

BOARD OF MAYOR AND ALDERMEN

October 21, 2008

7:30 PM

Mayor Guinta called the meeting to order.

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

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

Mayor Guinta recessed the meeting to allow the Special Meeting (Public Participation) of the Board to meet.

Mayor Guinta called the meeting back to order.

3. Presentation by HVS, Convention, Sports, Entertainment Facilities Consulting, to present the feasibility study regarding the expanded Convention Center Facilities.

Mr. Jay Minkarah, Economic Development Director, stated thank you for giving us some time on the agenda. We know it is a long evening so we will try to move through this as quickly as we can. The concept of a new performing arts center or mid-sized performing arts center in the City as well as expanded convention facilities has been discussed for a number of years. Most recently, the 2006 Angelou Economic Plan that we adopted recommended that both facilities be developed. The Downtown Hillier study that was done also recommended that both facilities be developed for different reasons but primarily those were economic reasons. Our goal was really to take the next step and examine both of

these proposals and see whether or not they were feasible and whether or not they were really viable for the City. In 2006, the Economic Development Department applied for a \$70,000 grant from the U.S. Economic Development Administration to help support undertaking the study. In 2007, we convened a steering committee and, in fact, many of those members are here with us. The steering committee included Skip Ashooh, Tim Bechert, Robin Comstock, Stephanie Lewry, Bob MacKenzie, Peter Ramsey, David Roedell, Alderman Dan O'Neil and myself. We issued the RFP in the fall of 2007 and in the winter of 2008 we selected a firm to actually conduct both studies, which is HVS. The studies were undertaken over the spring and summer and we have now reached a conclusion. Essentially with regard to the performing arts center we have determined for reasons that you are going to hear more fully that it is not viable at this time. That is not saying that there aren't needs in the community and that we don't have performing arts groups that do have venue issues and venue needs. We do, but creating a mid-sized performing arts facility in the area of around 2,000 seats doesn't appear to be viable. With regard to expanded convention facilities, it does appear that a market does exist and you are going to hear more about that. Tonight it is not our purpose to propose that the Board of Mayor and Aldermen take any action with regard to these. The purpose tonight is to provide you with the information that we have received so far. Our goal is to keep our steering committee viable. We do believe that before a recommendation can be made to say the City should move ahead and seek to finance the project, there are some questions that we do still need to answer. The primary reason why cities invest in expanded convention facilities or new convention facilities is to drive economic development, not because they in themselves are drivers of revenue. We do need to determine whether or not expanded facilities based on the recommendations we have really would encourage economic development in the City. Would they be sufficient? So we are seeking grant funds now to undertake an economic impact study and that is something we expect to conduct over the coming year. We also

of course need to identify a suitable site and we need to put together a financing package. Those are all steps that we need to take. We believe that the steering committee is up to that task. We plan to present the findings that we have this evening to you and answer any questions and then we will continue to come back you to as we progress with these other studies and hopefully eventually come back with a recommendation for a definitive plan. With that, I am going to turn it over to Tom Hazinski who is going to fairly briefly run through the findings on both of the studies and then we will open it up to any questions.

Mr. Tom Hazinski, HVS, stated thank you for the opportunity to present our findings. It has been a pleasure working with Jay and his staff, as well as the committee that we have been working with. What I would like to do tonight is run through the findings of both of our studies as quickly as I can trying to convey the key points. I am the Managing Director of HVS Convention, Sports & Entertaining Facilities Consulting. We specialize in analyzing these types of facilities and most of our clients are city or state governments or authorities like yourselves who are thinking about public initiatives in these areas. I would like to bring some of our experience to bear on this project and run you through our studies. We did two primary studies. One was for a performing arts market. I would like to talk about the objectives of that assignment and the scope of work we did and our findings and conclusions as Jay just touched on. The second study was an analysis of the potential for convention center development in Manchester, as well as associated hotel development, because as you will see the two go hand-in-hand. That is what I would like to cover tonight. Starting with the performing arts, our objective or our task was to look at what Jay called a mid-sized venue, which means a venue of about 2,000 seats and one that would be capable of hosting touring concerts and Broadway shows and local performing arts groups as well; much smaller than the Verizon but bigger than existing venues in the market place. We define the issue of feasibility of that type of facility in terms of

whether it would attract new attendees to the City and generate new economic activity, and also whether it would be financially sustainable. In order to do that and these are sort of bullet points on the tasks that we went through. We did a very thorough study analyzing overall trends in the industry looking at the capabilities of existing venues that we visited with, the directions of existing venues. We also sat down with local art groups and talked with everyone we could find in the City. We also looked at venues that weren't in the City of Manchester but were comparable to what we were proposing here. We interviewed potential users of that facility as well as show promoters who would bring events to town once they are active here or active in Boston. We recommended a facility program, what that would look like, and then we forecast the events and the attendance for that and we also provided a financial forecast in our report. So those are the major scope items that we undertook. This is basically the scale of facility that we would be looking at and these are some examples. Some of these we dealt with in our study. You can see the Kimmel Center in Philadelphia has about 2,000 seats plus a second theatre of about 600 seats. Austin Longcenter is a brand-new performing arts venue where the resident symphony and ballet and opera companies perform. It is a \$90 million venue with about 2,000 seats plus some small black box theatres attached to it. It is a very high quality venue. Milwaukee Theatre is an example of a little larger venue. It has almost 4,000 seats but it is a conversion of an existing theatre venue. It was an auditorium and it was converted to a performing arts venue. A smaller scale in Jackson Hole, Wyoming – a performing arts pavilion. That is kind of the range of what we were looking at in this study. I will just jump right to our conclusions here. We think there is significant event demand for a venue like this. The problem is that a lot of that demand is already occurring in the marketplace so a new venue would have some negative impacts, primarily on the Palace Theatre, but also on other local venues. Let me give you a practical example of how this would occur and I will use Milwaukee as an example. I

showed you a picture of the new auditorium there. Milwaukee has the Pabst Theatre and a few other venues that are a lot like the Palace and when these theatres ran their annual Christmas shows, which were Nutcrackers, and they had good strong attendance. When this new auditorium came in, they brought in touring shows and one of the touring shows was the Christmas Rockette Show so the disposal spending on those kind of shows that occurred in Milwaukee was actually diverted from the existing facilities and it shifted over. We expect that something like that would happen here as well. That is just one example but there are a myriad of other ways in which those kinds of interactions would occur. We think it really would be difficult for existing venues to continue at the level they have with a new venue of that size in the market. The other thing is that since a lot of this activity is already occurring in the market there wouldn't be as much economic impact as you might expect by bringing in people from out-of-town. In looking generally at industry trends and examples of comparable facilities we see the way they operate financially and in most cases, and in particular this case, it would require a pure public investment with no expectation of financial return to develop the venue. Furthermore, to operate it would require annual fundraising efforts, which would be substantial to just sustain an ongoing financial operation. That is not atypical of performing arts venues but it would be true here as well. So, when we looked at the issue of financial feasibility we didn't see that Manchester had that base of arts funding available to it to sustain the facility. That led us to the conclusion that Jay just mentioned that we really didn't view this as feasible at this time. That is not to say that there aren't a lot of other arts needs. We talked to a lot of user groups and local arts groups that really would like a better venue but they don't need 2,000 seats; they need 400 seats, so it is a much smaller kind of venues that they would require. This really didn't fit the bill for them either. So that was the overall conclusion of our performing arts center study. I want to spend a little more time if I can on our convention center and hotel study because I think these results have a little more implication for you.

Our mission there was to assess the convention center demand potential for Manchester and look at various options that included basically these four options: 1) potential new convention center; 2) expanding the existing convention center facilities; 3) new hotel development; and 4) expansion of existing hotel adjacent to the convention center. So these are the options we had in mind as we looked at this. What we did in order to get at answers to these questions was to look at the economic condition of the market and how it indicates how well this market will support convention and hotel activity. We looked at what is going on in the industry as a whole and particularly in this region and what kind of trends would affect Manchester's ability to attract events. We reviewed competitive facilities and comparable venues and we reviewed a range of them. We looked at national venues around the country that were similar in size to what might be developed here in Manchester. We also looked at ones in the area that were potentially competitive and where all of the current demand is going in the region. Our report describes each one of these potential competitors and comparable facilities. We collected data on how well they perform and I will show you some of that later on. We also did a survey of event planners. These are event planners that plan events in New Hampshire or the region. We asked about their facility needs and about their attitudes towards Manchester and their interest in placing events here. From that information we developed a program recommendation, which I will show you, and then we also looked at eight different sites for potential development and evaluated those sites and ranked them in priority order. We also forecasted what kind of demand you might expect to have at an expanded or new convention facility in Manchester. Now I am going to try to walk you quickly through some of the findings in each of these areas. First of all, let's talk a little bit about the industry and what we are talking about when we say conventions. There are lots of different types of events that are captured by this industry. On this slide I have divided them into what I call high impact and low impact. Conventions and tradeshow are events that typically use exhibit space as well as

meeting and banquet space and they occur over multiple days and they attract people from out-of-town. National surveys show that the attendees alone spend about \$265 per day while they are attending these events. Corporate meetings use typically meeting space and banquet space as do conferences and they also have high spending. Then there is this category that in industry jargon is called SMERF, which is Social, Military, Educational, Religious and Fraternal events. These are more price sensitive events and those are organizations that hold annual or semi-annual events. That actually is a very important market for Manchester; what we call a SMERF market. So those we consider high impact events and if your goal is generating economic impact then attracting those types of events is important. What I call lower impact events are those that mostly have local attendees. Those are your consumer shows like your auto show, home & garden show, etc. They are done primarily to attract local attendees. Concerts and entertainment events are in the same category as local banquets and religious assemblies and other types of assemblies. Those are also important to the functioning and success of a convention center and serving the local community but they don't generate the same level of economic impact. So when we are assessing demand for Manchester we are looking at all of these types of events and whether they would come here and in what volumes. Now let's talk about the industry as a whole. There have been a lot of ups and downs in this industry. We have only through 2007 data here so we are ending on an up note but as you well know we wouldn't expect that to continue. What this shows is the supply and demand of exhibit space in the U.S. as a whole. The blue line represents the supply and the red line represents how much of that is used on an annual basis and it is a percent change from year to year starting in 1990 and ending in 2007. You can see that there have been periods where supply has grown faster than the demand. In the first part of this decade in the last recession and in 2001 and 9/11 the geo-political events and the economic recession that followed that we saw a significant decline in demand while new facilities that were planned in the 90's

came on line. So we had this huge disparity and we moved into the situation of really overbuilding in the industry. Then new buildings started to decline on an annual basis and the demand started to recover along with the economy. The early indications for 2008 are that you will see that red line heading south again and the blue line heading north again because as things have been better more facilities have been planned. There is always kind of a lag. You can see that those lines are always out of sync because the planning for new facilities lags. The upshot of that is that we are likely to remain in the situation where there is a lot of overbuilding. The current economic conditions appear to be slowing attendance and the level of expenditures on events but I wouldn't plan a new facility based on current conditions because by the time this would be out of the ground it would be certain that the circumstances would change. It is good to look at the long-term trends. Generally though it is a very competitive market in the convention industry. It is a buyer's market and you have to induce events to come to your city as opposed to going somewhere else and event planners view the availability of high quality space and adjacent hotel rooms as a given. It is a commodity for them. They can get it almost anywhere they go and if you don't have it you won't be considered. It is like a threshold criteria. It is not what distinguishes one city from another anymore. It is kind of like a commodity now. I mentioned earlier the SMERF market and those are all very price sensitive and that is Manchester's market. It is a price sensitive market. So when event planners are choosing between cities overall destination appeal, and that means things like having entertainment attractions and restaurants and existing things to do...a sense of place and all of those kinds of things are important in winning business. So when thinking about development you need to think about enhancing your destination appeal as you do the development. So what do we have now here in Manchester? The existing convention facility has an exhibit hall that is almost 30,000 square feet. That is pretty small by most industry standards. The key thing about it though is it is not purpose-built. It was built as

a retail mall and not as a convention center so it doesn't really meet current industry standards. You can't drive a semi under the floor and you don't have the communications infrastructure and utilities and everything that you might expect in an exhibit hall. The Armory is also converted and used as a banquet hall or an exhibit hall. Again, it is not purpose-built. It has almost 12,000 square feet of space. There are a lot of acoustical issues. It is an attractive room and unique in a lot of ways but it has its problems in terms of serving some of the functions that you would ordinarily serve in a ballroom space. The banquet space is 11,000 square feet and the meeting space is scattered about and has about 8,400 square feet. The adjacent hotel in the Radisson has 250 rooms. So as a package the room count sort of matches what you have in terms of function space but the overall quality of that is really not to industry standard. In our survey of event planners we asked them about their experiences with the Radisson and with the existing convention center facilities and there were some very positive comments about the staff being friendly and helpful and having strong event services. They generally have enough function space for a lot of the events. It is accessible and well located within the City of Manchester. They liked the location a lot and they loved parking availability but it is really viewed as not being up to industry standards and being dated and tired. They have a lot of problem with pricing. Again, it is a price sensitive market here and they have a hard time having a meeting of the minds in terms of pricing that facility. Acoustics are a problem. They say the food is not as good as it should be. They can't always get the dates they want. It is generally just the lack of break out space and lack of flexibility that they expect in most convention facilities. So it is really not meeting their expectations in those regards. We asked them if we had a facility that met their needs that was to industry standards if they would bring their events to Manchester. Just about 40% said they wouldn't but the other 60% said they would rotate their events through with 18% annually, 13% every two to three years and so forth. So roughly 60% of the people are interested in rotating their

events through Manchester and as we do these surveys around the country this is a pretty good level of interest. You don't ever expect to get everyone to be interested in your city so this isn't bad in terms of an indicator that there is a demand for Manchester. We also asked them how important is it that you have hotel rooms adjacent or connected to your convention center. This is overwhelmingly important. Forty-six percent say it is very important and thirty-seven percent say it is important. Only seventeen percent and those are events that don't use hotels, say it is not important. As I said before this is a commodity they expect to have. So our view is that any new development of convention facilities ought to occur along with the appropriate hotel development that supports that. In terms of hotel development, we did do a lot of study and I am not going to go into it in detail here but we did a detailed analysis of the hotel market, its occupancy, and its rate. We looked at all of the potential competition in the market. From that analysis these are overall conclusions. This market has a limited capacity to absorb new rooms. It doesn't have steady, year long high level demand. It doesn't have a lot of corporate demand that drives a lot of hotel markets so it is going to be easy to over supply this market and you would depress rate and occupancy. Capital costs of full service hotel development, and by that I mean a hotel that offers a wide range of services in terms of not just sleeping rooms but restaurants and meeting space as well, that is expensive development and that is a barrier to entry here. We don't see a lot of new hotel development in the full service realm coming on the market. That adjacency to the convention center is really essential to the success of a convention center project, as well as to a hotel project. The current financial conditions, which actually have deteriorated significantly since we finished this study in September, have really created additional barriers to hotel financing but we are in a planning phase...actually it is probably a good time to be in a planning phase because you want to start coming out with a project when the market is on the rise and not when it is declining. So what we recommend as a program for Manchester is 60,000 square feet of

exhibition space. Now that compares to the 30,000 square feet that is in the existing exhibit space. A 15,000 square foot ballroom and by this I mean something a little bit different than what is already existing in that it would be much more flexible and have more capabilities to host different types of events and then more meeting space; 12,000 square feet of meeting space compared to the roughly 8,000 square feet that is currently available. This we think is the right mix of different types of space that would be flexible and able to host the target market for the City. We have gone into more detail on this in our report, explaining how we think that space ought to be broken down into its various components and so on. Additionally, we think that a total of 400 adjacent full service hotel rooms are important to support that space. If you have fewer hotel rooms, you don't have enough rooms to accommodate the guests that would fill that space so you need the right proportions and in our experience in looking at other markets and using the industry rule of thumb, we think that 400 is about the right room count. Not that it has to be exactly 400 but that is the range where you need to be. I told you we looked at a number of comparable facilities around the country. This is a summary of ten of them that we looked at and we got data on the events and attendance at ten different facilities and broke them down into these categories of events. They were facilities that were the same size as what we are recommending and in cities with similar populations and have similar destination characteristics. Those are all detailed in our report. You can see the high impact events, those conventions and trade shows, they run about 23 in average among that set of venues attracting over 20,000 attendees a year. That translates into three nights per event and right there alone maybe 60,000 new room nights in the market place. Some of the other types of events generate room nights too but in lower levels. You can see most of the attendance is local with consumer shows and banquets but overall you have over 100,000 attendees a year that might be attracted to a venue like this. We were unable to get data on what is currently going on in the market at the facilities but I can guarantee it is not at this

level. We also looked at the sites, and I am kind of going to go through this quickly hoping that you will recognize where these sites might be. These are the seven sites that we looked at and we ranked them on 25 different site criteria that involved whether it had capacity, whether it had the right kind of surrounding neighborhood, whether it had good hotel adjacency, whether you would be able to acquire it at a reasonable cost...a whole range of 25 different criteria. The Pleasant Street site, which is right behind the existing convention center, ranked on top and Stanton Plaza in front of it ranked next to it. It also has to do with the fact that those sites would allow for expansion of the existing facility, which is likely to be more financially viable than building a new facility. Other sites are viable like E&R block, Arms Park and so forth, and we ranked them accordingly. Part of the site issue too is whether you can actually acquire it so it is important to have this ranking but it doesn't necessarily determine which would be feasible. I am just coming to the end here. This will give you an idea of what we are talking about visually in terms of convention center development. Here are some examples of a few facilities around the country that have similar amounts of space. In Virginia Beach it is just a few years old. It is a beautiful, extremely well-designed facility. It has about 150,000 square feet of exhibition space but really well done and well-proportioned. They are now planning for a 400 room hotel across the street from it with another 300 room potential expansion. So they want a 700 room hotel attached to that. Schaumburg, Illinois has a 90,000 square foot exhibition space with 512 hotel rooms. It is a very successful facility. It is in the corporate market though and that is driving a lot of its success. Madison, Wisconsin is very much on the scale of what we are thinking about here. That is Manola Terrace. It has about a 60,000 square foot exhibition hall. They have one hotel nearby, an Embassy Suites, and they are looking for another one at this time. Hartford, Connecticut, which you might be familiar with, has a 400 room Marriott adjacent to it. So that is what we are looking at in terms of the scale of

development that would be necessary in terms of expansion or new development. With that, I would be happy to take any questions.

