

BOARD OF MAYOR AND ALDERMEN

May 6, 2008
Mayor and all Aldermen

7:30 PM
Aldermanic Chambers
City Hall (3rd Floor)

Mayor Guinta called the meeting to order.

The Clerk called the roll.

Present: Aldermen M. Roy, Gatsas, Sullivan, J. Roy, Osborne, Pinard,
O'Neil, Lopez, Shea, DeVries, Garrity, Smith, Ouellette, Domaingue

Alderman Gatsas called Alderman DeVries and State Senator Lou D'Alessandro forward. He called forward seven firefighters to receive special recognition as heroes. Senator D'Alessandro read a proclamation from the New Hampshire State Senate congratulating the firefighters in recognition of their service to the community and naming them as New Hampshire heroes. The firefighters honored were the following: Tom Defina, Alfred Poulin, Jr., Dan LeBerge, Paul Shealter, Peter Franggos, Leo Roy and Gary Perkowski.

Mayor Guinta stated I want to thank all three Senators for the state's honor and commitment to not just these New Hampshire heroes but all New Hampshire heroes. We try to do everything we can as a community to honor those who serve us, and we thank you very much and appreciate the time you've spent with us this evening. Again, Godspeed, and thank you again for what you do for us.

CONSENT AGENDA

Mayor Guinta 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; subject to funding availability

- A.** Sidewalk Petitions:
100 Allen Street
14 Harriman Street
80 Holly Ave.
90 Holly Ave.
161 Huse Road
432 Joseph Street
50 Leo Street
397 No. Bay Street
74 Seames Drive
753 Union Street
96 Avon Street
433 North Bay St.

Informational to be Received and Filed

- B.** Communication from the Acorace Family acknowledging appreciation for the Board's expression of sympathy.
- C.** Copy of communication from Carol Johnson, City Clerk, to the Board of School Committee regarding requests to contain costs and provide a safe environment at polling places in September and November.
- D.** Communication from William Sanders, Finance Officer, submitting the Spending & Planned Overtime Report #7.

REFERRALS TO COMMITTEES

COMMITTEE ON FINANCE

G. Resolutions:

“Amending the FY2008 Community Improvement Program, authorizing and appropriating funds in the amount of One Thousand Five Hundred Dollars (\$1,500) for the FY2008 CIP 612508 Community Assessment Project.”

“Amending the FY2008 Community Improvement Program, authorizing and appropriating funds in the amount of Five thousand Seven Hundred and One Dollars (\$5,701) for the FY2008 CIP 210808 STD Clinical and DIS Program.”

“Amending the FY2008 Community Improvement Program, authorizing and appropriating funds in the amount of Twenty Five Thousand Dollars (\$25,000) for the FY2008 CIP 210108 HIV Counseling & Testing Program.”

“Amending the FY2008 Community Improvement Program, authorizing and appropriating funds in the amount of Five Thousand Nine Hundred Dollars (\$5,900) for the FY2008 CIP 210308 Immunization Services.”

“Amending the FY2008 Community Improvement Program, authorizing and appropriating funds in the amount of Twenty One Thousand Five Hundred Fifty Three Dollars (\$21,553) for the FY2008 CIP 210708 School Based Dental Services.”

“Amending the FY2008 Community Improvement Program, authorizing and appropriating funds in the amount of Ten Thousand Dollars (\$10,000) for the 2008 CIP 214308 Pandemic Flu Planning – Phase III Program.”

“Amending the FY2006 and FY2008 Community Improvement Programs providing for the reduction of Sixty thousand Two Hundred Sixty-Two Dollars and Four Cents (\$60,262.04) from various CIP Projects.”

“Amending the FY2008 Community Improvement Program, authorizing and appropriating funds in the amount of One Thousand Eight Hundred Seventy Five Dollars (\$1,875) for the FY2008 CIP 713408 Chronic Drain Project.”

“Authorizing the Finance Officer to effect a transfer of Eighty One Thousand Dollars (\$81,000) from Contingency to the Building Department.”

REPORTS OF COMMITTEES

COMMITTEE ON BILLS ON SECOND READING

H. Recommending that Ordinances:

“Amending Section 33.064 Employees Injured in the Line of Duty to apply to all employees and to require the repayment of sick leave benefits upon determination of employee eligibility for workers compensation benefits.”

“Amending Chapter 70: Motor Vehicles And Traffic of the Code of Ordinances of the City of Manchester by amending Section 70.82 Immobilization of Motor Vehicles for Non-Payment of Parking Fines increasing the fee for immobilization and inserting reference to the Parking Division.”

“Amending Sections 33.024, 33.025, & 33.026 (Purchasing Assistant) of the Code of Ordinances of the City of Manchester.”

“Amending Chapter 70: Motor Vehicles and Traffic of the Code of Ordinances of the City of Manchester by expanding the Residential Parking Permit Zone #6 in Section 70.55(D) (6) to include Mechanic Street, north side, between Elm Street and Canal Street.”

ought to pass.

(Unanimous vote.)

I. Recommending that Ordinance:

“Amending Section 70.45 of the Code of Ordinances to clarify responsibilities of the Parking Division.”

ought to pass.

(Aldermen Osborne, DeVries, M. Roy, Pinard voted yea; Alderman Domaingue was opposed.)

COMMITTEE ON COMMUNITY IMPROVEMENT

J. Recommending that the request from Charles DePrima, Acting Parks, Recreation and Cemetery Director, to dispose of the original wooden floor once used to cover the concrete ice rink bed at JFK Coliseum be approved.

(Unanimous Vote)

- K.** Recommending that the request from Charles DePrima, Acting Parks, Recreation and Cemetery Director, for \$64,580 in additional funding to cover the City portion (25%) to complete the Bass Island Flood Restoration Project this spring/summer be approved, and such funding provided through internal transfer within the Parks Improvement Project # 510907.
(Unanimous Vote)
- L.** Recommending that a petition for discontinuance of a portion of Union East Back Street beginning at Concord Street and running Northerly 270.55 to Lowell Street be referred to a Road Hearing with the date to be set by the City Clerk.
(Unanimous Vote)
- N.** Recommending that a request for the acceptance and expenditure of the State Division of Economic Development grant in funds totaling \$1,500 to be used for conduction of community wide economic self-assessment be approved; and for such purpose an amending resolution and budget authorization have been submitted.
(Unanimous vote.)
- O.** Recommending that a request for acceptance and expenditure of State of NH health grants for the following:
\$25,000- HIV Counseling & Testing
\$5,900- Immunization Services
\$21,553-School Based Dental Services
\$10,000-Pandemic Flu Planning-Phase III
\$5,701-STD Clinical & DIS Program
be approved; and for such purpose an amending resolution and budget authorizations have been submitted.
(Unanimous vote.)

COMMITTEE ON PUBLIC SAFETY, HEALTH AND TRAFFIC

- Q.** Recommending that regulations for standing, stopping, parking and operation of vehicles be adopted as noted and those inconsistent therewith be repealed.
(Unanimous vote.)

- R.** Recommending that a request by Child Health Services to use the Pearl Street Lot for their annual bike safety day on Sunday, May 18, 2008, be granted and approved.

(Unanimous vote.)

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

- E.** Communication from Alderman Lopez submitting an amendment to the Zoning Ordinance relative to setback provisions for auto dealerships.

Alderman Garrity stated as I understand the current ordinance, there is a ten-foot setback for auto dealerships from the curb to where they can place cars. Gold Street is full of car dealerships and I have some concern because there is a national dealership chain that is looking at the AG site and I want to make sure that we keep the existing ordinances in. I'd like to have opinions from the Planning and Building Departments.

Ms. Pam Goucher, Interim Planning Director, stated you are correct, Alderman Garrity, that the ordinance currently does require a ten-foot landscape setback from the road, and it is something that is in place for most site plan developments that come before the Planning Board. In addition, the Planning Board does have the authority in any site plans that they see to ask for even more than what is in the zoning ordinance. But the zoning ordinance itself is a ten-foot setback, currently.

Alderman Garrity asked in your opinion is that a requirement that is acceptable and good for surrounding communities and neighborhoods?

Ms. Goucher responded clearly it becomes a policy issue, but I can tell you that back when Alderman Lopez did speak to my predecessor, Bob MacKenzie, he and Leon LaFreniere did generate a letter to Alderman Lopez that said that certainly we would help draft an ordinance if Alderman Lopez wanted to move it forward, which is what's in your agenda package. However, generally we like to encourage greenspace around developments. I know the Planning Board has consistently looked to maintain trees and shrubs, especially around extensive parking areas.

Alderman Garrity stated this is how one auto dealership decided to deal with greenspace on Gold Street, because I was down at his dealership today. I guess he didn't want to have the ten-foot landscaping so basically he put a half inch of bark mulch on cement and called it greenspace along the street. That's like us painting the shamrock on Elm Street and calling it green space. It doesn't make any sense. If you're not going to abide by the zoning rules, I think it's important for the City that when dealerships come to town and they abut residential neighborhoods that they at least have to abide by the greenspace rules and I would strongly urge my colleagues to not support this request.

Alderman Lopez stated I bring this forward to my colleagues, and the acting director of Planning is absolutely correct. They disagree with me and the Building Department disagrees with me. However, I believe that there is discrimination throughout the City. I do not believe that the policy is the correct policy, and that is the reason I'm asking to go to a public hearing, so we can have a true understanding from the auto dealership. The more cars they sell, the more money we're going to get. Here's an example of why I'm bringing it forward. And I can appreciate Alderman Garrity's concern. But some auto dealerships, and you can go down South Willow Street and just drive down there, their automobiles are directly abutted to the sidewalk. Where there are no sidewalks, particularly on Gold Street in this particular case, the requirement for the auto dealership

according to both the Building Department and the Planning Department is this: They told the gentleman he had to maintain grass. He asked them who was going to cut it. He was told that he would have to take care of it. And he was told he had to go another ten feet, which is the twenty-foot line. I think there is something wrong with this whole system, and all I'm asking my colleagues is to hear from the professional business people out there who have a problem with this, and if it's the will of the Board after the public hearing to deny it, I'm willing to accept it. I'm bringing something forward that affects not only one Ward but all Wards in the City that have automobiles and I believe it should go to a public hearing and it should have input. Just because we've done things that way for ten years, and I've heard many people on this Board say that we've done it that way, so that's the way it is. I don't believe that's the way it is. We have to help these businesses somehow.

Alderman Garrity stated at this time I would ask my colleagues to deny this request. As I stated earlier, the Building Department staff, the Planning Department staff and myself are talking with a national car retailer that is interested in the AG site. I think that the ten-foot back greenspace is important for neighbors and I think it's important for people just driving up an down Gold Street. I think it helps with the light and things like that in the City. I mean, Bonneville on Daniel Webster Highway does a great job with their ten-foot setback. It doesn't take long to mow ten feet of space down the length of your lot for grass. So I would strongly urge my colleagues to deny this request at this time.

Alderman Osborne asked when you say ten feet, is that from the curb line or is that from the sidewalk that the City owns, ten feet, eight feet, whatever the City might own? What are you talking about when you say ten feet?

Ms. Goucher responded the ten feet is measured from the property line. So in some cases you may have a sidewalk that goes right up to the property line, and it's ten feet on the personal property. In other cases you may have five, ten, or fifteen feet of grass in the right-of-way, but you're still required to provide ten feet from your property line on the street before where the parking can begin. I think that was one of the references Alderman Lopez was making, that sometimes some of these properties do have grass area in the right-of-way.

Alderman Osborne stated I can agree with Alderman Lopez in some cases where some of these automobiles are hanging off the curb. It's really a safety hazard. Probably some are on City sidewalks, on top of it. I guess we have to get something together. I guess every area is a little different. I can understand that part, but also they should be off of City property at least, that's for sure.

Alderman DeVries asked the particular ordinance that requires the ten-foot setback for the auto dealerships, is that fairly new? Do we have a lot of dealerships that were grandfathered and are different? I heard Alderman Lopez talk about the difference of the look and the interpretation.

Ms. Goucher responded there isn't currently a separate standard for an auto dealership and Home Depot or any store. It's a setback for parking and pavement. I think maybe what Alderman Lopez is referring to is there are a number of older dealerships that did not fall under site plan review by the Planning Board, and so there are a number of them that have parking right up to the right-of-way, and in some cases probably in the right-of-way.

Alderman DeVries asked so when those dealerships come in with any upgrades that are greater than 50% of their project, would they automatically have to come into compliance with this setback provision?

Ms. Goucher responded I think Leon LaFreniere can address the one in particular that went to the Zoning Board. It did not go to the Planning Board, the particular property on Gold Street. But generally we will speak to the individual that maybe is proposing an expansion and look at what they're trying to do, and there is a little bit of...usually the standards, when they go back to a Planning Board, if they can get some additional landscaping, if they're not affecting any changes in a certain area, they may be willing to compromise if it's getting the situation better than it was. But specifically to meet the letter of the law with the zoning, it's for ten feet, and what this ordinance proposal would do is basically exclude auto dealerships. It would still require any other retail establishment that has parking areas to comply.

Alderman DeVries asked would this override the South Willow Streetscapes that we've been working hard for compliance on? I personally feel that the newer developed areas on South Willow Street where they have the trees and the greenspace is a much better look than the older parts of South Willow that look more like your traditional miracle mile.

Ms. Goucher stated the South Willow Streetscape is part of the subdivision site plan regulations that the Planning Board administers, and as you probably remember, it's a fairly limited section of South Willow Street that it encompasses. This we are talking about specifically in the zoning ordinance but I do believe that the Planning Board would have to look at some modifications in their design guidelines within their regulations if this was to become part of the zoning ordinance.

Alderman DeVries stated I can't endorse this, and I've spoken to Alderman Lopez. I think we've worked very hard to establish a percentage of green that is maintained on our newly developed properties as well as paying attention to the streetscapes, the setbacks, for line of sight purposes as well, and safety concerns as well as aesthetic reasons, and I think we've made progress and I cannot go backwards, as I feel this particular request would take us.

Alderman Garrity stated Alderman Lopez stated earlier during the conversation that both of you disagree with his request to change the ordinance. Leon, I have a question for you. This particular dealership that decided to put a half inch of bark mulch on top of concrete to get the ten-foot setback, do you have an opinion on that, or is that allowable under the current ordinance?

Mr. Leon LaFreniere, Building Department, responded we have determined that that is not an acceptable method to satisfy the ordinance, and they have been directed to make modifications, to take up the pavement and make it a real landscape strip. They have responded by saying that they would like to go to the Zoning Board of Adjustment or wait and see if this change takes place before they move in that direction.

Alderman Garrity stated if any of my colleagues go up and down Gold Street and take a look at the Mercedes-Benz dealership, that's a good business and that's a good neighbor because they've done a really good job with their greenspace and the property looks presentable and has good curb appeal for the neighborhood.

Alderman Shea stated one of the concerns that I have is the interrelationship between what kind of an ordinance might be past regarding auto dealers and its impact possibly on residential areas, because sometimes when you loosen up a particular ordinance then somebody uses that somehow as precedence for them to

juxtaposition their situation so that, again, we could have different types of situations existing in all neighborhoods. To me, I don't feel as if I can support this either, because I don't really want to see some sort of a private interpretation and then being applicable to other kinds of situations that may or may not involve private vehicles that exist within households. I'm not sure, Leon, if that is something that can be interconnected.

Mr. LaFreniere stated I think it's important to understand that the ordinance as it is currently crafted and enforced does not specifically identify auto dealerships in any way different than other commercial enterprises. This was already stated by Pam Goucher. In response to the request that came before us, it was felt that the only way we could specifically take auto dealerships and treat them differently would be to exempt them from this requirement. If this change were to pass, this ordinance would stay in effect for all other types of occupancies. It would only be automobile dealerships that would be exempt from this requirement that all other commercial districts are subject to.

Alderman Lopez stated I just want to make something very clear. I talked to the chairman of the Zoning Board today, Mr. Freeman. We're not saying, get rid of greenspace. Let's understand that very carefully, okay? We're talking about the ten feet where there is no sidewalk. If you had a sidewalk and you had another ten feet that you wanted the dealership to do some green stuff, I understand that. But where there is no sidewalk and we demand that the person plant grass or trees or shrubs, he can't use that ten feet because it's on City property. If the ordinance was changed where we would allow that individual to do that, to use that ten feet and do whatever greenage space that you want at that ten foot...giving him permission from the City to use our land, because we're telling him he's got to take care of it anyways. And then at some later date you want to put a sidewalk on that street, I think you've covered the greenage pretty good, and I think that's

where the discussions of some of the automobile dealerships are going. And one of my colleagues referenced a certain individual. It's not a certain individual. It's a lot of them. It happens to be one that is in dispute with the Building Department, number one, which you agreed, and whatever regulations he's going to comply with. And as you've indicated you wanted to see where this goes to, and all I'm asking my colleagues is to send it to public hearing, get the people in here. Maybe we're doing something wrong. Let's hear it from the business people who come forward. And about greenspace, you're going to have greenspace. You're going to have that ten feet without any sidewalk. We do that for Public Service to give them access to our property. Why can't we give the owner of a dealership that has to have greenspace ten feet because there's no sidewalk?

