

**SPECIAL MEETING  
BOARD OF MAYOR AND ALDERMEN  
(Called by the Mayor)**

**August 25, 2004**

**7:30 PM**

Mayor Baines called the meeting to order.

Mayor Baines called for the Pledge of Allegiance, this function being led by Alderman Smith.

A moment of silent prayer was observed for former Mayor Bob Shaw.

The Clerk called the roll.

Present: Aldermen Roy, Gatsas, Guinta, Sysyn, Osborne, Porter, O'Neil,  
Lopez, Shea, DeVries, Garrity, Smith and Forest

Absent: Alderman Thibault

Mayor Baines called for a brief recess to allow the Special Committee on Riverfront Activities and Baseball to continue their meeting.

Mayor Baines called the meeting back to order.

Mayor Baines stated I am going to take the report of the Special Committee on Riverfront Activities/Baseball first.

Solicitor Thomas Clark stated we need to give the Clerk a minute to get the report together.

Mayor Baines called for a two-minute recess.

Mayor Baines called the meeting back to order.

A report of the Special Committee on Riverfront Activities and Baseball was presented respectfully recommending that the purchase proposal as submitted be approved.

Mayor Baines stated I am going to call on the Solicitor to explain the Resolution that we would put before the Board for a vote.

Solicitor Clark stated basically at this point if the Board wished to go forward with the approval it would be to accept the committee report and authorize the Mayor to execute the deeds to the various parties as set forth in the purchase proposal and any other such

documents as necessary to consummate the transaction. Further, I have been advised by Frank Catapano that the Rodells have agreed to a one year use restriction for the hotel parcel so that would also be included in the motion that there be a one year use restriction on the hotel site.

Alderman Lopez moved to accept the report, authorize the Mayor to execute the deeds to the various parties as set forth in the purchase proposal and to amend the proposal to include a one year use restriction on the hotel site. Alderman Guinta duly seconded the motion.

Alderman Gatsas stated I guess I am looking at four items in this agreement that we looked at this evening for the first time. Certainly that is not any ill speaking of the staff because I am sure they worked very hard to complete it today but again we are given an agreement to change a \$27 million project and we had discussion for an hour and the four things that we looked at in the original agreement to protect the taxpayers of this City were 1) 100% of the letters of credit until the project was completed and not release of them when 60% of the project was completed; 2) the reverter clause that said that if the project wasn't completed the property would revert back to the City; 3) construction conveyances that would have timelines in them so that different situations would happen so that the City would be protected in those timelines; and 4) we were going to get our money in one total package upon closing. Now we are financing the debt. Not that I have a problem with that but every one of these things, your Honor, is certainly worth something and I think if we were negotiating this project on behalf of ourselves that certainly as a buyer or as a seller we would be looking for additional revenues if we were the seller looking to participate in some of these things. Again, I think in the discussion we had in the Committee that those were the four items, your Honor, that I really had a problem with that were there to protect the taxpayers of the City so there would not be a tax burden to come upon them. Once we release those we release the ability to protect the taxpayers.

Mayor Baines called for a vote on the motion to authorize the Mayor to execute the deeds to various parties as set forth in the purchase proposal and to amend the proposal to include a one year use restriction on the hotel site. Alderman Gatsas requested a roll call vote.

Aldermen Gatsas, Osborne, and Garrity voted nay. Aldermen Guinta, Sysyn, Porter, O'Neil, Lopez, Shea, DeVries, Smith, Forest and Roy voted yea. The motion carried.

Mayor Baines stated before we go on to the next order of business, I would like to extend my gratitude to Rodell Partners – Eric Chinburg and Frank Catapano for their faith in our City, which is a growing and dynamic City that depends upon people such as yourself to recognize the potential to strike a relationship or private/public partnership to create the kind of excitement that this development will create in the City. I know it has been a long road but I appreciate your confidence and your determination to work with the City to strike a deal that was fair to the City and also fair to people who want to invest millions of dollars in our City. So, hats off to all of you and I look forward to a very exciting project that very soon people

are going to look back on with a great deal of pride that the City also demonstrated confidence in itself. Secondly, I want to commend Chairman Lopez and the entire Riverfront Committee for their diligence and hard work that went in to getting the project where it is today and the entire Board of Mayor and Aldermen for asking the tough questions, for staying focused on the issues that are important to your constituents and all of the taxpayers of the City of Manchester. Finally, my accolades go to the City staff that was signaled out today. With the Finance Officer and Bill Jabjiniak and people that pulled together like the City Solicitor and Walter McCabe and everyone who worked tirelessly over the past several months to strike a deal that again was fair to the taxpayers of the City of Manchester and also allows us to grow this very dynamic City. Often times the staff gets maligned, I think incorrectly. In this case I think they did good work on behalf of the taxpayers of the City. They represented the Board of Mayor and Aldermen with dignity and with a constant reassurance that they were acting in the best interest of, again, the taxpayers whom we all work for. Again, thank you for a job well done and I look forward to some very exciting groundbreaking activities as the face of Manchester gets changed because of the forward thinking vision of this Board of Mayor and Aldermen. Chairman Lopez, I know you have personally devoted countless hours to this. I want to tip my hat to you and thank you for being such a great advocate for the Board of Mayor and Aldermen throughout this endeavor. Thank you very much and let's have a great project for the City of Manchester.

#### Purchase of Jac-Pac property.

Mayor Baines stated as you know at the last meeting the Board of Mayor and Aldermen directed legal counsel to draw up a purchase and sales agreement. That has been done. The Board of Mayor and Aldermen has it and we are going to do this in two phases. I have asked the Planning staff and Bob MacKenzie to work to develop a long-term vision of just what this property could mean for the City. Now this isn't something that is cast in stone but it gives you an example of the potential from the Planning staff as to what they see as how we can utilize this property to continue the dynamic growth and expansion of the tax base and create jobs, which has to be of the forefront of the development of this property.

Robert MacKenzie, Planning Director, stated before the image comes up on the screen I did want to kind of reiterate that what I am presenting tonight is not the Master Plan for Jac Pac. This really gives you an idea – a yardstick really to compare against what could happen in this area. I think it does give you some real world information on what could happen, what could be the assessed valuation and what could be the potential job creation on this particular site. Hopefully the screen will come up in a minute. The process that we would likely go through if the Board approves the acquisition of the Jac Pac property...it would essentially go to the Manchester Housing & Redevelopment Authority. There would be a planning and development phase in that where the MDC would also assist with MHRA and City staff in developing a strategic redevelopment plan for this site. Additionally, there is also funding proposed to do a larger plan to study the downtown area. The last time that was done was