Mr. Minkarah stated we thank you for your patience. We do plan to come back to you when we make further progress with the plan. I think you all have copies of both of the proposals so if any questions come up or if you are looking for any additional information as you go through these plans, please feel free to contact me and I would be happy to answer any questions I can.

Alderman O'Neil stated just a few comments. First, I want to thank Tom and his colleagues from HVS. They did a great job. They made themselves accessible and I think gave us a report that we can use at some point to hopefully bring a convention center to the City, so thank you, Tom. I would like to thank Jay and my colleagues on the committee. Four of them are here – Skip, Peter, Robin and Stephanie. We probably met eight or ten times and put a lot of effort into this. Jay asked earlier for a couple of things – that the committee be allowed to continue to exist and the Economic Development Office is applying for a grant to do an economic analysis and hopefully the Board would be okay with that so we could move forward if the grant were secured. Hopefully this document doesn't sit on the shelf. Maybe at some point we can bring HVS in to update it a little bit if there is no activity in a few years. I think it takes a nice look at the City of Manchester and it shows that we are on the radar screen out there so I want to thank everyone.

4. Update of the Fiscal Year 2009 forecast.

Mayor Guinta stated I am removing Item 4 from the agenda. The Finance Department needs a little more information before they can make a final report to the Board but I do have an addition. If Bill Sanders and David Smith could come

forward, there is an update that the Board needs regarding the bus station and some decisions that we do have to make. While everyone is getting ready for that, Marty Boldin asked me to add a date and time for the Mayor's Youth Advisory Council debates at the NH Institute of Politics on October 27th. It will include Executive Councilors and the State Senate debates. Doors open at 5:30 PM and debates begin at 6 PM.

Mr. William Sanders, Finance Officer, stated we did hand out this evening...the Aldermen should have a letter that Mr. Minkarah and I crafted today attached to which is a document that Mr. Smith put together summarizing a meeting of the Transit Authority Commissioners yesterday evening. The purpose of this material is to formally advise the Board of Mayor and Aldermen that Concord Coach Line has advised that they will be terminating all activity at the transportation center at the close of business on November 17 and that they will then commence selling tickets at the Exit 5 facility on Route 93 and there will no longer be an ability to purchase tickets at the transportation center in Manchester. Concord Coach has advised that they will continue to pick-up passengers at that site provided there are some there and then they will transport them to the Exit 5 facility to purchase tickets. We have had many discussions with Mr. Smith and others from MTA regarding what our options are relative to continuing service at the center or where we go from here. As noted in the letter that Mr. Minkarah and I wrote, the City at this point has been unsuccessful in obtaining any independent service provider to replace Concord Coach Lines. Concord Coach has advised that they are not interested in any tickets being sold at the site and they intend to completely take responsibility for that at the Exit 5 facility. As a result, the short-term options that could be considered are to just maintain the site, the transportation center in Manchester, as merely a pick-up and drop-off facility but to suspend all indoor accommodations the 17th of November. It is possible that we might deploy MTA staff to the center and attempt to maintain some current

level of services but obviously without the ability to sell tickets that wouldn't be highly appealing. The third option is to operate the center on a limited hour comfort station-only basis. That would be a situation where we would actually open the doors and there would be restroom facilities and a heated environment in the winter. The current estimates from MTA are that maintaining the center would cost approximately \$10,000 a month if we kept it going as a limited hour comfort station-only and that they do not have the money in their existing 2009 budget to accommodate this cost. Accordingly, it would be the conclusion of the staff at this point that the center only be maintained as a pick-up and drop-off site by MTA. There would be no indoor operations and that would be suspended on November 17 in hopes that maybe in the next 60 days, or two or three months, some alternative arrangement could come together, but it would have to be with some sort of other tenant in the facility to provide some economics to make it available to bus customers.

Alderman Lopez stated I have a question. So this would become just a pick-up like a normal bus station without going inside? Is that correct?

Mr. David Smith, MTA Director, responded yes sir. The alternatives are to operate it with limited hours as a comfort station or to close the building and use the site as a pick-up point for passengers arriving and departing.

Alderman Lopez asked but it is possible that you will have to close the building entirely? I go down and catch the bus and stand outside just like I would do for MTA?

Mr. Smith answered that would be the least costly alternative.

Alderman Lopez stated at one point there was supposed to be a survey completely done. Was that ever done?

Mr. Smith replied yes the survey was completed in July. There was a follow-up in September for a week to evaluate any ridership changes resulting from student ridership. We found a very strong demand for student ridership on Friday afternoons outbound and Sunday evening inbound but most of that was drop-off and pick-up with not a lot of indoor use of the terminal from our observation.

Alderman O'Neil stated I only just read this letter quickly. In several of the meetings I attended there seemed to be a willingness by the state to intervene and try to force the bus operator to continue service but I don't see any reference to the NH Department of Transportation in here. The Commissioner was pretty strong about his commitment to make sure there was still service. Without this facility operating I don't see any commitment and in reading this letter I don't see any commitment from Boston Express that they are going to do anything.

Mr. Minkarah stated it is my understanding at this point that Boston Express or Concord Coach is still willing to service the facility in that they will make the committed pick-ups and drop-offs while there is still a demand but they are not willing to operate the facility itself and they are not going to be selling tickets out of that site and that is a change from what we had previously understood. Their plan now is to only sell the tickets at Exit 5 so if you got on the bus at the current bus station you would get on without a ticket and you would actually pay for your ticket once you get to Exit 5. It is our understanding that they will at least still be giving us the trips but they are not going to operate the facility.

Alderman O'Neil asked at the same level that exists today?

Mr. Minkarah answered no.

Alderman O'Neil stated so I guess...where was NH DOT in these discussions?

Mr. Smith responded NH DOT was involved up to the point where a commitment was made and Boston Express/Concord Coach offered to continue six trips a day inbound and six trips a day outbound and that schedule was provided sometime in early August I believe.

Alderman O'Neil stated nobody has answered my question. Was NH DOT involved or not?

Mr. Minkarah stated NH DOT was involved in our discussions about keeping the trip service but Concord Coach never agreed to maintain the building itself.

Alderman O'Neil stated I understand that. I am worried about the trips more than...that was something where I thought there was a willingness by NH DOT to almost force them to maintain the level of trips or number of trips and level of service.

Mr. Minkarah replied as I understand it and I don't want to say force but Concord Coach did or Boston Express did agree and NH DOT was a part of those conversations to provide those six roundtrips. So yes, NH DOT was involved but I don't know if I would go so far as to say they were forced to provide them.

Alderman O'Neil responded but if the demand goes away there is nothing there and we have lost it.

Mr. Minkarah replied that is my understanding.

Alderman O'Neil stated we had talked about remote sites in the City for pick-up. Where did that go?

Mr. Minkarah responded our focus was on keeping this particular facility operational. That is not to say that we cannot talk about the possibility of other sites, and again, Mr. Smith can clarify or elaborate, but my understanding is that Concord Coach is not interested in looking at other sites in the City. They were interested in going to Exit 5. We were putting pressure on them to continue to service this facility and they agreed to those limited trips. We are looking at other potential uses of that building that could allow for some indoor accommodations but that isn't going to provide ticket sales on that site.

Alderman O'Neil asked would it be possible for the members of our delegation to find out where NH DOT was during all of this? This does not sound like the same talks I heard about or that I participated in early in this process.

Alderman Gatsas stated Alderman O'Neil, I believe that the discussions that NH DOT was involved in were the six trips that were allocated or that Boston Express agreed to to come in and pick up people there and move them down to Londonderry to facilitate rides into Boston. So there were six trips that were allocated and NH DOT was in the middle of those discussions so they did force them to maintain six.

Alderman O'Neil replied but it sounds like the six could drop off if the demand goes away.

Alderman Gatsas stated I think the question was on the converse side that if the demand was up then they would bring more trips in but I don't disagree with you.

Certainly I am looking at this comfort center staffing and I am looking at these numbers and I don't know...who put this together?

Mr. Smith responded MTA staff.

Alderman Gatsas asked so when I look at wages at \$13/hour and I don't know if that answers your question Alderman O'Neil, but they agreed to bring six trips in and that is kind of what they told Boston Express.

Alderman O'Neil asked but not for any definite period of time?

Alderman Gatsas answered there was no definite period of time and certainly I don't have a problem asking that question of DOT tomorrow morning for you. I look at the wage number and see that it is \$13/hour and the fringe benefit is \$12.

Mr. Smith responded yes that is a school bus operator rate. If it were a full-time employee of MTA, we would provide benefits and that is the approximate benefit cost.

Alderman Gatsas asked but why wouldn't we employ two part-time people and pay them \$18 per hour and let them do the janitorial service and reduce these costs? I am just kind of looking at it...

Mr. Smith interjected this was a budgetary estimate. We could certainly consider that.

Alderman Shea stated so that I get this straight right now, according to what you are saying if a person wants to take a bus to Boston and has regularly gone down to the Manchester bus station they can go down at specific times or six different

times will be provided for them? This will be a schedule that they will be given or are going to be given if, in fact, this is implemented and they would then go from this particular bus terminal over to the one in Londonderry and then go to Boston? Is that breaking it down into simple terms?

Mr. Smith answered yes sir. The buses that will originate in Manchester will go through Londonderry. There is a large terminal being built that will be open in November and there will be a full service ticket sales facility there. Many of the commuters are multiple ride passes. I think they are ten ride passes so it wouldn't be a transaction every day for most of the people who are traveling but rather occasionally getting off the bus to go in and purchase a ticket.

Alderman Shea asked would the cost be the same? In other words, if they were to take it in Londonderry versus Manchester or would they pay extra to go from Manchester to Londonderry?

Mr. Smith answered I don't know about the cost.

Alderman Shea asked so you don't know if that is an extra amount? How about coming back? Would that be an additional process? They would go from Boston to Londonderry and those people getting off in Londonderry would go to wherever they are going but the remainder of people would come back into Manchester and there would be that additional amount possibly that they would have to pay? That hasn't been worked out has it?

Mayor Guinta stated there is a set cost from Manchester and there is a set cost from Londonderry. Let's try to keep our eye on the ball here. We have to make a decision about the facility and what dollars we expend regarding the facility. In addition, and I believe this was stated, while the RFP didn't identify any potential

operators for that site there is a secondary phase that is now being entered into of trying to lease that facility. There is at least one individual who is interested and hopefully we will receive more interest to lease the facility. What we need to do is a make a decision. We have the three options. Do we want a comfort station? Do we want MTA to actually keep the same staffing levels, which would be about \$10,000/month or do we want to just maintain this as a drop-off and pick-up facility effective November 17 until we have an independent operation in that location? The independent operator, however, at this point is not allowed to sell tickets as I understand it and we don't have any idea if they will be granted the approval by the other bus owners to sell tickets. What it would do is allow that station internally to be open and available. The decision we have to make is are we going to spend money or are we going to just allow people to get on the bus and shoot down to Londonderry. In addition to that, we do hope and expect that we will have more than one person who is interested. Right now we have one potential company that is interested and hopefully others as we lease the building.

Alderman Shea asked where would we get the money for this particular operation?

Mayor Guinta answered that is the decision that has to be made by this Board.

Alderman Shea asked do you have any ideas?

Mayor Guinta responded MTA is stating that they don't have it in their budget. There is no CIP cash. We have looked at that. It would essentially have to come from contingency funds. So we have to make a decision whether we want to expend contingency funds on this or do we want to have it a pick-up/drop-off and focus on leasing out the building.

Alderman Shea asked what would you recommend?

Mayor Guinta answered I would recommend having it set up as a pick-up/drop-off facility and allow Jay to continue to try to lease the building so we have it open and available. If it is not on November 17 then as soon as humanly possible and the reason I say that is because the operators are not going to allow MTA or the City of Manchester to actually sell tickets so why would we spend money to keep it open when we are not allowed to sell tickets? We wouldn't but you can still go there and be picked up and dropped off. That would be the recommendation that I would make and if someone has a motion...

Alderman Garrity moved on the recommendation of the Mayor to maintain the bus station as a pick-up/drop-off site only. Alderman M. Roy duly seconded the motion.

Alderman Lopez asked Jay, as you look forward once this goes through and people go down there and catch their bus, have you looked at a non-profit organization to operate that?

Mr. Minkarah answered I have not specifically looked at non-profits although that is certainly an alternative. Right now we are advertising it generally as retail or office space.

Alderman Lopez stated I wouldn't rule them out. It was just an idea.

Alderman DeVries stated it sounds like a pretty raw deal for Manchester. It doesn't sound like a very viable at least temporary solution if we are just going to allow people to be picked up and dropped off there because I am not sure in the dead of winter when it is extremely cold...who is going to want to stand outside

in the cold? You can see that attendance or utilization will drop right off especially in the winter and it sounds like that is probably what Boston Express had hoped would happen because then they get out of the six bus routes. What is going to happen with the other vendors – Greyhound, whoever?

Mayor Guinta responded they are still going to operate. They are still going to drop-off and pick-up.

Alderman DeVries asked how are they going to do that without a building to sell their tickets out of?

Mayor Guinta answered we asked them if we could sell their tickets and they said no so they can sell them on their bus or at other locations.

Alderman DeVries responded so they expect their people to just stand out in the cold or are we about to lose all bus service into downtown Manchester?

Mayor Guinta replied no, I don't think we are losing bus service to downtown Manchester. These are decisions that are being made by private companies. If they are not going to allow us or MTA to sell tickets we can't force them to allow us to sell their product. They have decided for whatever reason not to allow that. However, they are stating that they will still have service in Manchester at that bus station.

Alderman DeVries stated I guess what I am not understanding, Your Honor, is are we...I understand that we can't force them but are we calling their bluff by allowing the building to close because we don't have the funds? Will that force the hand of one of the corporations to step forward and say we are damaging their business operations by allowing the building to close and then maybe they will

come forward as a willing partner? Do you have that sense? What is the direction here? It seems like we have been aimlessly throwing suggestions out and we haven't had a real plan on how we are accomplishing the goal.