Alderman O'Neil stated I have no knowledge who this one dealer in dispute is with the City. I'll make this clear tonight to Alderman Lopez, I'm going to move this forward but I'm not guaranteeing you that I'm going to vote for it at the end of the day. I wrote down a number of questions that might be worth answering if we do send it to a public hearing. Pam Goucher mentioned some of the dealerships' pre-dated site reviews. Do we have a list of who those are and who are the ones since the site plan review was approved? That would be good to know. I have no idea. We could be talking about one or fifty. I don't know. How many are new car dealers, generally national chains, versus used cars? Alderman Garrity and Alderman DeVries have talked about South Willow Street and Gold Street. Generally those dealerships are the new car dealers who do have a tendency to take very good care of their property. I have Bonneville up where I live on the DW Highway. They take very good care of their property. But I'm also, as I'm sitting here thinking, we have many of these used car dealers throughout the City that are out on the sidewalks. So I think we need some of those things answered. And how many of these dealers have sidewalks versus no sidewalks in front of their business? I would support sending it to public hearing. I'm not committing

to Alderman Lopez tonight that I'm going to support it at the end of the day, but it might be an exercise worth going through to see exactly where we're at. Not all dealerships are on South Willow Street or Gold Street in the City of Manchester. And I bet if there was a count provided of how many new dealers versus used car dealers, it would be staggering. So I think that information would be helpful, and I'm going to vote to send it to a public hearing this evening.

Alderman J. Roy stated first of all I would contend that they already to have a public hearing. If they want to go for a variance they can go in front of the Planning Board. They have a public hearing before any decision is made. And I'd like to have an explanation, Mr. Chairman. I didn't catch what you meant about giving them permission to use the property. I just didn't follow that.

Alderman Lopez stated what I was saying is if you have no sidewalk and you have to comply with the ten foot limit, that's City land. And then they require another ten feet that they have to have some greenage space. And so the argument comes up, well, why do I have to take care of the ten feet that the City owns? Maybe I should call Parks & Recreation to come over to plant grass and cut grass. I was told in the presence of the people that were making this decision...here's an example: The Building Department has the right to hold up the auto dealers license if he doesn't comply. Do you agree with me, Leon?

Mr. LaFreniere responded we are asked by the state of New Hampshire if the dealer is in compliance with local regulations before the state will issue them their license.

Alderman Lopez stated if you have ten feet of open space with no sidewalk and the dealer is willing to put greenspace and shrubs on our property and the ordinance adopted to that particular degree and sent to the Zoning Board and Planning Board that they are willing to use our ten feet, if at any time we ever put

sidewalks in, they have to move back another ten feet. We do that with Public Service that uses our sidewalk to put up their equipment and everything else, so it's just an easement for them to be able to use our property. That's where I'm going. And the greenspace is there. The ten feet is there.

Alderman J. Roy stated but I still don't understand. We're going to give them permission to use the space but it's going to be greenspace so they can't park a car on it anyways.

Alderman Lopez stated no, they don't park a car on the greenspace. Right now they have to move 20 feet, and Pam, correct me if I'm wrong.

Ms. Goucher stated maybe I can clarify a little bit for Alderman Roy what I think Alderman Lopez is saying. On many streets that are standard 50-foot right-of-way, we may have seven to ten feet of greenspace on either side. It doesn't matter whether it's residential or commercial areas. That's often the case. The actual ten-foot set back that the zoning ordinance refers to is from the property line. So in some cases you may have a property that's got six, eight or ten feet of green that's in the right-of-way, and then they're expected to put another ten feet because the ordinance reads ten feet from their property line. And I think what Alderman Lopez is referring to is if at some time the City came along and decided they wanted to widen the street to full 50 feet or remove grass and put in a sidewalk, at that point in time a dealership would then be required to put ten feet in the area that they're now using for parked cars. I think that's what he's saying. I'm not sure how we regulate that, but I think that is what Alderman Lopez is saying.

Alderman Osborne stated Leon, first of all, we don't have too many streets in Manchester without sidewalks, whether it's paved or it's not or whether it has curb or it doesn't. Would you say that even Gold Street has sidewalk? Is there sidewalk there? Does the City own at least six to ten feet in that area?

Mr. LaFreniere responded yes, a sidewalk panel exists, even if there isn't a paved sidewalk in that area.

Alderman Osborne stated I don't like the idea of pulling right up to the curb, regardless of whether there is sidewalk or not. There is still a safety hazard here. It's crowding the curb. First thing you know, the cars will be hanging off the curb so they can show them a little more as the cars go by. So there is a limit to what you do. Anything on City property should not be used for that reference. I would never vote for that.

Alderman Lopez stated just a clarification for my colleague. The car doesn't go up to the curb. It goes to the ten-foot line or six or eight foot, as Pam explained. If you have a grass area, they will pull up to that particular... you go out South Willow Street, you will see the cars right up to the sidewalk area on most of the car dealerships out there. So the ten feet...they pull up to the sidewalk because there is sidewalk. When there's no sidewalk, they pull up to the grass area which constitutes six or ten feet from the curb.

Alderman Osborne stated you would have trouble policing something like that also.

Mayor Guinta stated I don't want to get into a debate back and forth.

Alderman Gatsas stated I know that there are two dealerships here that we are talking about, one that has put mulch out. Can somebody tell me who these dealerships are?

Alderman Garrity responded I'd be glad to: Gladstone and Mitsubishi on Gold Street.

Alderman Gatsas asked Alderman Lopez, who is this ordinance for?

Alderman Lopez responded the ordinance is for moving it forward because I think there is an injustice done.

Alderman Gatsas stated I don't dispute that, and I don't mean to interrupt, but you didn't wake up this morning and say, I think that I'm going to change the ordinance on the distance of a dealership in the City of Manchester. Somebody must have come to you and said they were having a problem and asked you to put this in.

Alderman Lopez stated no, somebody came to me and told me they have a problem because they haven't complied with the Building Department and he wasn't able to get his license or signoff from the Building Department. He gave \$5,000 as a retainer that he was going to do it, and he got his permission from the Building Department to go ahead and get his license.

Mayor Guinta stated I think the question is who are we talking about?

Alderman Garrity responded Gladstone. That's the one that put the half inch of bark mulch on the pavement and called it greenspace.

Alderman Gatsas stated I understand where Alderman Lopez is coming from, but I guess to the retort, there is a sidewalk in front of my house, and there's a piece of land between the sidewalk and the curbing that I maintain. And I don't ask Parks

to come and take care of that. So I would assume that a car dealer, if that maintenance is there, then they should maintain it.

Alderman Shea stated Leon, when somebody applies to the Planning Board, they are told to follow certain regulations. Is that correct? In other words, aren't they led to believe by your department that whatever they are supposed to do when given...I don't know whether it's permission or a special exception or a variance, or whatever it's called, they are supposed to agree to that. Is that correct?

Mr. LaFreniere responded when this issue was initially brought to our attention, Bob MacKenzie and I identified that it would require a change in the zoning ordinance as well as changes to the subdivision regulations, but corresponding changes, so that the Planning Board would have guidance as to how to react. Obviously, if the zoning ordinance were changed to eliminate the requirement...

Alderman Shea stated let me interrupt you just...

Mayor Guinta stated I don't want to continue. I think everyone knows where they're going to vote on this. Unless you have a point of order, I'd like to move on.

Alderman Shea asked did they have the knowledge when they were given the permission to have that dealership that they had to follow certain rules?

Mr. LaFreniere responded yes.

Alderman Shea continued and the rules they had to follow, now they're appealing these rules because of something that they feel they don't agree with the rules. Is that correct?

Mr. LaFreniere responded in this case you had a new dealer who came and took over an existing site, and so the commitments that were made by the previous owner of the site were now in the lap of the new owner, and he felt that they had a negative effect on his business practices.

Alderman Garrity stated I'll move the question.

Alderman Sullivan stated I'm just trying to cut through some of the clutter here. If a particular business has a problem with this requirement, is there a procedure in place where they could come to the Planning Board and request an exception to the existing rule?

Mr. LaFreniere stated actually it would be the Zoning Board for the zoning ordinance component, and if the project was under site plan review, they would also have to go to the Planning Board for that.

Alderman Sullivan stated long and short, there is a procedure in place if there is a particular business down there that has a perceived hardship or some sort of issue, there is a process in place where they can go and deal with that and possibly have it corrected.

Mr. LaFreniere stated there is an appeals process in both cases, yes.

Alderman Sullivan stated so in other words, this would simply wipe out the existing law without really any thought to the larger picture, whereas if there is a particular situation at work here, wouldn't it be better that we just have this business operate through the existing appeals process? Wouldn't that make more sense, rather than overturning the whole apple cart?

Ms. Goucher responded I think that's where it becomes a policy decision of this Board.

Alderman Ouellette stated just so I have it right in my mind, if the dealership does not have a sidewalk or the curbing area, they have to maintain 20 feet, but if they have a sidewalk, they are to maintain ten feet of greenspace.

Mr. LaFreniere stated the zoning ordinance only deals with private property. The ten-foot setback requirement is from the private property line. Whatever exists for public property within the right-of-way outside of that is not considered as satisfying that. So it could be 20 feet or it could be zero feet, depending on if the right-of-way is developed right up to the property line or not. The only requirement of the ordinance is ten feet from the property line, but not all City streets are developed right up to the property line.

Alderman Ouellette asked but if there's grass ten more feet prior to that, the dealership has got to maintain it because it's going to look like...

Ms. Goucher stated there's no regulation that says they have to, but most of the time they would just consider it a continuation of their green area.

Alderman Domaingue asked are we voting solely to send this to...

Mayor Guinta stated I don't believe there is a motion on the floor.

Alderman Lopez moved to send this item to a public hearing. The motion was duly seconded by Alderman Ouellette.

Alderman Garrity requested a roll call.

Aldermen Ouellette, Domaingue, M. Roy, Gatsas, Pinard, O'Neil, and Lopez voted yea. Aldermen Garrity, Smith, Sullivan, J. Roy, Osborne, Shea and DeVries voted nay. Mayor Guinta voted no to break the tie.

- F.** Communication from Dave Gosselin and Stephen Dolman posing questions relating to the payments received by the City from the School Department and other outside groups for use of the Gill Stadium.

Alderman Smith moved to refer the matter regarding school charge backs for the use of Gill Stadium to tomorrow night's meeting with the full School Board. The motion was duly seconded by Alderman Gatsas.

Alderman Gatsas asked can somebody tell me, do we charge Trinity for the use of Derryfield?

Mayor Guinta stated Chuck DePrima is saying no. Could we get a list compiled for tomorrow evening's meeting between Parks & Recreation and Finance? That would be a list of who's charged, who's not and what the fees are.

Alderman Smith stated I did put a package in there. I know what the rates are because it involves me and the American Legion program, Babe Ruth, Pony League, and so forth, so that's why I suggest we do it tomorrow night because I think it's going to be a hot item on the budget.

Alderman O'Neil stated there appear to be some inequities. I'm not saying what we do with Trinity is an inequity but how we treat Central is certainly different than some of the other schools in the City. It's coming out of my left pocket and into my right and coming back out. No disrespect to the Finance Director, but it creates this craziness. I know I've gotten a number of calls, and they lead to believe that Central's not going to be playing any sports or have their home locker rooms at Gill Stadium. I don't know where it all starts, but thank you, Your Honor.

Mayor Guinta stated hopefully we can resolve it tomorrow evening.

Alderman O'Neil stated that would be great.

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

- M.** Recommending that a request for acceptance and expenditure of FEMA funds in the amount of \$1,875 for Bodwell Road drain line under the 713408 Chronic Drain Project be approved, and for such purpose a resolution and budget authorization have been submitted.
(Unanimous vote.)

Alderman DeVries stated I'm hoping that Kevin Sheppard can come up to give me a status of the funding on this project, as well as a time line.

Mr. Kevin Sheppard, Public Works Director, stated we just signed a grant for this and it was sent back up to the State Office of Emergency Management. We're working toward getting this project completed. We're waiting for the Office of Emergency Management to finish the paper work, and once we get it back we'll be able to install the device.

Alderman DeVries asked so do we anticipate that there will be sufficient funds to complete this project as designed?

Mr. Sheppard stated correct. They did find a second pipe there that they were looking at, but I still believe they will be able to complete the project. It's basically a backwater valve.

On motion of Alderman DeVries, duly seconded by Alderman Shea, it was voted to accept the expenditure of FEMA funds in the amount of \$1,875 for a Bodwell Road drain line under the 713408 Chronic Drain Project.

P. Recommending that reductions totaling \$60,262.04 be made to the FY2006 and FY2008 CIP cash programs; and for such purpose an amending resolution has been submitted.

Alderman Garrity stated at the last CIP meeting, we came up some additional efficiencies in the cash portion to address our deficit. Maybe Mr. Sanders can explain what we need to do with Ms. Stanley's surplus she has...

Mayor Guinta stated item P is only listed as one item, \$60,262.04. I believe we need to make an amendment to add...I'm not sure how much the item is. I think it's about \$157,000.

Mr. Bill Sanders, Finance Director, stated it was for a renovation of Victory Garage that the Parking Division is not presently intending to work on, so the Board of Mayor and Aldermen need to pass a resolution directing the Parking Manager to include that sum of money in the yearend reimbursement that they send back to the City.

Alderman Garrity moved to approve the amending resolution. The motion was duly seconded by Alderman O'Neil.

Alderman Gatsas asked can somebody give us a total amount, please?

Mayor Guinta responded I think it's \$217,262.04

Alderman Gatsas asked where is the money going? Just so that I have a clarification that we don't deficit spend or something like that.

Alderman Garrity stated Alderman, last time I checked we still had a \$1.5 million deficit.

Alderman Gatsas stated that's according to you. I don't believe that. So I guess my question is, is that going to be on the sheet that we receive? Because I haven't seen the clarity sheet that's supposed to have been distributed.

Mayor Guinta stated the sheet that was received last week at \$1.5 million, this number would be deducted from that.

Mr. Sanders stated these amounts were not included on this sheet that was provided last week. The \$157,000 would be a revenue item as a distribution from the Parking Enterprise and the \$60,262 would be a reduction in expenditures, so that would improve the situation by approximately \$217,000 in total, a portion revenue and a portion expenditures.

Alderman Gatsas stated I guess my question is did that appear on the sheet on the column on the right, on the bottom half of the sheet, and I guess I can go look for it under my desk, that had a number of \$700,000 for Salary Adjustment; \$450,000 for...I forget what that line item was. So are we going to get an updated sheet which includes also the run-off on medical? Because we heard from Jack Sharry. He said it might be \$700,000 because we're getting pretty close to putting the tourniquet on something that only needs a Band-Aid.

Mr. Sanders stated there will be an update of the forecast being prepared for the beginning of next week. The department heads' updated forecasts are due this Friday, and assuming the Aldermen approve this tonight, this \$157,000 and \$60,000 would be included in the next projection.

Alderman Gatsas stated we're meeting tomorrow night in a joint...are we meeting again on Thursday?

Mayor Guinta responded no, we're meeting Monday, Tuesday and Wednesday of next week.

Alderman Gatsas asked so we're not meeting this Thursday?

Mayor Guinta responded no.

Alderman Gatsas asked so will you have it for us by Friday?

Mr. Sanders responded the department heads are due in by the end of business on Thursday, so I would hope to have it on Monday. There undoubtedly will be some questions. There will be some back and forth on Friday, I'm sure, so it will be ready for Monday evening's meeting.

Alderman Gatsas asked what if we decide tomorrow night we want to close the budgets out? Shouldn't we have that information tomorrow night?

Mayor Guinta stated I don't think we're going to decide to close the budget out tomorrow night.

Alderman Gatsas stated Your Honor, you never know what happens sometimes.

Mayor Guinta stated well, that's true, but we haven't had a chance to even meet with all of the departments yet. I think that in consultation with the Chairman of the Board, we set up meetings next week for a reason. If we close out the budget tomorrow night, I guess we'd have to make a projection as to what these numbers are.

Alderman DeVries stated I'm looking at item 21, which is the breakdown of the projects, the deductions in projects that the \$60,262 is predicated on. I notice immediately...I have an issue with the first part, and though it's just \$726 of the total, that's an open project that is short funded as it is, the project going on at Crystal Lake. There's not enough money to complete that. So I would ask instead of building that into this project that we transfer that to the other existing CIP

project number. It's only \$726, but that's a make-or-break for this particular project.

Mayor Guinta stated if we miss that number by \$762, I'm coming back!

Alderman O'Neil stated Alderman DeVries says it's very important. Where was the CIP staff or the department in defending this? We were given these that we were all set to move.

Alderman DeVries stated it might be because there is no active department head there to defend it.

Alderman Garrity stated these are the projects we discussed about six weeks ago at CIP; CIP staff was there and I believe these were the recommendations from Parks & Recreation and Highway, the cuts they said they could live with. From what I was told, that project was closed out. If we need to subtract \$726, I don't have a problem.

Mayor Guinta asked what needs to be done for \$726?