1993 when the LDR plan came out. So it has been 11 years since the LDR plan. The LDR plan was perhaps one of those plans that has seen the most of its elements actually adopted so it was a strategic plan for the City. We did take a quick look...first I will orient you. Probably many of you know where the Jac Pac site is but here is Queen City Avenue. We have the Hesser building, the Sundial building across the street. The Merrimack river is here. This is the B&M railroad track. This is Hancock Street that runs up and connects to Brown Avenue. The site is a various number of parcels totaling approximately 16 acres. We did look at the topography of the site and what could potentially be developed, the size of the site, its location and what types of uses could go here. There is a long list of potential uses and that would come out in the strategic plan. You could have a college campus here. You could have a theatre complex here. This particular presentation is kind of a demonstration of what could go in and what could be the assessed value of this area. We did break it down into seven components. First of all, the main entrance to this block where there is a currently a driveway to Tyson it would have to be realigned somewhat to match up with Sundial Avenue across the street and be fully integrated into the signals that are already there. Much of the roadway infrastructure is already in place, however. You could have a public street that would extend up to Hancock Street. Many of the utilities are already in place. In this scenario we looked at building a small cul-de-sac street down to the lower level of the Jac Pac site. There is a large area of roughly eight acres that is really separate from other pieces on this property. It is separate from the riverfront parcel. It is separate from the area up on Queen City Avenue and it is separate from a couple of parcels in the residential neighborhood. In this scenario and it could be...this one has three different lots. This is actually a five-acre lot, a three-acre lot and a two and a half-acre lot. In this particular scenario we looked at the expected parking demand and you could develop a business park there that might be a corporate headquarters or an insurance headquarters. This is suitable and these three buildings represent about 130,000 square feet of floor area. Related to that is parking at a ratio of about 3 ½ spaces per 1,000 square feet. I have shown on sketches here some examples of what those could look like. Two of these buildings are actually in a horseshoe park in Concord – a recently redeveloped redevelopment site that has actually worked out very well for the City of Concord and had a very high quality building. The third building here that is a little bit hard to see on the screen is the Public Service Company headquarters. A building of that size could fit on this particular site. Other pieces I wanted to mention...in this particular scenario we showed the land on the West Side of the railroad tracks as a park and there are a couple of reasons for that. One is that we don't really have a true park along the riverfront area. This is connected to the Riverwalk. As you can see the Riverwalk is located right here. One of the bigger issues, however, is that this particular parcel does not have any public street frontage so it would be extremely difficult to develop this lot also given the shoreline protection act, which encroaches on a good portion of the site. While I would not say it is totally impossible to build on it, it would be difficult as a freestanding lot. You would have the option of potentially developing this as a riverfront park. I would note that this particular scenario does not require any other parcel to be acquired for this type of project to proceed. We did show a reserved right-of-way in this

location that could extend into the MTA site. You can see the MTA and all of the buses right here. There could be a public road that would extend here and connect up to Gas Street, which is located just off this map. If that area could be acquired it could be an extension of this business park or it could be used for other things. There are several smaller out parcels. As you can see right here there is an out parcel that is primarily surrounded by residential. The way the topography works out, you do need a long access road to get in here because there is a grade change of roughly 25 feet from Queen City Avenue down to the lower section. This road kind of splits what we are calling the business park from two other small parcels that are tucked into the residential neighborhood. We actually showed these as potential small scale residential sites. Here is an example of a townhouse development, which could have fit on the lot on Hancock Street. There is a small lot at the end of another residential street that could be a small multi-family and by small that could be a two to three unit multi-family building. On the upper end of the site, along Queen City Avenue, this is a site that could actually work quite well for medium sized to smaller scale retail. This, as shown right here, is actually a two-story building with retail on the first floor and office on the second with about 75 car parking to support that. The access for this would be off of this main road going into the site. Again, you could have a lot of other type of retail uses. Here we have shown an urban type grocery store, which is smaller and specialized. This is a Whole Foods but you could have a number of uses here from restaurants to retail to offices to medical offices on that location. All told you could have potentially on this site and under this scenario roughly 150,000 square feet of floor area plus 10 to 12 residential units. This project would probably be somewhere in the order of \$15 to \$22 million and the taxes generated would be roughly double what the former Jac Pac factory generated. Jac Pac generated roughly...the assessed valuation was \$7.3 million so this in theory could be roughly double the assessment of the previous one.

Alderman Lopez asked is that a couple of hundred thousand dollars.

Mr. MacKenzie answered \$192,000 but I think more important is this project could generate anywhere between 300 and 400 jobs and that is perhaps a little conservative. That is assuming two jobs per 1,000 square feet of floor area. While not quite back to the level of a Jac Pac these would certainly be quality permanent full-time positions. At this point, I would open it up for questions.

Alderman Roy asked, Bob, the property along the river while I do agree that we don't have a dedicated riverfront park I do see a lot of tax base available in that area. What is the depth along Queen City Avenue? In the deeds they are not listed as Parcel A, B, C or D but what is the depth of that parcel along Queen City Avenue?

Mr. MacKenzie answered I do know that from about this point – the river's edge, to just about where we show an access road is about 150'. In total extending out to the railroad tracks, which are right here, it is probably just slightly under 300' total from here to here.

There are regulations under the shoreline protection act that range between 50 and 150' off the shoreline.

Alderman Roy asked as far as access how are the Jac Pac employees crossing the railroad track at this time.

Mr. MacKenzie answered currently you can see it underneath here on the aerial photo that there is an overhead connector that goes on to this site. They do have some access via a private access, sometimes referred to as Biron Street, which extends across the tracks here. In the past we have had discussions with the railroad and they would not be willing to allow that to go to a full public access for a variety of reasons. So this would have to remain either emergency access or very selected use access. There are somewhat limited public access opportunities in this area. We do have the riverwalk that extends down and up from Sundial Avenue and down from the proposed riverfront development project.

Atty. William Craig stated contrary to what I was led to believe in discussing that track on the left side of the railroad tracks with Chuck Congala who was formerly the general manager at Jac Pac there is an access from the south side of Queen City Avenue for vehicular and pedestrians. However, in discussing it with Jay Taylor he says it is not very good access but there is access and we will determine that if you adopt the purchase and sales agreement tonight. We will get to the bottom of it in our due diligence.

Alderman Roy asked Bob from the northern edge of this property where is the cul-de-sac at the end of the Chinburg property.

Mr. MacKenzie answered the last townhouse unit for Chinburg is off this particular map but it is approximately right in this area. There is a cul-de-sac that ends roughly here. There would be an emergency access road pared with the Riverwalk down to this point and from there it would split. The riverwalk would be here and the emergency access would continue down under the bridge and across.

Alderman Roy asked would you estimate that distance 400' or 300' or 200'.

Mr. MacKenzie asked the distance from the Chinburg property down to this property.

Alderman Roy answered the southern end of the cul-de-sac to the property line of the Jac Pac property.

Mr. MacKenzie stated I would estimate it at 400' to 500'.

Alderman Roy asked so if it was found feasible for a developer to go into that area and continue the Chinburg road by working with that team and continue into that area that you

designated as a park they would have space to build within the 250' Shoreline Protection Act area.

Mr. MacKenzie answered yes although that would extend beyond what is typically allowed for a cul-de-sac. In theory if there were some alternative access you could extend it down into that area; yes.

Alderman Lopez stated Mr. MacKenzie I have had some conversations with you in reference to the access road going out there and you mentioned the 50' shoreline and I know that back in the conversation when we talked about the Chinburg property we talked about the access road and the Planning Department said he had to have one. The Fire Department said he had to have one. Without Jac Pac is there access to get out there?

Mr. MacKenzie responded it would be difficult. Again the Riverwalk does continue down at this point but it becomes much more narrow and I am not...we haven't done engineering but I am not sure if you could provide emergency access up along the Riverwalk from Sundial Avenue. Certainly this would be the preferred location of an emergency access out to a limited crossing of the railroad track. This would be the preferred route.

