in that I was going to spend \$1 million, I don't know if I would have supported it and I don't think that anybody on this Board realized the amount of money we were going to spend. Now if this vote comes tonight, I am afraid it is not going to pass. I would recommend that we table this and that Frank and Tina and this

Board sit down to discuss this at length and find out what direction we want to go in. Maybe we do want to walk away from this. I don't know.

Ms. Parsons replied Alderman, I appreciate that but I believe we have to have a vote. If you look at the schedule that is attached to your agenda, you will note that there are deadlines on that agenda and I can't not meet those deadlines.

Alderman Cashin asked are you telling me that we have to vote tonight or you can't continue your work. Is that what you are telling me?

Ms. Parsons answered yes because you have, the City has submitted testimony and you have to take a vote.

Alderman Cashin stated I think you have a problem then.

Mayor Wieczorek stated we are done with this subject. Alderman Shea requested a roll call vote so we will start with him.

Alderman Shea requested the Deputy Clerk to read the motion.

Deputy Clerk Johnson stated the motion would be to accept the Special Energy Committee report as submitted.

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

Alderman O'Neil asked why couldn't we find \$40,000 somewhere in our budget and tell Nashua to come up with \$40,000 to pay these consultants and stop spending money that

we don't have from an Aggregation account and we meet our objectives. We keep taking money out of this Aggregation account that doesn't get any revenue. That is voodoo financing. If we need representation, come up with the cash. I spoke to Tom Arnold a couple of minutes ago and asked him for a ballpark and I am not holding him to this number but we are paying somewhere in the vicinity of \$30,000 to our consultant on cable TV, but we didn't take it out of some fund that really doesn't have any money.

Alderman Girard replied we took it out of the property tax dollars that this Board appropriates for expenditures and to come up with a nice little tag line about voodoo financing is catchy, but the fact of the matter is if this doesn't come out of the Aggregation fund then it has to come directly out of the property tax payers' pockets. The taking it out of the appropriation...to say that there is no money in that Aggregation fund is incorrect. It is correct to say that there are no revenues and no revenues is not accurate because I know there are some but to make it sound like it is an empty bank account and it is running a deficit is not correct. We have appropriated dollars to that account. It is not a scam. This does not operate any differently than any other Enterprise account that this City finances. The general fund has routinely provided front money to Enterprises and been paid back when those Enterprises have realized the revenues. This is no different. It is not different whatsoever and to say that we are somehow going to save money by taking it out of the general fund and spending it so that it cannot be reimbursed by the Aggregation accounts when the revenues come in is the voodoo financing because that way the taxpayers are on the hook for it no matter what happens. The revenues are now coming into this thing. The revenues will continue to come into this thing and the revenues will cover all of the expenditures that they were projected to cover. We have to be patient and do this. To kill this thing now or to make it look like we are not going to kill it because we are somewhere going to find \$40,000 in general fund contingency perhaps and force Nashua to come up with \$40,000, still ignores the fact that we were given a timetable by which things had to be done or the City's participation after how many years now comes to an end and probably at the most critical

time it could. The money is there and to suggest it is not is inaccurate. It is dishonest is what it is.

Alderman Cashin stated it is not, I don't think, the feeling of this Board to stop proceeding in the Aggregation. I think we should sit down and discuss it. I told you that I thought this vote would not pass. I was told we have to do it right away. Now what is the time limit here?

Ms. Parsons replied you have a legal issue and the legal issue is...

Alderman Cashin responded I don't have a legal issue. You might, I don't.

Ms. Parsons replied the Board has a legal issue. We submitted testimony. It starts a process, Sir. If you look at the schedule, the parties to the docket are now entitled to ask questions for further detail and clarification for the testimony that was submitted. It is part of that process that the Commission uses to determine their order in the end of things and those questions and answers become part of the record during the hearings so the dilemma we are faced with is that the testimony has already been submitted so either the Board appropriates the money to complete the process because those questions have to be answered or the testimony has to be withdrawn. So, the testimony was put in to protect the City's rights to make sure that if you want to pursue the Amoskeag issue your rights are preserved and that the settlement agreement doesn't undermine those rights that you have as a Board. If we withdraw that, we have to answer no questions. It is like saying I said something but now I take it back so we take it back and we would be subjected to not completing that process and that is fine. The reason I said what I said to you is that the process has begun so I can't just not have a vote tonight because if you look at that schedule, there are deadlines to meet on that schedule and it is just part of a legal process.

Alderman Cashin asked what schedule.

Ms. Parsons answered it should be attached behind...I have an agenda there that was submitted to the Committee and there was a schedule attached to that.

Alderman Pariseau asked where is the schedule.

Alderman Cashin stated I don't want to debate the schedule. Frank, where do we go from here? We spent \$1 million and we are concerned. We want to know where we are going here. Speaking for myself, I don't have the faintest idea.

Mr. Thomas replied what Tina was saying is the process is ongoing right now. Every week there are certain goals or certain schedules or events that are taking place. For some reason the schedule didn't get attached to what you have available, but every week there is something noted so when the Board did not grant the allocation, that stopped it so we cannot proceed to the next step as noted in there. As I stated before, November 30 was a critical date with a deadline to submit testimony.

Alderman Cashin responded I don't have that schedule and I don't think any other Alderman has it.

Alderman Shea stated I am on the Committee and I don't have it.

Alderman Cashin stated this Board tonight is in a dilemma, not caused by us.

Mr. Thomas replied that has been the problem with this whole process. This whole process...you finish one task and all of the sudden the PUC or somebody sets another task to go after. As you can see, there are all kinds of issues. Once that page is completed, I would guess that we are going to be rolling into another whole series of events and if you are going to want to take part you are going to have to step up to the

plate. You are not going to be able to wait six months to make up your mind. That is why I said earlier that really it has to come down to do you want to take an active part in this whole process or not. We really can't spend a month in between trying to make a decision on what the next step is.