Mayor Guinta stated I think the City does have a plan. The City was faced with some decisions by the State of NH and elected officials at the state level who have decided to invest south of Manchester. Rightly or wrongly, as a matter of policy and a matter of ridership, it has affected Manchester. So we put forth, I think a good, strong effort to ensure that there is bus service in the City. However, after not receiving one response from the RFP to operate the location and secondly the operators themselves letting us know that they will not allow us to sell their tickets, we have to go to Plan B. Plan B are the three options before us. In addition, the Economic Development Office is still looking to lease the building rather than an RFP process to have some sort of operator in there for the building itself. There is one company that is interested and we haven't actually done any advertising yet. That was just by word of mouth. In addition to the advertising, letters are going to be issued to potential operators of the building so we can keep it open but a rider is still going to have an opportunity to pick up a bus or be dropped off in Manchester. The only difference is rather than purchasing a ticket in that building they will be purchasing it in another location. I don't want to overcomplicate this for riders or provide unnecessary concern. We do have a decision to make because we could spend dollars or we could pick an option that doesn't require us to spend money but nonetheless I think we are going to have operations ongoing in Manchester as well as an operator of the internal facility at a date yet to be determined. I do believe it can happen within several months.

Alderman DeVries stated I certainly agree with you that it would have been nice to have had more of a heads up that this was coming, and if it had been caught by the Executive Councilor that voted on this we might have had more time to bring

somebody in. Jay, how long do you think it is going to take for us to bring a vendor into this facility to open it back up? A small coffee shop or newsstand or whatever you think?

Mr. Minkarah stated not to disagree with the Mayor, but we are advertising at this point. We have had some interest. It depends on the user. If we can get a user in and the space that we currently have pretty much works for them we could turn that around pretty quickly. If it is somebody who is coming in, let's say a food service establishment that is going to require more internal work...so a lot of it is going to depend on the user. Certainly we would like to get somebody in there before the really cold weather sets in. We absolutely...I think all of us here share your concern about keeping the riders safe and comfortable and keeping the ridership levels there as high as we can.

Alderman DeVries asked so if we are bringing somebody in and assuming that they have some sort of internal fix up that has to happen, within the RFP that you are looking at or however you are advertising it, are you looking at some sort of maintenance at least to the bathroom facilities and a warm seating room that is kept open during the fix up of the rest of the building? Is that possible?

Mr. Minkarah answered depending on the degree of work I think it would be possible. That is something we would want to work with any user on. When we structured the RFP keeping an indoor seating area accessible to the public and the restrooms available during the hours of operation were absolutely key. So that is definitely...I couldn't promise 100% during all construction that that would happen but that would absolutely be our goal to keep that as available as possible.

Alderman DeVries asked and it is possible that there could be some sort of an escalator so when it starts as a facility that is not ready for restaurant use say we

wouldn't have to charge them for that full use but they would maintain the open bathroom and a warm place for people to wait for the bus?

Mr. Minkarah answered that is certainly a possibility.

Alderman DeVries stated I am just making sure because it sounds like that is the direction we are heading in if we want to have it for this winter. I agree, Your Honor, that there is going to be some sort of a deal and if there are going to be costs to the City we want to try to minimize that and it sounds like it is only going to be if we get creative with some sort of leasing arrangement to minimize our costs as well.

Mr. Minkarah replied even if we were to find tomorrow that we have a user lined up, given that November 17 is as close as it is, realistically there is going to be a lag time between the time that any user gets in there and the time that Concord Coach ceases to operate the facility. So we are going to have to have some sort of interim solution whatever that may be. There will be a lag time that we will have to address with one of the three options unless there is a different one out there. We are going to have to select some option unfortunately.

Alderman M. Roy stated I have a quick question. When you answered Alderman Shea's question as to what you would like to see done, I wasn't quite sure what you meant. Did you mean letting the building stay open until it is leased?

Mayor Guinta responded I have faith that because we are using a different method rather than an RFP and proposing that people lease it and reaching out to people I think there is an opportunity to gain some interest in that mode. I think there is going to be a fairly short period of time without an actual individual or

people in that facility. If the Board can find the money, then that is an option, but resources are limited at this moment and this obviously was not a budgeted item because this didn't come before us until after the budget was adopted. I think the most reasonable solution given the scenario and the situation is to have pick-up and drop-off and allow Jay to knock on doors and get this lease done as quickly as possible. I will also add that I think the end users that we anticipate appear to be far more likely to be receptive to either a letter or a lease signed than an RFP. I am somewhat confident that we can find somebody.

Alderman M. Roy replied thank you and I appreciate the lengthy response but I just thought all of the conversation and the back and forth with Alderman Shea wasn't clear and I do appreciate that.

Alderman Gatsas stated with all due respect to my colleague from Ward 8, I think there were five Councilors and a Governor that looked at that and there were probably some issues that rose through the Legislature. I know it is an election year but we don't need to point fingers. We need to try to resolve a problem. I guess my question is certainly there has to be a maintenance of the facility that we have. There must be a solution to the problem. I guess I would say in the one time accounts that we have, Mr. Sanders, are there economic development funds that we can pull \$100,000 out of or whatever that number is and hire two part-time employees to do the janitorial services and everything else in this building and keep it open so people can use it and have some comfort? We are not looking for a lot of money but we are certainly looking for services for the citizens of Manchester.

Mayor Guinta stated I understand but we are talking...with the numbers that MTA put together we are talking \$10,000 per month.

Alderman Gatsas stated that would be \$120,000.

Mayor Guinta responded but that would be for an entire year. I am not even sure that we would need an entire...I am thinking six months at most and I think that number is going to be...

Alderman Gatsas interjected and I am not disagreeing with you.

Mayor Guinta stated I don't want people to think we are all of the sudden asking for \$100,000 when we are probably asking for less.

Alderman Gatsas replied I would ask for the \$100,000 and put it back in if we don't use it. I don't want us to sit there and say we need three people to man this or two. I think there is a number that we need to be able to withdraw and say this is true economic development because we need someplace for people to be passengers and move around and have a restroom and be able to stand in the winter. If we were in April, maybe it would be a different story but there must be \$100,000 in one of those one-time accounts.

Mr. Sanders stated there is certainly \$100,000 in the economic development account if it was the will of the Aldermen to use it for this purpose. I expect we could make a case that this is economic development.

Alderman Gatsas stated I am certainly not looking to pay \$12 for a fringe benefit for somebody we are paying \$13 per hour to.

Mr. Sanders stated if I could just make a suggestion on the prior thought, I would almost suggest that if you were so inclined to turn on the lights and open up the room and heat it and all, you would almost vote it each month at \$10,000 per

month. Not to make this painful, but I think there needs to be oversight of what is going to be done here and that the money isn't just put there and spent.

Alderman Gatsas asked how about if we have Jay and Bill talk to a temp service so we could get two bodies and contract them out and see what the cost would be? It would be janitorial services and maybe we can find a less expensive way to do it that allows bathrooms and...

Mayor Guinta interjected essentially allow people to use it as a comfort station.

Alderman Gatsas responded correct.

Mayor Guinta stated I have no objection to that. We would have to place this on the table. We probably actually...I don't know if we could place it on the table because we would have to probably take a phone poll to get this up and running depending on the information that is brought back to us because of the time constraints here.

Alderman Gatsas asked what was the date they said they were moving out of there?

Mayor Guinta answered November 17.

Alderman Gatsas stated I will make a phone call tomorrow and see if we can't get them to stay a couple of months to accommodate the City. I would hate to start looking at putting legislation in in the next session to send them a very clear message.

Mayor Guinta stated let me just ask the Clerk, if we tabled this tonight could we take up the issue via phone poll between now and the next Aldermanic meeting?

Alderman Garrity stated we are meeting on November 12.

Mayor Guinta responded but they can't hire and train people between November 12 and 17. I think we would have to have this decision before that.

Alderman Shea asked why would we want to...in other words how many people ride to Boston versus how many people in this City ride City buses? Should we cater to a group of people who are riding the bus to Boston, vis a vie people who are in the City waiting for buses? Aren't they just as important? Shouldn't we then delegate different places for them? They have to wait in the cold and in the rain and so forth don't they? I mean, how many people ride the bus to Boston?

Mr. Smith stated Concord Coach estimated that the number of regular commuters to Boston was in the range of 100 a day.

Alderman Shea asked and how many people ride the City buses per day?

Mr. Smith answered about 1,000.

Alderman Shea stated so what we are doing is providing a comfort for 100 people riding the bus to Boston and we are saying that the people in Manchester shouldn't be treated the same way. I am not in favor of adding any money to this particular project and I will request a roll call before tonight is over concerning whatever Alderman Gatsas is suggesting.

Mayor Guinta stated we have three options that are here or a potential fourth option that is before us. We can table this and take a phone poll, should additional information be provided. That would have to be done fairly quickly because it would take a little time to identify people who would be willing to do this and then train them. Again, it would probably be on a month-to-month basis but let's try to come to a conclusion here.

Alderman O'Neil stated I support the direction that Alderman Gatsas was going in. I do think we need some time right now to figure this out. I am okay if it is month by month and it's a temp agency or contracting through the Transit Authority. I am a little concerned about a temp agency. Somebody has to be responsible to make sure the cleaning actually gets done and all of that and I don't know if that is their role. We need to work that out. It could be that for the next month or two we use the Transit Authority to do it until we can find a more permanent solution. My biggest concern, and Alderman DeVries touched on this, is if we don't do something to keep this open this gives them the out for running the six roundtrips because I think the quote was from one of your gentleman "if the demand remains." This gives them the out if we don't do something to attempt to keep this facility open. We know we are having other discussions. The Rail Authority is having a discussion about a facility. We have to do everything we can to keep regional bus service in downtown Manchester. I took a number of calls when this issue came up last time. It is a pretty important issue to many residents of the City. They rely on these busses for work. I would support Alderman Gatsas' thought about committing some economic development funds even if it is month-to-month. I certainly do not want to give the bus companies the out to say we closed the facility. I think, David, it has to be more than 100 passengers when you did the survey. That is the number they keep throwing out.

Mr. Smith responded off hand I don't remember but they were talking about the first three commuter trips, which are the trips they have obligated to continue.

Alderman O'Neil stated in the number of meetings I attended they tried to...the bottom line is that the bus companies don't want anything to do with downtown Manchester. That is why I am a little disappointed that the state didn't force them on this. We have to do everything we can to try to keep that facility open in the interim and I will support that.

Alderman Lopez stated I think we are on dangerous grounds using money from the one time account. Second, out of that 100 people that it was indicated stop there I would venture to say that 50% of them are going to get to Londonderry and park their car down there free of charge for the next three years. I think the course of action is to have the bus stop there and also let Jay continue to find somebody to run that operation. Once you start this \$10,000 per month, forget it. You will have it every month. It will become an operation of the City. That is my viewpoint.

Alderman Gatsas asked can you tell me exactly who said depending on the ridership? I know that Alderman O'Neil heard it. I was reading something.

Mayor Guinta stated before you answer that for clarification the NH DOT has to approve any schedule changes.

Alderman Gatsas stated I just want to know where that quote came from.

Alderman O'Neil responded I think the quote was "if demand remains."

Alderman Gatsas asked who said that though?

Mr. Minkarah answered I did.

Alderman Gatsas asked and who said it to you?

Mr. Minkarah answered a gentleman from Concord Coach.

Alderman Gatsas replied give me a name.

Mr. Minkarah responded let me ask Mr. Smith. Ken Hunter.

Mr. Smith stated he is the Vice President of Operations for Concord Coach.

Mayor Guinta stated there is a motion on the floor now. Let's take a vote on that. If it fails, we will go to Option B. If the Clerk could please read the motion.

Deputy City Clerk Matt Normand stated my understanding is that the motion is to follow the recommendation of Option 1 from staff that is included in the handout, to maintain the bus station as a pick-up/drop-off site only.

Alderman Shea requested a roll call vote.

Aldermen Shea, Garrity, Smith, Ouellette, Murphy, M. Roy, Gatsas, Sullivan, Pinard, and Lopez voted yea. Aldermen DeVries, J. Roy, and Osborne voted nay.

The motion carried.

Alderman Gatsas asked was that a negative motion?

Mayor Guinta stated no it was a motion for Option 1.

Alderman DeVries stated which suspends the indoor use and maintains it as a pick-up/drop-off.

Alderman Gatsas moved for reconsideration.

Mayor Guinta asked you are giving notice for reconsideration?

Alderman Gatsas answered I am making the motion now. I voted in the affirmative and we can do it right now.

Alderman O'Neil stated I think there was some confusion, Your Honor on what we were voting on.

Alderman DeVries duly seconded the motion for reconsideration.

Alderman M. Roy stated Mayor, as CEO for the City we put far greater matters into your hands on a monthly basis. We have three very well known professionals in front of us. We have a commitment from our Senators to go ahead and work on this. Our next meeting is November 12. If we can't come to an agreement on whether the doors should remain open or closed based on a financial decision, then I would like to see in the next 15 or 20 days someone work out those solutions and have this Board put it in the hands of the Mayor's office or the appropriate department to come back with a solution. Then if there is no solution on the 12th, we shut the doors. I don't think we should be looking to go ahead and fund \$100,000 or \$10,000 month-to-month, but I would like to see the right people who have the authority to make the decision find a way to keep the doors open through the winter because I do agree with Alderman O'Neil that every time we take a step backward they are going to look at it as weakness and take it away from us.

Mayor Guinta responded well there is a motion on the floor so let's at least take this vote.

Alderman J. Roy stated I want to add one thing. The reason I voted against that is I think we should keep it open. A vacant building invites vandalism. I believe that if we close that building it is going to be vandalized and it is going to cost us a whole lot more than it is going to cost to have some temps in there running the place.

Mayor Guinta stated well, there is going to be activity at that location. You are going to have...

Alderman J. Roy interjected there is going to be some activity at that location but I don't think there is going to be enough.

Mayor Guinta stated understand that regardless of what happens there is also moving forward now the Economic Development Office is seeking someone to lease the inside of the building. That is going on right now. The intent here is not to close the doors forever.

Alderman J. Roy stated but he also stated that there would be a lag in between November 17 and when somebody might occupy it.

Mayor Guinta stated let's just take a vote.

Alderman O'Neil stated I agree with Alderman Jim Roy. There is that lag time and that is what we need to buy some time with. I hope that Jay can find someone

to go in there but in the interim it could be a month or two or three months and we need some time for him to do that. I hope my colleagues reconsider this.

Mayor Guinta stated the motion is for reconsideration.

Alderman Lopez requested a roll call vote.

Aldermen Lopez, Shea, Garrity, Smith, and Ouellette voted nay.

Aldermen DeVries, Murphy, M. Roy, Gatsas, Sullivan, J. Roy, Osborne, Pinard, and O'Neil voted yea. *The motion carried.*

Alderman Gatsas moved to allow the Mayor and the Economic Development Director and the City Finance Officer to look at Options 2 and 3 with the understanding that on a temporary basis the funds will come out of the Economic Development fund. He stated I will certainly make some phone calls tomorrow to the operators to see if we can't get them just to maintain...if we are going to pick up some sort of share I won't negotiate a deal or give my word on anything until I bring it back to this Board what I think may be in the best interest of the City.

Mayor Guinta asked so the motion is for my office and the Economic Development Office to further investigate Options 2 and 3 with the understanding that any money is going to come from the Economic Development fund?

Alderman O'Neil duly seconded the motion.

Alderman Gatsas requested a roll call vote. Aldermen Gatsas, J. Roy, Osborne, Pinard, O'Neil, DeVries, Garrity, Murphy and M. Roy voted yea. Aldermen Sullivan, Lopez, Shea, Smith, and Ouellette voted nay.

Alderman Lopez stated the motion failed.

Mayor Guinta asked how does it fail?

Alderman Lopez answered it takes ten votes to take money out of the Economic Development account.

Mayor Guinta stated it is actually not taking money out.

Alderman Lopez stated that is a question for the City Solicitor.

Alderman Gatsas stated there is no appropriation here.

Alderman Lopez stated in the motion it indicates that the money would come from the Economic Development fund.

Mayor Guinta replied but there is no vote for appropriation.

Mr. Thomas Arnold, Deputy City Solicitor, asked just to be clear, are you talking about the special revenues fund?

Mayor Guinta answered yes. The issue is whether this is an appropriating motion. It takes ten votes to appropriate the money.

Mr. Arnold responded the special revenue reserve account, under this ordinance, says the Board of Mayor and Aldermen may appropriate principal or any investment earnings for capital purchases. The Board of Mayor and Aldermen may vote to appropriate an amount not to exceed 75% of investment earnings for

recurring operating expenses. Beyond that for any other purpose it would take a two-thirds vote of the Aldermen elect.

Alderman O'Neil stated we are not appropriating anything.

Mayor Guinta stated the question is was that motion an appropriating motion. You get to make that decision. If the answer is yes he is going to make a motion to take it out of contingency.

Mr. Arnold replied I believe that this ordinance was set up so that it could only be used for certain purposes and to act outside those purposes would take a two thirds vote. I think that this is certainly not a capital purchase. Whether it is a recurring operating expense might be debatable, but if it is not deemed to be a recurring operating expense, it would take a two thirds vote.

