

BOARD OF MAYOR AND ALDERMEN

December 1, 2009

7:30 PM

Mayor Guinta called the meeting to order.

The Clerk called the roll.

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

Absent: Alderman Pinard

Messrs: B. Sanders, T. Arnold, K. Sheppard

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.

Ratify and Confirm Poll Conducted

- A. Accepting the report of the Committee on Public Safety, Health and Traffic advising that the request from Brandy Stanley, Parking Manager, for 40 free parking spaces in Arms Lot on November 19, 2009 for the Greater Manchester Chamber of Commerce Leadership Course has been approved. *(Unanimous vote conducted November 12, 2009, with the exception of Aldermen O'Neil and Sullivan who could not be reached.)*

Information to be Received and Filed

- B. Communication from Bryan Christiansen of Comcast providing an update on Digital Network Enhancement.
- C. Communication from Michelle Miller, Director in Programs Division of the US Department of Housing and Urban Development, regarding the City's HUD grant quarterly report.

REFERRAL TO COMMITTEE

COMMITTEE ON FINANCE

D. Resolutions:

“Authorizing the Finance Officer to effect a transfer of Nine Thousand Seven Hundred Twenty Two Dollars and Four Cents (\$9,722.04) for the FY 2010 CIP 412710 Engine Eight Building Modifications Project.”

“Amending the FY 2010 Community Improvement Program, transferring, authorizing and appropriating funds in the amount of Eleven Thousand Nine Hundred Fourteen Dollars and Four Cents (\$11,914.04) and for the FY 2010 CIP 412710 Engine Eight Building Modifications Project.”

REPORTS OF COMMITTEE

COMMITTEE ON COMMUNITY IMPROVEMENT

- E. Advising that the communications from David Mara, Chief of Police, and Tim Soucy, Public Health Director, regarding the City's Weed and Seed Program has been received and filed.
(Unanimous vote)
- F. Recommending that the petition for discontinuance of Barrister Lane submitted by Chris Rice of Hillsborough County Superior Court be referred to a Road Hearing with a date to be determined by the City Clerk.
(Unanimous vote)

- G.** Recommending that the petition for discontinuance of Chalet Court submitted by Howard Wheeler of the Parks, Recreation & Cemetery Department be referred to a Road Hearing with a date to be determined by the City Clerk.
(Unanimous vote)
- H.** Recommending that Chuck DePrima, Acting Director of Parks, Recreation & Cemetery Department, be authorized to execute the attached Gift Agreement between the City and the Manchester Historical Association.
(Unanimous vote)
- I.** Recommending that Stephanie Lewry, Executive Director of Intown Manchester, fund the installation of an electrical box related to the holiday lights from Intown Manchester's budget.
(Unanimous vote)
- J.** Recommending that the Mayor be authorized to enter into a Purchase and Sale agreement for two properties as discussed in a non-public session of the November 24, 2009 Committee meeting.
(Unanimous vote)

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

- 5.** Confirmations to be presented by Mayor Guinta.

Central Business Service District Board

Justin Gamache as a District Member, term to expire May 1, 2012.

Barbara Potvin as a District Member, term to expire May 1, 2012.

Highway Commission

Raymond Hebert as a member, term to expire January 15, 2013.

Board of Trustees of Trust Funds

William Infantine as a member, term to expire January 1, 2013.

Revolving Loan Fund Board

Christopher Blais as a member, term to expire June 1, 2011.

Alderman O'Neil stated I had marked that we only received two of the résumés. You have pulled others in the past if they did not have a résumé. Are we accepting the ones that were handed out tonight as receiving them? That hasn't been the practice.

Mayor Guinta stated it is your preference. If you prefer to pull some...

Alderman O'Neil interjected in my packet there were only two resumes.

Alderman Lopez stated they passed out Justin's.

Alderman O'Neil stated I understand.

Mayor Guinta stated we received Will Infantine's and Justin Gamache's tonight. Is that correct?

On motion of Alderman Osborne, duly seconded by Alderman Sullivan, it was voted that the confirmations be approved.

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

Mayor Guinta called the meeting back to order.

8. Report of the Committee on Accounts, Enrollment and Revenue Administration.

The Committee on Accounts, Enrollment and Revenue Administration respectfully advises, after due and careful consideration, that Ordinances

“Amending Section 70.78 Penalty of the Code of Ordinances of the City of Manchester by including a new penalty for parking in a permit parking space without displaying a permit and occupying more than one parking stall.”

“Amending Chapter 70: Motor Vehicles and Traffic of the Code of Ordinances of the City of Manchester Section 70.57 (B) Parking lot rates by removing metered parking at the Pine Street Lot.”

“Amending the Code of Ordinances of the City of Manchester by amending Section 118.33 (A) Rates For Fares Established, by increasing the current taxi rates from \$.25 per one-sixth of a mile to \$.40 per one-sixth of a mile.”

ought to pass and be Enrolled.