Alderman DeVries responded there is another piece to the funding from last year that is actually building the playground out. They are scraping by, trying to figure out how they can shuffle that parking lot, break up some of the existing pavement. They're scraping to try to make that project work without having to come back for more money to CIP this year in this budget. And that's why I'm asking that instead of closing this out into the surplus, you transfer that into the active CIP project.

Alderman Garrity stated *I'll make a motion that we just change the number, minus the \$726.52. The motion was duly seconded by Alderman O'Neil.*

Alderman O'Neil stated we're hoping when we go through this process...this isn't directed at Alderman DeVries, but CIP staff tells us these projects are closed out, the individual departments were asked to verify it, we're given information that it's a close out, and now we hear it's not.

Alderman DeVries stated the Crystal Lake Master Plan that was done for the planning purposes has been completed. We've moved into the construction phase, which is short funded. So that \$726 is not the needs of that project. It's considerably short funded. Because of this budget year, I have chosen not to come in with a CIP request, so we're trying to make this project work with the money that we received last year from this Board.

Alderman O'Neil stated Alderman DeVries seems to know about his challenge. Where were the two departments knowing this? It doesn't put a lot of faith in me as we're trying to approve a new budget and wrap up the budget this year.

Mayor Guinta stated as I understand it, this would be a future, additional appropriation. You're saying there was a budget last year. Was it not fully funded or was there a shortfall?

Alderman DeVries responded there's a shortfall to complete the master plan and build out the playground.

Mayor Guinta asked how much was the shortfall?

Alderman DeVries responded Your Honor, you don't want to know. But the \$726 would be much appreciated to help in the meantime.

Alderman Garrity asked to move the question.

Mayor Guinta stated in a moment of collegial appreciation, I think we're moving \$726.

Alderman Gatsas stated Your Honor, those funds were around since 2006. This isn't something that just grew up last night. If \$726 makes the budget, then \$726 makes the budget. But it's certainly money that we should be moving forward, and I think that I could probably find a couple of other things that I could say, we shouldn't do that. You know, there is another appropriation in community development incentive programs in Planning that has \$5,700 that's from 2006, and we should talk about leaving that there and we've got another fund here that we're taking from Youth Services. There should be no sacred cows in here. I don't care if it's for a dollar. These numbers went through CIP. We should move them along to balancing the budget for 2008.

Alderman DeVries stated I don't look at this as a sacred cow. Alderman Pinard will certainly appreciate this because this is the playground that is going in to service a majority of his apartments on Bodwell Road at Crystal Lake. There is no playground equipment for many miles around this, and this is truly a need for the south end of Manchester. The closest playground that we have today is to go the new playground constructed on Calef Road. So there is nothing in the southeast portion of Manchester. We are having a hard time with the money I requested last year, which was to build the actual playground, because within the master plan, which is the project that's closing out, we actually have to relocate the existing parking lot. I did not fund that last year, for the pavement. But we're looking at some impervious surfaces, and we're looking at some cooperative construction bids, and we're hoping that we can get as much done as possible with last year's money, because this is not the environment that I'm coming back asking for more money for playgrounds.

Alderman O'Neil stated I'm not questioning the need to do the project. The departments told us the funds were not needed. That's my issue, as we're going

through this process. Now it starts putting the doubt in me, are we correct on everything? That's what bothers me.

Alderman M. Roy stated my biggest concern, with our budget constraints going forward, the largest bulk item is the Youth Services for \$50,000, and Marty's not here. I don't think he's missed a meeting since he was appointed. But just at our last meeting we took \$81,000 to help out Alderman Smith, and now we see there is a very small amount, but an amount of money left in the Dilapidated Building account. So why are we not zeroing these out before we go to other means of funding things. Again, it's out of one pocket into another. We all want to help out Alderman Smith, but we took it from Contingency instead of zeroing out balances that we should be zeroing out.

Mayor Guinta stated I think that's probably a lengthier discussion to try to determine what is a better way to move forward in zeroing out the accounts, which we certainly can do at the staff level and bring back a recommendation to committee. I understand the concern that's being voiced.

Alderman M. Roy asked just to wrap up, the bulk item, the \$50,000 in cash, has Marty signed off that this is okay to take from Youth Services?

Alderman Garrity responded the director had two positions in that program and hasn't had the second position for quite some time, so that was leftover salary for that position. He was fine with it.

Alderman M. Roy asked and this does not affect the position for next year?

Alderman Garrity responded that's next year's budget. These monies are for this year's budget.

Alderman M. Roy stated as we can see from using 2006 monies, they can be used next year as well, or four years from now.

Alderman Garrity stated it doesn't affect 2009.

Alderman Lopez asked the \$726, is that subtracted from the \$60,000? Is that what you're saying? Mr. Sanders, do you consider this new money?

Mr. Sanders stated I'm not sure I understand the question.

Alderman Lopez stated this is new money that we found in 2006 and 2008 that you verified that the money is there to be used for whatever we need to use it for.

Mr. Sanders stated I would agree that it's new money.

Mayor Guinta stated I think they are existing, unused dollars.

Alderman Gatsas stated the Finance Officer has to tell me what he means by 'verified' because he questioned the ability to move workers compensation and GC&L as verified funds, and I think my colleague asked that same questions: Has he verified these funds?

Mr. Sanders stated I used the word 'verified' in connection with workers compensation and GC&L because that's explicitly mentioned in the ordinance. It defines what 'verified' means. I was at the CIP meeting where they went through these monies and reviewed them verbally with the staff at CIP.

Alderman Gatsas stated so you're verifying them. Because I'd hate to say that we're looking to move \$5,700 out of an account and it's not there, and it's only \$57.

Mayor Guinta stated if they're not there, you'll let us know.

Alderman Lopez stated I think Alderman O'Neil has got a valid point. Who's here that made that decision at CIP that there's no more funds needed? You, maybe?

Mayor Guinta responded there are two separate issues that we're talking about. Alderman O'Neil is talking about the credibility of information that comes before a committee or a board. Alderman Gatsas is talking about verification or certification, which we've used in the past, and he's referencing a completely different conversation that this Board was having last week. We'll sit down with staff to talk about issues regarding unused dollars in accounts that seem to be just out there, unaccounted for. That's something we have to do as internal staff and bring a recommendation back to the Board so we can adopt a stronger policy so this doesn't happen in the future.

Alderman Gatsas requested a roll call.

Alderman O'Neil asked is this on the amendment?

Mayor Guinta stated I think we just have one motion here.

Alderman Sullivan asked what is the question that we're voting on? I think we need that clarified before we vote.

Alderman Garrity stated it's the savings we found in the CIP to apply against the 2008 deficit, minus the \$726.

Mayor Guinta stated the total amount is \$216, 535.52 to go toward reducing the Fiscal Year 2008 deficit.

Aldermen Sullivan, J. Roy, Osborne, Pinard, O'Neil, Lopez, Shea, DeVries, Garrity, Smith, Ouellette, and Domaingue voted yea. Aldermen M. Roy and Gatsas voted nay. The motion carried.

4. Nominations to be presented by Mayor Guinta, if available.

Mayor Guinta stated pursuant to Section 3.14 (b) of the City Charter, I present the following nominations for your consideration.

Michael Poisson to succeed Jack Brady as an alternate member of the Planning Board, term to expire May 1, 2010;

Adam Schmidt to succeed Jay Cadorette as a member of the Conduct Board, term to expire October 1, 2010;

William Whitmore to succeed Omer Beaudoin (resignation) as the labor member of the Fire Commission, term to expire May 1, 2009.

These nominations will layover to the next meeting of the Board, pursuant to Rule 20 of the Board of Mayor and Aldermen. Your consideration of these nominees is appreciated.

5. Confirmation of Jane E. Gile to the position of Human Resources Director, submitted by Mayor Guinta.

Alderman Sullivan moved to confirm this appointment. The motion was duly seconded by Alderman O'Neil.

Alderman Lopez asked can you tell us what grade structure and step structure we're hiring this individual on?

Mayor Guinta responded 28, step nine.

Mayor Guinta called for a vote on the motion, which carried, with Alderman Lopez voting in opposition.

Ms. Jane Gile, Human Resources Director, stated thank you for the vote of confidence and the opportunity to serve the City of Manchester. I did meet with the staff this afternoon. I'm committed to this position and I look forward to it. I feel it's going to be a good fit for the City and myself.

6. Confirmation of nominations made by Mayor Guinta:

Planning Board

A. Joseph Dion to succeed Todd Connors, term to expire May 1, 2011; and

Jack Brady to succeed Raymond Clement, term to expire May 2011.

Planning Board Alternate

Louis DeMato to succeed A. Joseph Dion as an alternate member, term to expire May 1, 2011.

Fire Commission

Paul Harrington to succeed Peter Morin, term to expire May 1, 2011; and James "3-fingers" Triantafillou to succeed Donna Soucy, term to expire May 1, 2011.

On motion of Alderman Smith, duly seconded by Alderman Domaingue, it was voted to confirm these nominations. Alderman O'Neil asked to be recorded as opposed to Paul Harrington for the Fire Commission.

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

8. Mayor Guinta called the meeting back to order.

9. A report of the Committee on Finance was presented recommending, after due and careful consideration that resolutions:

“Amending the FY2008 Community Improvement Program, authorizing and appropriating funds in the amount of One Thousand Five Hundred Dollars (\$1,500) for the FY2008 CIP 612508 Community Assessment Project.”

“Amending the FY2008 Community Improvement Program, authorizing and appropriating funds in the amount of Five Thousand Seven Hundred and One Dollars (\$5,701) for the FY2008 CIP 210808 STD Clinical and DIS Program.”

“Amending the FY2008 Community Improvement Program, authorizing and appropriating funds in the amount of Twenty Five Thousand Dollars (\$25,000) for the FY2008 CIP 210108 HIV Counseling & Testing Program.”

“Amending the FY2008 Community Improvement Program, authorizing and appropriating funds in the amount of Five Thousand Nine Hundred Dollars (\$5,900) for the FY2008 CIP 210308 Immunization Services.”

“Amending the FY2008 Community Improvement Program, authorizing and appropriating funds in the amount of Twenty One Thousand Five Hundred Fifty Three Dollars (\$21,553) for the FY2008 CIP 210708 School Based Dental Services.”

“Amending the FY2008 Community Improvement Program, authorizing and appropriating funds in the amount of Ten Thousand Dollars (\$10,000) for the 2008 CIP 214308 Pandemic Flu Planning – Phase III Program.”

“Amending the FY2006 and FY2008 Community Improvement Programs providing for the reduction of Fifty nine Thousand Five Hundred Thirty five Dollars and Fifty two Cents (\$59,535.52) from various CIP Projects.”

“Amending the FY2008 Community Improvement Program, authorizing and appropriating funds in the amount of One Thousand Eight Hundred Seventy Five Dollars (\$1,875) for the FY2008 CIP 713408 Chronic Drain Project.”

“Authorizing the Finance Officer to effect a transfer of Eighty One Thousand Dollars (\$81,000) from Contingency to the Building Department.”

ought to pass and be enrolled.

On motion of Alderman Pinard, duly seconded by Alderman Osborne, it was voted that these amending resolutions ought to pass and be enrolled.

10. Report of Committee on Bills on Second Reading recommending that the Board consider adoption of Ordinance:

“Amending Sections 33.024 and 33.025 (Custodial Services Supervisor – Police; Equipment Maintenance Superintendent I – Police; Equipment Maintenance Superintendent II – Fire; and Equipment Mechanic II – Fire) of the Code of Ordinances of the City of Manchester.”

with information relating to this Ordinance to be presented to the Board of Mayor and Aldermen.

On motion of Alderman Domaingue, duly seconded by Alderman Osborne, it was voted to accept this report.

11. Legislative Update to be presented by Mayor Guinta.

Alderman Pinard made a motion to receive and file this report. The motion was duly seconded by Alderman Osborne.

Alderman Gatsas stated I would suggest that somebody take a very long, hard look at the retirement bill, 1645.

Mayor Guinta stated I think we’re probably going to be discussing that on item 14.

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

12. Notice for Reconsideration given by Alderman Garrity relative to acceptance of the Special Committee on Solid Waste Activities report that Corcoran Environmental be released from the Dunbarton Road site on the condition that they bring evidence on a firm commitment acceptable to the City Solicitor of an alternative location in the City of Manchester; all of the remaining terms and conditions in the contract shall remain the same.
(Note: Aldermen DeVries and Garrity having voted in the negative; Aldermen M. Roy, Gatsas, J. Roy, Osborne, Pinard, O'Neil, Lopez, Shea, Smith, Ouellette, Domaingue having voted in the affirmative; Alderman Sullivan was absent from the vote.

Alderman DeVries stated I'd like to start with the Solicitor giving us an update. It was my understanding that this businessman was to go back to the Solicitor's office.

Mr. Tom Arnold, Deputy City Solicitor, stated I guess the short answer to your question is we have had a couple of brief discussions with Corcoran but at this point they have not approached our office with any alternative location.

Alderman DeVries stated it was my understanding there was a timeframe with the motion that was made. Maybe I'm remembering 30 days, and it seems like we are out beyond 30 days at this time.

Mayor Guinta stated there wasn't a timeframe.

Alderman M. Roy stated as Chairman of the Solid Waste Committee, I don't agree with the reconsideration, but I do believe we did make it clear that it was time sensitive. Kevin, are you ready to give any type of update?

Mayor Guinta stated there has been no movement since the last time we spoke as a Board.

Alderman Garrity asked Alderman Roy, when this vote was taken at the full Board last time, didn't you vote no?

Mr. Sheppard stated I did speak to Patrick Corcoran today. He says his attorney is in touch with an attorney of another property and they are in negotiations. He did not offer up a piece of property that he's discussing, and I did not feel it was my place to intercede and ask that question, until he brings a piece of property forward to the Board.

Alderman Garrity stated so he's talking with other property owners. Are they within the City?

Mr. Sheppard responded he did not give me any indication which property it was, where the property was, but I believe the action by the Board was for him to bring a piece of property within the City, so I won't assume anything.

Alderman Garrity asked did he give you a timeframe for when he's going to have it?

Mr. Sheppard responded he told me he expects to be coming back to this Board in the very near future.

Alderman Garrity stated I don't want to spend a lot of time on this, Your Honor, because I know how everybody is going to vote.

Alderman Garrity moved to reconsider this item. The motion was duly seconded by Alderman DeVries.

Alderman Gatsas asked for a roll call.

Aldermen Garrity and DeVries voted yea. Aldermen Gatsas, Sullivan, J. Roy, Osborne, Pinard, O'Neil, Lopez, Shea, Smith, Ouellette, Domaingue and M. Roy voted nay. *The motion to reconsider failed.*

13. Communication from Alderman Lopez requesting that a special committee of Police, Fire, Building Maintenance and two Aldermen named by the Chairman look at a proposal to expand the Police Station into two bays of the Central Fire Department and have the Fire Chief study plans for a new fire station that is going to meet the needs of Manchester into the future before rebuilding any fire station.

Alderman Lopez stated I'm bringing attention to the idea that I had in reference to this in saying that the Police Station could take two bays of the Fire Station, which resulted in much discussion last night. And I appreciate my colleagues discussing it because it brought to light as to the direction I'm going, and that is, what is for the future? We have a new Chief of Police. We have a new Chief in the Fire Department. And this is something that doesn't have to be done in 30 days or during this budget season. It should be a thought out process as to the direction we're going, whether we want to fix up and spend \$1.4 million on Calef Road, whether we want to just fix it up a little bit, or is it the right place for a fire station, and I appreciate the conversation last night. We have to have a strategic plan of moving forward the City. Where is the City going to be in five years? What are we going to do? And if it ends up that the fire station on Calef Road is the best solution for the next five or ten years, so be it. But I don't think any of us know the direction, and so that's the area that I'm going in, to try to put a committee together to sit down with the responsible principals to get their ideas, to get expert help from the International Firefighters, for example. I understand there is a program out there where they do come in and they assist local communities with a strategic plan for the future. So that's the direction I would like to go.

Mayor Guinta asked so is the motion this evening, bringing Aldermanic names forward or just the authorization to form a committee?

Alderman Lopez responded it's just the authorization to form the committee. I'd like to talk to my colleagues, and also there should be a representative from the Mayor's office on this committee so all parties concerned have something going forward. Whatever decision comes back, they can report to the Lands & Buildings Committee and make recommendations one, two and three, and so we know how to fund this thing within the next two or three years.

Alderman Lopez moved to authorize the formation of a committee to study this item. The motion was duly seconded by Alderman Shea.

Alderman Shea stated I think last night at the CIP Committee there were several ideas brought to bear. Obviously, Dan O'Neil managed strategic planning which he can elaborate on a little bit later on. Some of us had indicated a while back about the concept of having...in fact I brought that up a couple of years ago about a precinct on the West side, which may or may not be in agreement with what the new Chief believes. I also had something in the Traffic Committee that I've kept there regarding utilizing community services to discuss the student body at St. Anselm College or the University of New Hampshire, Manchester, as well as Southern New Hampshire University, to get concepts and ideas across, doing surveys and things like that regarding different types of problems that confront the Police or the Fire Department. And I think that having a study that looks into all of the different components that make up our community as well as looking ahead, not behind, because I think that so often it has been mentioned that we're putting Band-Aids on certain types of things in the community and I think it's imperative that we look to the future because I think if we look to the future we may be able to develop things that will be constant for the next generation coming along, rather than trying to repair what's here now. So, again, other members, including Mr. Gatsas, who mentioned about the new courthouse that has to be renovated and so forth so again, they can express it as well, but we did discuss it. Thank you.