Mayor Guinta asked so in your opinion the motion failed? There were nine yeas. Did the motion fail?

Mr. Arnold answered I guess in consultation with the Finance Officer, if you believe this is a recurring operating expense, then you can use 75% of the investment earnings. I don't know what that is.

Mr. Sanders stated I think it could be deemed a recurring operating expense of operating the facility. It would be recurring month-to-month at least for two months. I personally think that there is probably an economic development component to it.

Mr. Arnold stated obviously if it is a recurring operating expense you can use 75% of investment earnings. I don't know what the investment earnings on that account are.

Mr. Sanders replied nor do I as I sit here tonight, but I would expect that they are at least \$10,000.

Alderman DeVries stated if I could just ask for a clarification from the Finance Officer. If we need to appropriate an actual expenditure on this, will you be in front of us at our next Board meeting with an actual resolution to make that appropriation? The motion that was just taken would allow yourselves and the Mayor to go forward to get us prepared for the appropriating resolution, correct?

Mr. Sanders responded yes. In consultation with the City Solicitor over the next couple of weeks if that was required or if we could find another alternative source of funds that wouldn't require use of these funds we would get back to the Board.

Alderman DeVries stated I think we are ready to move on then.

Mayor Guinta asked can we move on? I need to get a clear answer if this motion passed or failed.

Mr. Arnold answered I think it passed, provided that what has been appropriated is not more than 75% of the investment earnings on the account. That is not clear this evening, although I think that Mr. Sanders has said that he believes at least \$10,000 is available under that criteria.

Alderman M. Roy asked so you are considering that passed?

Mayor Guinta answered as clear as that was, yes.

Alderman Shea gave notice for reconsideration at the next meeting.

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:

245 Gray Street
384 Troy Street

Informational to be Received and Filed

- B. Communication from Mayor Guinta suggesting that the November meetings of the Board of Mayor and Aldermen ought to be changed to Wednesday November 12, 2008 and Tuesday November 25, 2008.
(Note: Letter previously forwarded to all Aldermen on October 14, 2008.)
- C. Monthly Bulletin from the City of Manchester Health Department for October 2008.

REPORTS OF COMMITTEES

COMMITTEE ON PUBLIC SAFETY, HEALTH & TRAFFIC

- D. The Committee on Public Safety, Health and Traffic respectfully recommends, after due and careful consideration, that a request from Jeff Eisenberg, Manchester Monarchs, for permission to place yard signs at the

following area businesses from Saturday, October 4, 2008 through Saturday, October 18, 2008:

- 2 signs at JFK Arena
- 1 sign at West Side Arena
- 1 sign at Gill Stadium
- 1 sign at Mammoth Road (by Derryfield Country Club)
- 1 sign at Livingston Park

be approved.

(Aldermen O'Neil, J. Roy and Ouellette voted yea. Chairman Shea voted in favor of all sites with the exception of Mammoth Road and Livingston Park. Alderman Sullivan could not be reached. Vote was taken via phone poll on October 2, 2008.)

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.

On motion of Alderman Sullivan, duly seconded by Alderman Pinard, it was voted to recess the meeting to meet with legal counsel.

Mayor Guinta called the meeting back to order.

Alderman Garrity moved to place the City Clerk, Carol Johnson, on unpaid leave. Alderman Sullivan duly seconded the motion.

Alderman Garrity requested a roll call vote.

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

6. Communication from Thomas C. Nichols, City Assessor, regarding his retirement to occur by the end of October, 2008.

On motion of Alderman Osborne, duly seconded by Alderman DeVries, it was voted to accept the retirement with regret.

Alderman Osborne stated he has worked 35 years with the City and I wish him good luck.

7. Communication from David Smith regarding his resignation as the Executive Director of the First Transit, Inc. effective on October 31, 2008, and in addition the MTA Board of Commissioners announcement of the election of Mr. Carey Roessel as the new Executive Director effective October 22, 2008.

Alderman O'Neil moved to accept the resignation with regret.

Mayor Guinta stated he is leaving with good reason. He is getting married and moving up to Portland.

Alderman Pinard duly seconded the motion.

Alderman O'Neil stated I personally want to thank David for the job that he did. He came in during some very difficult times with the Transit Authority and I think he has turned them around and is leading them down the right path and hopefully his successor follows that same path. David, thank you very much on behalf of the citizens of Manchester.

Alderman Ouellette stated I would like to echo those same sentiments. David, I served on the School Board when you took over and it was a very difficult

situation there and your professionalism in straightening out all of the issues we had and your willingness to work with the School District I appreciate very much.

Alderman Gatsas stated certainly I want to thank David for his time. We have had some active discussions but he has always been forthright with the truth and I respect him for that even though we may have disagreed at times. I guess the only other question I have, Your Honor, is this: In this new contract does it have the same clause for the MTA to have the ability to buy the new employee out?

Mayor Guinta responded I would have to refer that to the MTA Board of Commissioners.

Mr. Smith stated I can answer that. It is the same contract.

Alderman Gatsas asked so at some point if we want to buy it out and have him be a City employee we have that ability?

Mr. Smith answered yes.

Mayor Guinta called for a vote on the motion to accept the retirement of David Smith with regret. There being none opposed, the motion carried.

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

There were no nominations presented by Mayor Guinta.

9. Confirmation of nominations made by Mayor Guinta.

Heritage Commission

Jeffrey Nyhan, term to expire January 1, 2011.

June E. Trisciani, alternate member, term to expire January 1, 2010.

On motion of Alderman Ouellette, duly seconded by Alderman Shea, it was voted to confirm the nominations as presented.

10. **Report(s) of the Special Committee on Solid Waste**

There were no reports from the Special Committee on Solid Waste.

11. **Reports of the Committee on Community Improvement**

A report of the Committee on Community Improvement was presented respectfully recommending, after due and careful consideration, that a request for the acceptance and expenditure of funds in the amount of \$12,900 for drainage improvements on Oakdale and Robie Streets be approved, and for such purpose a resolution and budget authorization has been submitted.

A report of the Committee on Community Improvement was presented respectfully recommending, after due and careful consideration, that a request for acceptance and expenditure of funds in the amount of \$116,913 for implementation of the COPS Technology Program be approved, and for such purpose a resolution and budget authorization has been submitted.

A report of the Committee on Community Improvement was presented respectfully recommending, after due and careful consideration, that a request for acceptance and expenditure of funds in the amount of \$8,000 for operation of the Juvenile Delinquency Prevention Program be approved, and for such purpose a resolution and budget authorization has been submitted.

A report of the Committee on Community Improvement was presented respectfully recommending, after due and careful consideration, that a request for acceptance and expenditure of funds in the amount of \$8,000 for implementation of the Medical Reserve Corp. Program be approved, and for such purpose a resolution and budget authorization has been submitted.

A report of the Committee on Community Improvement was presented respectfully recommending, after due and careful consideration, that a request for acceptance and expenditure of funds in the amount of \$14,575 for implementation of the Safe Routes to Schools Project be approved, and for such purpose a resolution and budget authorization has been submitted.

A report of the Committee on Community Improvement was presented respectfully recommending, after due and careful consideration, that a request for acceptance and expenditure of funds in the amount of \$10,000 for the Firesafe Project be approved, and for such purpose a resolution and budget authorization has been submitted.

A report of the Committee on Community Improvement was presented respectfully recommending, after due and careful consideration, that a request for acceptance and expenditure of funds in the amount of \$37,690.11 for the Annual Bridge Maintenance Program be approved, and for such purpose a resolution and budget authorization has been submitted.

A report of the Committee on Community Improvement was presented respectfully recommending, after due and careful consideration, that a request for acceptance and expenditure of funds in the amount of \$28,877 for the School Based Dental Services Program be approved, and for such purpose a resolution and budget authorization has been submitted.

A report of the Committee on Community Improvement was presented respectfully recommending, after due and careful consideration, that the following budget authorizations:

- 410609 – NH Drug Task Force
- 410409 – Justice Assistance Grant
- 214206 – Manchester Health Care Access Review Program

be approved.

A report of the Committee on Community Improvement was presented respectfully recommending, after due and careful consideration, that a request from the Highway Department to transfer the following CIP balances to CIP 712107, Municipal Facility Improvements

411305 – South Main Street Fire Station - \$22,956.86

411303 – South Willow Fire Station - \$15,216.86

be approved.

A report of the Committee on Community Improvement was presented respectfully recommending, after due and careful consideration, that \$2,000 be moved out of CIP 810707, Community Development Initiative for funding the project honoring Manchester Highway Department workers who have died while performing their duties.

A report of the Committee on Community Improvement was presented respectfully advising, after due and careful consideration, that a request from Chief James Burkush for permission to spend the balance of the defibrillator replacement program in the amount of \$1,389.94, be approved.

A report of the Committee on Community Improvement was presented respectfully recommending, after due and careful consideration, that the petition to release and discharge the westerly portion of Cameron Street (formerly Union Street) and northerly line of Bourne Avenue (formerly Beech Avenue) from public servitude be referred to a Road Hearing with the date to be set by the City Clerk.

A report of the Committee on Community Improvement was presented respectfully recommending, after due and careful consideration, that a request for sewer abatement for 74 Brook Street be granted and approved in the amount of \$267.30 as recommended by EPD.

A report of the Committee on Community Improvement was presented respectfully advising, after due and careful consideration, that a communication from Attorney Craig Donais on behalf of Mrs. Shirley Hoitt regarding backflow flooding at her property on 160 Porter Street has been received and filed.

A report of the Committee on Community Improvement was presented respectfully advising, after due and careful consideration, that a communication from Kevin Sheppard, Public Works Director, proposing

the opportunity of leasing versus purchasing vehicles within the FY2009 MER budget, has been received and filed.

A report of the Committee on Community Improvement was presented respectfully advising, after due and careful consideration, that the Motorized Equipment Policy responses from department heads has been received and filed.

Mayor Guinta asked without objection can we do all of them and move them at the same time?

On motion of Alderman Gatsas, duly seconded by Alderman Shea, it was voted to waive the reading of the reports of the Committee on Community Improvement.

Alderman M. Roy moved to accept the reports and adopt their recommendations. Alderman O'Neil duly seconded the motion.

Alderman Lopez asked do we need to put the numbers in there if we are just approving for the record?

Mayor Guinta responded unless you waive reading.

Alderman Lopez stated I thought we had to put the dollar amount to the Resolution so that there was no question.

Deputy City Clerk Normand stated I can read the reports for you.

Mayor Guinta asked can we waive reading?

Mr. Arnold stated yes, you can waive the reading.

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

Alderman Gatsas stated I have one question. I want to make sure that I didn't vote no on any of these. You know, Your Honor, sometimes I vote no on things. I think there was only one and that is not coming before us.

12. Reports of the Committee on Public Safety, Health and Traffic

A report of the Committee on Public Safety, Health and Traffic was presented recommending, after due and careful consideration, that a request from Peter Ramsey, Palace Theatre, for permission to hang a banner across Hanover Street for the months of November and December to advertise upcoming performances, be referred to the Committee on Administration/Information Systems.

On motion of Alderman M. Roy, duly seconded by Alderman DeVries, it was voted to accept the report and adopt its recommendation.

A report of the Committee on Public Safety, Health and Traffic was presented recommending, after due and careful consideration, that a request from Barbara Potvin, New England Sampler, for the City to hold a public forum to discuss the closing of city streets be referred to the Committee on Administration/Information Systems.

On motion of Alderman Sullivan, duly seconded by Alderman O'Neil, it was voted to accept the report and adopt its recommendation.

A report of the Committee on Public Safety, Health and Traffic was presented recommending, after due and careful consideration, that a request from Samantha Appleton, Intown Manchester, to provide all municipal parking spaces, both on-street and off-street, to be free of charge on Thursday, November 20, 2008 from 5 PM to 10 PM for the Moonlight Holiday Shopping stroll downtown, be approved.

On motion of Alderman Smith, duly seconded by Alderman J. Roy, it was voted to accept the report and adopt its recommendations.

A report of the Committee on Public Safety, Health and Traffic was presented recommending, after due and careful consideration, that a request from Attorney Cheryl LePine Beliveau for the City to eliminate two parking lot spaces on Map 292, Lot 11 be approved subject to the review and approval of the Zoning and Planning Boards. The Committee further recommends that a revocable license be granted.

Alderman Ouellette moved to accept the report and adopt its recommendations.

Alderman O'Neil duly seconded the motion.

Alderman J. Roy stated during that meeting I voted against this and I will restate my reasons. I think, number one, we are setting a dangerous precedent here allowing people to use our property and giving them access that way. The other issue I have is that we just watched a proposal by Mr. Minkarah two weeks ago using this lot for a building...Second Street actually went underneath the building and through it. The Zoning Board shot this down and I just don't think it is the right thing to do.

Alderman Ouellette stated I just want to talk about the possible development of that area. I think that we are talking about something that could be five, ten or even fifteen years down the road, and especially in this economy it is hard to imagine that somebody is going to step up and develop that right away. I think of the Bridge and Elm project. How long did that take to come to fruition? I think that this particular petitioner just wants access to the property. This is the one that went to the Traffic Committee and then Lands and Buildings. He just wants

access to the land that he is being taxed on and he wants to use it to the best of his ability.

Alderman Gatsas asked how long with the license be for?

Mayor Guinta answered I think it is in perpetuity with revocation.

Alderman Gatsas asked do we have the right of revocation?

Mayor Guinta answered yes.

Alderman Gatsas asked at any time?

Mayor Guinta answered yes, however, I would...

Alderman Gatsas interjected without any payment?

Mayor Guinta stated it just says with revocation. It is a license that is being granted so you could just revoke the license.

Alderman Gatsas asked the license that we are...and I don't see a copy of the license so I am going to vote no because it is not before me and I don't know what I am granting somebody...

Mayor Guinta interjected if I can just add to your comment, in my experience once you grant this kind of offering it is very unlikely that a future Board would actually revoke it. Secondly, the intention here is to develop this parcel and as I understand it, granting this would actually impede and change the development of the location so I think we need to stick to our economic development plan. I

don't mean any harm to this individual but there has been somewhat of a public discussion about redevelopment of that site and I think it is poised for redevelopment based on its location considering the widening is just about to be completed. That asset is, I think, on a much higher priority when it comes to developers looking at locations to develop. I would respectfully request that the Aldermen not grant this request.

Alderman Murphy stated while I agree with Alderman Jim Roy and yourself, Your Honor. I have a quick follow-up question. Is there a notice requirement for revoking a license?

Mr. Arnold stated typically what the City has done in the past is we make it a revocable license revocable on the sole discretion of the City so no there wouldn't be any qualifications. Generally we just revoke the license.

Alderman Murphy asked has there ever been a situation where a license has been revoked?

Mr. Arnold answered not that I am aware of. However, my experience with revocable licenses has probably only been maybe five years since we granted the first one.

Alderman Murphy asked is there any sort of precedent in the State of New Hampshire for litigating when a license has been revoked?

Mr. Arnold answered not that I am aware of.

Alderman J. Roy stated I have one other question for the Solicitor. Are we setting a precedent with this in the City?

Mr. Arnold responded the City has, in the past, granted revocable licenses for City property. I think that this situation is probably somewhat unique in that it involves a parking lot. I am not aware of any prior instance where the City has done that so in that respect you are probably establishing a precedent of a willingness to consider it, although the Committee vote was for a revocable license, which I really just view as permission to use until we say they can't use it anymore.

Alderman O'Neil stated two factors affected my vote. First and probably most importantly, this has the support of the Ward Alderman who represents that area. Secondly, the revocable license was a compromise in Committee last night.

Alderman Gatsas asked is there a reason why we don't have a copy of the license that we are being asked to execute?

Mr. Arnold responded I guess in so far as I can answer that it is because it hasn't been drafted yet.

On motion of Alderman Gatsas, duly seconded by Alderman Garrity, it was voted to table this item until the license has been drafted. Alderman M. Roy was duly recorded as abstaining.

A report of the Committee on Public Safety, Health and Traffic was presented respectfully recommending, after due and careful consideration, that regulations governing standing, stopping, parking and operation of vehicles as submitted be adopted and put into effect when duly advertised and posted.

On motion of Alderman Shea, duly seconded by Alderman Sullivan, it was voted to accept this report and adopt its recommendations.