Alderman Cashin stated that is the question that has to be answered. Do we, the Board of Aldermen of the City of Manchester, do we want to continue realizing how expensive it has been? We can't answer that question here tonight. That is why I suggested that we take some time to sit down and discuss it. We have to do this.

Mr. Thomas replied again, I have no problem coming back and making a detailed presentation to the Board of Mayor and Aldermen to explain where we have been, what our best guesses are, the next step, what are some of the potential benefits of us being involved, but the bottom line still is this; that our involvement is going to decrease after tonight to an involvement of sending Tina up to monitor the proceedings and take notes so that we have an idea of what is going on up there.

Ms. Parsons stated I do want to turn the question on Tom Clark if I can. Testimony has been submitted and as I understand it with my non-legal background here only having been in this process now for three years, that schedule that the Commission has laid out, the parties to the proceedings had until December 6 to send those questions back to the City. We received those questions and right now my consultants are on hold as to responding to those questions, however, that has a deadline of December 16. Again, I am not an attorney but my understanding of the process is if we are in they have to respond to those questions. They can't just ignore them.

Solicitor Clark replied no, they don't have to respond. The City has to respond. The participation may not be to the same level that it would be with the consultant.

Ms. Parsons asked is your office prepared to answer those questions on behalf of the City.

Solicitor Clark answered we can provide whatever answers we can. It won't be to the same level the consultant can provide, but our office would have to work with you to provide whatever answers we could and the PUC could grant it whatever weight it is worth. That doesn't mean that you would have to withdraw the testimony, no. There would be some practical problems that we would have to work out, but we would try and participate. I just don't know exactly how it would work yet.

Ms. Parsons stated so I have Theodore Curry's testimony on record at the Commission. I still have to pay SVBK if you are going to work with us, if you will, to answer those questions of the other parties as to the City's position that Ted took. I am not free to speak for Ted and I doubt seriously that you are free to speak for Ted so we are going to have to work with Ted. It still requires an appropriation from this Board.

Solicitor Clark replied it may. We would have to sit down and work with you on that. As I told you before, testimony has been submitted and I guess it has been submitted orally?

Ms. Parsons responded it was pre-filed. It is written.

Solicitor Clark replied it is testimony on behalf of the City and to the extent the City can answer questions in writing, we can still do it. To the extent that we would need further testimony or there would be cross-examination of his exact words, then we would need to take a look at that. The level of participation would definitely decrease.

Alderman Girard asked Solicitor Clark when your office does work for any Enterprise, you charge the Enterprise for that work. Is that not correct?

Solicitor Clark answered there are chargebacks, yes.

Alderman Girard asked so if your office were to pick up the slack here, would you not by practice end up having to charge the Enterprise, the Aggregation Enterprise for the expenditures of time and money and material on behalf of your office. Haven't you been routinely doing that already?

Solicitor Clark answered yes, there is a chargeback to the Aggregation Enterprise according to Finance and we do. We have been heavily involved in this process already.

Alderman Girard asked so we are going to pay for it one way or the other is the upshot here aren't we.

Solicitor Clark answered there is a paper transaction in the City itself, yes.

Alderman Shea moved to appropriate money sufficient to cover the expenses that have been occurred through the Aggregation fund and to have Tina Parsons work with the City Solicitor's Office to monitor the proceedings.

Alderman Clancy stated the reason I think you got shot down tonight is because you didn't come before the Board to spend the money. Secondly, how many cities and towns do you see represented in Concord other than us?

Ms. Parsons replied presently the town of Bow and New Hampton are involved to the extent that they are looking at the acquisition of hydroelectric facilities and have entered as interveners as well.

Alderman Clancy asked why couldn't we see that one person could take care of all of the towns. We don't have to have four different lawyers or four different lobbyists working for cities and towns do we?

Mr. Thomas answered again, they have certain special interests that they are up there looking for compared to us. To answer your question directly, Manchester is the only municipality that is up there to intervene in a serious fashion. There are other private organizations that are up there and there are some private corporations that are up there.

Alderman Clancy stated I heard you say tonight that Nashua is not going to come aboard.

Mr. Thomas replied Nashua will reimburse the City through the Aggregation Program for these expenditures that have accrued once deregulation in the Aggregation Program goes into effect.

Alderman Clancy stated what I don't understand is why we and Nashua can't split the difference. Send one person up there and have them pay half and we pay half right now.

Ms. Parsons replied for one thing, Alderman, the statute is very clear that an Aggregation Program is funded by the participants of that Aggregation Program so there isn't a program yet. Without deregulation and the ability to go out and get a supplier, there isn't an Aggregation Program per say so there isn't a mechanism legally for me to send a billing of any kind to Nashua to send us money. It would come back to what Alderman Girard said which is to say that Nashua would then be appropriating money to the City of Manchester through its tax rate. If they wanted to do that, they would be free to do that but they would have to be clear that it was unrelated to Aggregation per say and they had done that in the past. They had given the City money to participate at the State level.

Alderman Thibault stated I am on that Special Energy Committee and as I understood it, Keene was also involved in this. Have they pulled out of this?

Ms. Parsons replied in the very beginning they were, Sir.

Alderman Thibault asked have they pulled out.

Ms. Parsons answered they had gone before their Council and in the early stages of the very first deregulation hearings had made an appropriation of \$16,000. We billed them to that maximum amount.

Alderman Thibault asked are they still involved in this.

Ms. Parsons answered no. Those were all on the first hearings. It is not to say that Keene wouldn't join our Aggregation Program in the future. A lot of the communities are kind of waiting for the issues to fall out before they join.