Alderman Gatsas stated as Alderman Shea said, there's discussion at the state right now about renovating the courthouse on Chestnut Street. The proximity of that courthouse to the Police Station and it having 62,000 square feet may have an opportunity for the City if we can indulge the state in possibly doing an exchange for a piece of land maybe like the Pearl Street parking lot where they can build their courthouse and give us the Chestnut Street building in exchange for the land, and we do a renovation project for the Police Station. I believe it gives us some very different abilities to move. We can move some of the departments that lease space in the City into the old police station. There is no question that the state is looking to move very quickly. They are looking to abate asbestos in the Chestnut Street building. They are looking to do it in a very quick timeframe. Certainly the difference between what we need to do is only to look and say, yes we'd like to do the exchange for the Pearl Street parking lot or another piece of land in downtown Manchester, or in very close proximity and do it that way, because there was discussion in that court hearing yesterday...it wasn't really a hearing, it was a committee that's put together, that the Manchester Police Department was asked how much is it going to cost to transport prisoners from Manchester to Nashua, and overtime. They came up with a number of \$25,000 and that committee had a number of \$198,000 in their budget. That's a big difference. Those are discussions...I met with Linda Hogden who is the commissioner of administration. I suggested that there should be some conversation with the Mayor and the Economic Development Director that if it's something that we want to move on, the City has the ability to move a lot quicker than the state. But it certainly should be conversation we have in the next two weeks if that's something that we want to do, because I think it's an opportunity, and it's an opportunity that fits very closely to where the Police Station is now. There are cells, from what I understand, in that courthouse, so some of the renovations that need to be made may be beneficial to looking at that building and not having to

build a new one, because there is almost 70,000 square feet. So, it's an opportunity, whether we as a Board could move quickly enough, looking at those demands, again, they're looking at a timeframe of about 24 to 30 months, if they are going to do the renovations there. If they are going to do a design/build, it may be quicker. So, that's all on the table that we should at least take a look at, and I would suggest, Your Honor, if you could call Linda Hogden and maybe you and Jay can meet with her...

Alderman O'Neil stated Alderman Gatsas brought up this point last night. You seem to have a doubt between the two numbers on the prisoner transport. Is there any way to confirm that? The state is way up here and the Police Department is down here.

Alderman Gatsas stated I talked to Deputy Chief Simmons last night and I asked him to make sure he gets a pencil in place because going back and forth with overtime, I've got to believe it's more than the \$20,000, along with fuel and everything else, going back and forth to Nashua.

Mayor Guinta stated I don't want to keep going on that issue. We can get the information from Deputy Chief Simmons. I'll set up a meeting with Linda. I don't want to open up a whole new discussion here on a separate issue.

Alderman Shea stated talking about lots, the Pearl Street lot is a very good site too. That's owned by the City as well, if we're talking about parking lots and so forth. There are a few places that we should look into though.

Alderman DeVries stated when individuals look at this, it's my understanding that there is some sort of reverter clause with the parcel that the courthouse sits in from the original deed, so first we need to look and see if whatever use we might

be looking at is allowed under that reverter clause. When that property was given, it was for a specific use and I'm not sure it's assumable, so that's the first place we need to...

Mayor Guinta stated I'll begin the research with the Solicitor and Economic Development and we'll schedule a meeting with Linda as well.

Mayor Guinta called for a vote on the motion to authorize the formation of a study committee. There being none opposed, the motion carried.

14. Communication from Alderman O'Neil suggesting the City cancel its membership to the New Hampshire Municipal Association/Local Government Center and remove the annual dues from the next operating budget.

Alderman O'Neil stated we had this discussion five or six years ago now. I think the Local Government Center/New Hampshire Municipal Association serves a purpose for the towns and maybe some of the small cities. I'm just not sure they represent our interest, and my intent in writing the letter has specifically to do with the retirement situation. Although there appear to be no changes that affect...well, I shouldn't say this because I don't know. I rely on my information solely on the newspaper. I have great concerns about any effect that changes the legislature makes, how it would affect our retirees, current members, especially Police and Fire. And I know the Local Government Center has taken a position that might represent the majority of their communities. Again, I don't believe it necessarily represents our. I asked both departments just to give me a number in the next fiscal year of how many members are eligible for retirement. It was 26 members of the Manchester Police Department in fiscal year 2009 who are eligible for retirement. They will reach their minimum age or minimum years of service. There are 75 members of the Manchester Fire Department that will reach their

minimum age or minimum years of service. The loss of the experience of those men and women would be hard to replace. We don't exactly have people knocking down the doors to become firefighters or police officers in this City. But equally important as we're going through this budget, we recognize the severance cost, and if we ever had approximately...for some reason there was some drastic change made regarding the retirement system and we had 100 police officers and firefighters retire, I don't know what would happen to the City financially. It would greatly, greatly, greatly hurt us. My concern is does the Municipal Association/Local Government Center really representing the concerns of the City of Manchester? I know they have a wide spectrum whom they represent, but our issues aren't the same as the issues of a small town. The amount is only about \$29,000. Bill Sanders confirmed that for me. But, that's close to a salary of a police officer or a firefighter. So, I think it's something we need to consider. If they're not going to be able to reflect the needs of the City of Manchester, then we really...we have not had this discussion regarding...and I think Alderman Gatsas pointed out House Bill #1645...the Mayor was right. It's similar to my discussion. What happens there? We need to be represented. I know you're up there trying to do that, Your Honor, but in the meantime they're putting all their efforts in one direction, and it may not necessarily be favorable to the City of Manchester.

Mayor Guinta stated here is what I would suggest. First of all, I understand some of the concerns that you're raising. My preference would be, before we take a vote to have all the information before us. Would it be more appropriate to ask the Municipal Association to come before the Committee on Administration and give an overview of what they do, talk about the specific pieces of legislation they are currently either involved in, opposing, advocating, and give a review from their perspective on HB #1645? There are a lot of things that are going on with that piece of legislation. Obviously, the challenge that the state is having is if

something is not done at all, legislatively, the financial impact to the City would be, at minimum about \$3 million next year. So I think one of the original intentions that affects Manchester is that the bill as it was voted on in the House brings that liability down to about \$628,000. I know that the Senate has voted on it. I don't know if that liability has changed. I'm sorry. It was in committee in April; the full Senate hasn't voted on it yet. I haven't seen if those liabilities have changed in...and I haven't seen the final piece...

Alderman O'Neil interjected and not trying to counter you, what are our liabilities if those 26 police officers and 75 firefighters decided to retire next year?

Mayor Guinta continued I'm not sure this legislation is forcing people to retire. I think it's trying to...

Alderman O'Neil interjected I don't know that. I'm not blaming anyone on our end, but again, I'm not convinced...it's a tough job for the Municipal Association or Local Government Center, as they're now called, to represent all their parties. We are one of the biggest stakeholders in this situation. We have, in my opinion, 100 public safety officers who are eligible for retirement next year, and any threat to the retirement system could force some of them into retirement that they were not planning to do. They've reached their age; they've reached their years of service, and I'm very concerned about that.

Mayor Guinta stated I don't disagree with that, but I think there are two different issues we're talking about. HB #1645 deals with the shortfall in the state pension system, and the House and the Senate are trying to resolve that issue. I think what your issue is talking about is how we deal with a high number of employees retiring at the same time, which I think is more of a City issue. What I would

suggest, if it would be amenable to you as the one of the concerning parties, to bring them before the Committee on Administration.

Alderman O'Neil asked do you want to do the committee or the full Board? It doesn't matter to me.

Mayor Guinta stated we could do both.

Alderman DeVries stated Your Honor, we did that just a couple of years ago when you were an Alderman.

Mayor Guinta stated it's just a suggestion. There are concerns that Alderman O'Neil is raising about the Municipal Association and not just on this bill. I'm sure there may be others, so I'm saying it might be time again to get some of those specific questions answered, especially by that association.

Alderman DeVries stated I think it's important for us to keep in mind the dues we pay to this organization, and the only benefit that we get is their insight on legislation, which we can get for free on line from them. But we're paying about \$25,000. That's a teacher or a firefighter or a police officer. We don't subscribe to their insurance plan. We don't need to pay that. And while we are making tough choices in a budget year, this is a choice that I can forego.

Mayor Guinta stated the concern that I have right now is the objection that's being raised is because of a specific stance on a specific piece of legislation. I think not every member of this Board has the full, complete understanding of that piece of legislation that we're talking about.

Alderman O'Neil stated that bill may be part of it. I'm not sure all the discussions...and the members of the legislature may be able to correct me...regarding the retirement system are part of that one bill. Alderman Gatsas is shaking his head yes. All discussions are part of that one bill. From what I have read, I didn't necessarily understand it was all part of one bill, so if that's the case, yes.

Alderman Gatsas stated the only other bill, that we extended for the teachers one additional year...that was already voted on and passed...to take them out of this year and extend it to next year for their medical benefit for retirees. That's the only other piece that's out there.

Mayor Guinta stated I just want to give members of this Board an opportunity to hear from the Municipal Association again before the decision is made. If after that the majority of the members of this Board feel that we should pull out of the Association, then so be it. But I think at the very least all members of the Board should get an updated understanding. We have some new members on the Board. It's time to have an update from them.

Alderman DeVries stated I'm not sure what has changed in the last three years, and I think it was your last year as Alderman before you ran for Mayor, and we should take a look and see how you voted back then. I don't recall but we've been questioning for many years what we get in exchange for our dues to the Municipal Association. Back then it was actually Mayor Baines who convinced us that we might want to make a switch over to their health insurance plan rather than being self-insured, and he convinced us that it was worth continuing to pay our dues. We've done another three years of paying dues for nothing. We're supporting the organization when we can go on line and we can look at their website and get the same newsletter. We're paying \$25,000 for us to get a newsletter mailed to us at

home that we can get for free. If we're in a tough budget year, why are we doing that? We are making tough cuts that hurt all of our services in the City, so why are we even thinking twice about keeping this one that gives us no benefit in return?

Mayor Guinta responded Alderman, it's an agenda item. I'm simply suggesting that members of this Board have an opportunity to hear from the Municipal Association before a decision is rendered. I think it's a reasonable request.

Alderman Domaingue stated I'm inclined to agree with Alderman DeVries. I would like to hear from them, however, before we make a decision because I wasn't here three years ago, and I feel like the presentation would be valuable to me.

Alderman Shea stated if you recall, we had a lobbying group a few years back that the previous mayor indicated would be helpful, and I'm not sure if we ran both concurrently, whether we had the lobbying and the Municipal Association services. I know Alderman O'Neil was mentioning Fire and Police, but obviously the teachers are part of that group too and have a vested interest in that, naturally. The point is that I'm willing to hear what they're contributing and then make a decision. My point is, when do we have to renew our membership?

Mayor Guinta responded I'm not sure. I'd have to check that.

Alderman Shea asked would that be part of your budget, Your Honor?

Mayor Guinta responded they are currently, I believe, in the Community...what line is that, the one in the non-departmental items? I think they are in the Community Programs portion of the budget. I can check.

Alderman Shea asked would we have to make a decision prior to the adoption of the 2009 budget?

Mayor Guinta responded yes.

Alderman Shea stated okay, that gives us time to...

Mayor Guinta stated I would also remind everybody that when I first took over, we were paying both Sheehan Phinney Capitol Group as well as the Municipal Association, as well as the US Conference of Mayors and the League of Cities. I terminated the contract with Sheehan Phinney Capitol Group and the US Conference of Mayors. I'm terminating League of Cities. That's the only one that would be left.

Alderman DeVries stated we have a staff person now and he's doing a great job.

Mayor Guinta stated which is an added responsibility that we decided to bring into the office and save the money.

Alderman Shea stated so we can see when they come down what they're doing for us and make a judgment. Thanks, Your Honor.

Alderman Smith stated I just happen to have the legislative bulletin, and if it wasn't for this, I wouldn't have gotten this House Bill #1573, which you supported, Mayor; the Building Department supported it; and it's going to actually save us some money, because we're going to be able to adjust people's properties, anything they own, whether they own it in Manchester or in Hampton, and we'll be able to get our money back. Everyone knows about the \$81,000 the other

night. This is a good bill, and I never would have found out about it if it wasn't for this. We tracked this bill all the time since January, and it finally passed both houses last week.

Alderman Lopez stated I don't want to prolong it. A lot of good questions. They've been here and some of the new Aldermen don't know about them. Just to remind people that they're having a 67th annual conference here in Manchester November 12th to 14th. So, there is a lot of information that they provide. I can tell you that I call them on occasions to check out things. So I think before we just disband them, we should know that they do serve a purpose. Any Alderman can call and ask a question in reference to any regulation whatsoever, and they provide assistance to us. That's my opinion.

***Alderman O'Neil** moved to ask the Municipal Association to make a presentation to the full Board. The motion was duly seconded by **Alderman Pinard**.*

Alderman O'Neil stated about dues, Mr. Sanders thinks we may have just paid them at some point, so it may not be as critical that we need to get this done before we approve the budget.

Alderman Gatsas stated I guess the question that I was going to bring up on #1645... we're just worried about \$25,000, we'd better be looking at the big picture here, because the big picture is all about retirement. There had better be some serious discussion about where this Board thinks it wants to go on that item because there are an awful lot of legal questions that at least I have, and how we should be addressing them as a City. I don't know if you have a position on it, Your Honor, but I know that maybe our positions are different right now, after what I just heard you say. I believe that the retirement system, the bills that are in place right now...and I certainly don't have a problem addressing them. We

continually hear about unfunded mandates that come from Concord. Back in 2000, or probably 1999, if I can indulge this Board, there was legislation passed that anybody that retired from teachers, police or fire in 2000 going forward would not be entitled to a medical benefit. That was agreed on and voted on, and it was fine. In the City of Manchester, and I tried today to get some updated numbers but I didn't have the opportunity to speak with Superintendent Aliberti, but I'm sure by tomorrow I will reach him, but I did get numbers from Fire and Police. In those two complements there are 460 full time positions if we fill them all, and there are 179 of those 460 that were hired after 2000. There's another 21 positions that, if we filled the full complement this year, it would bring us to 200. Starting in 2000 there is a percentage of payroll that we pay as a city for every one of the employees of 460 that goes into the medical subsidy account. Well in 2000 that was fine because everybody that was participating was getting the subsidy and that was going into the retirement medical account. However, now, out of the 460, there are only 260 that are able to participate in the medical, as we know it, after retirement. We're paying for the other 200 as a City. It would behoove us to take a look at what that number is because that's a pretty big unfunded mandate that the City is absorbing. I'm not too sure if the clarity has been explained to every community throughout the state, but on a quick, back-of-the-envelope number, it's about a million dollars. So when you look at that number and you look at what people are telling us in #1645, certainly there are benefits, but when you look at the workforce that we have, and tell almost 50% of firefighters and police we're paying for a benefit but you can't get it, that's something that we as a City need to take grasp of, and whether we have some legal expert in the retirement community come in and talk to us, and we should do it very quickly, because that bill is going to come forward, and there are a couple of Senators that sit on this committee and this Board that are going to have to take a vote on it. And we should have a very clear idea of what it does for the City. And I understand what the Municipal Association has said, if we don't vote for the bill as it came out of the House, it

could cost us an additional 53 percent in wages, but when you look at the numbers and look at them, that number is dim compared to the money that we're paying for people that don't receive a benefit.

Alderman DeVries stated that last point that Alderman Gatsas made needs to be corrected. If the bill doesn't pass at all, there is a 53 percent increase to us as a municipality. The version that the Senate passed out of committee has a roughly equivalent cost. They're both 50-odd percent increases. There is no change in the cost to our City or to any municipality in the state between the House version and the Senate version as it came out of committee. The Municipal Association hasn't gotten back to us since last Friday, and maybe that's why \$25,000 could be better utilized by your staff person and those of us sitting here.

Alderman Gatsas asked haven't gotten back to who? They've gotten back to me; maybe they haven't gotten back to you.

Alderman DeVries responded to the Mayor.

Mayor Guinta called for a vote on the motion to ask the Municipal Association to make a presentation to the full Board. There being none opposed, the motion carried.

15. Communication from David Smith, MTA, requesting the Board's approval of a new bus shelter location, on Auto Center road at Wal-Mart.

On motion of Alderman Shea, duly seconded by Alderman Garrity, it was voted to approve this item, subject to the review and approval of the Public Works Director.

16. Ordinances:

Amending Section 33.064 Employees Injured in the Line of Duty to apply to all employees and to require the repayment of sick leave benefits upon determination of employee eligibility for workers compensation benefits.”

“Amending Chapter 70: Motor Vehicles And Traffic of the Code of Ordinances of the City of Manchester by amending Section 70.82 Immobilization of Motor Vehicles for Non-Payment of Parking Fines increasing the fee for immobilization and inserting reference to the Parking Division.”