Alderman Lopez stated during the arbitration process I think there was a figure of \$89,000 for that road that they subtracted from the appraisal in order to come up with the \$1.4 million for the land down there. Will Chinburg if this project goes through and the City owns this land will they still pay the \$89,000 for that road or will the City be obligated?

Mr. MacKenzie responded I myself don't have the answer to that question. I wasn't necessarily involved in that agreement.

Alderman Lopez asked does anybody have an answer to that question. Maybe we can research that.

Kevin Clougherty, Finance Director, stated I don't have an answer for you tonight but I can go back and research it for you and get you an answer tomorrow

Alderman Lopez stated that was a figure that was subtracted so I was just wondering if that was going to be paid. I just want to compliment the artist's drawing that you came up with in such a short period of time of what could go down there and double the taxes. My basic question is why do we have to give it to Manchester Housing or the Manchester Development Corporation? If this goes through why couldn't we bring in developers and sit them down with your expertise as a Planning Director and say look here is a concept, give us your drawings and everything else. I am sure there are many developers...I am not going to mention his name tonight but one did approach me in reference to this particular area but

why couldn't we do that? Why do we have to pan this out and pay money to other people in order to do this?

Mr. MacKenzie stated I think to some extent our staff has some capabilities but we don't have all of the legal abilities that MHRA would have to actually go in and do the design and the demolition that might be needed and negotiate with others and bring about a fairly hopefully quick response to the redevelopment of this area. I think that the staff generally is fairly strapped, the City staff, and getting to the point where this is redeveloped is going to take some additional professional staff. I think part of the answer is that we don't have a lot of staff on the City level to handle these projects and the second one is there are certain advantages to the structure of the Manchester Housing & Redevelopment Authority working with the MDC that the City staff does not have access to.

Alderman Lopez asked isn't it true though that the MDC is going to have to come back no matter what the situation is and the Housing Authority is going to have to come back.

Mr. MacKenzie answered it all depends on how you structure the agreement. On Hackett Hill, for example, MHRA does come back to the Board to review each perspective sale of the property. In past projects such as with Grenier Industrial Park extension, they have not come back to the Board. The Board set certain policies towards it and they actually sold the property based on the policies but it did not come back to the Board.

Alderman Lopez stated I don't want to prolong it but I just think there are a lot of developers in the City of Manchester to come up and say here is the area that we are looking at and here is a concept and give us something along this line with designs and everything. I mean who knows, maybe we can call Walter McCabe back in.

Mayor Baines stated Atty. Craig I don't know if you want to respond to that. You have been working with the City and MHRA for a lot of years. What do you see as the advantage of the City working with the Housing and Redevelopment Authority?

Atty. Craig responded by statute the way the Legislature set up the Redevelopment Authority to work with the City it was designed for this function and for over 40 years this is the way it has worked. The Authority does what the City tells it to do. The Authority has developed the expertise in carrying out the City's mandates and it has been a very smooth functioning system. For instance, the most recent one of course was the civic center that was carried out in this fashion. That worked out, I think, reasonably well when you consider the complexity of the deal. The Authority worked closely with the Aldermen and it turned out to our advantage I believe so far. The Center of New Hampshire was another one. They have all worked out that way. If you give it to a private developer...the City has experience in tying up private developers so hopefully you don't get into the problems like quite frankly you

have gotten into on the riverfront. We have done bigger project with this than the riverfront and we did not get into the problems you folks have had with the riverfront project.

Alderman Lopez stated no and I commend you for that. It seems like...the point I want to make is Mr. MacKenzie presented something...

Atty. Craig interjected if I may add something it goes back to the old saying if it ain't broke, don't fix it.

Alderman Lopez stated well things change in 40 years but with all due respect it would make it so simple to say here is a concept and if that is what we want and we can do those things...the only thing I am concerned about is most likely it is going to pass and it is going to go the way it is going to go but how long are we going to wait in order for something to be done then. Hackett Hill has been on the books for awhile.

Atty. Craig replied how long it takes will be solely up to this Board.

Alderman Shea stated that leads me into the question that I had. Could you tell me the difference between the Hackett Hill project and this particular project in terms of the potential between the two in terms of the time that possibly would transpire?

Mr. MacKenzie responded I would see this project as potentially being a fairly rapid turn around project.

Alderman Shea asked why.

Mr. MacKenzie answered Hackett Hill to some developers is probably an untested market. Right now there are no real businesses up there. You have a lot of potential but that could take potentially 10 years to develop to get everybody interested in the area. The central part of the City is a tested area. It is probably more...it is in demand right now. This particular location is near a highway interchange. The Sundial Center across the street has been successful. So there is demonstrated success and I think you could see this turn around quickly bringing both jobs back and assessed valuation back.

Atty. Craig asked may I add two points to that. The Hackett Hill property is subject to what is known as the SEP agreement. It is an environmental agreement between the City, state and the feds and it places an awful lot of restrictions on the use of that property. That is one point that deters development that this land would not have and secondly it does not have the access from the interstate that this project has.

Alderman Shea stated might I add to that we benefited from the environmental situation because of the sewage reduction we received. The other point that I wanted to have

explained as it were would be the impact of the MTA property on this particular project. In other words will this restrict it? Will it facilitate it? How is that involved?

Mr. MacKenzie responded the reason we developed the scenario we did was that we assumed if this project right here could essentially be up and done in perhaps 24 months if everything went well. The MTA project may take a lot longer. If the Board talks about combining the MTA facility with the Highway Department facility that is probably still four years off I would guess.

Alderman Shea replied that is what I was wondering. If this were to be approved we would go ahead with the acreage here, the 17 acres, and then obviously the other part of the scenario would be when the time came for the MTA to find a home that particular property could be absorbed into the project as it were.

Alderman DeVries stated I would like us to back track a little bit to the breakdown of the cost estimate to turn the project over. When I was looking at the purchase agreement I noticed a few things in there referencing the survey...

Mayor Baines interjected I am going to have Atty. Craig go through the whole agreement with the Board. I would like...does anybody have any more questions about Mr. MacKenzie's presentation?

Alderman O'Neil stated I don't know if this question particularly goes to Bob but I would think if there is going to be some discussion about relocating the MTA have we...I don't know that we can direct them to move can we.

Mayor Baines responded any discussions about the MTA and in fact we are having a meeting this week about that but I believe we would have to get their cooperation.

Alderman O'Neil stated I am sure there would be cooperation. I guess my question then to Bob would be shouldn't we be doing like in the planning process of Phase I without the MTA and then a Phase II meaning a roadway would need to be laid out to...although there is access through Gas Street to get to the MTA part of it. I would just like to see us incorporate all of that at some point.

Mr. MacKenzie responded yes that would be the logical progression. We could do a Phase I but we should certainly have Phase II on the books and fairly well designed.

Alderman O'Neil stated if I understood Alderman Shea this property is about 17 acres in total. Do you know how big the MTA property is?

Mr. MacKenzie responded the MTA is smaller. It is around 9 acres or 9.5 acres, although probably it has almost as much usable flatland as this.

Alderman O'Neil asked but the intent would be in the planning process to include that in case it does happen.

Mr. MacKenzie answered yes.

Alderman Roy stated I have two questions, Bob. One on your site, scenario one that you brought to us, which I will describe to you since it is no longer up there. Directly north of parcel E going towards the Jac Pac property there is a flat area that has what looks like vehicle storage on it. Is that part of the MTA property?