Alderman Thibault asked at that point, let's say that we do go into deregulation, at that point all of the towns and cities that want to join at that point will have to pay their share of this Aggregation Program. That is the way I understood it. Is that still right?

Ms. Parsons answered that is correct.

Alderman Cashin asked how much money would you need to keep this going until the next meeting.

Ms. Parsons answered I don't know how Attorney Clark could get around this, but at a minimum we would have to work through Sheri's employee because he submitted

testimony and neither one of us can speak to it. He has a billable rate. Do you just want a ballpark figure?

Mayor Wieczorek stated while everyone is having little meetings, we have an item that is on the agenda that was supposed to be in non-public session. It is Item 28, which had to do with the Amoskeag Hydro Station, and we would like to have them present that in public session.

Alderman Cashin asked do you have a figure, Frank.

Mr. Thomas answered as Tina mentioned we committed about \$16,000 to date. I think if we were authorized to spend an additional \$15,000 that would be sufficient so I am basically saying authorize \$30,000 until the next meeting and we will not spend anything more than what we have to and we will confer with the Solicitor's office and try to build them into the process.

Mayor Wieczorek stated let's get this other item in here and then we can get it all to a point.

Mr. Sherman replied I would rather hold the Amoskeag and separate the two issues but one thing that I did want to say...

Mayor Wieczorek interjected do you have anything that is pertinent to what we are doing right now.

Mr. Sherman replied yes, I do. Alderman O'Neil suggested why isn't the City putting in its own testimony, why are we paying consultants and somehow this hasn't come up yet but on the Amoskeag issue that is exactly what we did. I drafted the testimony so that the consultants didn't have to do that so you not only have testimony up at the PUC right

now from Ted Curry, but you have testimony from myself regarding how they are handling the municipal acquisitions of the hydro facilities. While Ted has to respond to his data requests, I am starting to receive them as well on the testimony that I put in trying to preserve the City's rights of acquisition under that. I just wanted you to know that while I was comfortable putting in the testimony, I certainly would like the assistance in being able to respond to the questions that are coming back. Testimony is going in. We can certainly withdraw testimony if that is the Board's request, but keep in mind that witnesses who put in testimony are going to have to...you know if you leave it in there, who are going to have to appear in January at the PUC and swear to that testimony and be subject to cross-examination. This is, as Ms. Parson's said, a legal proceeding. We have tried to keep the costs down and it was actually the consultants who suggested that a City individual put in that testimony. We obviously know Amoskeag much better than our consultants do at this point. Again, I just wanted the Board to be aware of that before you make a decision. My understanding, Tina, is that the \$15,000 would handle the data responses back.

Ms. Parsons replied it would get us through the next two weeks, yes, until the next Board meeting.

Mayor Wiczorek stated I don't want to complicate this any more than it is. What they are talking about here is allowing them to move ahead to continue with the testimony and whatever else they are going to have to do up there until the next meeting when they come back and give more information.

Ms. Parsons responded correct. I need to meet the deadlines in between the meetings.

Alderman Cashin stated you will sit down with the Solicitor's Office and determine what needs to be done.

Ms. Parsons replied fine.

Alderman Cashin asked you need \$30,000 to do that.

Ms. Parsons answered I need the monies to pay Sheri to date for the work they have completed.

Alderman Pariseau stated Frank said they have already spent \$17,760. So go to \$32,000.

Alderman Cashin replied I asked Frank what he needed and he said \$30,000.

Mr. Thomas responded \$30,000 would be sufficient.

Alderman Cashin moved to allocate \$30,000 until such time as the next Board meeting when Tina Parsons and Frank Thomas come back with a strategy for the Board.

Alderman Thibault duly seconded the motion. Mayor Wieczorek called for a vote. The motion carried with Alderman O'Neil being duly recorded in opposition.

16. Ordinances:

“Amending Section 38.06(A) Citation Penalties by adding penalties for violations against Sections 130.50, 130.52 and 130.54 relating to litter.”

“Amending Section 33.060 Standby Duty of the Code of Ordinances of the City of Manchester by deleting same and replacing it with a new Section 33.060 Standby Duty.”

“Amending Section 33.079 of Chapter 33 of the Code of Ordinances of the City of Manchester.”

“Amending the Code of Ordinances by deleting Section 30.06, Responsibility for Voting Machines Delegated.”

“Amending the Code of Ordinances of the City of Manchester by replacing Section 32.019 relating to the Department of Public Buildings Services, providing for transfer of responsibilities to the Highway Department Building Maintenance Division.”

“Amending the Code of Ordinances of the City of Manchester by replacing Section 32.083 relating to the Central Purchasing Division; establishing same in the Highway Department.”

“Amending Section 97.00(D) of the Code of Ordinances of the City of Manchester providing for the responsibilities of the Highway Department.”

“Amending the Code of Ordinances of the City of Manchester by replacing Sections 34.04(A) through (D) relating to the care and reporting of buildings owned by the City to the Committee on Lands and Buildings.”

“An Ordinance amending Section 33.024 Classification of Positions of the Code of Ordinances of the City of Manchester by establishing new classifications as listed.”

“An Ordinance amending Section 33.025 Compensation of Positions of the Code of Ordinances of the City of Manchester by establishing a new Compensation Schedule.”

“An Ordinance amending Section 33.026 Class Specifications of the Code of Ordinances of the City of Manchester by establishing new Class Specifications resulting from Yarger Decker Classification and Compensation Study.”

“Amending Section 33.025 (Compensation of Positions – Airport Director) of the Code of Ordinances of the City of Manchester.”

“Amending Section 33.024, 33.025 and 33.026 of the Code of Ordinances of the City of Manchester relating to Public Works Maintenance Division Positions.”

“Amending Section 33.025 and 33.026 of the Code of Ordinances of the City of Manchester relating to Public Works Administration Positions.”