A report of the Committee on Accounts, Enrollment and Revenue Administration was presented respectfully advising, after due and careful consideration, that the Finance Officer be authorized to research expenditures of all departments. The Committee further recommends that the Finance Officer report back to the Committee on Accounts, Enrollment and Revenue Administration.

On motion of Alderman Shea, duly seconded by Alderman O'Neil, it was voted to accept this report and adopt its recommendations.

A report of the Committee on Accounts, Enrollment and Revenue Administration was presented respectfully advising, after due and careful consideration, that it has accepted the City's monthly financial statements unaudited for the three months ending September 30, 2008 and is forwarding same to the Board for informational purposes.

On motion of Alderman Garrity, duly seconded by Alderman Pinard, it was voted to accept this report and adopt its recommendations.

A report of the Committee on Accounts, Enrollment and Revenue Administration was presented respectfully advising, after due and careful consideration, that it has accepted the following Finance reports:

- a) Department Legent;
- b) Open Invoice report over 90 days by fund;
- c) Open Invoices report over 90 days but less than one year;
- d) Open Invoice report on all invoices for interdepartmental billings only;
- e) Open Invoice report on all invoices due from the School Department only;
- f) Listing of invoices submitted to City Solicitor for Legal Determination; and
- g) Accounts Receivable summary

On motion of Alderman Garrity, duly seconded by Alderman Shea, it was voted to accept this report and adopt its recommendations.

A report of the Committee on Accounts, Enrollment and Revenue Administration was presented respectfully advising, after due and careful consideration, that it has approved travel summary reports from various City departments.

*Alderman Garrity moved to accept the report and adopt its recommendations.
Alderman Shea duly seconded the motion.*

Alderman Smith stated I would like to know why these people submit their travel arrangements three or four months after the fact. We have some going back to July. I would think if they have plans to attend a convention they could submit it to the Committee on accounts. Some of these date back to July 1.

Mr. Sanders stated there may not have been a Committee on Accounts meeting in August or September.

Alderman Smith asked don't you think it would be appropriate if they would involve you, Bill? Some of these are after the fact and I know when I was on the Accounts Committee this happened and the same things seems to be going on. These people go to conventions without any authorization technically speaking because they are a department head and yet they submit the bill to the Accounts Committee.

Mr. Sanders stated these were reports of what they learned at the seminar and the courses they attended, not the expense reports that they are submitting.

Mayor Guinta stated why don't we review how those are approved. If we could review when they are submitted and how they are approved and let's see if there needs to be a modification of the policy. Is that fair?

Alderman Smith responded thank you very much.

Mayor Guinta called for a vote on the motion to accept the report and adopt its recommendations. There being none opposed, the motion carried.

A report of the Committee on Accounts, Enrollment and Revenue Administration was presented respectfully recommending, after due and careful consideration, that the 2008 annual auditor's report submitted by Kevin Buckley be accepted.

On motion of Alderman Sullivan, duly seconded by Alderman Lopez, it was voted to accept this report and adopt its recommendations.

A report of the Committee on Accounts, Enrollment and Revenue Administration was presented respectfully recommending, after due and careful consideration, that the FY2009 Write-Off list for the Accounts Receivable Module be approved.

On motion of Alderman DeVries, duly seconded by Alderman Shea, it was voted to accept this report and adopt its recommendations.

A report of the Special Committee on Energy Contracts and Related Activities was presented respectfully recommends, after due and careful consideration, that the Highway Department be authorized to enter into a contract with Competitive Energy Services Inc. and proceed with the proposed energy purchasing plan as presented to the Committee.

Alderman Shea moved to accept this report and adopt its recommendations.

Alderman Pinard duly seconded the motion.

Alderman Gatsas asked if they could come forward I would appreciate that because I didn't finish my line of questioning at the Committee meeting. I had asked you a question earlier about the spot market on electricity for today and I think you gave me an answer of \$.06.

Mr. Keith Sampson, Competitive Energy Services, Inc. answered yes.

Alderman Gatsas asked do you still stand by that answer?

Mr. Sampson answered yes I do.

Alderman Gatsas asked so if I told you that people are telling me that the spot market this morning was \$.11...

Mr. Sampson interjected after we left the Committee meeting I went on the ISO New England website, which publishes the spot market price for electricity and I pulled down the information and the average is \$.062.

Alderman Gatsas asked can I see it.

Mr. Sampson answered yes. What this does is it shows the price every hour on the hour under daily LMP (locational marginal pricing) so the spot market you may have been referring to may have been the actual purchase price for electricity for a locked in contract but that is the daily spot market for locational marginal pricing.

Alderman Gatsas asked so if I wanted to buy it I couldn't pay \$.06 for it?

Mr. Sampson answered no you couldn't.

Alderman Gatsas asked I would pay \$.11?

Mr. Sampson answered you could pay \$.08 on the LMP market.

Alderman Gatsas stated the average was \$.11.

Mr. Sampson stated the City of Manchester for the Water Works Department locked in their contract and I have my notes written on the back there but they locked in their contract at \$.955 for twelve months. The proposed rate for PSNH is...

Alderman Gatsas interjected stop right there. You have no clue whether the PUC is going to affirm that or not. What is their rate today?

Mr. Sampson answered \$.0957.

Alderman Gatsas asked so it is the same. So for you to come forward and say to us the PUC is going to increase rates by \$.10 is not a true statement.

Mr. Sampson answered they have proposed those rates.

Alderman Gatsas replied they proposed them but whether the PUC approves them...

Mr. Sampson interjected they typically get approved.

Alderman Gatsas stated well I can tell you in years past they haven't always been approved. I guess before I agree to anything...I just tabled a motion until I saw a contract. There is no contract here. Is there a reason why we don't have a copy of the contract?

Mr. Tim Clougherty, Deputy Public Works Director, answered the concept was brought forward for informational purposes and not to approve a contract.

Alderman Gatsas moved to table this item.

Alderman O'Neil stated I have a parliamentary question. Mr. Clougherty said it was brought forward for informational purposes but the report says a contract. What happened in between?

Mr. Clougherty answered perhaps there was miscommunication relative to the motion. I don't recall what the motion was.

Mayor Guinta stated the report says it is to authorize the Public Works Department to enter into a contract with Competitive Energy Services Inc. and proceed with the proposed energy purchasing plan as presented to the Committee. That is the motion before us. Is that an incorrect motion?

Mr. Clougherty responded if that is the motion that went through the Committee then I suppose it isn't.

Alderman Lopez stated just a clarification. I think Tim was correct that it was for information only but the question came up as to what we wanted to do. I think the opportunity is for the Highway Department to go and work out the details like

Water Works did and bring back a contract so they can save money. Tim, what do you want?

Mr. Clougherty stated I asked for the Committee's consideration and commentary on the concept. As I stated at the Committee meeting, we won't be bringing forward any proposals that would do anything but save money on behalf of the City. The Water Works Department has executed these contracts in the past. They have executed such a contract in the past 30 days that recognizes a rate that is currently lower than the PSNH rate.

Mayor Guinta stated so essentially you want authority to purchase at a lower rate than we are currently paying and if you have that opportunity then you would exercise that right.

Mr. Clougherty responded certainly.

Mayor Guinta asked but if it exceeds our current rate you would not be purchasing through an alternative source?

Mr. Clougherty answered if what you are saying is we are not saving any money based on the proposal that Competitive Energy Services solicits on our behalf we will not be entering into such a contract and we will not be paying Competitive Energy Services for such services. We only pay them once we agree to consume power and purchase electricity and/or natural gas.

Alderman Gatsas withdrew his motion to table.

Alderman DeVries stated I was going to ask that the motion be withdrawn so we could continue with the discussion. I remember hearing during an earlier

discussion that you can cancel this with 30 days notice but it is a three year contract that you are proposing to enter into.

Mr. Clougherty responded that is our agreement with Competitive Energy Services. What they are going to be doing is marketing our electricity and natural gas demands to suppliers and if an opportunity presents itself such as it did probably four or five weeks ago, we would be entering into a contract with that supplier to supply electricity to us. As I stated at the Committee level, we had an opportunity to purchase electricity at a price of roughly \$.087 to \$.088 per kilowatt hour. It was a short-term contract. It was either a two or three month contract and if we had the opportunity to do that we probably would have saved about \$47,000 at that time.

Mayor Guinta asked is the contract for a three year period but you don't have to exercise it correct? It just gives you the option to do business with them.

Mr. Clougherty answered yes to do business with CES and have them market on our behalf for electricity and natural gas.

Mayor Guinta asked and that doesn't cost any money; that contract right? If they market it and we can get a cheaper rate they get a cut essentially and we save money?

Mr. Clougherty answered that is right. If they buy one million kilowatt hours on our behalf I think we wind up paying them \$12,500.

Mayor Guinta asked but overall that payment coupled with the payment for the energy would be less than what we are paying to PSNH correct?

Mr. Clougherty answered the net has to produce a savings in the City in order for us to move forward.

Mayor Guinta asked before you would actually exercise that option?

Mr. Clougherty replied that is correct.

Mayor Guinta stated I am just trying to make it as simple as possible.

Alderman DeVries stated pursuant to the earlier conversation that we had and I think that Alderman Gatsas asked you this earlier and I didn't have the opportunity to hear the response but it was a question about the default rate. After you finish one of the short-term options or contracts would we be back at a default rate that is higher than what we would have seen if we hadn't entered into the contract? I don't know if Alderman Gatsas got that answer from you already but I didn't hear it.

Mr. Clougherty responded as I understand it...let's assume that the PUC did not approve any increases or decreases and the PSNH rates stay as they are today, it is my understanding that we can enter into these contracts and go back to the default rate at the end of that contract without that default rate changing. In other words, if between July and December of 2008 we had marketed a two or three month contract with a supplier and PSNH's rate during that time was \$.0975 we would start out at \$.0975 and go to another supplier without charge and come back to PSNH at the end of that term, that two or three month term, at \$.0975.

Alderman DeVries asked Tim, would you be willing to maybe continue to pursue this and come back to us with a contract and make sure that some of the things you are presenting to us today that you are understanding that we know for

sure that we are not going to be further penalized in any way? At least then we would have that contract before us. Certainly if there is an opportunity for us to save money we want to but I think enough questions have been raised that I want to make sure that each and every one of us knows that we are going in the right direction and the savings will be true and valid.

Mr. Clougherty answered Mr. Sampson obviously delves into this market quite a bit more than I do.

Mayor Guinta asked can we see the contract?

Mr. Clougherty asked do you want to see a sample contract?

Mayor Guinta answered no we want to see the contract that we would enter into with this company. Can that happen?

Mr. Clougherty stated it is not a problem.

Mr. Sampson stated we have sample contracts all of the time. That is part of the process.

Mayor Guinta stated let me take a motion to table until we get the contract.

Alderman DeVries stated I would like to hear his answer first so that everybody understands.

Mr. Clougherty stated the contract that we are contemplating is the same contract that Water Works already has. It was reviewed and approved by the City Solicitor.

Alderman Gatsas stated this Board didn't vote on it.

Mr. Clougherty responded I don't believe this Board had to vote on it.

Alderman Gatsas replied you are right so I want to see...I really respect you Tim and if you were telling me about building maintenance I would have no discussion with you because I don't know what end of the hammer to use to bang the nail in but I would say that you would have to admit you are a neophyte when it comes to this.

Mayor Guinta stated I would accept a motion to table and bring the contract forward at the next meeting and we will review it and either approve it or deny it at that point.

Alderman Sullivan moved to table this item.

Alderman Gatsas asked for discussion

Mayor Guinta stated no we are going to move on. It is a basic issue. We don't have the contract in front of us.

Alderman Lopez asked are we going to have the contract go back to the Committee?

Mayor Guinta answered yes that is what I am trying to do.

Alderman Lopez duly seconded the motion to table. The motion carried, with Alderman M. Roy duly recorded in opposition.

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

Mayor Guinta called the meeting back to order.

17. Report of the Committee on Finance

A report of the Committee on Finance was presented, respectfully recommending, after due and careful consideration, that the following Resolutions:

“Amending the FY 2005 Community Improvement Program, authorizing and appropriating funds in the amount of Twenty Eight Thousand Eight Hundred Seventy Seven Dollars (\$28,877) for the FY 2005 CIP 210505 School Based Dental Services Program.”

“Amending the FY 2007 Community Improvement Program, authorizing and appropriating funds in the amount of Thirty Seven Thousand Six Hundred Ninety Dollars and Eleven Cents (\$37,690.11) for the FY 2007 CIP 710907 Annual Bridge Maintenance Project.”

“Amending the FY 2009 Community Improvement Program, authorizing and appropriating funds in the amount of Ten Thousand Dollars (\$10,000) for the FY 2009 CIP 213309 Firesafe Project.”

“Amending the FY 2009 Community Improvement Program, authorizing and appropriating funds in the amount of Fourteen Thousand Five Hundred Seventy Five Dollars (\$14,575) for the FY 2009 CIP 213909 Safe Routes to Schools Project.”

“Amending the FY 2009 Community Improvement Program, authorizing and appropriating funds in the amount of Eight

Thousand Dollars (\$8,000) for the FY 2009 CIP 214009 Medical Reserve Corp. Program.”

“Amending the FY 2009 Community Improvement Program, authorizing and appropriating funds in the amount of Eight Thousand Dollars (\$8,000) for the FY 2009 CIP 214109 Juvenile Delinquency Prevention Program.”

“Amending the FY 2009 Community Improvement Program, authorizing and appropriating funds in the amount of One Hundred Sixteen Thousand Nine Hundred Thirteen Dollars (\$116,913) for the FY 2009 CIP 411909 COPS Law Enforcement Technology Grant Program.”

“Amending the FY2009 Community Improvement Program, authorizing and appropriating funds in the amount of Twelve Thousand Nine Hundred Dollars (\$12,900) for the FY2009 CIP 711609 Storm Drain Infrastructure Project.”

ought to pass and be Enrolled.

On motion of Alderman Shea, duly seconded by Alderman Pinard, it was voted to accept these reports and adopt their recommendations.

18. Communication from Karen O. Wadsworth, Clerk of the House of Representatives, relating to House Concurrent Resolution # 10, urging communities to conduct handicap parking awareness days and urging the State of New Hampshire to declare October as Handicap Parking Awareness Month.

Alderman Murphy moved to receive and file. Alderman J. Roy duly seconded the motion.

Alderman Gatsas requested a roll call vote. Aldermen Gatsas, Sullivan, Osborne, Pinard, O'Neil, Lopez, Shea, DeVries, Smith, Ouellette, and M. Roy voted nay. Aldermen J. Roy and Murphy voted yea. *The motion failed.*

Mayor Guinta stated without objection I will issue a Proclamation noting October as Handicap Parking Awareness Month.

Alderman Lopez asked for next year?

Mayor Guinta answered for the remainder of this month and for next year as well.

Alderman Sullivan stated there is no date on the memo from the State. Why was it not done sooner?

Mayor Guinta responded we would have to refer that question to the House of Representatives.

Deputy City Clerk Normand stated this letter came in prior to the agenda preparation.

19. Communication from Karen O. Wadsworth, Clerk of the House of Representatives, relating to House Concurrent Resolution #11, urging municipalities to establish an annual free tire collection day.

On motion of Alderman Lopez, duly seconded by Alderman O'Neil, it was voted to refer the communication to the Highway Department.

20. Warrant to be committed to the Tax Collector for collection under the Hand and Seal of the Board of Mayor and Aldermen for the collection of sewer charges.

On motion of Alderman Pinard, duly seconded by Alderman Ouellette, it was voted to commit the warrant in the amount of \$158,586.64.

21. Communication from Pamela Goucher, Interim Planning Director, relative to the application for Urbanized Shoreland Exemption.

Alderman O'Neil moved to approve the application. Alderman M. Roy duly seconded the motion. Mayor Guinta called for a vote. The motion carried with Aldermen Murphy and Sullivan duly recorded in opposition.

22. Communication from Michael J. McCluskey, Manchester Development Corporation, to approve an agreement with Wall Street Towers Limited Partnership (WST) to facilitate the refinancing of the Wall Street Tower project as outlined in report.

Alderman O'Neil moved to approve the agreement with Wall Street Towers Limited Partnership as recommended by staff and representatives of Manchester Development Corporation. Alderman Lopez duly seconded the motion.

Alderman Gatsas asked can somebody tell me how much we are forgiving?

Mayor Guinta asked Mr. Minkarah to come forward for a quick presentation

Alderman Gatsas stated I don't know how quick it is going to be. It is an awful lot of money.

Mayor Guinta responded my point is I think it is a fairly straightforward request.

Alderman Gatsas replied I don't think so but we all have our own opinions on situations.