On motion of Alderman Sullivan, duly seconded by Alderman Osborne, it was voted that the Ordinances ought to pass and be Enrolled.

On motion of Alderman Shea, duly seconded by Alderman Arnold, it was voted to recess to allow the Committee on Finance to meet.

Mayor Guinta called the meeting back to order.

11. Report of the Committee on Finance.

The Committee on Finance respectfully recommends, after due and careful consideration, that Resolutions

“Authorizing the Finance Officer to effect a transfer of Nine Thousand Seven Hundred Twenty Two Dollars and Four Cents (\$9,722.04) for the FY 2010 CIP 412710 Engine Eight Building Modifications Project.”

“Amending the FY 2010 Community Improvement Program, transferring, authorizing and appropriating funds in the amount of Eleven Thousand Nine Hundred Fourteen Dollars and Four Cents (\$11,914.04) and for the FY 2010 CIP 412710 Engine Eight Building Modifications Project.”

ought to pass and be Enrolled.

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

12. Reports of the Committee on Community Improvement

The Committee on Community Improvement respectfully recommends, after due and careful consideration, that the Weed’ n Seed Program be continued with the understanding that the Health and Police Departments return to the Committee should they require additional funds related to this program prior to the close of the fiscal year.

(Unanimous vote)

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

The Committee on Community Improvement respectfully recommends, after due and careful consideration, that the monies as identified by the Planning Department for ventilation and insulation repairs to Fire Station 8 be approved and for such purpose an amending resolution and budget authorization has been submitted.

(Unanimous vote)

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

The Committee on Community Improvement respectfully recommends, after due and careful consideration, that the Planning Director be authorized to execute a Purchase and Sales agreement under the Neighborhood Stabilization Program for a property identified to the Committee in non-public session on December 1, 2009, subject to the review and approval of the City Solicitor.

(Unanimous vote)

On motion of Alderman J. Roy, duly seconded by Alderman Osborne, it was voted that the Planning Director be authorized to execute a Purchase and Sales agreement under the Neighborhood Stabilization Program.

The Committee on Community Improvement respectfully recommends, after due and careful consideration, that the Highway Department be directed to restore the portion of Elm Street south of the corner of West Auburn Street to its original configuration prior to October 20, 2009 which includes removal of the additional curbing, returning two Southbound lanes, and parallel parking.

The Committee further recommends that the expenses associated with the restoration project be paid for by the Parking Division.

(Unanimous vote with the exception of Alderman Shea who voted in opposition to the recommendation of expenses to be paid by the Parking Division.)

On motion of Alderman Shea, duly seconded by Alderman M. Roy, it was voted to discuss this item.

Alderman Shea stated I voted against this proposal because it is a reasonable request that should be returned back to the Traffic Committee. Also I think other members of the Aldermanic Board should consider the fact that this particular item has only been involved for a few weeks. Obviously, everyone agrees that at certain times change is difficult. Certain members of the CIP Committee have brought up certain concerns that constituents have expressed to them. However, it is my judgment that unless we get a full picture of what this really means...we had engineers working on this project and we had other members of City departments involved and at the Traffic Committee it was voted four to one that this be implemented. Brandy Stanley obviously worked with the Highway Department and the engineers. There are implications as well. Her department is dependent upon this particular project for revenues. I'm not sure how much that involves. The cost is being sent back to the Parking Division, when in essence, the Committee said they should do this. I'm not in favor of this and I feel that before it is implemented we should have a roll call vote from the Board regarding whether it should be implemented or not.

Mayor Guinta asked are we completely restoring this to its prior...is it just a portion of it or is it the entire thing?

Alderman Shea replied the entire thing. The point is, Your Honor, there is a certain amount of urgency because the plant that paves the roads will be closing. That is part of the urgency of bringing it back to its original design.

Alderman O'Neil stated I support the motion as it passed in CIP. We spent more time talking about it after it was done than we did before. I voted against it

originally. I believe the fiscal impact to the Parking Division is minimal. I think we were given a price of \$2,000 to correct this. I don't see anyone parked there during the day. It was pointed out that the only time there seems to be any parking is if there is a Verizon event. After 8:00 PM you can park for free anyway. I've gotten complaints about this. I don't think it was properly reviewed by us so I think it should return to its previous condition. I know the Director of Public Works is looking for some direction from us tonight. If the Board decides to move forward, he needs to get it done before the asphalt plant closes. I'm going to support the action of the CIP Committee.

Alderman Gatsas stated I have a couple questions for the Finance Officer. Are you aware that there were funds that were included in the budget from this parking scheme?

Mr. Bill Sanders, Finance Officer, replied no, I wasn't Alderman.

Mayor Guinta asked do you mean revenues?