“Amending Sections 33.024, 33.025, & 33.026 (Purchasing Assistant) of the Code of Ordinances of the City of Manchester.”

“Amending Chapter 70: Motor Vehicles and Traffic of the Code of Ordinances of the City of Manchester by expanding the Residential Parking Permit Zone #6 in Section 70.55(D) (6) to include Mechanic Street, north side, between Elm Street and Canal Street.”

“Amending Section 70.45 of the Code of Ordinances to clarify responsibilities of the Parking Division.”

City Clerk Carol Johnson stated item 16 is a listing of ordinances, and those ordinances were also to be considered by the Committee on Accounts and Enrollment. Unfortunately, there was a posting issue with that committee. There is another issue with the ordinances and that is item 10 was an ordinance that, if I understand correctly, the Board intended to approve. If so, we’d like that included with the Enrolled ordinances in item 16. If the Board desire to move forward with the ordinances tonight, the mechanism to do that would be to suspend the rules and place them on their final reading.

Alderman Gatsas asked why is it that we don’t have an agenda for Committee on Accounts?

City Clerk Johnson responded because the City Clerk...it was an oversight in my office and I take responsibility for that.

Alderman Gatsas stated when you say it was an oversight, you didn't send it out?

City Clerk Johnson responded yes, it has not been posted. We did not send it out. Correct.

Alderman Gatsas stated it's posted in the agenda.

City Clerk Johnson stated we placed it in the agenda as a recess to meet on special leave of the Board, but the agenda itself was not posted on the web, nor was it placed on the schedule.

Mayor Guinta asked can we move it to the next BMA meeting?

City Clerk Johnson responded or you can just proceed with Enrolling them and then we'll bring the rest back...

Mayor Guinta stated if it hasn't been posted I'd prefer...

City Clerk Johnson stated that part has. You can take item 16 as it stands if you want. We'll just remove items 17 and 22 from the agenda this evening.

Mayor Guinta stated okay, I'd prefer to do that.

On motion of Alderman O'Neil, duly seconded by Alderman Pinard, it was voted to waive reading of the ordinances.

On motion of Alderman Garrity, duly seconded by Alderman Smith, it was voted that these ordinances, having had their second readings by title only, ought to pass and be Enrolled.

Aldermen Gatsas and Domaingue registered opposition to amending Section 70:45.

17. Mayor Guinta advises that a motion is in order to recess the meeting to allow the Committee on Accounts, Enrollment and Revenue Administration to meet.

This item was removed from the agenda.

Mayor Guinta called the meeting back to order.

This item was removed from the agenda.

19. Report of the Committee on Accounts, Enrollment and Revenue Administration, if available.

This item was removed from the agenda.

- 20.** Purchase and Sale Agreement between 1848 Associates and the City for “Phillippe Cote Street” and “Granite Street Lot” submitted by Jay Minkarah, Economic Development Director.

Alderman Pinard moved to authorize the Mayor to execute the agreement for and on behalf of the City, subject to the review and approval of the City Solicitor.

Alderman Shea duly seconded the motion.

Alderman Domaingue stated I would like to see the agreement that is put together prior to authorizing you to execute it. I am just not really comfortable authorizing you to execute an agreement I haven't read yet.

Mayor Guinta asked are you talking about the purchase and sale agreement.

Alderman Domaingue responded yes. This doesn't look like a legal purchase and sale agreement. It looks like a bullet point list.

Mayor Guinta stated the purchase and sale is in the agenda.

Mr. Jay Minkarah, Economic Development Director, stated I was asked to prepare the highlights of the proposal, which you should have, but the full agreement should be in your packet.

Mayor Guinta stated in the agenda there is the full agreement.

Alderman Gatsas asked Jay, was this an agreement that was sent to us by the purchaser? So, the City Solicitor didn't sit down and bang something out. This came from the purchaser?

Mr. Minkarah responded we had an initial draft with the purchaser, but yes, we have reviewed this with the City Solicitor. There were changes that were proposed so this is the agreement that was worked out between the purchaser as well as the Solicitor's office, our office, and we also had other key members of the staff review it as well.

Alderman Gatsas asked and everybody has agreed to it?

Mr. Minkarah replied yes.

Chairman Lopez assumed the Chair in the Mayor's absence.

Alderman Gatsas stated if you don't mind I am going to go through it. I guess the Mayor is not here so...Mr. Chairman, thank you. I think there were some discussions at the full Board and I guess I will start with the easy ones: 'that the deposit and the balance of the purchase price will be delivered to the seller'. My understanding when I read the first part of this is that the City is holding the deposit or will be holding the deposit of \$152,000. Is that correct?

Mr. Minkarah responded correct.

Alderman Gatsas stated so they are not going to deliver the deposit and the balance of the purchase price because we already have the deposit. They are only going to deliver the balance of the purchase price.

Mr. Minkarah stated correct, on closing, yes.

Alderman Gatsas stated so you need to change on page 2, you need to rectify that change. If I look at number...on the top of page 2, when it says 'the deed shall contain a restriction in favor of the seller limiting new construction and uses of the premises to those associated with the use of the premises for access ways, parking facilities and parking purposes unless the Board of Mayor and Aldermen of the Seller approve otherwise'. Can you explain to me what that means please?

Mr. Minkarah stated I will read it again before I do.

Alderman Gatsas stated thank you.

Chairman Lopez noted we also have City Solicitor too.

Mr. Minkarah stated I would have to defer to the Solicitor. I am not sure exactly what the intent of that is.

Mr. Arnold stated certainly. That is a restriction to be placed in the deed essentially to insure that the various parcels of property that are going to be transferred are put to the use to which the staff and this Board intended, namely parking facilities and various passageways to benefit the abutting properties.

Alderman Gatsas asked so we believe that that wording is precise enough to include those restrictions? I mean I am looking at a restriction here that, when I am looking at a purchase and sale of less than five pages on a \$1.5 million project that had an awful lot of parameters that this Board voiced, I would think the document would be a little bit bigger than that, but maybe times have changed.

Mr. Arnold stated this is a clause in the purchase and sale agreement which acknowledges that there will be wording in the deed to that effect. This is not the

wording that will be placed in the deed. The wording in the deed itself I would think would be more detailed.

Alderman Gatsas asked shouldn't we have that in front of us in a legal instrument that's a purchase and sale? I don't know how you can cover the deed unless those words are in the purchase and sale agreement.

Mr. Arnold stated often purchase and sale agreements contain clauses that are expanded in a deed. If this Board wants to see the specific language we can certainly try and hammer that out with the proposed buyer and come back to the Board, but as I say, this purchase and sale agreement has this clause to acknowledge so that all the parties are aware that those restrictions will be contained in the deed itself.

Alderman Gatsas stated well I certainly would at least advise the purchaser, and I am not their attorney, that any deed restriction that is going to appear should appear in the purchase and sale and not at the whim of whoever the seller is who can decide to put a restriction in the deed that the purchaser wasn't aware of. Other than that, I think that is something you need to put down because I don't feel comfortable that the wording that your talking about that's going to appear in the deed restriction isn't in a purchase and sale. Number three, if we go down to C, there are obviously meters on that street and it talks about all property free and clear. I assume that the meters have to be gone.

Mr. Minkarah stated yes, it is out intent to relocate those meters and use them elsewhere.

Alderman Gatsas stated well then if I take you to the next clause that I have some concern with, and that is on page three that says that after the closing...and I go down to 1-D. Is that I or small one? 'If after the closing any such appeal is taken seller may contest the appeal. If the appeal results in invalidation of the discontinuance of Phillippe Cote Street then the purchaser should have the option to re-convey Phillippe Cote Street to the seller whereas the seller shall pay all costs and the re-conveyance of the seller shall refund \$498'... Who came up with the \$498,560 for a purchase price?

Mr. Minkarah responded we actually came up with that jointly. That was based on the percentage of the total purchase price that we felt could be attributed to Phillippe Cote. That was based on a prior appraisal that had been used, as I understand it, previously by this Board to arrive at a prior purchase price. So basically what we did is, we had to figure out some way of figuring up the value of Phillippe Cote; that's what we relied on. We took the percentage of the value that we had previously relied on and applied it to the total purchase price in this case.

Alderman Gatsas asked correct me if I am wrong, when we were trying to sell the property the value of Phillippe Cote Street was about \$200,000.

Mr. Minkarah stated not based on the prior appraisal that we had used. What we looked at was not the total amount that we were going to sell this for previously, because as you may recall, that had a lot of discounts. That was a \$630,000 purchase price. Not looking at the various discounts, just looking at the appraised value for Phillippe Cote, it came out to be 32.8% of that total purchase price. That's what we used.

Alderman Gatsas asked the purchase price of what was the number you were using?

Mr. Minkarah responded we applied 32.8% to the proposed \$1.52 million purchase price to arrive at a value for Phillippe Cote for this purpose.

Alderman Gatsas asked what is the land area of the street versus the lots?

Mr. Minkarah responded I don't have the exact land area.

Alderman Gatsas asked wouldn't it make sense that we would apply a percentage of what the lot is, towards the street on purchase?

Mr. Minkarah stated perhaps.

Alderman Gatsas stated because we didn't do an allocation when we did our purchase and sale or selling the property that it was \$1.5 million.

Mr. Minkarah stated when we previously had the reconciled appraised value for the property, for all the properties that were included, and this was during the previous purchase round, a value was established for Phillippe Cote as well as for the Granite Street Lot and for Seal Tanning Lot. We used those values, which I understand were relied on previously, to determine what the percentage of this purchase price should be for Phillippe Cote. Certainly there are other ways we can go about it but this seemed like a reasonable approach. I will also add that we do have to provide for the possibility that Phillippe Cote would not be discontinued in this agreement, but we do think that it's unlikely that that's the case. We think it's the intent and will of the Board to discontinue Phillippe Cote. We also think it's unlikely that that would be successfully challenged or appealed because the

purchasers are the only abutters to Phillippe Cote. We do have to provide for it; we don't think it's a likely scenario. We do believe that we will be able to discontinue Phillippe Cote and we will be able to transfer a good title to the purchasers.

Alderman Gatsas stated but my question is why would this clause be here unless the buyer would contest it? Certainly the City's not.

Mr. Minkarah responded because the statute does provide for a six month appeal period and because there is the possibility that there could be a problem in the title. We can't say for sure that there wouldn't be.

Alderman Gatsas stated well then we shouldn't be closing anything until we find that out. Because if we do that then we are putting ourselves at risk for one third of the sales price and also some jeopardys that maybe somebody might take a deed that might not have clear title to it and do the project.

Mr. Minkarah stated I think our interest is to move this project forward and I don't think that it's a particularly troublesome provision, but if it were the will of the Board, we could certainly modify this agreement to provide that discontinuance is an absolute condition and not to provide for that possibility of closing before we know that we can discontinue Phillippe Cote and pass good title. Again, I don't think this is a likely scenario but that's certainly an approach that we could take.

Alderman Gatsas asked what happens if a building permit is not issued for the Pandora property?

Mr. Minkarah stated then we don't close. That's a contingency. Issuance of a building permit is required under this agreement.

Alderman Gatsas asked and what would the normal timeframe be if we close tomorrow for a building permit to be issued on the Pandora building?

Mr. Minkarah responded I couldn't answer what the normal time frame would be. Obviously you have got to get Planning Board approval. There maybe Zoning approval. The building plans will have to be obviously prepared and approved by the Building Department. I couldn't answer to the timeframe. I will say the schedule is definitely aggressive in this purchase and sale agreement.

Alderman Gatsas asked 90 days?

Mr. Minkarah responded I wouldn't want to answer how long it would take for the Building Department, either for the purchaser to prepare the plans or for the Building Department to review and issue a permit. But again, yes, this is an aggressive schedule.

Alderman Gatsas asked if those are all contingent then why wouldn't we go forward with the street closing to get it somewhere in that timeframe of the six months?

Mr. Minkarah responded it's certainly very possible that we could do that. When you are looking at September 30th with the possibility to extend until December 31st, the six month appeal period obviously falls within that, so it is possible to wait until that appeal period is run in order to close.

Alderman Smith stated Jay, as you well know there were two proposals and the only reason why I voted for this particular proposal was the restoration of the Pandora Building. I was down there at the site today. It's deplorable. I think, six months, I don't even think you can restore it. I don't know if you have seen that every window is out of that building; the top is off the building; my main concern was restoration of that historic building. It seems like we are going no place with it.

Mr. Minkarah replied I agree, and we have put provision in this purchase and sale that the purchaser is to take immediate steps to secure the building from further structural damage, any reasonable steps, so as soon as we've got a signed agreement we can move forward to take some steps to protect the building against further deterioration and then absolutely to move through that approval process so that we can get the building restored. That's the goal.

Alderman Domaingue stated Jay, there are two things I want to see modified on this agreement before I can vote to approve it. The first is to take out that language about refunding \$498,560 of the purchase price. I am not really sure that is an accurate valuation and while you tell me you have reached it, I don't have any of the backup documentation to speak to that, and that is a substantial; it is a third of the purchase price. The second is in subsection four, and I think it's along the lines of what Alderman Smith was referring to which doesn't say that they have to take immediate steps to preserve. It says within 30 days after the execution of the agreement they have to take steps, interim measures, to protect the building. I would like the 30 days language stricken and replaced with the word immediate.

Alderman Lopez asked Jay, did the Assessors have anything to do with that \$498,560 valuation?

Mr. Minkarah responded they did not, no. They did review the agreement but I didn't specifically ask them to help arrive at that figure.

Alderman Lopez asked in your opinion then and the City Solicitor's opinion, the way the language is written here to strike that out from there, what does that mean to the whole deal?

Mr. Minkarah responded I think certainly the purchaser would be more comfortable having it in there. In their original proposal they didn't propose to purchase Phillippe Cote so I don't want to speak for the purchasers. They are here, actually, so I don't know if we want to bring them up. We do have two representatives from DECA. It was something that was important to them because basically the idea would be that if for some reason there were a problem with Phillippe Cote's discontinuance, the whole deal doesn't fall through. That's really why that's there.

Alderman Lopez stated then I think they should be up because I think Alderman Domaingue has a question. If we strike it, is the deal still there? So if the owners are here that made the deal, let them come up and ask that question.

Alderman Domaingue stated in the alternative, I am open to Alderman Gatsas's suggestion which is...I think it was your suggestion that we just don't close until after that period has expired, but that we have the purchase and sale agreement in effect which requires immediate preservation efforts on the part of the purchaser.

Alderman Lopez stated so if the owners agree to that, we're home.

Mayor Guinta stated I think we are home already.

Alderman Lopez stated let's ask them a question. I don't want to hold this project up.

Mayor Guinta stated I agree. I understand.

Mr. Steve Hermans, Corporate Council at DECA Research, stated I represent 1848 Associates. On the issue of the portion of the purchase price to be refunded in the event 1848 is forced to re-convey Phillippe Cote Street to the City, that isn't something 1848 wants to do, and it's not within 1848's control. There is a state statute that provides a right to appeal to any person agreed if a municipality votes to close a street. That appeal can be taken within six months after the closure vote and the litigation that starts with that appeal could last quite a while. If that type of an appeal is taken and succeeds in a court ruling that Phillippe Cote Street was not properly closed so that it still exists, 1848 would not want to still own the land underneath it. There would be no point. So, recognizing the possibility that that land might have to go back to the City, we had to come up with a number for the portion of the purchase price that would be refunded to 1848. Mr. Minkarah suggested we use the appraised values from two or three years ago for all three parcels and determine what portion of the appraised values was attributable to Phillippe Cote Street, apply that same portion to the purchase price under this agreement, and that's how that number was arrived at. We could use area. We wouldn't object to area; it might even give a higher refund to us. I don't know. There was not an attempt to in any way be unfair to the City about it. If someone wants to propose another fair way of determining the amount of the purchase price to be refunded to 1848 we will go with it. In terms of the work to be done on the building, CSM, the buyer of the Pandora Building, is going to totally renovate the building including placing an entirely new roof on it. Any work done on the roof between now and then is just wasted because there is no ongoing use of the

building. Our objective is to get the project started as soon as we can. If we postpone the closing until after the six month appeal period runs, we are also postponing the date when CSM starts the rehab project. That's why we proposed the alternative of closing as soon as possible, getting the project underway, and of course the sale of the Pandora Property would survive any move to close Phillippe Cote Street. That doesn't affect CSM; that only affects 1848 which is why we tried to come up with that alternative.

Alderman Gatsas stated it is not necessarily true because it affects the Waumbec people because they go from 92 spaces to 42 spaces.

Mr. Hermans stated I don't think that means what I said isn't true. It doesn't affect CSM's rights to develop, an obligation to develop, the Pandora Building. That part of the closing stays closed; it's not affected by Phillippe Cote Street, the discontinuance being invalidated.