On motion of Alderman Wihby, duly seconded by Alderman Sysyn, it was voted to dispense with the reading of the Ordinances by titles only.

Alderman Pariseau asked for clarification on Ms. Paras' testimony in the public session relative to Chapter 33 of the Code of Ordinances when she stated that it is a policy statement rather than an Ordinance. I would like some clarification from Solicitor Clark.

Alderman Thibault stated I would also like clarification between the policies and Ordinances so that we can put this thing to bed.

Solicitor Clark stated Chapter 33 of your Code of Ordinances is an Ordinance. It is not a policy. It has a title that calls it a Human Resources policy, which was put in by the Codification Company a few years ago when you recodified your Ordinances, but they are Ordinances. They are not policies and this is the proper procedure to follow.

Alderman Pariseau asked so you don't have a problem with the testimony presented by Ms. Paras.

Solicitor Clark answered I don't have a problem with the process the way you have been following it. I don't agree that they are policies, no. I agree that they are Ordinances.

Alderman Pariseau asked so do we anticipate changing the wording down the road.

Solicitor Clark answered if the Board wishes to change the wording in the Code of Ordinances, you are welcome to. It doesn't make any difference one way or the other.

Alderman Shea stated I respectfully disagree that because we did something one way and we accepted it that way that it is okay to continue. In other words an Ordinance, by its very nature is an Ordinance and a policy by its very nature is a policy and a regulation by its very nature is a regulation so if we are juxtapositioning all of these things then what is

the use of having semantics or words or meanings for words if we are using everything as if it were the same. I really can't understand the explanation, Tom.

Solicitor Clark replied I didn't pick the title to the Ordinance. The Ordinance is titled as Human Resources Policy, but it is an Ordinance.

Alderman Shea asked how can an Ordinance be a policy.

Solicitor Clark answered it is an Ordinance; it is not a policy. The title is a misnomer and you can change the title, but it is an Ordinance.

Mayor Wiczorek asked have you got a lot of those.

Alderman Pariseau stated so Chapter 33 is an Ordinance dealing with Human Resource Policy.

Solicitor Clark replied it is an Ordinance. It is a Human Resources Ordinance.

Alderman Pariseau asked how do we go about eliminating the word "policy."

Solicitor Clark answered you can submit an Ordinance amendment for the next meeting if you wish.

Alderman Pariseau asked could the Deputy City Clerk do that for me.

Alderman Girard stated Solicitor Clark before the recodification it was called the City's Personnel Ordinance. Do you have any explanation because I happen to believe that words mean certain things, do you have any explanation as to why it is not called the Human Resources Ordinance but instead was named the Human Resources Policy.

Solicitor Clark replied I asked the City Clerk's Office that same question today and we believe the Codification Company just changed the name without checking with anybody.

Alderman Wihby moved that the Ordinances ought to pass and be enrolled. Alderman Pinard duly seconded the motion.

Alderman Girard stated I wish to be opposed to all of the Personnel items on this agenda and anything having to do with the Yarger Decker study and also to the Ordinance amending the Code of the City of Manchester by replacing 33.04A-D relating to the care and reporting of buildings owned by the City to the Committee on Lands and Buildings. I wish to be opposed to that as well as all of the Personnel Ordinances here.

Alderman Shea stated I am also opposed to any of the Ordinances that have to deal with Yarger Decker.

Alderman Girard stated I want to make that clear. It is only Yarger Decker. The reclassification for the Public Works folks and the Airport I don't have a problem with.

Mayor Wieczorek called for a vote. The motion carried with Aldermen Girard and Shea opposed.

On motion of Alderman Wihby, duly seconded by Alderman Thibault, it was voted to recess the regular meeting to allow the Committee on Accounts, Enrollment and Revenue Administration to meet.

Mayor Wieczorek called the meeting back to order.

- 19.** A report of the Committee on Accounts, Enrollment and Revenue Administration was presented advising that Ordinances:

“Amending Section 38.06(A) Citation Penalties by adding penalties for violations against Sections 130.50, 130.52 and 130.54 relating to litter.”

“Amending Section 33.060 Standby Duty of the Code of Ordinances of the City of Manchester by deleting same and replacing it with a new Section 33.060 Standby Duty.”

“Amending Section 33.079 of Chapter 33 of the Code of Ordinances of the City of Manchester.”

“Amending the Code of Ordinances by deleting Section 30.06, Responsibility for Voting Machines Delegated.”

“Amending the Code of Ordinances of the City of Manchester by replacing Section 32.019 relating to the Department of Public Buildings Services, providing for transfer of responsibilities to the Highway Department Building Maintenance Division.”

“Amending the Code of Ordinances of the City of Manchester by replacing Section 32.083 relating to the Central Purchasing Division; establishing same in the Highway Department.”

“Amending Section 97.00(D) of the Code of Ordinances of the City of Manchester providing for the responsibilities of the Highway Department.”

“Amending the Code of Ordinances of the City of Manchester by replacing Sections 34.04(A) through (D) relating to the care and reporting of buildings owned by the City to the Committee on Lands and Buildings.”

“An Ordinance amending Section 33.024 Classification of Positions of the Code of Ordinances of the City of Manchester by establishing new classifications as listed.”

“An Ordinance amending Section 33.025 Compensation of Positions of the Code of Ordinances of the City of Manchester by establishing a new Compensation Schedule.”

“An Ordinance amending Section 33.026 Class Specifications of the Code of Ordinances of the City of Manchester by establishing new Class Specifications resulting from Yarger Decker Classification and Compensation Study.”

“Amending Section 33.025 (Compensation of Positions – Airport Director) of the Code of Ordinances of the City of Manchester.”