Mr. MacKenzie responded yes it is. That is actually used partly as an impound lot and by other City departments – that particular location.

Alderman Roy asked and if I can tell by your diagram it looks like it backs up to road frontage on an east/west street.

Mr. MacKenzie answered yes it does. That is Jefferson Street. It is a residential street.

Alderman Roy asked Bob just looking at the cost estimates and some of the studies and putting this together I noticed as part of our package there is \$75,000 for a study as you mentioned earlier similar to the LDR study that was done in the early 90's. Would that be done prior to putting this in the hands of MHRA or in conjunction or after?

Mr. MacKenzie answered I would see those things happening concurrently. I think the City could hand the property over to the MHRA. They could start the detailed engineering that might be necessary but having the long-term look at the vision for the entire downtown I think is useful and I think they can go concurrently.

Alderman Roy asked also the same question regarding the Phase I and Phase II environmentals. Would those happen prior to putting it in the hands of MHRA or concurrently?

Mr. MacKenzie answered the Phase I environmental would be done before the City actually closed on the property.

Alderman Roy asked so who would be handling the reports and discussion regarding the results.

Mr. MacKenzie answered MHRA and if there were some serious concerns out of that, certainly that would come back to the Board with perhaps a recommendation that the property not be acquired.

Mayor Baines stated I am going to have Atty. Craig proceed with the presentation.

Atty. Craig stated I assume all of you have copies and I would like to walk through the various paragraphs. First of all let me say that for a commercial purchase and sales agreement it is pretty straightforward. It has the usual opening paragraphs naming the buyer and seller and in paragraph 1, Agreement to Sell and Buy, that is where Tyson agrees to sell the property described in Exhibit A and the City agrees to buy it. Part 2 has reference to the price of \$3 million and there is a \$50,000 deposit required five days after the agreement is signed. It has to be held in escrow by Atty. Wenners. We just picked the name. He is my partner and if you want somebody else I am sure they will agree to it. We just wanted somebody that the City could control. Believe me, he is not going anywhere. Paragraph 3, Closing, you can either do by mail, fax or do it in Manchester. The closing has to be no later than December 15 of this year. Part 3b, Payment, would be \$2,450,000 at closing. Of course they would get the \$50,000 and \$500,000 payable in six months with a note with no interest and a mortgage on the property. Paragraph 4 is rather important. Conditions Precedent To Closing. This is where we get into the environmental...the City or the Authority in this case will do a land title survey and hazardous waste, at least a Level I and if necessary a Level 2 and also if the City cannot get approval satisfactory to do the development that is contemplated such as what Bob outlined none of those are satisfactory then the City can get out of the deal and get its \$50,000 deposit back so long as it informs Tyson by November 30 of this year. Paragraph 5 contains warranties of the seller. It has the approval to sell and that the P&S is binding on it. Tyson warrants that it has good title to the property described in Exhibit A and Tyson makes no representations as to the value of the property, environmental matters such as expressed therein, which I will get to later. Tyson and this is at our request, will in 20 days furnish us with all documents covering title and condition except any internal memos of the company, which are confidential and the buyer, meaning the City, acknowledges that there is ongoing remediation over two pieces. If you remember, the last time I was here I explained to you that there are two parcels – one where the old gas station was on Queen City Avenue and one where there was a tank on Hancock Street or near Hancock Street. The area on Queen City Avenue consisted of a few hundred feet and the area where the tank is is less than an acre, although this will all certainly be defined when we do the environmental study. The ongoing remediation has been reduced to writing. There are two separate agreements between the old Jac Pac owner and the State of New Hampshire, which basically provides that there will be monitoring wells on each of those sites. The money has been provided to do the monitoring. It shouldn't cost the City anything as far as doing that work. The only question for the City to resolve is whether or not the City would want to take the property with these monitoring wells having to be on them. Apparently and in discussions with the former general manager, the monitoring wells

could be moved to various spots so if for instance the entrance to Queen City Avenue was where a monitoring well was, the monitoring well could be moved, however, the certainty of that remains to be decided and that would all come out in the due diligence. Paragraph 6 consists of the representations of the City. Paragraph A says that the purchase and sale has been authorized binding on the City, that the City has had the advice of counsel and has set forth an agreement including Section 4 and that refers to environmental matters and also a survey and permitting that has inspected the property and will take the property as it is. Well there has been a very minimal inspection. We still have the right to do a real serious inspection as I said and still get our money back if we don't like the results. Paragraph 7, Covenants, states that each party agrees to cooperate with each other in carrying out the terms of the purchase and sales agreement, which means each side will act in good faith. Paragraph 8, Title Insurance, states that Tyson will furnish a title insurance policy and in any title insurance policy or at least practically all that I have seen there are exceptions and in this case if the City doesn't like what it contains for exceptions, Tyson has the right to cure it for 15 days and if the City still doesn't like the exceptions the City can call off the deal and get the money back. Paragraph 9, Deed, states that Tyson will get a special warranty deed, which guarantees title except for any deed restrictions like meat packing and as it says further on like I said last time Tyson will not let the property be used for meat processing or meat packing for 20 years and the City must agree that in any deeds out there can be no such activity for a period of 20 years from the date of the original deed. Paragraph 10 talks about a survey. The City can have an ALTA survey. ALTA stands for American Land Title Association. The title companies have set up a set of standards for what they require in the way of surveys on a title policy. The only requirement there, however, is that the City must pay for the survey. Paragraph 11, Right of Entry, states that the City has the right to go on the property and do its due diligence. If we do any damage, we must repair the damage. In addition to that, we have to cooperate with any existing environmental survey work that is going on with respect to the two sites I just mentioned. Paragraph 12, Indemnity, is the part that troubles me. Last Wednesday I told them that it could be a deal killer and when it showed up on Friday it was still in there and this is the part that we can get out of if we don't want it. We can either get out of it tonight or we can get out of it after we have done the due diligence. The City will indemnify Tyson for any environmental problems left after remediation. That means that if something shows up in the way of environmental problems later on years down the road the City could be on the hook for that. One way to lessen it is to pass that same indemnity on to anybody who buys the property. Another way to look at it is through the Environmental I if necessary and an Environmental II and if we don't like the results we can say we are not going to take it and get the \$50,000 back and there is no deal. Paragraph 13, Taxes and Assessments states the usual. Each side will prorate the taxes and each side will pay its real estate transfer tax. Paragraph 14, Broker's Commission states that each party agrees that if a broker shows up and claims a commission saying for instance the broker was working for the City of Manchester and the broker can prove his or her case then the City has to pay and at the same time if somebody shows up saying they represented Tyson and gets away with it then Tyson has to pay. To summarize, the agreement can be