Mr. Minkarah stated I would be happy to give an overview. I have Mike McCluskey, Chairman of MDC, here with us and also Bill Gorodetzer from the Wall Street Tower Partnership if they may join me. I realize that this is a complicated issue and it predates probably everybody on the Board. If I may, I would just like to start off by giving a brief history of the project. Basically this began in 1985 when the City of Manchester received what was known as an Urban Development Action Grant in the amount of about \$6.5 million. It was a grant from the federal government to support financing of the Wall Street Tower project. In addition to that, the City of Manchester owned a piece of property that was used as part of the Wall Street Tower project. The City financed that to an amount of about \$660,000. So the \$660,000 and the \$6.5 million from the federal government was then assigned to the Greater Manchester Development Corporation, the predecessor of the current Manchester Development Corporation. They in turn loaned that money to Wall Street Towers so the project could be developed. In 1990, the project was refinanced and essentially what happened was the note was split into a secured note of a little over \$3 million and the City took third position in that behind two other lenders and an unsecured note of over \$3 million where we took fifth position. A portion of the principal was paid down at that time. Basically all interest payments on those loans were deferred until the end. Both principal and interest payments were deferred until the year 2015 with one exception. The City's interest in this project in terms of the principal represented 19.7% of the secured note. Since 1990, Wall Street Tower has paid the City the interest on that 19.7%. That is paid to the City quarterly. Right now that amounts to about \$21,000 per quarter and to date that has been just under \$1 million in interest that we have received. So that has pretty much brought us

almost to the present. In addition, as another subsidy toward the development in part, the City also agreed 20 years ago to lease 400 parking spaces from Wall Street Tower at a certain rate and there was also sharing...I shouldn't say sharing but the City also compensated Wall Street Tower for taxes paid. Most recently that amounted to about \$104 per space that we were paying. That lease ended in February 2008 and the City chose not to renew that lease. That meant an approximately \$500,000 loss of income to Wall Street Tower and at that point they began discussions with City staff about negotiating another parking lease, and when that wasn't going to happen, about possible refinancing. Basically we began conversations at the staff level last spring with representatives of Wall Street Tower. We basically put together an ad hoc committee that consisted of myself, Tom Arnold, Bill Sanders and Brandy Stanley. We also had representatives from the Manchester Development Corporation – Jim Hood and Jay Taylor, and in addition to that, Bill Suglia from Citizen's Bank. He was recommended to us by Cathy Schmidt. So basically our intent was to try to see if we could come up with a resolution to the refinancing that seemed to be workable for the parties. Last September we felt we did reach a consensus around a concept that we felt was workable. In essence what that would be is Wall Street Tower would pay the City and I am going to say City/MDC approximately \$2.9 million. The City and I use it loosely and I am going to say City and MDC because MDC is actually a creature of the City, but the City would get back all of its principal, and as I said, Wall Street Tower has been paying interest on that principal to date. So the City would be made completely whole. MDC would wind up netting about \$2.3 million. They would be forgiving all of the unsecured debt and they would be forgiving all of the future interest payments because no interest has been paid to the MDC on their portion of the principal. That concept was taken to the MDC Board on October 10 and it was approved unanimously with the noted abstention of Alderman Lopez. We do believe that this is a good resolution and we are seeking approval from the Board this evening. I know there are a lot of questions and I

know it is complicated but basically the reality is that the debt on this building far exceeds at this point its value. This is an opportunity for the City to gain a significant portion of what was owned on the building back. It allows Wall Street Tower to refinance so that the building can remain solvent. Important to the MDC's decision was that it includes \$4.5 million that would be put into the building for necessary repairs and improvements. With that, I would be happy to answer any questions. I am sure there are some that I can't answer, but again, we have Mike McCluskey from the MDC and Bill Gorodetzer from Wall Street Tower and hopefully between the three of us we can answer any questions you may have.

Alderman M. Roy asked the \$6.5 million grant, what year was that taken out in?

Mr. Minkarah answered 1985.

Alderman M. Roy asked the 1990 refinance...you mentioned that on \$3 million the City took a third position and a fifth position on the other \$3 million?

Mr. Minkarah answered well approximately. Actually the amount at that time was \$3,350,000 which was the secured note where the City was in third position and the unsecured was \$3,787,000 and that was fifth position.

Alderman M. Roy asked and that was unsecured?

Mr. Minkarah answered yes.

Alderman M. Roy asked what were the balances of the two positions head of us on the secured note and the four positions on the unsecured note? Do you have that?

Mr. Minkarah responded I think Mr. Gorodetzer can answer that better than I.

Mr. Bill Gorodetzer, Wall Street Towers, replied in 1990 when the bond refunding took place there were two bond issues – an A piece and a B piece. For the issuance of the Manchester Housing & Development Authority, there was \$12,880,000 on the A piece and \$1,615,000 on the B piece. A portion of the B piece was used to pay down the principal payment that Mr. Minkarah referred to when there were excess proceeds in the 1990 bond refunding. The second mortgage debt was a portion of the debt that was advanced by the owners and that was in the principal amount of \$2.5 million. The agreement was in the City subordinating their secured portion to the third that that would be principal only with no interest accruing on it. There was a fourth position loan in between the third secured and the fifth unsecured for the City from the owners that was interest accruing and had a principal amount of \$4,568,325. No principal or interest has ever been repaid on that debt as well. As Mr. Minkarah very succinctly summarized, this is a very complex financing transaction but when you add up all of the numbers present day sitting in front of the City's old mortgage of \$2,947,201 there is \$9,840,000 in the two bond issues combined outstanding and \$2.5 million second mortgage secured from the ownership of the building, so there is \$12,340,000 of secured debt sitting in front of the City's \$2,947,000. Everything after that is unsecured and unlikely ever to be repaid either to the owner or to the City/MDC. \$52 million in total if you count all of the accrued interest.

Alderman M. Roy asked what is the present day value of the building?

Mr. Gorodetzer responded value like beauty is in the eyes of the beholder. The Union Leader reported Sunday that it is assessed for \$13.5 million. The last

appraisal that was done on the building was done for the benefit of the credit enhancer of the bonds, P&C Bank. It was done on April 3, 2006. The appraised value with the City lease in place was \$11,900,000. That is with the City lease in place, which is no longer there. That is a loss of \$510,000 of revenue.

Alderman DeVries stated I guess we have the letter from the Wall Street Tower group that is at the beginning of the packet. I am hoping that you can explain two of the bulleted points to me because it appears that the fourth bullet on page 2 talks about in the event refinancing does not occur. A quick read of this almost makes it look like this transaction would still go forward even without the refinancing agreement going forward, which is the reason that we would want to enter into this to make it more likely that they could go through with the refinancing but there is an out here for them that almost makes it look like they are asking us to better their position to sell the Towers or something else. I can't imagine why that bullet is even in there. Can you give me your read on it?

Mr. Minkarah responded yes. I do want to comment on a prior point that was raised on the value of the building. I would be remiss if I didn't point out that I believe the Union Leader article was not correct in the assessed value. I do believe that Mr. Cornell could verify that for me but I do believe that the current assessed value is closer to \$20 million if all of the properties are taken into account. You are absolutely correct in terms of the bullet you are referencing. As I understand it, in the October 8 letter from Mr. Gorodetzer addressed to myself the offer essentially was...

Alderman Gatsas interjected where is that letter?

Alderman DeVries stated it is at the beginning of the package that was sent to us.

Alderman Gatsas stated it must have just been sent out today.

Alderman DeVries responded no we got it last week.

Mr. Minkarah stated in the proposal that Mr. Gorodetzer made in the October 8 letter his proposal was that whether or not they refinanced the project successfully, they would nevertheless pay us the \$2.9 million. When the MDC reviewed this in the investment committee, and Mr. McCluskey could probably elaborate on this, MDC felt that the refinancing was important. In particular, they wanted to see the building refinanced and they wanted to see that \$4.4 million included in the refinancing so that the repairs and improvements were made to the building. If you look at the cover letter from Mr. McCluskey, it says they want a condition of the approval to be the refinancing to happen and they want the \$4.5 million in repairs included. You are absolutely correct that in the original proposal that \$2.9 million would have been paid whether they successfully refinanced or not.

Alderman DeVries asked so that particular bullet is off the table with the final proposal? We are not entertaining that here?

Mr. Minkarah responded that is honestly at the discretion of the Board. If you wished that the proposal were the firm \$2.9 million that would be at your pleasure.

Alderman DeVries asked what about the fifth bullet, while we are looking at them, with each party paying their own legal fees? How does MDC handle that?

Mr. Minkarah answered that was not discussed. I think it was just assumed that each party would in fact pay their own legal expenses. I think on our end that would largely be in-house. I would have to say that I just made the statement that

it is at the pleasure of the Board which way you would want to go, but I do believe that Mr. McCluskey might want to comment on the issue.

Mr. Michael McCluskey, Manchester Development Corporation, stated to the MDC it really was important that they get the redevelopment part done so I think for us we would be hesitant to go on without that commitment. We think that is a vital downtown property and it is important that it be maintained. We think that the current state of affairs has plenty of room for improvements and, therefore, our willingness to do that really is contingent upon that. I would also note that there are a couple of other things that we did add in that. One of the places there that says they may pay a portion we said you shall pay. I think that was important to us. We also said we wanted clarification on the easements. We weren't willing to just give up the easements without having a clear understanding and our point of view is we still don't really have a clear one. I think that is important to us because that is an important street that comes down between Wall Street and the other place. We don't want to find that all of the sudden we negotiated that away. So we said it would be dependent upon us having a clear understanding on that. Also it was important for us to move up in the priority on the lien position.

Alderman DeVries stated my next question is for Bill Sanders. We had a conversation last Friday, Bill, and I don't know if you have had an opportunity, but I am referring to the letter from Wall Street Towers dated August 12 to Jay Minkarah. This was an earlier letter that was talking about the potential financing and there was a note on Page 5 that concerned me and I didn't know in light of our recent sub prime mortgage issues or whatever we want to call the financial mess that Wall Street has been in, I didn't know if that Fannie Mae refinancing was going to happen, looking at the note that even then was suggesting some issues that have only escalated. Bill, have you had an opportunity to weigh in on that or should I be asking one of these gentlemen?

Mr. Sanders responded I think it would be better asked of these gentlemen.

Mr. Gorodetzer stated for point of clarification it is Freddie Mac. It is in a similar situation as Fannie Mae so it is easy to twin them together. The answer to your question is we all know that the financial markets have been in turmoil. My background is in real estate finance. I have been doing it since 1971 and never in my career have I seen the career in as much turmoil. That is the bad news. The good news is that the Freddie Mac and Fannie Mae multi-family portfolios and multi-family properties in general throughout the country continue to perform extremely well. The rates of foreclosures are minimal. I just came from a multi-family executive conference in Las Vegas and the word is that Freddie and Fannie continue to have a great appetite to put on new multi-family loans. Part of the reason is because it is very profitable for them to subsidize the losses that they have had on the single family side. So yes they are very much in the market, and after we got the initial reaction from the committee that they were going to at least move this in front of the approval bodies, we actually at risk entered into a financing application that we forwarded and put up \$40,000 worth of good faith deposits to start the process in the hopes that we could get this done sooner than later so that we are not subject to the deteriorating market. Now the exposure here is interest rate risk because we are in the business of what we call debt service constraint. We have a finite amount of income. The lender wants a margin of 25% so the debt service ratio is 125%, and every time the interest rates go up 50 basis points or one half of one percent, that has an effect of \$1.15 million on what we realize in loan proceeds. Let me go back. The letter that we wrote was in response to Jay, and I would like to correct something that Jay said unknowingly, because although it is true that we started negotiations with him involved I guess in a letter I wrote on April 2, in a meeting on April 29 negotiations over what would happen to this building if the City chose not to renew the parking lease

were initiated by me three years before the expiration of the lease - January 26, 2005 and again at a meeting on May 13, 2006 with the Mayor and on January 24, so this has been an ongoing process. I don't want to give you the impression that we as sophisticated and knowledgeable owners just sat back on our haunches waiting for something terrible to happen. We have been trying to be very proactive and it wasn't frankly until April when it was decided by the City that they wouldn't enter into the lease that it became ripe for doing something sooner rather than later. The last piece of the pie is the fact that the current financing is loan floater bonds, which like an adjustable mortgage rate goes up so our existing debt service, since the market has deteriorated, has gone from an average of 2% to 3% plus add-on fees or effectively about 6% with the add-on fees and a heavy amortization on the bonds, about \$950,000 worth of debt service, but the interest rate component is reset every week and that hit a high in September of over 8%. So the existing debt service on the deal if it runs at \$385,000 on average for the year, we will lose \$300,000 this year, just based on the interest rate markets. I know that is a long and complex answer but I am trying to be responsive to your concern. We feel very positive that Freddie Mac who we have closed nine deals with, including three this year already, one of which was committed last week and rate locked last week at 6.6% and will close by the end of the month. We are one of their favorite clients.

Alderman DeVries asked aren't your numbers in this representative of a different vacancy rate than what you actually have? Isn't that a concern?

Mr. Gorodetzer answered there is a concern...and we gave in this package that you are referring to...and I don't know who else saw it...and it really was an add on to the April 2 package before we had our first meeting with the group that Jay formed to try to give as much information to your staff as possible so they would understand. You are absolutely right. The optimal valuation or the base level

assumed a 5% vacancy rate with no concessions in the marketplace. The reality is one month free is probably on the low side. Our competition up the street has offered two to three months and also the vacancy in our property, which has always averaged 97%, 98%, or 96.5% last year dropped to 91% when we started our discussions. We are back up to 95% as we sit here today. However, when the appraiser and the lender underwrites the deal they are going to look at the general market, and as I sat with Jay and you saw that sensitivity chart, my expectation is a 7% vacancy with a one month concession and that is going to yield, when all is said and done, an \$8.1 million mortgage and leave roughly \$3 million after paying off the first mortgage and transaction costs, which coincidentally is the amount that we need to fulfill our obligation to pay the City \$2,947,000. I think that is the most likely scenario. If we do better than that then my owner, who was previously in second position, may recover some money. If we do worse than that we are going to go out-of-pocket to make sure that we fulfill our commitment to the City.

Alderman Gatsas asked is Manchester Housing Authority relinquishing some portion of their first position?

Mr. Gorodetzer responded they have a first position only through the trust indenture, but that has been assigned to the credit enhancer so it is really P&C Bank, who is going to be repaid in full and all of the bonds will be redeemed in total now at the time of the refinancing so the new lender can have a first lien on the building.

Alderman Gatsas asked so that is about \$11 million?

Mr. Gorodetzer answered that is \$9,840,000 as of the end of this year, which is when we expect to refinance. It is \$8,750,000 on the A bonds and \$1,090,000 on the B bonds.

Alderman Gatsas asked so on the first position there is \$9.8 million that must be paid?

Mr. Gorodetzer answered that is correct.

Alderman Gatsas asked the second position is \$2.5 million?

Mr. Gorodetzer answered that is correct.

Alderman Gatsas stated that is \$12.3 million.

Mr. Gorodetzer responded correct.

Alderman Gatsas asked if we decided to hang around and play the game because I have not heard of anybody negotiating with the City as far as the \$104 parking fee until you just said it now because I brought it up five years ago. I said why are we paying this and why don't we negotiate because they owe us \$51 million?

Mr. Gorodetzer answered to be responsive it was a soliciary payment of the City debt.

Alderman Gatsas stated if I take a look and amortize \$500,000 per year for 20 years, that is about \$10 million that we paid you in rent. That far exceeds what you gave the City...

Mr. Gorodetzer asked how much did you receive in the sub-leases from the tenants that you sub-leased to?

Alderman Gatsas answered that is not my question because I am looking at one side. We paid you \$10 million and we haven't gotten that back paid.

Mr. Gorodetzer responded let me put this in respective. The Board has a range of options. I am not sure that any of them are solutions from us as the owner or for you as the Board. Let me run through them. Option I is to do nothing. That would mean that we are going to have a \$300,000 loss. Going forward we will be unable to pay the \$22,000 roughly per quarter or \$88,000 per year to the City. We will not have enough money to operate the building as the owner without making cuts in staff or services to the residents and over time the building will deteriorate. That is the first option.

Alderman Gatsas replied don't go any further than that because I am sure in the mortgage agreement that you have with the City or MDC says that you as the owner must upkeep that building or we can foreclose. So before you let it deteriorate too much longer, we can exercise foreclosure.