“Amending Section 33.024, 33.025 and 33.026 of the Code of Ordinances of the City of Manchester relating to Public Works Maintenance Division Positions.”

“Amending Section 33.025 and 33.026 of the Code of Ordinances of the City of Manchester relating to Public Works Administration Positions.”

were properly enrolled.

Alderman Thibault moved to accept, receive and adopt the report of the Committee. Alderman O'Neil duly seconded the motion. Mayor Wieczorek called for a vote. The motion carried with Aldermen Girard and Shea being duly recorded in opposition.

20. Communication from the City Clerk seeking closure and/or no parking of certain areas on
Inauguration Day Tuesday, January 4, 2000, as enclosed herein.

On motion of Alderman Shea, duly seconded by Alderman Thibault, it was voted to approve the request.

Alderman Pariseau asked has this been referred to the Traffic Committee.

Alderman Hirschmann answered we met today and there wouldn't be enough time to refer it to the Traffic Committee, members of the Committee concurred with the request.

- 21.** Ratify and confirm tentative agreement with the Manchester Educational Support Personnel Association presented on November 16, 1999.

On motion of Alderman Sysyn, duly seconded by Alderman Pinard, it was voted to ratify and confirm the agreement.

- 22.** Ratify and confirm tentative agreement with the Manchester Police Patrolman's Association presented on November 16, 1999.

On motion of Alderman Hirschmann, duly seconded by Alderman Pariseau, it was voted to ratify and confirm the agreement.

- 23.** Ordinances:

“Amending Section 38.06(A) Citation Penalties by adding penalties for violations against Sections 130.50, 130.52 and 130.54 relating to litter.”

“Amending Section 33.060 Standby Duty of the Code of Ordinances of the City of Manchester by deleting same and replacing it with a new Section 33.060 Standby Duty.”

“Amending Section 33.079 of Chapter 33 of the Code of Ordinances of the City of Manchester.”

“Amending the Code of Ordinances by deleting Section 30.06, Responsibility for Voting Machines Delegated.”

“Amending the Code of Ordinances of the City of Manchester by replacing Section 32.019 relating to the Department of Public Buildings Services, providing for transfer of responsibilities to the Highway Department Building Maintenance Division.”

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“An Ordinance amending Section 33.026 Class Specifications of the Code of Ordinances of the City of Manchester by establishing new Class Specifications resulting from Yarger Decker Classification and Compensation Study.”

“Amending Section 33.025 (Compensation of Positions – Airport Director) of the Code of Ordinances of the City of Manchester.”

“Amending Section 33.024, 33.025 and 33.026 of the Code of Ordinances of the City of Manchester relating to Public Works Maintenance Division Positions.”

“Amending Section 33.025 and 33.026 of the Code of Ordinances of the City of Manchester relating to Public Works Administration Positions.”

On motion of Alderman Pariseau duly seconded by Alderman Hirschmann, it was voted to suspend the rules and dispense with the readings by titles only. There were none recorded in opposition.

These Ordinances having been presented for their third and final readings, Alderman Thibault moved on passing same to be Ordained. Alderman Sysyn duly seconded the

motion. The motion carried with Aldermen Girard and Shea duly recorded in opposition to the ordinances relating to the implementation of the Yarger Decker study.

24. Resolutions:

"Amending the 2000 Community Improvement Program, authorizing and appropriating funds in the amount of One Hundred Twelve Thousand Seven Hundred Ninety-three Dollars and Forty-one Cents (\$112,793.41) for various Police Projects."

"Amending the 2000 Community Improvement Program, authorizing and appropriating funds in the amount of Eighteen Thousand Seven Hundred and Fifty-one Dollars (\$18,751) for the 2000 CIP# 710200 Intersection Improvement Program."

"Amending the 1998, 1999 & 2000 Community Improvement Programs, authorizing and appropriating funds in the amount of Fifty-Six Million Dollars (\$56,000,000) for the 2000 CIP# 730100 Manchester Airport Capital Improvements Projects."

"Resolution Authorizing the Finance Officer to effect a transfer of Eight Thousand Twenty-Five Dollars (\$8,025) from Contingency to City Solicitor Incidental (Line Item 0905)."

Authorizing the Finance Officer to effect a transfer of Forty Eight Thousand (\$48,000) Dollars from Contingency to the Health Department."

On motion of Alderman Wihby, duly seconded by Alderman Pariseau, it was voted to dispense with reading the resolutions by titles only.

On motion of Alderman Thibault, duly seconded by Alderman Shea, it was voted that Resolutions pass and be Enrolled.

TABLED ITEMS

25. Bond Resolution:

"Authorizing Bonds, Notes or Lease Purchases in the amount of Six Hundred Sixty Thousand One Hundred Sixty-Eight Dollars (\$660,168) for the FY2000 School District Lease Programs (Portable classrooms at Hillside and Southside Middle Schools)".

26. Resolution:

"Making a Temporary Loan of Twenty-Five Million Dollars (\$25,000,000) in Anticipation of the Taxes and Education Grants for the Fiscal Year 2000."

On motion of Alderman Wihby, duly seconded by Alderman Pariseau, it was voted to remove Items 25 and 26 from the table.

After conferring with the Finance Officer, on motion of Alderman Wihby, duly seconded by Alderman Pariseau, it was voted to receive and file Items 25 and 26.

NEW BUSINESS

Mayor Wiczorek stated I know that we acknowledged the tragedy that took place in Worcester, but I would like to have this Board vote to send a letter of sympathy to the City of Worcester on behalf of our own City.

On motion of Alderman Cashin, duly seconded by Alderman Clancy, it was voted to send a letter of sympathy to the City of Worcester.

Mayor Wiczorek stated I know that Chief Kane and a delegation will be going down to Worcester whenever the services are going to be held.