terminated at any time prior to the closing, which is November 15, by neutral consent of the parties, by the City pursuant to Section 8 hereof and that is the part where if we don't like what shows up in our due diligence or if either party goes into a material default which remains uncured for 10 days after notice...I don't know what that would be. I guess one example could be if we didn't deposit the \$50,000 in escrow within five days of signing the purchase and sales agreement and Tyson told us we had to do it and we waited more than 10 days to do it then Tyson could call off the deal. I don't see anything in there that would make us worry about a material default. Paragraph 16 is the deed restrictions that I mentioned before. It can't be used for manufacturing or storage of processed meat for a period of 20 years and if the City deeds it out that covenant must be in there. In addition to that, if there is any deed that goes out concerning the Jac Pac remediation and that is those two sites that are being worked on, any deed that is involved in those two sites if there are any restrictions during remediation that has to be deeded from the City to any subsequent owner. The next Paragraph 17, Assignment, states that the City can't sign the purchase and sales agreement without the seller's consent except to the Redevelopment Authority or Redevelopment sub and as far as the seller, the seller can assign it to a related company but in either event all of the provisions of the purchase and sale agreement would apply to anybody that this contract is assigned to. Paragraph 18 states that they are allowed to take out two pieces of equipment, which I mentioned before and if they take those pieces out and it is questionable at this point whether they will but if they do any damage to the property they have to repair the damage. I think I mentioned last time that one of those is a conveyer and when it was put in they had to knock down a good chunk of the wall so if they take it out and knock down a good chunk of the wall they have to put it back in. Then there are the usual miscellaneous covenants, for instance, the agreement is covered by NH law. Originally it was Delaware law and we said why Delaware, what does Delaware have to do with it. They changed it to New Hampshire. A waiver of one covenant or requirement doesn't void the agreement. If we ask them to do something and they give up on it that doesn't mean the whole thing is wide open for renegotiations. It states that this is the entire agreement and there are no outside agreements. The section headings are not controlling. For instance it says broker's commission. You can't interpret anything into that. If you want to go and read broker's commission you have to go and read the entire paragraph and you can't be just governed by any misconstruing of the two words broker's commission. Exhibit A is a description. It is very lengthy. It is 13 pages. Since we couldn't get it surveyed we weren't sure we were getting. On the last page we had them add as far as the description that they are going to convey all of the land owned by the seller to the City of Manchester and bounded generally by the Merrimack River, Queen City Avenue, Bernard Street, Hamilton Street, Jefferson Street, Baker Court, Elm Street, Gas Street and bisected by the B&M right-of-way. That covers all of the property that Bob laid out for us as best we could. In my judgement the thing that I wish wasn't in there was the indemnity agreement but they are sticking with it and that is a judgement we are going to have to make. I would be glad to answer any questions and I have a recommendation if I may. With all due respect I would recommend that the purchase and sales agreement be authorized and executed by you and

then have the due diligence done and make a judgement if there is something serious that shows up then we can back out of it. If the City folks, particularly the City staff who are familiar with these matters and the environmental people who will be hired tell us that it isn't anything unusual then we could go forward. I would not recommend that you kill it tonight just because of the indemnity agreement. I would wait and see what that amounts to. We can see the two written agreements and let the environmentalists tell us how serious they are. I was told that over the years they have done a lot of digging in that site and there is nothing in there that you wouldn't expect to find and there is nothing in there that is worse than what was under the civic center. It is what you typically find on a quasi-industrial parcel.

Alderman Osborne stated Atty. Craig one of my biggest concerns is the contamination if there is any. From what I see here on Page 4E can you elaborate a little more on that one specifically?

Atty. Craig answered that is the two sides...the one that is on the hook for that and I talked not only to Chuck Hungler but also he referred me to a local attorney from the Sheehan & Phinney office. I think his name was Peter Lieberman. His name wasn't familiar to me but I talked to him at some length and he was very cooperative. He said there are two written agreements that I referred to. One has to do with the site on Queen City Avenue where the gas station used to be and the other is one the site off of Hancock Street with an acre and they are not sure what is there. They are not even sure that it could be contamination. Mr. Hungler told me that before Jac Pac bought the property they brought in an environmental company who said there was no problem. Tyson bought the company and the property and they brought in a company from Massachusetts that was in layman's terms more picky and they said there was nothing to be concerned about. They set-up these two agreements with the state between Jac Pac and the state. The first agreement as I said is on Queen City Avenue and it basically requires monitoring wells. Funds are available to pay for that work. The other site is somewhat larger – he thinks about an acre or a little less and that also requires monitoring wells and there is an escrow fund of about \$360,000 to pay for that monitoring, which is controlled jointly by Tyson and Jac Pac. One of the things I would suggest after it has been looked into carefully would be that instead of Tyson having control over that fund with Jac Pac, the City or the Authority take that over. I don't know if I have answered your question.

Alderman Osborne responded yes. Are the gas tanks still there?

Atty. Craig answered no nothing is there.

Alderman Osborne asked they have been removed.

Atty. Craig answered yes.

Alderman Osborne asked so we have a three-month timeline for this contamination situation. Is that what it is? November 30?

Atty. Craig answered yes but they have also told me orally that we if we need more time on the environmental studies...

Alderman Osborne interjected what happens...are the borings underneath those buildings as well as every place else or just about every place else on that property.

Atty. Craig asked do you mean under those two agreements that I talked about.

Alderman Osborne answered yes under the sales agreement. The buildings that exist right now.

Atty. Craig stated there is nothing going under the buildings that are there now.

Mayor Baines stated he is talking about the environmental due diligence that would go on.

Atty. Craig responded that would have to be done independently. We would do that – the City or the Authority would do the environmental due diligence on the rest of the property. They would also investigate those two sites.

Mr. MacKenzie stated normally on a Phase I environmental site assessment you get professionals who go in and do paper research. They go in and search all of the records but they don't usually drill into the ground. Usually if they have any suspicions whatsoever they recommend a Phase II and in a Phase II they would actually do testing and perhaps drillings and borings. That is the main difference between a Phase I and a Phase II.

Alderman Osborne asked whose cost would this be – Phase I and Phase II. If there is Phase I and Phase II and so on are we going to do all of this within 30 days?

Atty. Craig answered I don't know how long it will take. Phase I can probably be done in 30 days but the cost would have to be borne by the City. That was part of the budget that the Finance Officer set-up for you.

Alderman Porter stated first of all I would like to say that I am pro-development. I have talked with a number of credible individuals in the City over the past two weeks and to an individual they say that it would be best handled by the private sector, however, we all recognize the need or the desire for the City to control a key piece of property in the City. Not only is it the Jac Pac property itself, but all the way up to Elm Street. That whole area is certainly worthy of the City's attention for future development. I have wrestled with the idea of where does it belong – in the hands of government or in the hands of the private sector

and I am convinced that it should remain in the hands of the private sector. With this land costing \$3 million and a potential expense of \$500,000 for other expenses and I know there will be others, there are changes that do come down as we just saw with the riverfront development, which I had no problem in supporting I do have a problem with this when the City of Manchester is faced with a potential 8% tax increase. We have areas of the City that need attention. I think the City of Manchester has been very generous with its bonding - \$50 million for the Verizon Arena. We bonded \$27.5 million for the baseball project and Gill Stadium. \$105 million for schools and a \$5 million bond for the Bridge and Elm property, which took quite awhile to accomplish. From a planning point of view I think anything of this magnitude, even in a five-year period can be considered a success but I think for the taxpayers it could be a disaster. I don't have the same confidence that Bob has that they will be knocking the doors down to move in down there. I just would like to say that I would rather see the money used for something else other than the City taking a taxable property off the tax roles. Thank you.