Mr. Gorodetzer responded in order for you to foreclose, the City would have to come up with enough money, which is \$12,340,000 to come in front of the first and second secured mortgages. It is an option. It is an option. The other thing is the financing is non-recourse. The owner could walk away from the \$19 million plus that we have in the building without any further financial...

Alderman Gatsas interjected that is behind us.

Mr. Gorodetzer replied no a good portion of it is in front of you.

Alderman Gatsas stated well I am not seeing that, not with the document you are showing us.

Mr. Gorodetzer stated the \$2.5 million is in front of you in principal.

Alderman Gatsas responded all it says is \$2.5 million.

Mr. Gorodetzer stated the \$16.7 million is in front of the \$9.8 million.

Alderman Gatsas stated I am seeing our third position as \$12 million. All I am looking at is \$11 million in front of me.

Mr. Gorodetzer replied if you want to look at the secured you are absolutely correct.

Alderman Gatsas stated on a project that is worth \$20 million.

Mr. Gorodetzer responded you don't know that do you. It is assessed.

Alderman Gatsas stated if I just do some simple math and take \$129,000/unit in the high-rise...

Mr. Gorodetzer interjected well why don't you take some simple math and look at a net operating income of \$700,000, capitalize it at 7.7%, and come up with a value of \$10 million, which is how lenders look at it?

Alderman Gatsas responded I am saying one very simple thing. All we sit behind is \$11 million.

Mr. Gorodetzer stated let me run through the options. You have the option of going through that whole scenario including foreclosure. That would be the ultimate...

Alderman Gatsas interjected I think you need to sharpen your pencil and give us a better deal.

Mr. Gorodetzer asked would you like to hear the other options?

Alderman Gatsas answered I don't want to hear them because we are only behind \$11 million. I think you need to sharpen your pencil.

Mayor Guinta stated let's do this. It is 11 PM. Let's hear the options. I think if there are any other follow-up questions, I will take them but I suspect that most people have an opinion at least or are leaning as to which way they are going to go. Let's just from your perspective hear what the options are for the group.

Mr. Gorodetzer stated I will do this as briefly and succinctly as I can. Option II would be that the City and the owner who holds subordinate debt would agree to resubordinate to a new first mortgage. That way they would ostensibly still provide the \$4.5 million to renovate the building but what it would mean to the City going forward is that they would continue to receive until August 2015 roughly \$88,000 per year, which increases slightly over time. That would be preserving the status quo and the same relationships that we have on the priority of debt, both secured and unsecured. That is a viable option if the City wants to do that. The owner would be willing to resubordinate their portion of the debt in the same priority you have now. The third solution is what we have proposed and reviewed with the staff, which is basically to buy the City out of their existing debt. That amount that we determined was a residual amount after paying off the

first secured mortgage and paying transaction costs. Basically under a most likely scenario giving and pledging all of that money to repay the \$2,947,000 and also agreeing that if there is a deficiency, we will make it up in order to live up to our end of the bargain. So those are the three scenarios. We favor scenario three. That leaves scenario two as an option. I really think that scenario one is a disaster for all concerned but that is my personal opinion.

Mayor Guinta asked scenario two would cost the City how much?

Mr. Gorodetzer answered scenario two would continue with the minimum payments on the third mortgage of the 19.7% of the City portion, which is presently \$88,000 per year. No principal would have to be repaid until August 2015, and any accrued interest on the MDC portion would also theoretically be due at that time.

Mr. Minkarah stated if I could add though I don't think that would resolve the likely scenario of 2015. I think the likelihood of that debt being paid off in 2015 would be remote. I don't know if you want to comment on that.

Alderman M. Roy stated there are a couple of things I want to address. I hate letterhead that comes that just says office of the undersigned. Is the building owned entirely by Michaels Development Corporation of New Jersey?

Mr. Gorodetzer responded Michaels Development Corporation is not the owner. Michaels Development Corporation is one of our family of companies that happens to be our development company and we use the office of the undersigned because we have 227 partnerships and we save a lot of trees by not printing stationery for each one. I apologize if it threw off a signal that was unintended.

We routinely use office of the undersigned and then indicate the entity in the signature line that is involved.

Alderman M. Roy replied thank you for clarifying that. So it is pretty safe when I look at the portfolio of the properties around the country that there is an independent company for each one?

Mr. Gorodetzer stated we have a separate owning partnership or affiliated management company manages all of the properties we have an interest in. That accounts for over 30,000 units in 242 properties. We are active in 28 states, St. Croix in the Virgin Islands and Washington D.C. We remain the top developer of affordable housing by a national publication or the affiliated management company manages more assisted living facilities or rent subsidized facilities than any other management company in the country.

Alderman M. Roy stated I actually just read that piece. So when you refer to second mortgages principal to the owner, you are referring to the Wall Street Limited Partnership?

Mr. Gorodetzer responded actually one of the principals, the fellow that I work for, Michael J. Leavitt, actually individually owns that paper. The other partners' interests were assigned to him.

Alderman M. Roy stated I have a question regarding the 2015 deadline, just so I am clear. If we do hold tight, does that secured number becomes \$9.9 million in accrued interest in 2015? Page 2, last paragraph of the April 2 letter is where I am getting that number.

Mr. Gorodetzer replied that is not 2017 that is 2007. It says "indicates that at December 31, 2007 the total of \$51,278,770 or roughly \$52 million". The number you mentioned is as of December 2007 from our audit so that interest will grow each year. In 2017 maybe it will be double that amount. I don't know. I haven't done the math.

Alderman M. Roy stated I just want it to be clear that the third mortgage that you are referring to lines up with that third bullet point of that statement made in December 2007.

Mr. Gorodetzer responded it does and that interest is accurate through 2007 per the audited financial statement.

Alderman M. Roy asked and that is a secured position?

Mr. Gorodetzer answered yes that is a secured position behind the first and second. You are third in priority.

Alderman Shea asked how much in taxes do you pay?

Mr. Gorodetzer answered \$347,000 is the current budget

Alderman Shea asked are you current in your payments?

Mr. Gorodetzer answered we are not only current in that but even though we have an operating deficit we are current on the City portion of the debt to show some good faith here as we try to work out a deal. We don't have the money to pay for it. We are out of pocket the \$22,000 per quarter as of March when the payments from the City stopped on the garage.

Alderman Shea asked are you bonding with swaps or are you bonding with a fixed rate?

Mr. Gorodetzer answered we are naked. We are floating naked on the low floaters. Our credit enhancer, P&C Bank, and none of the predecessors required us to do a swap or a cap so we are just floating on a weekly basis on whatever those low floater rates are for that particular credit of that bank.

Alderman Lopez stated just for information, Alderman Smith and I both sit on that committee. Alderman Smith had another engagement but I think it is really a complicated issue and I spent a couple of hours with the Finance Officer and I had a lot of questions plus the people who are on the MDC Board that negotiated this along with Jay. I would like to have a comment from the Finance Officer. If we just walk away...I don't want to put words into his mouth but I think he has convinced me to just get out of this building. I would like to have him comment as to why.

Mr. Sanders stated I think that the transaction that is being proposed this evening is a good deal for the City. Exclusive of MDC at the moment it provides for the complete repayment of the funds that were advanced by the City in 1985 for this transaction. At the time it was in the form of land but it is complete repayment of that indebtedness and all of the interest. It removes any contingencies that we have or ties to the organization going forward. We can take the money and we can proceed to work on other projects or use it as the Aldermen deem fit in other matters as opposed to continuing on with expectation that we will get more money, but also the equal possibility that we will get less money in 2015 or whenever this thing goes to settle. It also provides for the development of the structure and to improve the value of the structure, which will manifest itself in

higher tax revenues I would hope in the future as they make these improvements to the building. It also provides for MDC to receive about \$2.3 million that was neither the City's nor MDC's money. It was a grant that was received by the City in 1985 to fund the structure. So I don't want to say that it is free money; it is certainly not that. We have waited a long time to get it repaid but it is new money to the City. It is not money that we have had. It was initially just passed through for this process. I think the City would be better off never to have been involved in this project, candidly, and should be careful about getting involved in them in the future. I think this is a real opportunity to exit this transaction in a completely 100% paid off on the City side and MDC getting \$2.3 million that they never put into it.

Alderman Lopez stated we have been receiving quarterly payments. Did I miss the total amount of quarterly payments if this goes through? What were the quarterly payments?

Mr. Gorodetzer answered it is approximately \$22,000 per quarter.

Alderman Lopez asked and if this deal goes through would there still be \$22,000 per quarter?

Mayor Guinta stated it escalates. For 2009-2010 it starts at \$22,000 and ends at \$23,000 and then it escalates all the way up to \$28,000 in 2015-2016.

Alderman Lopez stated the only issue I have is not so much with Wall Street but I am interested in the \$2.9 million that is coming back. I can only approve this on the basis that I would like to see an amendment that we negotiate with MDC financially as to our fair share of the \$2.9 million that would come back to the City.

Alderman Lopez moved to amend the approval of the agreement to require that the City negotiate with MDC over the share of the \$2.9 million that would come back to the City. Alderman Shea duly seconded the motion to amend the approval.

Alderman Gatsas stated I am not too sure I understand what the amendment is.

Mayor Guinta stated he said he wants to negotiate. Assuming this passes he wants to negotiate the amount that goes to MDC versus the City. He wants to negotiate with MDC at a later date that there be a payment to the City.

Alderman Gatsas stated the only amount of money that is in place is \$2.9 million. \$2.3 million goes to MDC and \$600,000 comes to us.

Mayor Guinta responded what he is saying is he wants to amend the original motion to include a negotiation between the City and MDC to amend that transaction.

Alderman Gatsas stated I think, Your Honor, we are negotiating with the wrong person. I am looking at an indebtedness of \$22.7 million that the taxpayers of this City are owed; \$22 million and we are negotiating a deal for 13%? I don't think we are doing a fiduciary agreement with the taxpayers of this City. That is a \$22 million deal. I am looking at this deal and if we don't subordinate your debt you can't do anything because you don't have a subordination agreement with us. So I am looking at this deal and saying you know what, I don't think you folks want to go down personally. At least Mr. Leavitt doesn't want to go down personally because he is at risk for \$2.5 million. He may be a billionaire and I understand that \$2.5 million in the frame of things is not a lot of money but \$22 million to the

taxpayers of this City for \$2.9 million is not a good deal. That is why I say somebody has to go back to the table and sharpen a pencil because I am not doing the profit and loss on this but I am looking at some numbers and saying if we say that those units are worth...how many units in the building not including the penthouse?

Mr. Gorodetzer answered 153.

Alderman Gatsas asked would you say they are worth \$120,000?

Mr. Gorodetzer answered define worth.

Alderman Gatsas responded I don't know. I think that the North River Tower...what did the average sale...

Mayor Guinta interjected okay we are talking somewhere around \$20 million and multiply it by \$130,000...

Alderman Gatsas interjected and I am looking at \$20 million and Your Honor, we are only sitting behind \$11 million. So somebody needs to do a better deal for the City because I don't feel comfortable with the people who negotiated the deal. That is not a good deal for the City. That is my opinion. You know where my vote is. It is \$22 million that is owed to the taxpayers of this City. They didn't enter into a deal to never receive payment on interest or principal. That was not the deal that was set out in 1985 or they would have never done the deal. There were an awful lot of tax credits that were involved and a lot of people go tax credits that they used during the course of that time.

Mr. Gorodetzer responded there were no tax credits.

Alderman Gatsas stated because that changed in 1986.

Mayor Guinta stated we have had the discussion. There was a motion. I will take a vote on the amendment first.

Alderman Lopez stated I need clarification because I don't want to miss something here because I spent hours on this and the numbers of \$9 million and \$3 million and third place and second place and by redoing this deal I understand we are in the second position now. Is that correct? Alderman, you are saying \$22 million. Could you explain that? I don't want to miss something here.

Alderman Gatsas responded this is the same sheet we are all looking at. If you look at Page 1 of 1, that is principal and interest that is owed to the City. Principal and interest. Those are their numbers not mine.

Alderman Lopez stated \$22 million and they only paid the interest, not the principal.

Alderman Gatsas stated no they have paid no interest. That is what is owed to us. Accrued interest is \$10 million. The total deal, principal and interest on that whole project is \$51 million.

Mr. Gorodetzer stated I think you are possibly misreading this because the way I read it there is \$9.84 million on the first and \$2.5 million on the second owed to the principal owner and \$12.975 million owed to the City principal and interest third and then \$16.716 million owed to the ownership before you get to the last million \$9.8 million owed to the City in the fifth. I think the accurate number in the way you are trying to frame it is \$12.975 million.

Alderman Gatsas replied no. The total dollars owed to the City in this transaction, if you could sell that building tomorrow for \$51 million, would be \$22 million. Is that right or wrong?

Mayor Guinta stated they can't sell it for \$51 million.

Alderman Gatsas responded wait a minute. That is what is owed. That is the indebtedness. They are going to have to get forgiveness behind us.

Mayor Guinta stated they are trying to renegotiate. You cannot say this is an asset worth \$51 million because it is not.

Alderman Gatsas replied I didn't say that.

Mayor Guinta stated you said if they could sell it for \$51 million. They can't.

Alderman Gatsas responded they owe us \$22 million. That is what this document says.

Mayor Guinta replied you are basing that on \$51 million.

Alderman Gatsas stated no I am not. I am basing it on this document.

Alderman Lopez stated before I vote I have to ask the Finance Officer something. On those statements that the Alderman is speaking of, if they go bankrupt what happens?

Mr. Sanders responded first of all the Alderman is correct that they owe us \$22 million. A portion of that is in third place and is a secured credit, which is only \$12 million. The remaining \$10 million is completely unsecured and sits in fifth place, and in order to achieve any collection on that fifth place would require us to sell the building for \$51 million. It's assessed value is \$20 million so any possibility that that amount would ever be collected is remote and that is being optimistic. It is essentially zero.

Alderman Lopez asked the \$12 million would be uncollectible?

Mr. Sanders answered no, the fifth place credit.

Mayor Guinta stated the fifth place unsecured based on \$51 million for the sale of the building and it is assessed at \$20 million. You can't get \$51 million for it.

Alderman Gatsas stated if they got \$20 million for it, guess what? We would get \$9 million. That is a pretty good deal. It is certainly a far cry from \$2.9 million.

Mayor Guinta asked how do they sell the building for \$20 million if they owe \$51 million?

Alderman Gatsas answered the same way they are going to get to refinance this package without subordination agreement. There is going to be forgiveness behind them. That is what they are looking at. They are looking at forgiveness from us for \$9.8 million. Their limited partnership advances is \$16.7 million and that is already in the deal in fourth. That is going to be written off. Am I correct?

Mr. Gorodetzer responded you are incorrect.

Alderman Gatsas asked so you are going to subordinate into a fourth position?

Mr. Gorodetzer answered no. We are not going to write-off any of the debt. It is going to be assigned to an entity of our choice based upon the agreements that we put forth.

Alderman Gatsas asked so you can assign it to a property that you have that is turning a profit to reduce it to a loss?

Mr. Gorodetzer answered we can assign it to an entity so that there is no forgiveness of debt for income tax purposes.

Alderman M. Roy stated I disagree with one statement that the Finance Officer made that the City should have never gotten into this in the first place. Projects like these were designed and built to help the City of Manchester downtown, so the residential structure that is there does help the City, and I don't want anyone watching this thinking that some of those large economic projects that we are now coming out of have gotten a bad rap but they were very essential when we got into them and I would like that on the record. That includes a number of our parking garages that we have had comments about here. If we end this today, whether it is MDC or the City and MDC being our quasi-governmental agency, there is a \$2.9 million pay off. If we are patient until the close of this maturity date of 2015, there is a secured number of \$12.975 million that I am reading from Page 1 of 1 in the package and an unsecured amount of \$9.8 million.

Mr. Gorodetzer stated actually the amount of first mortgage bonds would be reduced by the principal pay down. It would be in the same document probably that you read from. I think there is a \$5 million balloon balance in 2015, so there

will be about \$4 million worth of debt reduction with the first mortgage plus or minus.

Alderman M. Roy stated well you are helping me make my case.

Mr. Gorodetzer responded well, I just want to tell you factually and give you the best information I can so you can make an intelligent decision based on what is important to you.

Alderman M. Roy replied I appreciate your honesty because you just made it even clearer that we are receiving \$4 million in the next seven years in payments.