Alderman Pariseau asked could we ask the Highway Department if they could make a last swing into neighborhoods to pick up leaves. Waste Management stopped doing that on November 27, but all of South Manchester was out in nice balmy spring weather raking leaves and they are on the side of the road and they are going to stay there. Mr. Thomas answered we are way ahead of you. We discussed that issue today and we are having trucks going out starting tomorrow until the leaves that are out there are picked up.

Alderman Wihby moved to nominate Brooks McQuade to succeed himself on the Retirement Board. Alderman Hirschmann duly seconded the motion. On motion of Alderman Cashin, duly seconded by Alderman O'Neil, it was voted to close nominations to the Retirement Board. Mayor Wieczorek called for a vote. There being none opposed, the motion carried.

Mayor Wieczorek stated I have some information on the elections that took place tonight. Councilor Streeter won in Nashua and will be the new mayor. Mr. Eaton won the Senate seat out of the Keene area by 100 votes.

Alderman Girard asked do you have the vote count for Nashua by any chance. Mayor Wieczorek answered no; I don't have the vote count. I just have a note that he won.

Mayor Wieczorek stated there is one other item that I have here. Airport Commissioner Duffy had sent me a note on this indicating that BJ Perry had missed a number of meetings at the Airport Authority and he thought that since he missed so many meetings that he should be off, but I checked with Tom Clark regarding this issue. He said that as long as it is something that is happening because he was sick, that shouldn't apply. What

I would like to do is have the Aldermen indicate here that we are not going to ask for him to be removed from the Airport Authority because he was sick.

On motion of Alderman Pariseau, duly seconded by Alderman Wihby, it was voted to receive and file the communication.

28. Communication from the Deputy Finance Officer requesting to enter into non-public session per RSA 91-A:3 II(d) relative to the Amoskeag Hydro Station.

The matter was discussed in public session.

Mr. Sherman stated if you recall, back on September 7 I came to the Board and requested that the Board give us authorization to file a petition with the PUC to have the PUC establish the value of Amoskeag. We had felt that we were really at an impasse between the City and PSNH. We were four times the value apart from each other. Unfortunately, the PUC has refused to take jurisdiction on the case. Let me give you a quick explanation why. There are two statutes that oversee the purchase of power plants by municipality. One statute deals with small power facilities and the other statute deals with larger power facilities and those communities that are trying to actually municipalize come in and get in and become an electric utility. The problem, as the PUC sees it, the statute that deals with small power facilities does not have a dispute provision in that statute so where there is no dispute provision, what they did is they kicked us over to the other statute where there is a dispute provision. The issue with that statute is that that statute requires a referendum in order to acquire under it. We convened a meeting of the Amoskeag Committee and I have a number of possible avenues that the Board could take in this regard. Obviously, it is your choice. You can pull the plug on the deal right now if that is your issue. I will tell you that when the City filed its petition, PSNH obviously objected to the petition. We then had to file a response to their objection. The Board had authorized \$5,000. I do have bills at this point totaling \$4,300. Going forward, these are the options as the Committee sees it. As I mentioned earlier, I did put in testimony under

the settlement agreement. There is a provision in there dealing with municipal acquisitions. I truly believe that the company and the Governor's Office and the settling parties tried to accommodate the municipalities, but as Frank Thomas and Tina Parsons told you, it is not that we object to what is in there but we think that it can be better. The testimony that I put in really was to try and preserve the rights that as a municipality we currently would have under these other two statutes. The settlement agreement sort of took away some of those rights so there is testimony there and we can always go through the process of the settlement agreement and hope that that process works itself out. If it doesn't work out under the settlement agreement, we still anticipate that the Commission will allow an auction and municipalities can always jump into the auction process, but there are a couple of other options. There is the legal route. We could request a rehearing at the PUC. If the PUC refuses to change their decision on that, what that would result in is an appeal to the State Supreme Court. The budget that has been put together on that is roughly \$10,000. It is not a black and white case obviously, as you can already see. We do feel that we have some legal ground to stand on and I will tell you that most of the petition and the response to PSNH's objections were put together really by the City's Bond Council in conjunction with the City Solicitor and Atty. Grills. Our Bond Council is still telling us that they think we have a chance of winning that. That is about a \$10,000 item. Asst. Solicitor Arnold has said I wouldn't recommend putting all of my eggs in one basket. There are some other options. We could go in and propose legislation to put a dispute provision in the statute dealing with small power facilities. That really wouldn't cost us anything to get that legislature through. We can find someone to sponsor that legislation. It is already written in one statute. All we would have to do is drag the language over to the other statute. The final option that you really would have is to follow the provision of the statute that the PUC has pointed to and request a referendum on the issue. If the City puts forward a referendum, I believe it is a simple majority vote, what that vote does is it authorizes us to go forward with discussions with the company and if there is a dispute on the price then it would go to the PUC which is where we were trying to get it in the first place. Once it goes to the PUC,

it would have to come back to this Board for the appropriation to make the acquisition and obviously the purchase & sales agreement. The referendum is only binding to the extent if they say no. You can't re-ask the question for another two years. If they say yes, it just gives you the ability to go and get this price set either through a negotiation or through the PUC. Those are the options that the Committee sees. Again, just to recap either follow the settlement agreement and the auction process, go through a rehearing and a possible appeal to the Supreme Court, amend the legislation or request a referendum. I will tell you that the town of Bow has put in testimony because they are very interested in buying the one upstream. They are also interested in buying the one in Hooksett. The City of Berlin is looking at a number of facilities in their area and the City of Franklin is also moving along and has consultants on board. I guess I would open it up to questions at this point.

Alderman Thibault asked did you tell us previously that as a rule the PUC or whatever authority it might be there, would try to favor the municipality that is there. Did you say that to us before or not?