Alderman Gatsas stated Atty. Craig I have about six concerns here and I guess I will give you the one that really jumps out at me. I am sure you sat through the last session we had about deed restrictions, covenances and everything else. On Page 21 it starts with number one and it doesn't go succinctly to number 35. There are 35 restrictions or easements within that property. I am sure that at this point you haven't done a title search so that you could tell me what every one of those is for. So, we may have buying restrictions that Jac Pac didn't care about because it didn't affect them. You might have bought a piece of property where Mr. MacKenzie is showing E and F for housing and maybe the deed restrictions for the two pieces that were bought by Jac Pac could eliminate housing in those districts. Maybe the pieces that they bought in G that might have easements going through it or deed restrictions could say you can't put up a commercial building. I guess those are situations that we will see within the next 30 days but I would think that we as a Board should at least be privy to all 35 of those deed restrictions and what they are before there is a final agreement.

Atty. Craig responded I wouldn't say a final agreement but an agreement to go forward. You should know what those things mean...at least if I was buying it I would want to know what those things mean before I went forward and paid any money.

Alderman Gatsas replied I agree. If I was using my money I would be wanting to know what they are before I signed this agreement.

Atty. Craig responded I would sign the agreement subject to knowing what those things meant.

Alderman Gatsas stated the other biggest thing that I have been wrestling with for the last few weeks since this came before us is with all of the corporate malfeasance that we are hearing about out in the world today about how corporate offices are having to sign off and

due their due diligence and tell the stockholders exactly what they are doing...I understand that Tyson is a publicly traded company and if the property that we are looking at is worth \$5 million or it is on the books for \$5 million and assessed for \$5 million and they are selling it to the City for \$3 million has the Board of Directors approved this deal that there is a \$2 million shortfall to the stockholders of Tyson Foods?

Atty. Craig responded the document contains a representation that the seller has the right to execute this agreement. Now whether it is approved by the Board of Directors I doubt it very much. He did tell me, and he meaning the man by the name of Ted Jones, that he reports to the Executive Committee and I think he met the Executive Committee of the Board of Directors.

Alderman Gatsas asked are you saying that we don't know whether the Board is going to execute this agreement so we could just...obviously I have to believe that they have to be beholding to their stockholders and that \$2 million is a pretty penny to the per share amount of the stock.

Atty. Craig replied all I can say is one of the first things I did to try to find out about it was to buy 10 shares of stock and I know they haven't asked me.

Alderman Gatsas stated that was the biggest question I have. You would think that today with Board of Directors having to sign off on...that is why I asked the question did we do a deal that might have said here is \$5 million and they are going to give us a contribution of \$2 million so they still showed the \$5 million on their books.

Atty. Craig responded right but we don't know what it is on their books for. It may be on their books for zero. I can only assume that they sold the property because it was no longer a money maker or closed the property because it was no longer a money maker and the property is no good to them vacant.

Alderman Gatsas stated right but they still have to be beholding to their stockholders if they sell something for \$3 million that is worth \$5 million. I don't care what they have it on their books for because that affects the stock price. Anyway, if we go back...

Atty. Craig interjected it is up \$2 since I bought it. I got two 40-cent checks.

Alderman Gatsas stated I guess I will go to Page 6, number 9. It says special warranty deed. I know it has been awhile since I have been in real estate but I don't ever remember hearing the words special warranty deed.

Atty. Craig answered so have I been in the real estate business for awhile and I asked the same question. What that means is that it is a warranty deed. When they first started talking

to me about it I said it sounds like a quick claim deed and they said no it is a warranty deed. A special warranty deed...the special part refers to those restrictive covenants about meat packaging and things like that.

Alderman Gatsas asked in other words the deed restrictions put it into the special category.

Atty. Craig answered that is correct.

Alderman Gatsas stated the other question I have is on Page 4 and Page 5. When you see sections of an agreement that are that boldly printed there is obviously somebody wanting to tell you something without telling you and I don't mean you because this is probably their agreement that they sent to us. I have never seen that in a standard agreement. For somebody to make it bold print and all capital letters and double-spaced to make sure that you understand that those are the conditions of this agreement.

Atty. Craig responded I have seen bold print before in agreements when they want to emphasize something so I am not surprised. There is nothing in paragraph C, Page 4 that frightens me or makes me say let's back off even though it is in bold print. The same thing with paragraph C on Page 5. As a matter of fact, I don't know why they bold printed it. I think they have a boilerplate document and they probably picked it up from there. For instance, when they said it would be governed by the laws of the State of Delaware I think they were just pulling that off a word processor somewhere.

Alderman Gatsas stated the last question I have is on Page 7, Item 10. It says within five days upon receipt the buyer shall furnish a copy of the survey to both the seller and the title company. I guess my question is let's assume we don't go forward and the survey costs us \$10,000 or \$15,000. Are they going to reimburse us for the survey or is it still our...

Atty. Craig interjected we are at risk for that.

Alderman Gatsas stated I understand being at risk for that but if we are going to turn the survey over to them are we going to be reimbursed for the survey.

Atty. Craig responded I suggest that we ignore that part. If we decide not go forward...well let's put it this way. I guess it is a Catch-22. If we tell them we don't like the survey because there are only 5 acres instead of 17 and therefore we want to back out and we want our \$50,000 back then I guess we would have to show them the survey that showed there were only 5 acres in order to get our \$50,000 back.

Alderman Gatsas stated I don't have a problem showing it to them but it would still be our property.

Atty. Craig replied right it would be our property.

Alderman Gatsas asked so we are not giving them a copy of it for their use.

Atty. Craig answered no.

Alderman Gatsas stated according to this agreement it says we are.

Atty. Craig responded there are two reasons why they would put it in there. First, they want to make sure that the survey agrees with their description of the property. I am sure they have a survey of their own. Secondly, the title company would need it because we would want part of the title coverage known as same as survey. In other words, all of the wording in the description we would want an affidavit from the company that the wording and the description are the same as shown on the survey.

Alderman DeVries asked has anybody done some checking to see if you can have the alter survey completed by the November 30 timeline because that is a very involved survey and it is much more extensive than your normal boundary survey would be. Knowing what the survey field is like right now I am not even sure we could get somebody on the hook to do that for us.

Atty. Craig answered I haven't checked and the reason I haven't checked is because I am doing this work all of the time and we are getting it done all the time. For instance, on Old Wellington it was done and redone and done again and done all in a short time.

Alderman DeVries stated the point of my question would be because of the easements that exist on the property if we were not able to verify all of the title and/or boundary information we would not want to go forward on that November 30 timeline.

Atty. Craig answered if we can't verify it, correct. We can verify it. We might not like what we find and, therefore, not go forward but I am sure there is time enough.

Alderman DeVries asked if there was no enough time...it does say in the document that if we find something that would disallow the use of the property we could get out so if there are easements issues that restrict the use we would have a reason to back out but if it is strictly the timeframe of getting all of the work done I don't know that there is an out in this document. Maybe I am just not seeing it.

Atty. Craig answered there is an out in this document because I have done enough of this work to believe that we can meet the timeline.

Alderman DeVries stated let me ask about the cost for the survey. I don't know that that was built in anywhere in the costs that we looked at before.

Atty. Craig responded I can't tell you what a survey would cost. They are not cheap, however. Part of the agreement says that they are supposed to give us all of the information they have on the property.

Alderman DeVries replied which probably includes an alter survey.

Atty. Craig responded right which may include an alter survey and they probably went on record at the Registry of Deeds and the survey would just bring it forward from that. It may even have Bob MacKenzie's stamp on it or his predecessor.