Alderman Domaingue stated you said you would consider alternatives to that valuation figure that was used, I think in light of the fact that the appraisal was taken several years ago and the allocation was done by agreement and not necessarily through real-estate professionals, I would feel more comfortable seeing language in there to the effect of, if the appeal results in invalidation of the discontinuance of Phillippe Cote Street then purchaser shall have the right to retain an appraiser within 30 days. I would like the property valued in a present day setting and then if you can't agree to have a clause in there either to average two appraisals, the City's and yours, or to go to arbitration...I don't necessarily think that committing to a figure outright is in the best interest of the City and I can't vote for this agreement if it stays in there.

Alderman Garrity asked can we move the question on this? We've had a lengthy discussion on this at a previous meeting too.

Mayor Guinta stated there is a motion on...

Alderman Gatsas interjected I want a clarification from Alderman Garrity. When was there a discussion about this contract in a previous time?

Alderman Garrity stated we have had a discussion about this property. I think everybody knows how they are going to vote, Alderman.

Alderman Gatsas stated with all due respect I think that we should be discussing the contract a little bit longer than we discussed... what was the first item we discussed for 38 minutes?

Mayor Guinta stated it was a zoning issue.

Alderman Gatsas stated oh the zoning issue, 38 minutes on zoning. Thank you.

Alderman M. Roy stated Jay and Attorney Hermans, I appreciate your time spent on this. Jay, subsection six regarding the letters of credit, actually going to subsection seven, the evergreen provisions: It uses a singular which shall automatically renew for another year. My understanding was that was supposed to read like a true evergreen provision until the project is complete and then at which time the seller can by written notification...page four, I believe the top paragraph of page four. It just uses a singular on the letters of credit, renew for another year, and I didn't like the singular tone.

Mr. Minkarah responded I think the intent is that they just keep renewing.

Alderman M. Roy stated I agree with the intent but I just don't like the tone of the language. If it read additional years, I would have no problem with it but where it clearly states an additional year, for another year unless notice is given by the seller. If it read for additional years I would have no problem.

Mr. Minkarah stated sure.

Mr. Arnold stated I understand the Alderman's point. The way I read it is that they would be renewable for a year on a repeated basis but understanding the Alderman's comment, perhaps we could say, 'shall automatically renew year to year unless notice is given by the seller not to renew'.

Alderman M. Roy stated I believe we all have the same intent; it's just that singular language.

Mayor Guinta stated that change can be made.

Alderman Gatsas stated I think the biggest problem that I have is that the discussion that we had on this issue last time was complete reverter back if something didn't happen. Now all of a sudden we are getting paid. If you don't build the parking spaces we get paid \$360,000 and if you don't do the renovation of Pandora we get \$750,000 so I look at this deal and I add those up and that's an additional million dollars that goes to the purchase price but the understanding was, this wasn't about money. This was about building additional parking spaces so that the Millyard can expand and it was in a deal that was going to say that the Pandora was going to be finished and renovated to a position and these things are saying we are going to give you \$1.1 million if we don't do those things. My

understanding was clear that this Board said if those don't happen the reverters come back.

Mr. Minkarah stated I do not believe that we ever proposed a reverter clause. The letters of credit were proposed initially. Those were part of the recommendation that came forward to the Board and those were done to provide an additional measure of protection. The purchasers are seeking to purchase these properties and have gone through this process because they do want to develop this parking. They do want to develop the Pandora Building. We do have requirements in the purchase and sale agreement that they obtain necessary Planning and Zoning approvals and that Building permits are obtained. I think there is enough in here, while short of an absolute guarantee, I think there are certainly significant protections in here to make sure that what it is, we are seeking to happen and they are seeking to happen in fact does happen. With regard to the Pandora Building of course...

Alderman Gatsas interjected Mr. Minkarah, was there a discussion that if these deals didn't happen that there was an additional million dollars coming back to the City?

Mr. Minkarah asked the proposals?

Alderman Gatsas responded no, not your proposal. When this Board voted, was there any discussion that if the deals didn't happen, then an additional million dollars would come to the City?

Mr. Minkarah replied I can't recall the extent to which that issue was exactly discussed but in the recommendation that was brought forward to the full Board, as well as Lands & Buildings, both of those letters of credit were expressly a part of those recommendations.

Alderman Gatsas stated they might have been part of the expressed representations on the proposal that you brought forward. On the proposal that this Board voted on, and we can get the minutes because I think it was very clear, and I will let some of my other colleagues talk on it because we all remember, at least I remember, that it was a reverter if it didn't happen, not that we were going to be paid additional dollars because it's not about the money. It's about getting Pandora done according to what this Board was talking about and to make sure there were additional parking spaces built on that space. That's what the proposal was.

Alderman J. Roy stated that was my question as well. I don't see in here anything about a reverter and I distinctly remember. I could be wrong; we would have to pull the minutes up, but I distinctly remember but our concern was that the Pandora Building get rehabbed and in the event that it didn't happen, we wanted a reverter clause because we did not want to be duped. I don't think they are out to do that but we want to be protected.

Mr. Minkarah stated if I may, again, to the best of my knowledge, a reverter clause was not included in either the proposal that was brought forward or on the recommendations that came from the review committee to Lands & Buildings or to the full Board. We don't own...

Alderman J. Roy interjected you are correct. At the full Board we discussed it when we finally put this thing through but that's what we asked to have in.

Mr. Minkarah stated but we don't own the Pandora Building, so it can't revert to the City.

Alderman J. Roy stated what we are saying is if the Pandora Building doesn't get developed, the lots revert back to the City. That's what I remember.

Alderman O'Neil stated I wasn't going to get in the middle of this but I think Alderman Gatsas and I were the only two that voted against the deal but now I am hearing those that voted for it at the full Board level that there was discussion about this reverter, reverter of the lot back to the City if Pandora didn't happen. That's what this Board was asking. Again, I shouldn't be jumping in here. I voted against the deal. This Board was certainly led to believe...I don't care about recommendations from staff, the discussion that went on, that this was a deal because Pandora was going to get done.

Mayor Guinta asked Tom, is there something from the minutes that you can reference?

Alderman Gatsas asked can you read them into the record please, City Clerk? I certainly want the rest of my colleagues to hear it.

Deputy City Clerk Normand read an excerpt from the minutes of the March 4, 2008, meeting of the Board of Mayor and Aldermen as follows:

“Alderman Gatsas stated it has to be divided. I think that in the posture of taxpayers' understanding, because nobody has talked about this letter that arrived at 6:30, and I assume Alderman Roy is not recommending the report that says we are going to sell it for \$935,000, because that's the minority report that came out in the recommendation. So my suggestion is for those people that are talking that, then they should reject both reports and people need to start talking about this document that arrived at 6:00. I think it's unfair for the taxpayers out there to not understand that there was another offer that came in from Technology Center of \$1,520,000 on the project. Now I don't know whether...maybe procurement doesn't have something to do with it but certainly, certainly, the best interest of the City has something to do with it, that we are going to look at proposals that are on the table that we have six people go through and then all of a sudden something appears. There is no question that there's another one. I believe there is another letter here from Brady Sullivan that talks about the parking. So with all due respect, certainly there are two developers in the Millyard. With all due respect to the College group, we had a discussion about baseball and separation of letters of guarantee in completing projects. With

all due respect, they have to do their due diligence on Pandora. If they come back and say they are not going to do their development, we now still have a vacant building that this whole thing is structured around, and we have sold the parking lots. I don't think that the City should be doing that. Now unless there is some caveat that says nothing's going to happen until the building permits are pulled on Pandora or the reverter clauses come back to the City on the land, because this will be another deal, not that anybody's attempting to do it..."

Deputy City Clerk Normand stated that is the extent of the reverter.

Mr. Hermans asked what was the conjunction that you just read 'or', 'the building permits issued or'...? This contract says the permits must be issued for the Pandora project before the City closes with 1848. Also, I don't know what the final approval was but trying to deal with that problem with the reverter clause kills the deal. How could 1848 pay for this property, transfer the Pandora building to CSM, CSM for whatever reason doesn't complete the project, 1848 loses the land it paid \$1,520,000 for, do we get the purchase price back?

Alderman Gatsas stated I would never keep the money from you. I would give you the money back.

Mr. Hermans stated I don't know how that works. What if the parking structure is half built?

Alderman Gatsas stated let's understand something; the intent of this Board and not my intent or Alderman O'Neil's but I'll certainly speak to the discussion I heard that night, that this was all predicated on the development of the Pandora Building, which the other bidder didn't have the opportunity to do.

Mr. Hermans stated that is why this P&S contains the requirement that the Pandora purchaser have obtained all required permits for their project before the sale from the City closes. In fact, the City can require that the transfer of title of

the Pandora building to that purchaser happen simultaneously with the sale by the City to 1848.

Alderman Gatsas asked then why would we put in that agreement that \$750,000 would come back to the City if the transaction didn't happen at Pandora?

Mr. Hermans responded because the project may not be completed on time. The transaction is going to happen. You are not going to convey the parking lots to 1848 unless you've seen the Pandora transaction close but that doesn't mean the rehab project will be completed on time. We all hope it will be.

Alderman Gatsas asked what if it's never started and it's closed?

Mr. Hermans responded then you get to draw on the letter of credit.

Alderman Gatsas stated as I explained to you, the intent of this Board was never to get another \$750,000 for this property if the Pandora building wasn't done.

Mr. Hermans replied I don't see how you can make out any better than this. How could the deal happen if not this way?

Mayor Guinta stated I am not sure that we actually voted as a Board to instruct a specific reverter that you're referencing. There was a discussion obviously about a reverter but I am not sure that there was actually a vote taken on the reverter. The issue that we talked about generally was how we can insure that Pandora gets renovated. The only way we can insure Pandora gets renovated is if we complete this transaction. There are specific financial impacts for the City if it doesn't occur as well, both payments and the \$20,000 a month in terms of letters of credit.

Alderman Gatsas stated Your Honor, let me refresh everybody's memory, including yours. We heard those same discussions about Bridge and Elm. We heard those same discussions about property that was going to be developed on the

river front. I don't questions that. I want to make sure...and as somebody said to me once before, you'd better read the document. It was your predecessor that reminded me of that. So I have read the document; I don't think the document is complete; I think the Solicitor needs to sit down and tell us that he approves that document and it comes forward. You said you have got to make a decision with the Solicitor.

Mayor Guinta stated Alderman, the motion that is before us includes the term 'subject to review and approval of the City Solicitor'.

Alderman Gatsas asked is it coming back to this Board after that?

Mayor Guinta stated no, this is what we are doing here. There was a request made by you to come back to this Board once. We've done that. Now the vote will occur again and that same language is included, subject to the review and approval of the City Solicitor. That is the vote on the floor.

Alderman Gatsas asked so this document could change?

Mayor Guinta stated yes it can. Yes, it actually can.

Alderman Lopez asked City Solicitor, you have reviewed this and had your input in it. Is the City protected and do you agree with the economic and the conversation that Jay had and do you agree that the reverter clause does not have to be in there?

Mr. Arnold stated we were just looking at the minutes from that meeting; the motion that was made does not refer to a reverter clause. The reverter clause as you've heard was certainly mentioned by Alderman Gatsas, but as Mr. Hermans has pointed out, if there is a reverter clause it kills the deal and we certainly have run into that in the City before. That is generally why we do not include reverter clauses in the various land transactions that the City has been involved in and so

far as reviewing this purchase and sale agreement, yes it has been reviewed. The letters of credit were put in there in order to make our best effort in insuring that the Pandora building does in fact get rehabilitated. I hope that answers your question, Alderman.

Alderman Gatsas called for a roll call vote on the motion

Alderman O'Neil stated several Aldermen have suggested changes. Are those in or are they not being considered?

Mayor Guinta stated this document is going to be reviewed by the Solicitor, those appropriate changes can be made, and prior to signature by myself if there are changes I would convey that to the Board in writing.

Alderman O'Neil stated again I probably don't belong in this fight but...

Alderman Gatsas interjected you do now.

Alderman O'Neil stated Alderman Domaingue is an attorney. She has asked for specific changes. How are we going to know those changes go in?

Alderman Domaingue stated well you have to assume that they are not going to go in based on what you just said.

Mayor Guinta stated Alderman, assuming this passes, the Solicitor will then review again the document. I will then meet with the Solicitor. We will discuss the changes that have been identified both by Alderman Domaingue and I think there was a change by Alderman Roy.

Alderman Gatsas stated you ought to change the deposit too because we don't...

Mayor Guinta interjected if it meets with the approval of the Solicitor and myself, they will be changed and I will notify the Board in writing.

Alderman Domaingue stated if no changes are made to the agreement...

Mayor Guinta interjected I will let you know that too.

Alderman Domaingue asked and then do we get to revote on it?

Mayor Guinta responded no. This is the vote.

Alderman Domaingue stated no, that's what I was trying to get to.

Alderman O'Neil asked so if somebody voted yes, they could reconsider their vote then?

Alderman Domaingue responded no.

Mayor Guinta stated if you vote, yes, I guess...

Alderman O'Neil interjected there is no mechanism, if changes don't happen that the members of the Board want, there is no mechanism...

Mayor Guinta interjected at some point you have got to let staff make those decisions.

Alderman Gatsas stated I heard that on Bridge and Elm; I heard that on the river stadium.

Mayor Guinta stated we can either vote the project up or down. I think enough people...

A roll call vote was taken on the motion to authorize the Mayor to execute the agreement for and on behalf of the City, subject to the review and approval of the City Solicitor.

Aldermen Sullivan, J. Roy, Osborne, Pinard, Lopez, Shea, Garrity, Smith, Ouellette, and M. Roy voted Yea. Aldermen Gatsas, O'Neil, DeVries, and Domaingue voted Nay. *The motion carried.*

21. Resolutions:

“Amending the FY2008 Community Improvement Program, authorizing and appropriating funds in the amount of One Thousand Five Hundred Dollars (\$1,500) for the FY2008 CIP 612508 Community Assessment Project.”

“Amending the FY2008 Community Improvement Program, authorizing and appropriating funds in the amount of Five Thousand Seven Hundred and One Dollars (\$5,701) for the FY2008 CIP 210808 STD Clinical and DIS Program.”

“Amending the FY2008 Community Improvement Program, authorizing and appropriating funds in the amount of Twenty Five Thousand Dollars (\$25,000) for the FY2008 CIP 210108 HIV Counseling & Testing Program.”

“Amending the FY2008 Community Improvement Program, authorizing and appropriating funds in the amount of Five Thousand Nine Hundred Dollars (\$5,900) for the FY2008 CIP 210308 Immunization Services.”

“Amending the FY2008 Community Improvement Program, authorizing and appropriating funds in the amount of Twenty One Thousand Five Hundred Fifty Three Dollars (\$21,553) for the FY2008 CIP 210708 School Based Dental Services.”

“Amending the FY2008 Community Improvement Program, authorizing and appropriating funds in the amount of Ten Thousand Dollars (\$10,000) for the 2008 CIP 214308 Pandemic Flu Planning – Phase III Program.”

“Amending a Resolution ‘Amending the FY2006 and FY2008 Community Improvement Programs providing for the reduction of Sixty thousand Two Hundred Sixty-Two Dollars and Four Cents (\$60,262.04) from various CIP Projects’ to \$59,535.52.”

“Amending the FY2008 Community Improvement Program, authorizing and appropriating funds in the amount of One Thousand Eight Hundred Seventy Five Dollars (\$1,875) for the FY2008 CIP 713408 Chronic Drain Project.”

“Authorizing the Finance Officer to effect a transfer of Eighty One Thousand Dollars (\$81,000) from Contingency to the Building Department.”

On motion of Alderman M. Roy, duly seconded by Alderman Pinard, it was voted to waive reading of these amending resolutions.

On motion of Alderman Domaingue, duly seconded by Alderman Shea, it was voted that these amending resolutions ought to pass and be Enrolled.

Deputy City Clerk Normand stated we would just indicate that the Community Improvement Program resolution would be amended to \$59,535.52.

22. Ordinances:

Amending Section 33.064 Employees Injured in the Line of Duty to apply to all employees and to require the repayment of sick leave benefits upon determination of employee eligibility for workers compensation benefits.”

“Amending Sections 33.024, 33.025, & 33.026 (Purchasing Assistant) of the Code of Ordinances of the City of Manchester.”

“Amending Chapter 70: Motor Vehicles and Traffic of the Code of Ordinances of the City of Manchester by expanding the Residential Parking Permit Zone #6 in Section 70.55(D) (6) to include Mechanic Street, north side, between Elm Street and Canal Street.”

“Amending Section 70.45 of the Code of Ordinances to clarify responsibilities of the Parking Division.”

This item was removed from the agenda.

TABLED ITEMS

(A motion is in order to remove any item from the table.)

- 23.** Communication from Carol Johnson, City Clerk, providing the Board a report on the current status of activities at the Office of the City Clerk.
(Tabled 2/19/2008)
NOTE: Available for viewing at Office of City Clerk; previously forwarded to Mayor and all Aldermen.

This item remained on the table.

- 24.** A Majority report of the Committee on Bills on Second Reading recommending that Ordinance:
“Amending the Zoning Ordinance of the City of Manchester by extending the General Business District (B-2) into an area currently zoned Residential One Family District (R-1B), being a portion of Tax Map 381, Lot 47 with an address of 466 South Willow Street and abutting South Lincoln, South Willow and Parkview Streets. A majority of the property is currently zoned B-2 and the petition would extend the B-2 to include the entire lot.”

be denied at this time.