Mr. Sherman answered I hope I didn't. The role of the PUC is to determine public good. Sometimes public good goes with the consumer or public good could go with the company. It could go either way. In this case, they didn't even rule a public good. They ruled as a matter of law you are required to have the referendum. That is the way they read the statute.

Alderman Thibault asked so we would have to put this on the ballot for the next election.

Mr. Sherman answered yes.

Alderman Shea asked if we were to put it on a referendum, what would we tell the people. Would we tell them how much it might cost? How would they get any idea as to

whether or not...most referendums are difficult to interpret unless we give them specific items to vote on.

Mr. Sherman answered it would be hard to tell them the cost because I would say that is the issue that is under debate here. Obviously we would have to have a public hearing and we would put on the same type of presentations that we have made to the Board of Mayor and Aldermen. We would walk through the benefits that you would see from ownership, walk through the concerns that we have by having an absentee owner and then walk through the economics as we see it. Obviously, the company sees it differently and we don't know where the PUC is going to see it. Again, you can lay out the pluses and minuses and all the referendum does is give you that ability to go in under that statute. Again, what you do is you make an offer, the company has a certain amount of time to reject that offer or accept it. If they reject it, it would automatically go up to the PUC.

Alderman Shea asked aren't there instances where electric companies use the municipality as a bargaining chip in order to gain a certain amount of leverage in terms of a higher price for their facility.

Mr. Sherman answered I am not sure if they would use that as leverage to get it up. I think the case that we have here is that PSNH has shown an interest in retaining ownership of these facilities. To be honest, I think we are like a little gnat flying around their head. They would just as soon have us go away. The point that Tina brought up to me is that this could really backfire on them because you always have the option to go under the referendum statute. Even if this facility gets sold to another buyer, this Board could put out a referendum and go through that process and you would just buy it from the other buyer. The issue that we were trying to make when I put in testimony with the PUC is why not deal with the municipalities up front. If the price is out of our range, we will walk away from it. We have said that all along. If the economics aren't there, we

aren't going to get in the deal. Then it would only behoove the City to have somebody come in and pay an above market rate, but if the price that they think someone is going to pay is within our range, then we should have that opportunity to buy it and then not have to come back to a referendum and really screw up the process.

Alderman Shea asked but they do have that legal right to buy back their facility don't they.

Mr. Sherman answered that is part of their proposal in the settlement agreement that an unregulated affiliate of the parent company would be allowed to be a participant in the auction.

Alderman Girard asked what would the City's realistic chances of appealing this to the PUC, given what you said about the law, be.

Mr. Sherman answered I don't know. Asst. Solicitor Arnold, do you want to throw a percentage on it. Again, in talking to Bond Council who helped draft the initial language, they feel, and their main argument comes down to under the small power plant you have a statute, you have an ability to buy these plants. There are no ifs, ands, buts or referendums. That is a local decision. In essence, what the PUC has said is that PSNH has a right to force you to a referendum. On one hand, the legislature has given you the right to buy it and on the other hand the PUC is saying this is a private corporation and they can make you do a referendum. We just can't seem to get them to see that that was the intention of the legislature.

Alderman Girard asked are the other municipalities that are interested in buying these facilities in the same boat.

Mr. Sherman answered they are all in the same boat and the testimony that Bow put in and one of their Selectman actually submitted it, he has threatened that. He said if you don't fix the settlement agreement so that we have at least a fair shot at this, I am going to tell you right now that we are going to go with a referendum and we are going to screw up your process and we really don't care because our issue is trying to buy the hydro plant.

Alderman Girard stated so the other towns would be working in unison if we were to appeal this.

Mr. Sherman replied I believe so and some of these communities...you know when we filed our petition they had actually filed intervention to help Manchester with the process.

Asst. Solicitor Arnold stated I don't have a percentage for you. I said to Mr. Sherman, and he relayed this some time ago, I certainly wouldn't put all of my eggs in this basket. I think there are some valid legal arguments to be made. I think that the PUC issued a reason decision. How the Supreme Court would come down on that, I simply don't have enough background in case law to make a judgment that I would feel comfortable in standing behind.

Alderman Girard asked could we initiate this appeal and also initiate changes in legislation at the same time.

Mr. Sherman answered yes. You could actually follow all of these tracks at the same time. Again, the only one that really has a dollar impact is the appeal. The legislation can be done by staff and then we can find a Representative or a Senator to sponsor it. The referendum is just a matter of a vote, a public hearing and getting it on the ballot.

Alderman Girard asked could that be done at the Presidential Primary or would it have to be done at a State or Municipal election.

Mr. Sherman answered Asst. Solicitor Arnold said that it cannot. It has to be a regular general election. The other option, which I am glad that Tom brought up, there is a provision in the statute that would allow you to actually do it at a special meeting. Now I know for Manchester that sounds odd, but I know that is exactly what Franklin is going to do. You would actually call your public hearing at the meeting and then you would take a vote at the meeting of those in attendance.

Alderman Girard asked we could do that as a City.

Mr. Sherman answered this statute allows you to do that. Did I say that right, Tom.

Asst. Solicitor Arnold replied it does allow you to call a special meeting, yes.

Alderman Hirschmann stated Mr. Sherman I think you have finally come to the end of this thing. PSNH wants four times more than you are willing to pay and you have gone to the PUC and been rebuffed there. I don't think we bring this to the Supreme Court. I don't think we agonize the taxpayers over a public hearing. This is taxable property that is on our tax roles and on our tax base. It is an asset that I don't think we need and we are not going to make a whole lot of money from. It will become another one of these Enterprises that keeps feeding off of itself if we did buy it. The price tag, I don't know if I am allowed to say that because it has been said in private session, but it astounds me. I don't think we want that. I think we have come to the end of the road and if Aggregation doesn't move along, we will come to the end of the road with Aggregation too. Save the taxpayers their tax base, keep it on the tax roles. If a private enterprise wants to come up here from Florida and buy this asset and pay us taxes to run the dam, let's let them do it. I am done with it.