Alderman DeVries stated I have a few more questions and Bob you may feel more comfortable tackling this. The future anticipated cost to develop the property, such as establishing roadways, subdivision of the properties, etc., how do we envision that is going to be paid?

Mr. MacKenzie responded there are some different alternatives. I think depending potentially on the developers that might be selected, for example, it would depend on how much the City or the MHRA would have to invest. It is possible you could get a developer who will say okay I will take down all of the buildings and I will build this section of the public street. The positive parts about this project is that basically the public streets that would be needed are already on the alignment of existing major driveways or existing streets. The utilities are in place in that area. There will be some costs but maybe those costs can be somehow engineered to be paid by the proceeds from the sale of these sites to the developers. I can't give you a full answer right now but there are some alternatives on how those additional costs could be paid.

Alderman DeVries stated I have a follow-up because certainly I am referencing it through the presentation that we had on the Hackett Hill Master Plan that has not yet been adopted but the roadway was far more substantial and the costs were pretty well outlaid right in the proposal. Is that the common methodology that the City would upfront the investment either through a TIF or other and then recoup the expenses later.

Mr. MacKenzie responded yes. In this case there is some more detail engineering work to be done. MHRA would work with our Highway Department to get some better estimates for upgrading those roads. There will be additional investment costs needed. I don't think they are going to be astronomical for this site but there will be additional costs and the City or the MHRA will come back with a redevelopment plan that would say this is the best way to pay for those costs and there are a few different ways to do that.

Alderman DeVries asked do we have an anticipated timeline that we are going to see that. Is that something that typically would take six months or a year?

Mr. MacKenzie responded I can't answer that question. I don't know if Bill can.

Alderman DeVries stated I am just looking for a general timeline.

Atty. Craig responded the way the process works and has always worked...the City would come up with it or the developer MDC would and depending on how long it takes for them to come up with a desirable developer then the Authority would either participate in the redevelopment or just enter into a contract under the direction of the City or the developer would do it all. Of course, there would be certain timeframes set in that. That is not a very good answer but it is the only answer I can give. Usually it takes about a year for a project of this size.

Alderman DeVries asked could you just repeat your last sentence.

Atty. Craig answered once we get a developer to complete a project of this size it usually takes at least a year.

Alderman Roy stated I have six sections that I would like to discuss with Atty. Craig, a question for the Solicitor and then one for Mr. MacKenzie. Bill, we had a quick conversation regarding who drafted this purchase and sales and you said that it was yourself and the Tyson attorneys and I appreciate all of the work that you have done but I do have some concerns. The first being Page 2, Section 3A where in bold it says, "but in no event shall the closing occur later than December 15, 2004." There are a number of places in this purchase and sale where the due diligence has to be done by November 30. You mentioned that we could gain extra time.

Atty. Craig responded yes if we need it.

Alderman Roy asked verbally but not in writing anywhere we could ask for additional time.

Atty. Craig answered correct.

Alderman Roy stated moving to Page 4, Section C I have a very big concern regarding the disclaimer. That entire section that is bolded as my colleague, Alderman Gatsas, brought forward but I am also concerned with Section D, the final sentence that reads, "the seller is not obligated to deliver any internally prepared documentation." That just leads me to believe that they know something that we may or may not find out in a Phase I or Phase II environmental study.

Atty. Craig responded that is not unusual. Internal memorandum between staff, even local staff or public agencies, are not subject to the right-to-know law. They have the right to pass memos back and forth. What really controls it is the final agreement or in this case two final agreements between Jac Pac and the state. I am not too concerned about that really.

Alderman Roy stated I just want you to be aware of my concerns. I do feel that we should go forward with this because it does give us a due diligence period but I do have concerns as to how this is handled. My next concern is on Page 7, Section 12. It was my understanding that the reason we are paying \$3 million for this project was that we were getting a clean site and we were not going to be faced with any environmental problems later on and I have a very large problem with Section 12 that says if something is found at a later date it is our responsibility.

Atty. Craig responded I agree. The only thing I can say to that is to have a good environmental survey done and if nothing unusual shows up or whatever shows up just make a judgement and go from there.

Alderman Roy stated so my colleagues are aware we did budget for a Phase I and Phase II environmental study and personally I feel that both are in order. Even if the Phase I comes out fairly clean I think the Phase II because of what we are facing with other projects that we are going forward with would be needed. My next concern is on Page 8, Section iii and then referenced down below is "buyer shall reimburse seller for all costs" but nowhere in there do we have any reimbursement of our City taxpayer dollars in comparison to just getting our money back. I would like to think the words buyer and seller were reversed on the fourth line from the bottom.

Atty. Craig responded that is a good point. I will have them put it in.

Alderman Roy stated it should read, "seller shall reimburse buyer" because if we are giving them all of this information when we are done...

Atty. Craig interjected it should be neutral.

Alderman Roy stated lastly on Page 9, Section A or Section 16Ai it says, "the manufacture or storage of processed meats" and I guess this is a question...while I don't want to get nitpicky Bob put a picture of a lovely Whole Foods retail store on his display, which by letter of the law would be storage of processed meats. That is a fairly broad restriction that would include, I believe, my refrigerator. That is a concern. I know it would be very rare that Tyson would go forward with that deed restriction but if there was some reason for them to go forward it is a pretty broad description.

Atty. Craig responded I think if we took out the word “or” and put in “and”...I tried to get the storage out and they wouldn't go for it but maybe they will go with “and” instead of “or”.

Alderman Roy stated I think if they know what the concept is of what we are looking for in that area they wouldn't feel it was competition. Has the Solicitor had a chance to review this?

Solicitor Thomas Clark stated yes Atty. Craig has forwarded the drafts as they came in to him. We discussed them with him on numerous occasions by phone and in person. As he pointed out in the beginning of his presentation it is a fairly standard purchase and sales with very few twists and turns in it. We concur with his recommendation to move forward.

Alderman Roy stated in closing I will reiterate that we do have a due diligence process and a title search process and we will take care of, as my colleague from Ward 2 said, the 35 deed restrictions and quick claim deeds and other matters of record that will come forward for our review. Could I make a motion?

Mayor Baines responded Alderman Shea wanted to speak and then we will introduce the resolution so we can move forward.

Alderman Shea stated I kind of want to move in a different direction because Alderman Porter brought up the fact of the use of the special reserve account monies for this particular project. Maybe Kevin could explain to us how much we do have in that account and what we anticipate having?

Mr. Clougherty responded the current balance is \$3,713,345 as we had told you last week when we made the presentation. We have estimated deposits coming in on Wellington Road of \$1.2 million and the riverfront of...

Alderman Shea interjected when is that deposit coming in for Wellington Road.

Mr. Clougherty stated it has already been received actually. That is \$1.2 million and the riverfront that we talked about earlier this evening is \$1.4 million.

Alderman Shea asked so that total would be what.

Mayor Baines answered \$6.3+ million.

Alderman Shea stated I know that reference was made that the tax rate could be upwards of 8.5%. Obviously we have made provisions being one of the co-authors of the budget and I know that Randy mentioned at an Accounts meeting...if Randy could grab a microphone and assure the people that it is not 8.5%. I think you made reference that it is around 5.5% right

now. I know people...the montra is the taxpayers. We have to be concerned with the taxpayers. Everyone on the Board brings that up repeatedly so I will reiterate that I am concerned about the taxpayers as well. Randy, could you go into that please?