The Committee notes that the business owner should work with the neighborhood and may return with a petition after addressing issue as noted in a communication from Alderman Garrity enclosed herein.
(Aldermen Garrity, Pinard and Duval in favor. Aldermen Lopez and Gatsas opposed.)
(Tabled 06/05/2007)

A Minority report of the Committee on Bills on Second Reading recommending that Ordinance:

“Amending the Zoning Ordinance of the City of Manchester by extending the General Business District (B-2) into an area currently zoned Residential One Family District (R-1B), being a portion of Tax Map 381, Lot 47 with an address of 466 South Willow Street and abutting South Lincoln, South Willow and Parkview Streets. A majority of the property is currently zoned B-2 and the petition would extend the B-2 to include the entire lot.”

ought to pass.

The minority advises that the proposed zoning, in its opinion, is consistent with the highest and best use of the property and that neighborhood concerns can be best addressed through the development process at the Planning Board level, therefore, that such rezoning should be considered subject to the Planning Board approving any plans for development of the property.

S/Alderman Lopez
(Tabled 06/05/2007)

NOTE: Available for viewing at Office of City Clerk; previously forwarded to Mayor and all Aldermen.

This item remained on the table.

25. Report of the Committee on Bills on Second Reading recommending that Ordinance:

“Amending the Zoning Ordinance of the City of Manchester by extending the B-2 (General Business) zoning district to include property currently zoned IND (Industrial) located on the south side of Gold Street east of the former Lawrence Branch of the B&M Railroad and including the following three lots Tax Map 875-14, 875-15, 875-16.”

ought to pass.

(Aldermen Duval, Lopez, Garrity and Pinard recorded in favor; Alderman Gatsas opposed.)
(Tabled 09/05/2006)

NOTE: Available for viewing at Office of City Clerk; previously forwarded to Mayor and all Aldermen.

This item remained on the table.

26. Report of the Committee on Bills on Second Reading recommending that Ordinance:

“Amending the Zoning Ordinance of the City of Manchester by extending the R-3 (Urban Multi-family) zoning district to include property currently zoned R-1B (Single-family) located on a portion of Tax Map 691 Lot 143-1 that will be on the north side of a proposed Gold Street Bypass and adjacent to Bradley Street and the New St. Augustin’s Cemetery.”

ought to pass.

*(Aldermen Duval, Lopez, Garrity and Pinard recorded in favor; Alderman Gatsas opposed.)
(Tabled 09/05/2006)*

This item remained on the table.

NEW BUSINESS

Alderman O’Neil stated a week ago we talked about new hires or promotions at the Fire Department that would help or hurt setting up the high overtime period in July. We also discussed whether or not the Board was going to move forward with offering of ten jobs that they would need to start moving on as well to bring on, I think in July or maybe August. Has any determination been made on either situation at Police or Fire?

Mayor Guinta responded yes on both. With respect to the Police Department we have authorized the Chief to move forward so we can make those hires.

Alderman O’Neil asked what is the number?

Mayor Guinta stated eleven.

Alderman O’Neil stated and that is all in FY2009, correct?

Mayor Guinta responded they will be hired in 2009.

Alderman Lopez asked where's the money? Are you authorizing the money, Your Honor?

Mayor Guinta responded I'm authorizing the hires.

Alderman Lopez stated so therefore you're authorizing to increase the 2009 budget.

Mayor Guinta responded no.

Alderman Lopez asked can I ask the Chief where he's going to get the money?

Mayor Guinta responded he'll get the money.

Alderman Lopez stated that's not fair, Your Honor. Let's try to work together. We've got to have discussions here, you know.

Mayor Guinta stated if you pass the budget that I've proposed for the Police Department, those positions are in the budget. If you disagree with that, we have meetings Monday, Tuesday, and Wednesday of next week...

Alderman Lopez interjected can I have the Chief come up here, please?

Mayor Guinta asked for what purpose?

Alderman Lopez responded I want to ask him some questions about the financial...

Mayor Guinta interjected I'm not going to deal with the 2009 budget until Monday, Tuesday or Wednesday of next week.

Alderman Lopez stated Your Honor, you're authorizing him to hire eleven new officers...

Mayor Guinta interjected they're not new. We're trying to get to the complement of 225, which has been authorized in the past. It's not new positions. They are vacancies.

Alderman Lopez stated but if you hire these eleven officers, what are you going to do, lay them off?

Mayor Guinta responded no, in my opinion the money is in the budget, but if you want to have that discussion, let's have it either Monday, Tuesday or Wednesday night when we have budget deliberations.

Alderman Lopez stated if he's going to do it now, why can't we find out tonight whether he has the money for 2009 to keep them? You say that; I'm hearing from Gary Simmons and others that they don't. They're short \$500,000.

Mayor Guinta stated Gary and I have a difference of opinion.

Alderman Lopez asked why can't the Chief speak for himself?

Mayor Guinta responded Alderman, he can. We have budget deliberations scheduled for next week. I'm not going to get into a budget discussion this evening. There was a question asked. I have provided the answer. He's got the

authorization to move forward. If you have a budget question for 2009, let's do it next week.

Alderman Lopez asked do you mean to tell me the Chief can't answer a question tonight whether he has the money?

Mayor Guinta responded yes he can, but ask him after the meeting, Alderman. I want to move forward.

Alderman Lopez stated I want him on record.

Mayor Guinta stated in my opinion the money is there. If you have a particular budget question for 2009, let's talk about it next week.

Alderman Lopez asked so the money that you gave him in your budget in 2009 will carry those eleven officers?

Mayor Guinta responded in my opinion, yes.

Alderman Lopez asked is that the Chief's opinion?

Mayor Guinta responded I guess we'll find out next week.

Alderman Lopez stated I would like to ask him tonight, and I appeal to the Board.

Mayor Guinta stated ask him after the meeting, Alderman.

Alderman Lopez stated no, I don't think it's fair.

Mayor Guinta stated well, I'm going to move forward.

Alderman Lopez stated I'm going to appeal to the Board.

Mayor Guinta stated we have four days next week; we're going to talk the FY2009 budget.

Alderman Lopez stated I'm asking to keep the question on record. That's all I want or I'll appeal to the Board and let the Board decide.

Mayor Guinta stated there is an appeal to the Board. How many are in favor of moving this item to next week's budget deliberations?

Alderman Gatsas stated wait, let's clarify that.

Alderman Domaingue stated that's not the question.

Mayor Guinta asked how many would like the Chief to verify it today?

Alderman Gatsas asked for a roll call vote.

Mayor Guinta stated all right, Chief, just come on up and answer the question.

Alderman Gatsas asked since when do we raise our hands in this committee?

Alderman Lopez stated thank you, Chief. My question to you is you've been authorized to hire eleven police officers in 2008. Do you have enough money in your budget to carry those eleven police officers in 2009?

Mayor Guinta stated the budget hasn't been adopted for 2009.

Alderman Lopez stated regardless, the money that the Mayor gave you in 2009, will that carry those eleven officers?

Police Chief David Mara responded it would bring us up to full complement; as far as whether or not we have enough money in the budget next year, I look at a different point. We are at a critical stage where we have to commit to hire these officers because we have an academy coming up in July. If we didn't hire those officers, if we didn't get approval to hire those officers, and if we didn't get them in in July, the next time we could get any officers up at the academy would be in January. By that time, we would have had other officers retiring and by the time we got to January, we would probably be looking at replacing close to...

Alderman Lopez interjected, Chief, I agree with you 100%. I'm asking you, with the Mayor's budget number that he gave you in 2009, those eleven officers that you commit in 2008, you will have enough money in the Mayor's budget to carry yourself through 2009.

Chief Mara stated you'd have to speak with the Mayor. He said that we would be able to have that amount in the budget to carry...

Alderman Lopez asked what amount?

Chief Mara responded the eleven officers.

Alderman Lopez asked do you need any more money?

Chief Mara responded Alderman Lopez, until the budget is passed, I don't know what we're going to be needing.

Alderman Gatsas stated be careful. That budget could be passed right now.

Alderman O'Neil stated out of fairness, Chief Mara has been two weeks maybe on the job.

Chief Mara stated I'm not trying to evade your question.

Alderman Lopez stated just a minute. I've got to get this completely straight. I know you've only been Chief for two weeks. I talked to Gary Simmons today. Did he discuss anything that he needs \$560,000 in order to carry eleven officers to you?

Chief Mara responded I have had discussions today with Gary Simmons.

Alderman Lopez stated you've had that discussion. So the Mayor has authorized you to hire eleven officers. He's going to give you \$560,000 for those eleven officers. That's the number. Is that what he told you?

Chief Mara responded is that what the Mayor told me? No, the Mayor didn't tell me that.

Alderman Lopez asked do you believe Gary Simmons needs \$560,000 more to carry eleven officers?

Chief Mara responded I'm not ready to answer that question right now. I'd rather be able to speak to Gary Simmons more about this before I commit.

Alderman Lopez asked could you let us know before you make the final decision as to whether you're going to need any more money in 2009 before you put these officers on?

Chief Mara responded we're not going to be putting these officers on. These officers aren't going to be coming on until after July 1st, and it's going to be...

Alderman Lopez interjected I realize that.

Alderman O'Neil asked Chief, is this something you can get...we're meeting next week. If we have a meeting with you and your staff, we can discuss it then. Unfortunately, Chief Mara was not part of some earlier discussions when Chief Jaskolka was here where there was discussion, if there wasn't additional money put in the budget they might have to hold anywhere from 11 to 22 vacancies throughout the year. So, I do respect...and I think this is new information for us this evening, if I'm hearing the Chief right, that if the move isn't made now to put officers on the job to get them to a July academy class, we're not going to be able to send any to the academy till January. So it's either do it now or in January, and I think the sooner we get them...I do agree with you, Alderman Lopez, that we were told they were going to have to leave vacancies based on the number that was presented. Chief Mara didn't say that, and I think he's in a little difficult situation tonight that he wasn't part of those earlier discussions.

Alderman Lopez stated I'd like to follow up.

Mayor Guinta stated one follow up and then we're moving on. We're not going to continue...

Alderman Lopez interjected one follow up, Chief. When you talked to Gary Simmons, they said that \$291,000 was in the CIP. It's not in the CIP for Drugs and Guns, so would you have that conversation with him too because there seems a misconception that we did have the money in CIP and we do not have the money in CIP for \$291,000.

Mayor Guinta stated the money is not in there. It's my budget so you can ask me. I didn't put Drugs and Guns money in the CIP budget because there is an expectation that we will receive Street Sweeper funds. We had an announcement scheduled, as I mentioned to the Board. Senator Gregg was unable to make the announcement at the last minute, due to additional votes in the Senate. We've got a meeting scheduled with his Chief of Staff on Monday to try to identify the dollar amount for Manchester and we're looking for a new date to make that announcement, at which point those monies will be sent to Manchester. But the amount of money has not been determined.

Alderman Lopez stated the point that I wanted to make, Your Honor, is that at the last meeting the question was asked of the Deputy Chief and he said it was in the CIP and so did the chairman of CIP. And then we found out it was not.

Alderman Garrity stated I can speak for myself, Alderman. I don't believe that is correct. I didn't make that statement.

Alderman O'Neil stated Your Honor, a question regarding Drugs and Guns: Last year we were led into the same situation, that there was going to be federal money. It never came along. We had to pay for it out of City taxpayer dollars. What assurance can you make tonight that that federal money is there. The number was \$291,000 for this year, and they went through it, so we've got to guess it's more

than \$300,000. What assurance do you have on the amount of money coming? Is it properly going to fund the Drugs and Guns program?

Mayor Guinta responded it has been conveyed to me by Senator Gregg that the money is being sent to New Hampshire. The Attorney General, as I understand it, will determine how to distribute those dollars. Once I find out the dollar amount, I will let this Board know what dollar amount we can specifically expect. I have a meeting on Monday with Senator Gregg's new Chief of Staff to go over this and some other issues that are pertinent to the City.

Alderman O'Neil stated it was my understanding based on some past discussions that that money would not be available until the new federal fiscal year, which is October. What happens between now and October regarding Drugs and Guns? Are we suspending the program until the federal money becomes available?

Mayor Guinta responded no. We originally had a meeting scheduled which had to be postponed. I've got a meeting on Monday so I can find out exactly the date we would receive the money and the expected or anticipated amount. Once I have that information I will convey it to the Board.

Alderman O'Neil stated there is a possibility we're going to have to add money to the budget starting July 1st.

Mayor Guinta stated I'm not ready to answer that question.

Alderman O'Neil stated I want to know how this money is going to miraculously show up. It didn't show up last year and we had to fund the program entirely.

Alderman Gatsas stated I just want to ask the Chief some fair questions. Chief, do you have eleven people that are prepared to go to training?

Chief Mara responded we anticipate we will. We have a number of people that are on a list and we're going through the background process, giving them polygraphs, and we anticipate we're going to have eleven. We have eleven spots secured at the academy.

Alderman Gatsas asked what is the farthest out date that you can make the decision to hire them for them to go to the July class?

Chief Mara responded it's actually in August. What we want to do is give them the opportunity to give a two week notice wherever they're working. And we anticipate having the new hires on board, probably July 14th.

Alderman Gatsas stated my question is...let me try and make it a little clearer: Could you notify those people June 15th that you have a class and you want to bring them on board July 1st for them to go to class in August? Let me make it easier: How about June 1st?

Chief Mara responded no, I think that would be pushing it. Because, like I said, we have a very hard background process and you never know...we could get somebody all through one part of the process, they take a polygraph. If they fail that polygraph, then we're going on to the next person.

Alderman Gatsas stated let me try another question then. What's the date today?

Chief Mara responded today is the sixth.

Alderman Gatsas stated so in the next 24 days you believe that you're going to have eleven officers...or sooner, because you can't do it June 1st. You're going to try and do it by May 15th? If it's that strenuous to get these people, how are you going to qualify and do that within the next nine days?

Chief Mara responded maybe I wasn't clear. What I was saying...

Alderman Gatsas interjected I'm saying to you...my question to you was, if the Mayor said to you, after we have a budget in place, June 1st, is that a date that gives you enough time to bring those people on board and get them to the class in August?

Chief Mara responded no. We are in the process right now of doing the backgrounds, and no, I don't believe so. We would need to be able to continue on evaluating...

Alderman Gatsas interjected nobody is stopping you. Nobody is telling you not to do it. Are you prepared to...How many people do you have right now that have passed the background checks?

Chief Mara responded I think we're at four.

Alderman Gatsas asked how long is it going to take you to get to eleven?

Chief Mara responded that depends how it goes.

Alderman Gatsas asked three weeks, two weeks?

Chief Mara responded without talking to training, I really couldn't give you an answer now. It depends on the individuals we're looking into.

Mayor Guinta stated I think what he's trying to say is...what he's asking is, can you move forward with the process while the Aldermen move on a parallel process with the budget, and the budget is adopted by, let's say, June 1st, and you have the final go-ahead, can we move in those two parallels?

Chief Mara responded yes.

Alderman Gatsas stated well I guess the four people you have now, have you given them conditions of hire?

Chief Mara responded I'm not exactly sure on that.

Alderman Gatsas stated I apologize. You've only been there two weeks, and it's unfair of me to ask you those questions. But when you're there for six months, the questions are going to come and you'll have to give the answers.

Chief Mara responded I'll be ready.

Alderman M. Roy stated most of the problems I'm seeing in looking at this budget process is that we're getting the finalized or a summary budget from you with line items based on the budget book. One of the problems I'm having is the Chief sits there and says...and I'm going to use you as an example, Chief, you don't have to answer any questions...the eleven hires will fill his complement of 225, but when we look back at the dollar volume to go along with 225, it doesn't get us there. So, I respect the managing of vacancies; I respect that he's expecting retirements and officers to leave and people to choose other things. My request is

to have Finance and the HR Department provide us with the initial documentation of what a full complement would be for each department, not just Police, but Fire and every other department in the City, so that we know what the baseline expectation, with no vacancies, what they're expecting in salary and benefits. I believe that will be an easy document to create because it was probably the documentation that they provided you back when you started this budget process. So, I would look to get us all on the same page of an accurate number.

Alderman O'Neil stated part two is the Fire Department question.

Mayor Guinta stated I met with Chief Burkush on Monday. We reviewed the request. I have not given him an answer yet. I still have some issues regarding, not just levels of staffing within the different rankings, but I also have issues and questions, more questions that I need to have considered by him and his deputies regarding reorganization opportunities, and if I fill the positions, it eliminates the opportunity to have any reorganization opportunity, and I feel that before we exhaust the opportunity to look at a reorganization, I should have more time to look at the request. So, I have not granted the request at this point. The other issue and I guess concern that we both agree on, is that without knowing...well, I'll leave it at that.