Alderman Girard stated for clarification, Mr. Sherman, in prior presentations that you have made before this Board, haven't you told us that if the City were to take possession of this asset that it would, in fact, pay taxes to the City.

Mr. Sherman replied yes. You are required to make a payment in lieu of taxes.

Alderman Girard asked so it would be making tax payments to the City and the other advantage to doing this would be to generate power that the City itself or industrial/commercial users in this City could use as an economic development tool in downtown or in our industrial parks.

Mr. Sherman answered that is true, Alderman. By having your own power...the problem with hydro facilities is that they generate power when they want to generate power. They need the water to generate and it is not always there when you need it. What it would allow the City to do, especially through the MAP program would be to trade power. You would be able to trade the power when you have it and get power back when you need it.

Alderman Girard asked but it would pay taxes.

Mr. Sherman answered it would pay taxes and I did check with or I believe Tina checked with the Assessor's Office and under the new School funding provision, those taxes currently as a utility go up to the State for the education issue. If the City owned it, those taxes would actually stay local so you would actually make out a little better by having that.

Alderman Girard stated so instead of sending our taxes to the State, it would stay here in the City where we could use it.

Mr. Sherman replied yes.

Mayor Wiczorek stated you have been presented with several options. What would you like to do?

Alderman Hirschmann moved to end the program. Alderman Shea duly seconded the motion. Alderman Girard requested a roll call.

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

Alderman Girard moved to amend the legislation at the State to remedy the problem. Alderman Thibault duly seconded the motion.

Alderman Hirschmann stated whether or not you amend the legislation, you are still going to end up with an asset, he is talking \$15 to \$20 million, that you are going to have to buy and I don't think the taxpayers of Manchester should be buying this dam for that price. You can yawn, you can sign, you can make faces at me but this thing was built in 1912 and it only has a license to operate for another four years. It has a big crack in it and it has to be resurfaced. These are all facts that their expert that we paid hundreds of thousands of dollars to come and tell us all last year and we sat in private session and the public didn't hear any of this and now we are all finally out here and I would like to table this for the new Board and let them decide. They are the ones who are going to run the City in the next century. Let them decide.

Alderman Hirschmann moved to table the item. Alderman Cashin duly seconded the motion. Alderman Pariseau requested a roll call vote.

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

Alderman Girard moved to amend the legislation at the State.

Alderman Girard stated if Alderman Hirschmann does not wish at any time to buy this then he is free to vote now. Nobody is sighing or yawning or making any faces here, but if we want to go into all of the detail we talked about in private and public session, there was far more said to the good about this dam, its condition, its operation and its potential, never mind its price, than what was outlined prior. We lose nothing by doing what we can to pursue this to whatever final end. This is not a final end in front of us. It is very premature and we should continue the process.

Alderman Thibault duly seconded the motion. Mayor Wieczorek called for a vote.

Alderman Pariseau requested a roll call.

Aldermen Pariseau, Hirschmann, Clancy, Shea, and Rivard voted nay. Aldermen Wihby, Sysyn, Pinard, O'Neil, Girard, Cashin and Thibault voted yea. Aldermen Klock and Reiniger were absent. The motion carried.

Alderman Girard stated the point that I was making is that one of our options is appeal and from what I understand, other cities and towns would cooperate with the City in that appeal. I think that if we are going to get the cooperation of the other cities and towns to try and do what we are doing, we have to go forward with an appeal and over that avenue also.

Alderman Girard moved to go forward with the appeal to the PUC's decision.

Asst. Solicitor Arnold stated just to be clear, the other cities and towns cannot appeal this. We are under a time deadline. We have to submit a motion for reconsideration to the PUC within 30 days of November 22 to preserve our right to appeal. We can, of course, approach those other towns but I am not sure that we can get a commitment of cooperation within that time period in time to follow a motion for reconsideration.

Alderman Girard asked so it doesn't seem, at this time, to make sense to pursue that avenue.

Asst. Solicitor Arnold answered I am saying that you can pursue an appeal but qualifying it by saying that before we pursue the appeal we need or have to get the cooperation of the other towns and cities many not be practically possible.

Alderman Pariseau asked is Alderman Girard going to put a monetary limit on that proposal.

Alderman Hirschmann answered there is no money. That is free.

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

On motion of Alderman O'Neil, duly seconded by Alderman Pinard, it was voted to recess the meeting for a negotiation strategy session with the Chief Negotiator.

Mayor Wiczorek called the meeting back to order.

Mr. Hodgen stated the Board has discussed the tentative agreement with the Steel Worker's Bargaining Unit at the Water Works Department and in light of that discussion,

a motion would be in order to accept that tentative agreement and lay it over until the next regular session in accordance with Rule 26.

On motion of Alderman Thibault, duly seconded by Alderman Pinard, it was voted to accept the tentative agreement with the Steel Worker's Bargaining Unit at the Water Works Department and have it lay over until the next regular meeting of the Board pursuant to Rule 26..

Mr. Hodgen stated the Board has also discussed the tentative agreement with the AFSCME Bargaining Unit that covers the employees at the Health Department. In light of that, a motion would be in order to accept the tentative agreement and lay it over until the next meeting.

On motion of Alderman O'Neil, duly seconded by Alderman Sysyn, it was voted to accept the tentative agreement with the AFSCME Bargaining Unit covering employees at the Health Department, and lay it over until the next regular meeting of the Board pursuant to Rule 26.

There being no further business, on motion of Alderman Hirschmann, duly seconded by Alderman Pariseau, it was voted to adjourn.

A True Record. Attest.

City Clerk