Randy Sherman, Deputy Finance Director, stated what I said at the Committee on Accounts was that during the budget process both Kevin and myself made the commitment to the Aldermen that we would come back with a menu of options and get the tax rate down in the 5.5% range. We did a little bit of that at budget time by telling the department to hold off and obviously we are still going after the school dollars but we are looking at a few other options like revenues and the like but the commitment was 5.5%.

Alderman Shea asked would 5.5% be without tapping into the special reserve account at all.

Mr. Sherman answered that may be part of it. Ultimately at the end of the day we will review all of the options and have the Assessors do their valuations and when we come back at tax rate setting time we will lay out a number of options that the Aldermen can consider.

Alderman Smith stated Randy while you are here are you including the \$500,000 from the School Department. Where is that money?

Mr. Sherman asked are you talking about the fund balance.

Alderman Smith answered yes.

Mr. Sherman stated when the budgets were developed we actually used \$1.2 million from the School Department. Roughly \$700,000 was from the FY03 year and another \$500,000 from the FY04 year.

Alderman Smith stated I was wondering if the Assessors could come up and explain to me what the property down there was assessed for last year and what the fair market value of the property would be because there is a statement there saying that we are getting it for half the cost.

Steve Hamilton, Assessor, responded currently it is assessed in total for over \$7 million and that may well be an accurate number or it may not be an accurate number for a meat processing facility. There isn't much interest in putting a new meat packing facility in that location, especially given the problems that Jac Pac had.

Alderman Smith asked what do you think the fair market value for that property would be.

Mr. Hamilton answered in its current condition I think it would be mostly determined by what the user would be looking to go in there and do. If they had that kind of facility in

mind they may pay that but that leaves aside the equalization. Currently, our assessments are at about 65% of market value. That would imply that our \$7 million assessment equated to more than \$10 million in market value which is extremely unlikely.

Alderman Smith stated I noticed on Page 8, 13A it is prorated from April 1, 2004. Why is that when they still own the property?

Atty. Craig responded our tax year runs from April to April.

Alderman Smith answered I realize that but they still own the property 100% right now so why would it be prorated for three or four months. Why wouldn't they pay all of the taxes up until we acquire the property?

Atty. Craig answered they will.

Alderman Lopez asked, Kevin, the \$1.2 million we are getting from Wellington Road weren't we supposed to receive that July 1.

Mr. Clougherty answered my understanding is that we have always been targeting that for this month.

Mr. Sherman stated we got it last week.

Alderman Lopez asked and the \$1.4 million are we going to count that on the paperwork that goes up to the DRA.

Mr. Clougherty answered I think as Randy just explained what we will do...

Alderman Lopez interjected my question is this. So we can count the \$1.2 million and \$1.4 million....

Mr. Clougherty interjected those will be included in the one time revenue account, correct.

Alderman Lopez stated and by the time we get to setting the tax rate in October we can count on that if we want to use it for something correct.

Mr. Clougherty responded I am not sure what your question is.

Alderman Lopez replied it is very simple. If we want to use the money to lower the tax rate we can do it.

Mayor Baines stated it is the money that is on the one time revenue account and by vote you can use it at your discretion.

Alderman Lopez asked and \$800,000 has already been taken out of that account.

Mr. Clougherty answered that is correct.

**5(a) Resolutions:**

“A Resolution authorizing up to Three Million Four Hundred Thousand Dollars (\$3,400,000.) in expenditures from the Special Revenue Reserve Account for costs relating to the acquisition of the so-called JacPac property and further authorizing the mayor to execute related documents to consummate such transaction.”

“Amending the FY2005 Community Improvement Program, transferring, authorizing and appropriating funds in the amount of Three Million Four Hundred Thousand Dollars (\$3,400,000) for CIP 613105 “Jac Pac” Acquisition Project.”

“Amending the FY2003 Community Improvement Program, transferring, authorizing and appropriating funds in the amount of Eight Hundred Fifty Thousand Dollars (\$850,000) for CIP 511803 Stadium Construction & Gill Stadium Reconstruction Project.”

On motion of Alderman Roy, duly seconded by Alderman Shea it was voted to refer the Resolutions to the Committee on Finance.

On motion of Alderman Guinta, duly seconded by Alderman O'Neil it was voted to recess the special meeting to allow the Committee on Finance to meet.

Mayor Baines called the meeting back to order.

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

“A Resolution authorizing up to Three Million Four Hundred Thousand Dollars (\$3,400,000.) in expenditures from the Special Revenue Reserve Account for costs relating to the acquisition of the so-called JacPac property and further authorizing the mayor to execute related documents to consummate such transaction.”

“Amending the FY2005 Community Improvement Program, transferring, authorizing and appropriating funds in the amount of Three Million Four Hundred Thousand Dollars (\$3,400,000) for CIP 613105 “Jac Pac” Acquisition Project.”

“Amending the FY2003 Community Improvement Program, transferring, authorizing and appropriating funds in the amount of Eight Hundred Fifty Thousand Dollars (\$850,000) for CIP 511803 Stadium Construction & Gill Stadium Reconstruction Project.”

ought to pass and be enrolled.

Alderman O'Neil moved to accept the report of the Committee on Finance. Alderman Forest duly seconded the motion. Mayor Baines called for a vote. The motion carried with Aldermen Porter, DeVries, Lopez, Gatsas and Osborne being duly recorded in opposition to the two Resolutions regarding Jac Pac.

Mayor Baines stated before we close this evening I was remiss in not thanking my staff who have worked very hard with me on this riverfront project. I know Michael is relatively new to the staff but especially Seth Wall who attended almost all of the meetings and was a very important part of keeping this program on track.

Resolutions:

“A Resolution authorizing up to Three Million Four Hundred Thousand Dollars (\$3,400,000.) in expenditures from the Special Revenue Reserve Account for costs relating to the acquisition of the so-called JacPac property and further authorizing the mayor to execute related documents to consummate such transaction.”

“Amending the FY2005 Community Improvement Program, transferring, authorizing and appropriating funds in the amount of Three Million Four Hundred Thousand Dollars (\$3,400,000) for CIP 613105 “Jac Pac” Acquisition Project.”

“Amending the FY2003 Community Improvement Program, transferring, authorizing and appropriating funds in the amount of Eight Hundred Fifty Thousand Dollars (\$850,000) for CIP 511803 Stadium Construction & Gill Stadium Reconstruction Project.”

On motion of Alderman Guinta, duly seconded by Alderman O'Neil it was voted to read the Resolutions by title only, and it was so done.

Alderman Guinta moved that the Resolutions ought to pass and be enrolled. Alderman O'Neil duly seconded the motion. Alderman Gatsas requested a roll call vote. Aldermen Gatsas, Osborne, Porter, Lopez, and DeVries voted nay. Aldermen Guinta, Sysyn, O'Neil, Shea, Garrity, Smith, Forest, and Roy voted yea. The motion carried. Note: Aldermen Gatsas, Osborne, Porter, Lopez and DeVries were recorded in favor of the last resolution listed for \$850,000 and were recorded as opposed to the two Resolutions regarding Jac Pac.

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

A True Record. Attest.

City Clerk