Mr. Gorodetzer stated if you discount the present worth and use whatever discount you want, \$2.9 million today versus \$88,000 income stream rising modestly between now and 2015 and then the possibility discounted for risk of what the building is worth, then I would say to you clearly it is going to be worth more than it is today and because there is principal pay down more of that third mortgage certainly could be recovered. The question is, is it a good business decision to wait until 2015 or take the \$2.9 million today? Do the math and make your decision.

Mayor Guinta stated we have two motions on the floor.

Alderman O'Neil stated Alderman Lopez has suggested that the City negotiates with MDC for that \$2.9 million. What happens if we don't reach an agreement? The deal is still done, correct?

Alderman Gatsas replied no, it is not. We still have to approve the deal.

Mayor Guinta stated MDC and the City theoretically would have to...the current arrangement would have MDC receiving \$2.3 million and the City receiving \$600,000. What Alderman Lopez's amendment is is he wants the City to renegotiate with MDC on that pay out.

Alderman O'Neil asked does that stop the balance of the deal from going forward?

Mayor Guinta answered no.

Alderman Lopez stated no.

Alderman Gatsas stated sure it does. We haven't approved it.

Mayor Guinta stated if that amendment passes and the original passes, the deal gets done and \$2.9 million comes to the City, and right now the City has to give MDC \$2.3 million. What Alderman Lopez is saying is he doesn't want to give them that \$2.3 million but wants to negotiate with MDC for a different amount. That is essentially what he is saying.

Alderman O'Neil asked can somebody just quickly explain to me how those numbers were reached? It was probably said three hours ago.

Mayor Guinta stated I assume it is in the MDC agreement.

Mr. Minkarah stated back when the project was originally funded...well I shouldn't say originally but in the last refinancing the City's stake in the secured debt was 19.7%, and 19.7% of the secured interest is about \$600,000. That is because when this project was originally financed there was about \$6.5 million in

a federal grant and about \$660,000 in the City's equity into the project. So that is where this ratio came from.

Alderman O'Neil stated so really what we are doing is the federal grant is being repaid to MDC.

Mr. Minkarah responded the secured portion of it, yes, and I do think it is important to emphasize that what we are talking about is money that came originally from a federal grant. This was not local Manchester taxpayer dollars. This was money that did come a federal grant. The City portion of that, the 19.7%, would be paid 100% in full and the interest payments on that have been made consistently.

Alderman O'Neil asked and City staff recommends that the \$2.3 million goes to MDC?

Mr. Minkarah answered City staff has not made any recommendation on how to divide up the \$2.9 million. The status quo is that it is \$2.3 million to MDC and approximately \$600,000 to the City.

Alderman Gatsas stated Your Honor, look I think in all fairness to the City somebody needs to go renegotiate this deal. I think it is going to be imperative to where they go. I think the closer they get to \$5.8 million...because in six years from now you are going to reduce the debt by \$5 million. That means we are sitting behind somewhere in the vicinity of \$7.3 million.

Mr. Gorodetzer stated you are making assumptions that the owner will continue to subsidize the building during this period of time to amortize the debt, and I don't know that that is a valid assumption.

Alderman Gatsas responded well the valid assumption is that you don't want to get into a forgiveness situation with what is behind you because the tax implications to the owners and to the limited partners is huge.

Mr. Gorodetzer replied the reality is that we would present worth the liability of taxes in a debt forgiveness against the expenditure of money and the opportunity cost that we would have to do to keep this building subsidized with out of pocket money through 2015 and decide on a business decision which is the best decision for us to make.

Alderman Gatsas stated you would have to have that discussion with the IRS.

Mayor Guinta stated let's just take a vote here. We have discussed it...

Alderman Gatsas interjected all I am saying is it should be closer to \$5.8 million.

Mayor Guinta stated okay. People have the information. You can vote the way you would like. I would like to move forward. The first vote is on the amendment. Does everybody understand the amendment?

Alderman Gatsas requested a roll call vote.

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

Mayor Guinta stated the vote now is on the original motion.

Alderman Gatsas stated I would like to make a motion your Honor.

Mayor Guinta responded there is a motion on the floor.

Alderman Gatsas stated no there was only one motion and that was his amendment.

Alderman Lopez stated no there was a motion but I am going to withdraw my second to the original motion.

Alderman Gatsas moved that the negotiators go back and look for \$5.2 million with the payment being \$2.3 million to MDC and \$2.9 million to the City.

Alderman J. Roy duly seconded the motion.

Alderman Gatsas requested a roll call vote.

Alderman M. Roy asked where are you getting those numbers?

Alderman Gatsas stated I looked and said that it is about 25% of the indebtedness.

Alderman O'Neil stated I have a question for Mr. Sanders. Do you agree that that is even close or are we spinning our wheels in delaying this?

Mr. Sanders responded I am not sure I understand your question.

Alderman O'Neil stated I am looking for...I don't know if it is a random number that my colleague came up with. He obviously believes that is the number but if you don't have an opinion on it just say you don't have an opinion on it.

Mr. Sanders replied I don't have an opinion on it.

Mayor Guinta stated let's take the roll call vote.

Alderman Lopez asked for clarification, what percentage did the Alderman use?

Alderman Gatsas answered it was around 25%.

A roll call vote was taken. Aldermen Gatsas, Sullivan, J. Roy, Pinard, Lopez, Shea, DeVries, Smith, and Ouellette voted yea. Aldermen Osborne, O'Neil, Murphy and M. Roy voted nay. Alderman Garrity was absent. The motion carried.

23. Resolutions:

“Amending the FY 2005 Community Improvement Program, authorizing and appropriating funds in the amount of Twenty Eight Thousand Eight Hundred Seventy Seven Dollars (\$28,877) for the FY 2005 CIP 210505 School Based Dental Services Program.”

“Amending the FY 2007 Community Improvement Program, authorizing and appropriating funds in the amount of Thirty Seven Thousand Six Hundred Ninety Dollars and Eleven Cents (\$37,690.11) for the FY 2007 CIP 710907 Annual Bridge Maintenance Project.”

“Amending the FY 2009 Community Improvement Program, authorizing and appropriating funds in the amount of Ten Thousand Dollars (\$10,000) for the FY 2009 CIP 213309 Firesafe Project.”

“Amending the FY 2009 Community Improvement Program, authorizing and appropriating funds in the amount of Fourteen Thousand Five Hundred Seventy Five Dollars (\$14,575) for the FY 2009 CIP 213909 Safe Routes to Schools Project.”

“Amending the FY 2009 Community Improvement Program, authorizing and appropriating funds in the amount of Eight Thousand Dollars (\$8,000) for the FY 2009 CIP 214009 Medical Reserve Corp. Program.”

“Amending the FY 2009 Community Improvement Program, authorizing and appropriating funds in the amount of Eight Thousand Dollars (\$8,000) for the FY 2009 CIP 214109 Juvenile Delinquency Prevention Program.”

“Amending the FY 2009 Community Improvement Program, authorizing and appropriating funds in the amount of One Hundred Sixteen Thousand Nine Hundred Thirteen Dollars (\$116,913) for the FY 2009 CIP 411909 COPS Law Enforcement Technology Grant Program.”

“Amending the FY2009 Community Improvement Program, authorizing and appropriating funds in the amount of Twelve Thousand Nine Hundred Dollars (\$12,900) for the FY2009 CIP 711609 Storm Drain Infrastructure Project.”

On motion of Alderman M. Roy, duly seconded by Alderman Pinard, it was voted to waive readings.

On motion of Alderman Pinard, duly seconded by Alderman J. Roy, it was voted that the Resolutions ought to pass and be Enrolled.

TABLED ITEMS

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

This item remained on the table.

25. Recommendation from the Special Committee on Riverfront Activities receiving unanimous vote that the City purchase a certain .2633 acre parcel of land located at 2 Line Drive under the terms and conditions identified in the attached purchase and sales agreement.
(Note: The Board voted to accept and adopt the recommendation of the committee and it was then vetoed by Mayor Guinta. Additional communications have been provided by Pamela H. Goucher, Interim Planning Director and Leon L. LaFreniere, Building Commissioner, Forwarded to Board on September 8, 2008; Tabled 09/16/2008)

This item remained on the table.

NEW BUSINESS

Alderman O'Neil stated the last time we met I talked about the manual on uniform traffic control devices and there seems to be some confusion. Did we set-up a special committee or can that document be sent to Public Safety and Traffic?

Mayor Guinta responded I don't believe there was a separate committee issue. My recommendation would be that we refer this to the Committee on Public Safety and Traffic.

Alderman O'Neil stated it is called the Manual on Uniform Traffic Control Devices.

On motion of Alderman O'Neil, duly seconded by Alderman Pinard, it was voted to refer the Manual on Uniform Traffic Control Devices to the Committee on Public Safety and Traffic.

Alderman Gatsas stated in discussions in CIP last night there was a bond available, 810707, which had \$19,000 in it and we allocated \$2,000 to help the Highway Department create their monument. It left an additional \$17,000 in that fund. The reason I bring it up is there are 13 families on Crosbie Street, Your Honor, that due to nothing that they did, they had a pump station that cost \$18,000 to repair not due to any fault of their own. It was the fault of the City and the fault of the state.

Mayor Guinta stated it wasn't a fault of the City.

Alderman Gatsas responded well whoever was at fault, Your Honor it wasn't them.

Mayor Guinta stated this should go through Committee. We are not going to issue an appropriation at 11:30 PM based on...

Alderman Gatsas interjected I am going to make a motion, Your Honor.

Mayor Guinta responded I am not going to accept that. If you are going to issue a payment this should go through its proper course through Committee.

Alderman Gatsas replied they have been waiting and right now they don't know how they are going to pay for the pump.

Mayor Guinta stated I understand that. I have talked to the group as well.

Alderman Gatsas stated well they have been waiting for two months.

Mayor Guinta stated I don't think we should make a policy decision based on a one minute discussion. I think if you are going to make this, let's do it properly and have it sent to Committee.

Alderman Gatsas replied then it is going to be another month.

Mayor Guinta stated you can expedite it through Committee and come up with a policy. If you do this once you are going to be doing this...first of all the City is not at fall.

Alderman Gatsas stated and FEMA doesn't have the money. There were a lot of people there the day that people's basements were flooded and a lot of promises were made.

Mayor Guinta responded I don't disagree with you but to suggest that the City all of the sudden pay for this tonight without proper...

Alderman Gatsas interjected there is no precedent, Your Honor. There was damage done to people's homes. Their pump station that was in good working order was gone.

Mayor Guinta stated I think the proper...if you want this to be considered I think it should be sent to Committee and reviewed and ask the Committee to...

Alderman Gatsas interjected I am making a motion now, Your Honor.

Mayor Guinta asked to do what?

Alderman Gatsas answered to take the \$17,000 out of that account and pay for the pump station.

Alderman Shea duly seconded the motion.

Alderman M. Roy stated I appreciate Alderman Shea seconding that, but this is a situation where a vendor was paid to repair a pump that through no fault of the residents flooded out. While I do agree with you that it is not the City's fault that their homes flooded, it is a problem within our City and the policy here has always been, whether it is down along the Merrimack or anywhere else, that we work with our homeowners to help them. I have asked and talked to Alderman Gatsas about this. I think he is right. We are going to seek the money from the state and from FEMA but I would like to avoid homeowners within the City of Manchester through no fault of theirs having liens put on their property by a vendor who has so far been very nice to them by fixing it and repairing it in a timely manner to get them up and running. I would hate to see anyone in this City, whether it is the north end or south end or east or west, get a lien on their property due to the inability of the government, whether it is federal, state or City, to solve a problem like this. We are here to help people and if we can underwrite that pump payment now with \$17,000 I think it is the prudent thing to do and then we can go after the state and FEMA and any other organization that is deemed by the Dam Bureau to be responsible for this. We have our professionals...Mr. Soucy is in the audience and the Fire Chief was here earlier.

Mayor Guinta interjected first of all there is no legislation at the state level that would allow repayment. Secondly, FEMA has not declared...

Alderman Gatsas interjected that is not true, Your Honor.

Mayor Guinta stated there is no current legislation that would allow the state to reimburse us. Also, FEMA is not declaring this portion, the residential, a disaster. The Hillsborough County didn't meet the threshold so the likelihood of repayment is zero.

Alderman Shea requested a roll call vote.

Alderman O'Neil stated there are a number of these private systems in the City. We have turned down this exact request before.

Mayor Guinta responded which is why I am asking that it go to Committee for proper review.

Alderman O'Neil stated that is my concern. These folks are my neighbors, but we have turned down request for assistance from other parties that have private pump stations and there are many of them in the City of Manchester.

Alderman Gatsas stated the clarity is that those private pump stations have wanted to revert them to the City. They are not looking to give up their pump station. The discussion with everybody else that has come before us was they wanted us to take over their pump station. This is not the same. Through no fault of theirs...

Alderman O'Neil interjected I believe the vendor in question the City does business with, and if he ever goes and puts liens on these people's houses, as far as I am concerned he is done doing business with the City of Manchester.

Mayor Guinta stated he hasn't and he said he won't. In my opinion this should go to Committee but there is a roll call request by Alderman Shea.

Alderman Lopez asked is this going to set a precedent?

Mayor Guinta answered yes, of course it is. I am just asking that it go to Committee and have proper review. That is all I am asking.

Alderman Lopez stated if it is good for one it is going to be good for all. That is what is going to happen.

Alderman Gatsas stated but let's understand that it was through no fault of their own. If something like this happens someplace else in the City because somebody didn't lower the level of that pond or whatever item we are talking about...they didn't have the jurisdiction or ability to drop that water and control what happened in that neighborhood.

Mayor Guinta replied and that is not a City responsibility; it is a state responsibility and every other property owner in the City who was affected by this or future floods is now going to expect the same consideration. All I am asking is before you make this decision without the Dam Bureau's report and without the State DOT report and without a formal report from the City about whose fault it is, I would urge caution here. I can tell you one thing. It is not the City's responsibility. That has been agreed to by the State of New Hampshire. The State of New Hampshire has stated that it was their responsibility.

Alderman Gatsas asked do you have that in writing, Your Honor?

Mayor Guinta answered I can get it. You know, who told it to me on camera was the Governor himself.

Alderman M. Roy stated and Your Honor, there were a number of us standing around you when that was said but my point remains that we are here to help our citizens. For a small amount of money we can get this done and instead of being a party on the other side we can be the party helping them and join forces to get the dollars from the state.

Mayor Guinta replied I don't disagree that people here want to help those in our City. All I am suggesting is that for proper review of a request like this it should go to Committee and have the proper review before you make this kind of decision and set a new policy for the City. With that being said, there was a roll call request by Alderman Shea.

A roll call vote was taken.

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

Mayor Guinta stated there was a handout by Alderman Lopez. I would accept a motion by Alderman Lopez to support this.

Alderman O'Neil asked what is the handout?

Mayor Guinta answered the handout regarding the façade program and the Latin American Center, moving it from Planning to Economic Development. Both departments are in agreement.

Alderman O'Neil asked why just that project though? Are there other projects that can go?

Mayor Guinta answered the projects are following the individual groups.

Alderman O'Neil replied I understand that. Are there other projects that should go?

Mayor Guinta stated I think these are the only two.

Alderman Lopez stated these are the only two I have.

On motion of Alderman Lopez, duly seconded by Alderman Shea, it was voted to transfer the City's Business Façade Program and liaison duties associated with the Latin American Center from the Planning Department to the Economic Development Office.

Alderman Lopez stated I can put this on the agenda for the next meeting. It is reorganization of the Assessor's Office.

On motion of Alderman Lopez, duly seconded by Alderman Shea it was voted to put the reorganization of the Assessor's Office on the next Board of Mayor and Aldermen agenda.

Alderman M. Roy stated at your recommendation, Your Honor, I would move to send the Crosbie Street pump station discussion to the Committee on Lands and Buildings. **Alderman Gatsas** duly seconded the motion.

Alderman O'Neil stated it is actually a CIP issue not a Lands and Buildings issue.

Mayor Guinta asked do you want to refer it to Lands and Buildings or CIP?

Alderman M. Roy answered I think it is Lands and Buildings. The discussion, as Alderman O'Neil said, regarding pumps and private water...

Alderman O'Neil interjected that is generally taken up in CIP and not Lands and Buildings.

Alderman Gatsas stated everything goes to Lands and Buildings.

Mayor Guinta stated the motion is to refer it to Lands and Buildings.

Mayor Guinta called for a vote. The motion failed.

On motion of Alderman M. Roy, duly seconded by Alderman Gatsas, it was voted to refer the issue of the Crosbie Street pumping station to the Committee on Community Improvement. There being none opposed, the motion carried.

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

A True Record. Attest.


City Clerk