Alderman O'Neil stated I'm only guessing that you're talking about some of the upper level of structure. My concern is I think even with pretty much a full complement last July that they still spent...I want to say somewhere in the tune of \$68,000 sticks in my mind...in overtime. And that was with a full complement. I think the Chief indicated to us a week or so ago regarding new hires that there needed to be, like this week. I think we talked about May 1st as a target date. They need to make job offers in order for those people, as Chief Mara said with his possible recruits, to give two week's notice to their current employers. And

Chief Burkush needed them for two weeks before they were available to start on the line July 1st, so the clock...maybe the alarm has gone off regarding new hires, and if we're not going on for July, that may or may not be okay. I don't necessarily agree with it. Are we willing to commit more funds for overtime? Or if we're not willing to do that, are we willing to accept that he's going to have to close some apparatus for the month of July because he doesn't have the people to man it? So that's my question on new hires. There might be some truth to the Lieutenants and Captains as well. If he doesn't have people, if he doesn't have an officer to fill a particular slot on vacation, does he end up having to either hire overtime, or if he doesn't have the money for overtime, does he put the company out of service? So I think he's a little bit more under the gun than Chief Mara is right now regarding what we're going to do. And again, I thought we were going to try to bring some closure regarding the Fire situation by tonight.

Mayor Guinta stated what I had said was my goal was to make a decision by May 1st, but we ended up meeting on Monday, so it was a couple of days after May 1st. I still have questions, honestly, about the number of uncommitted personnel we have and the number of floaters at different levels and how we're utilizing those individuals. After one meeting, and it's only been one meeting, I still have further questions. I wonder if we can use those individuals more effectively than we're using them now. And secondly, if I approve the appointments, we eliminate the opportunity at any level to make any reorganization. And a reorganization I know is something that has been on the minds of some of the Aldermen here over the last couple of years. Chief Burkush and I haven't had a long term conversation about or extended conversation about that issue, but I remain open to the idea of reorganization. I'm not necessarily saying we should go down that road, but I think there is a possibility. If I put in these positions, that goes away.

Alderman O'Neil stated I understand what you're talking about regarding the senior-most positions, but couldn't you fill some of the middle level, the officers, the Lieutenants and captains, as well as the firefighters. That's realistic. If this Board's willing to say we're going to let promotions and new hires go until a later date, and we're not going to commit any additional overtime money, then the reality is he's going to put fire companies out of service. I don't know how else he can do it unless he's jumping on a fire truck.

Mayor Guinta asked wait a minute, are you talking about the 2008 or the 2009 budget?

Alderman O'Neil responded this is all 2009, but in his case, there is an effect for 2008 because, if I recall...we don't necessarily have to bring him up, but if I recall the discussion we had last week or two weeks ago...I don't remember now...was that he needed to make job offers, then he needed to have the personnel on board, for some reason June 15th rings a bell. Is that right? ...have two weeks of in house training and then put them on the line July 1st to start covering overtime for the month of July, which is the peak overtime for the Fire Department.

Mayor Guinta stated I don't disagree with what he was saying. I'm not convinced yet that some of the uncommitted personnel can't handle some of those responsibilities.

Alderman O'Neil stated there are no uncommitted personnel.

Mayor Guinta stated at the very least I need to have another conversation, which I can have with the Chief this week about the issue. But at this point, I'm not comfortable.

Alderman O'Neil asked can we plan that the Fire Department is going to be one of our topics on Monday or Tuesday?

Mayor Guinta responded on Wednesday or Thursday, because we've got four meetings.

Alderman O'Neil stated they're probably more important than anybody right now because they have some 2008 budget...

Mayor Guinta stated I don't believe we have a schedule set yet as to who's coming in when, but we certainly will set that this week, and I suspect we can make Fire one of the earlier ones. So can we defer the rest of this to Monday?

Alderman Ouellette stated I just have a quick question, and I ask the question because we were going to move and act on that last week, and we were told that today was the drop dead last day that he needed to make a decision on that, like Alderman O'Neil said. So, if today is the drop dead last day, having a discussion next week, you might as well forget about it.

Mayor Guinta stated well again, what I've said is I'm not comfortable yet making the promotions.

Alderman Ouellette stated I understand the promotions but we were talking more about the nine firefighters that he wanted to put on board to get them to the academy as quickly as possible.

Alderman Smith stated I'd just like to say something. We're putting department against department and I'll tell you what, if anybody is going to be devastated, it's going to be the school teachers or the Highway Department. Forty-seven layoffs.

So I think we can wait a day or two. I'm sorry. Maybe people don't agree with me, but I think we can wait a day or two, and if we're going to meet, we meet every day next week except Saturday.

Alderman Garrity asked can we discuss this next week? We've got budget meetings all week.

Mayor Guinta stated yes. Again, we've talked a lot about the 2009 budget. I am much more comfortable talking about it on the specific days that we've scheduled next week. So if there is other new business I would be happy to entertain it.

Alderman Lopez stated I just want a clarification, Your Honor, that's all. You're going to authorize the Chief of Police to hire eleven people, and you already did that. And he has your budget number that he's going to maintain through 2009.

Mayor Guinta explained I authorized the Chief of Police to move forward with the eleven. I'm not sure he's ready to talk in depth about the proposal I've made for fiscal year 2009. Obviously Gary Simmons and I have a differing opinion over the 2009 budget, but as Alderman Gatsas pointed out, and I believe Chief Mara agreed, we can do a parallel process.

Alderman Lopez stated are you comfortable with him hiring eleven people by your say-so with your number and hope that he can succeed.

Mayor Guinta asked Alderman, how many times do you want me to answer the question?

Alderman Shea asked when we start talking Monday, are we going to have everyone here like they are tonight? Are they all going to be here?

Mayor Guinta stated one of the things I want to do is meet with Alderman Lopez to determine if he wants each and every department head here or if he wants specific department heads.

Alderman Shea stated I don't think it's fair to have everyone a captive audience here.

Mayor Guinta stated because the process is no longer in the Finance Committee, and it's in the full Board, I've got to make the meeting dates, so I'll meet with the Alderman to try to determine what the schedule will be, and we'll notify the department heads as well as the Aldermen.

Alderman Shea stated I'll second Alderman Smith's recommendation.

Alderman Smith moved to adjourn the meeting. The motion was duly seconded by Alderman Shea.

Alderman Gatsas requested a roll call vote on the motion to adjourn.

Alderman M. Roy stated Your Honor, there are people who have waited for this conversation, and while we are meeting for four nights next week...

Mayor Guinta stated excuse me, but there is a roll call on the floor.

Aldermen Osborne, Shea, Smith and Domaingue voted Yea. Aldermen Gatsas, Sullivan, J. Roy, Pinard, O'Neil, Lopez, DeVries, Garrity, Domaingue and M. Roy voted nay. *The motion failed.*

Alderman M. Roy stated Alderman Ouellette brought this up and I don't think it got the right amount of conversation when he did. We're not talking about the budget of 2009. We're talking about the budget of 2008. We're talking about the next six to eight weeks to close out that budget, and with all due respect to Alderman Smith talking about teachers and Highway, we'll address those 2009 issues when we get to those 2009 issues.

Alderman Smith stated I hope you will.

Alderman M. Roy continued we have an understaffed Fire Department now. We have inadequate manpower on our engines and our ladder trucks. We should be having a debate in a good economy about putting officers on ladder trucks and staffing DC's. And I believe our Fire Chief is going to every active fire to act as a second set of eyes to keep the people in the building safe. So whether we want to rush out of here at 10:39 at night, or talk for 38 minutes on zoning issues, let's give our employees, that we all claim to want to protect, a few minutes of our time.

Alderman Smith stated give it to the Highway Department.

Alderman M. Roy stated I'll be there for you, George, but let's look at what we're looking at now. We have an overtime situation. We always talk about overtime bothering us. The Chief has come up with a plan to end his overtime or reduce his overtime, and we won't give it five minutes. And I have a problem with that. Whether it's done tonight, which I'd like to see done...

Mayor Guinta asked do you have a question, Alderman?

Alderman M. Roy responded yes. Can the Chief reduce his overtime in the 2008 budget which is what we're in now, by making these hires and promotions? Or, can he limit the hires and make the promotions to reduce overtime? And I'd like him to come up and sit in the hot seat and answer that. And if he can, I'd like us to make a decision. And that I'd like a roll call on that.

Chief Burkush stated we do need to make the promotions to reduce overtime in this fiscal year. We have an overtime situation this week. It's costing us \$2,800 a week, and it's going to continue until we can save the money, making the promotion.

Alderman M. Roy stated Chief, the Mayor has talked about a reorganization and that if he makes the promotions you may not be as enticed into doing a reorganization. Your feelings on that? I mean, we're talking about Lieutenants, Captains, and DC's. So, I'm not sure when we talk about an upper level reorganization that we're even talking apples to apples. Will you still entertain a reorganization with these promotions?

Chief Burkush responded yes, we could. I had a good conversation with the Mayor for two hours. I met with him, and if we kept the deputy position open, and made the promotions up to that level, we could discuss it further in the fiscal year. We did have that discussion.

Alderman M. Roy asked your comment on that, Mayor?

Mayor Guinta responded we had the discussion. Again, I'm not ready to authorize promotions. I've said it as many times as I can say it. I'm not ready to authorize the promotions at this time.

Alderman Gatsas stated I applaud you for not moving on the promotions and I applaud the Chief for holding back on the promotions because certainly we should get through the budget process before we move those forward. But Your Honor, with all due respect, and I certainly respect your position, and maybe last week I spoke a little harshly when I spoke, but I have a passion, and maybe it's my ethnic passion that comes out sometimes. But I had made a motion for this Board to hire nine firemen. I had a second, and Your Honor, you asked me to wait until Tuesday. That's what you asked me to do, and I've waited until Tuesday, and I'm now going to make that motion that we hire nine firemen. I'm going to make that motion, and this Board should take a vote, one way or the other. You asked me to wait because you said we were going to deliberate about it today and we would have those discussions, but we've not had them. So if the motion was good enough for a week ago, it's good enough for tonight. So I'm going to make that motion and then, Alderman Smith, you can make a motion to adjourn once we pass it.

***Alderman Gatsas** moved to hire nine firefighters. **Alderman DeVries** seconded the motion.*

Alderman J. Roy stated you know, hiring anybody or promoting anybody right now is premature. We just sat here last week and discussed the fact that if we hired these firefighters now and we reverted back to the Mayor's budget, we'd have to lay them off. How much sense does this make? If we promote people right now, we're making more vacancies at the firefighter level. Are you going to hire them and lay them off too? We're going to have some serious problems if we do this before we settle a budget. That's what we have to do is settle the budget. We have to close out this year and we have to know how much money we have next year so we're not putting off on the street. We all sat here and Chief, bear with me for a minute, just after you got promoted, we had a talk, and I told you

that myself and a few other people had a real concern that we were going to promote Chiefs and layoff Indians. The firefighters are where the service is delivered, and the firefighters are where the rubber hit the road, and you agreed. Now you come before us and you say you've got an overtime crisis. How did we come to this overtime crisis?

Chief Burkush stated well Alderman, first of all we're short staffed at the District Chief's level. We're short staffed at the Command Chief's level, and we're talking only a net difference of two firefighters and I have serious safety concerns with the lack of officers for accountability. So I beg to differ with you on whether I need the command officers or the firefighters.

Alderman J. Roy stated and you're entitled to differ with me, and I appreciate your saying it. My point is, if you hadn't promoted a deputy, you wouldn't have a problem with overtime at the District Chief's level right now. And I had mentioned that you were going to play the boy with the dike, going to put your fingers in the whole, going to keep the balls in the air between you and Deputy Campasano, and by promoting somebody to Deputy, we now have a problem with overtime at the District Chief's level. Is that correct?

Chief Burkush responded that is a consequence, but we still need a command staff to operate the Fire Department. I have one Deputy Chief to do everything.

Alderman J. Roy stated in a perfect world, I'd want your whole command staff. I'd want nine District Chiefs. I'd want a full complement. But we're not in a perfect world right now. We're trying to keep our heads above water until we get to this next budget and see how much money we have so we don't have to send firefighters home. You came here yourself and said to us that if we had to go with the Mayor's budget, that you were going to have to have layoffs.

Chief Burkush stated I'm going on the presumption that there aren't going to be any layoffs of firefighters. You ask of me to do the best that we can. We have a \$200,000 projected surplus in our budget. I'm trying to be prudent, trying to show fiscal responsibility, bringing to you the fact that in this budget we have an overtime situation. If we don't address it, the next budget in July I'm going to have serious overtime if we don't get the vacancies filled. If I didn't come to you and tell you this, I'd be remiss. It's your decision, whether you guys want to do this, at what level you people want to staff the City. But I'm just giving you the facts.

Alderman J. Roy stated and what I'm saying is I'd like those promotions too, but we should wait until the budget is settled. You've come to the Board and essentially asked us to make the Fire Department whole, in a budget process that every other department in the City is going to have to bleed. I can't buy it. I'm sorry. Not until we see the final numbers. It doesn't make any sense. A few weeks ago I sat here and fought for money for the ladder trucks for you because I knew it was the right thing to do. I'm totally convinced that this is the wrong time to do this move, not only promotions but hiring the firefighters, because I don't want to see firefighters going home. I want those guys protected. And I want to encourage all of my colleagues here not to give you permission right now to hire the firefighters who may have to go home, or promote, which may result in firefighters going home. You know that I'm behind you, and it's not a vote against you or the Fire Department. It's a vote for the other employees in the City of Manchester, because if we make you whole, then the other departments may have to lay people off, if you get too much of your share of the money that's coming up. And I don't know where it's going to end up. If I had a crystal ball, I'd be able to tell you and we'd be able to go on and promote. We're not in that position right now. Thank you.

Alderman Lopez stated I'm just going to throw out some numbers because I got these from the Chief today. In order for him to have vacancies, he needs \$1,129,657. In order if he promotes the people in 2008, he needs another \$113,718, for a total of \$1,243,375. Did I have that conversation with you, Chief?

Chief Burkush responded that's correct. That's in the 2009 budget.

Alderman Lopez stated and that's keeping ten vacancies. If he keeps the ten vacancies he needs an additional, debatable between \$300,000 and \$500,000 in overtime. If the Mayor is willing to add \$1,852,185 to his budget for 2009, I'll vote on this tonight.

Mayor Guinta stated Alderman, I presented my budget in March. We're having budget deliberations four days next week. I'm going to ask the indulgence of the Board one final time to move an FY2009 discussion to one of those four days next week.

Alderman Lopez stated but Your Honor, you are authorizing something or somebody is going to make a motion...you authorized the Chief to go ahead and hire those officers and fine...

Mayor Guinta stated Alderman, Gary Simmons came...This is the last time I'm going to explain it. I'm going take Alderman Domaingue's question and then I'm calling...if you want to vote on the motion, I'll accept the motion. You vote on it and then I'm taking a vote to adjourn. Deputy Simmons and I are \$600,000 apart. Chief Burkush and I are \$1.8 million apart. They are two different situations. I think the \$600,000 in the Police Department can be identified, so I'm not

concerned about that. I don't suspect anybody on this Board is going to reduce my appropriation for Police.

Alderman Gatsas stated absolutely I am.

Mayor Guinta stated I stand corrected. Most people on this Board are not going to reduce the appropriation for Police, but now that one is, it's a concern.

Alderman Lopez stated it seems like a one-way street.

Mayor Guinta stated the difference between my number and Chief Burkush's number is much wider. And I'm not willing to move forward with promotions at this point because of that and some other concerns that I have. And I'd like to look at uncommitted officers. I'd like to look at the Captains, the Lieutenants. I'd like to look at a reorganization. We've had one conversation. I honestly was hoping I could come to some sort of conclusion. I haven't been able to do it. If the Board wants to override me, so be it. But we have all of next week to talk about 2009. These are not easy decisions that we have to make. And there are a lot of other factors. We still have a deficit in 2008, and lest we forget, \$13 million less in revenue for 2009. We can't ignore those financial implications. So, I am willing to work with you, but asking me tonight to increase a budget, I think is inappropriate.

Alderman Lopez stated I want this Board to know we've had some good conversations and we've been trying to work together in setting up meetings and all that. But, I don't believe you've made a budget and given it to us, it's now our budget, to come and either change it or give it back to you. I want it on record, and that's all, that if we approve your budget, and I agree with, I think it was Alderman O'Neil, you have to lay off people, and Chief Burkush, you know that

to be fact. And the Chief, that is a different situation for the Police station. They have a new Chief. He can live with your budget.

Alderman Domaingue stated I think it's premature to be taking a vote, but my question was one of clarification. The motion on the floor, is that solely for nine new employees or is that also encompassing the promotions?

Alderman Gatsas responded no. It does not encompass the promotions. I think the Chief has been very clear on that. It encompasses hiring nine and the promotions can wait till after the budget.

Alderman Garrity asked to move the question.

A roll call vote was taken on the motion on the floor to hire nine firefighters.

Aldermen Gatsas, O'Neil, DeVries, Smith, Ouellette, and M. Roy voted yea. Aldermen Sullivan, J. Roy, Osborne, Pinard, Lopez, Shea, Garrity and Domaingue voted nay. *The motion failed.*

*There being no further business, on motion of **Alderman Smith**, duly seconded by **Alderman Shea**, it was voted to adjourn.*

A True Record. Attest.

City Clerk