Alderman Gatsas replied yes, revenues from the parking scheme. I don't think there was any discussion because I did vote against this project when it came before us. It is important that we look at this from a safety point of view. It doesn't matter how many times you go down Elm Street. I travel Elm Street quite a bit. Once you get into that right hand lane, you forget that there is something in front of you and you try to get into the left lane to merge. I think that for \$2,000 while the Gas Light District is being developed we should have a direct communication because the Rockwell Property could change the level of parking on the ground level of Elm Street and change that entire process that we just put in place. I think it is important that we go back to where it was and have discussions when the Gas Light District starts developing about what we are going to do in a very systematic

way so that we're not changing parking. We have a propensity to change parking plans on a regular basis. I think Alderman Shea's problem in Committee was that it was coming from the Parking Division and not Highway. If that is what the bone of contention is, we should take \$2,000 out of contingency and do it from there rather than burdening either one of the departments. If it is about where the money is going to come from and the burden for the department, we can take \$2,000 to put it back to the condition it was in. We just heard from the Finance Officer that he was unaware that there was any implication on revenues for parking.

Alderman M. Roy stated I watched the CIP Committee earlier. There were a couple of things that I didn't hear. I didn't hear if that was an effective traffic calming measure. Having had an office in that area for a few months, I like it. There were a lot of times that I was in the wrong lane and I had to turn right down West Auburn Street and go around the block until I got it right. When you look at the added parking it is good for Verizon. There is a \$1 event fee that the City is now reaping from the signs that we voted being put up for events so there is a revenue source in the evenings. It is an excellent traffic calming measure. It does add parking to those buildings across the street. Personally, I believe people will get used to it. As for the argument, and I know Kevin Sheppard may not like this suggestion, but if the asphalt plant is closed and we give this the due diligence that is needed to send it back to Committee and talk about it, you can always either cold patch or concrete over that island area. It will be safe for the winter until the asphalt plant opens in April. Even though there is some urgency to get it done, you want to rip it out and reverse what this Board enacted, which I believe is an excellent traffic calming measure for South Elm Street.

Alderman Lopez stated I can tell you that when I went down Elm Street I almost ran into the curb because I didn't realize it was going to turn. In saying all that and in due respect to my colleague, I'm looking at a letter from August 21st. There was

\$5,000 in the reserve fund of the Parking Division. Over a year ago there was a design workshop down in that particular area of town. One of the recommendations was to install angled parking. We all got this letter. It went to the Traffic Committee. It passed through the Traffic Committee and we passed a consent agenda and I think Alderman O'Neil was correct. We didn't take the time to look at this, even though he voted against it with Alderman Gatsas. It increase the parking by 24 spaces. I'm not too sure if it is \$2,000 or \$5,000 that was spent. Brandy is not here tonight. I understand that she is sick. In defense of the department head, the design was there. Everything was in the paperwork from August 21st. We just didn't take the time to take a good look at it. With due respect to my colleagues, the City Solicitor has indicated to me and the Chairman of the Traffic Committee that it is the Traffic Committee's responsibility under state statute. I believe under Rule 25 we can suspend the rules if the Board wanted to take a vote. I'd like to have a comment from the City Solicitor.

Mr. Tom Arnold, Deputy City Solicitor, stated the authority of the Traffic Committee is provided for by a public law. Unfortunately, I have not had time to get that out to take a look at it. It is provided for in public law as you indicated.

Alderman O'Neil asked Tom, isn't that just to approve the concept? The funding isn't provided by state law.

Mr. Arnold replied no, the Traffic Committee's jurisdiction is over traffic not funding.

Alderman O'Neil asked so CIP has the jurisdiction over spending the money, correct?

Mr. Arnold replied CIP and this full Board.

Alderman J. Roy stated I have several points that I want to make. First of all, we saw this at the Traffic Committee and Ken Rhodes came to us as the person who designed this. Alderman Lopez is right that this was a process that was going on for quite some time. The monies to do this project were already in Parking. That's where the monies came from. I guess this Board must have put those monies there for that purpose. The revenues that she talked about weren't included in this year's budget like Mr. Sanders said. It was just a projection of what would develop out of the new parking scheme. I'm still in favor of what is going on down there. Again, like Alderman Roy said, the traffic calming has its pluses. Let's remember that when we first put angled parking on the rest of Elm Street there were quite a few complaints then, too. The plan that was put in place down there was well thought out. We did hear it out in our Committee and it already passed this Board. I'm still in favor of keeping it the way it is.

Alderman Gatsas stated Alderman Lopez, you had mentioned in that letter of August 2009...how many spaces did you say it was going to increase to?

Alderman Lopez replied according to the letter, it would result in an additional 24 spaces. I know in Committee they said 30 or 32.

Alderman Gatsas stated no, they said 49. Let's assume we go with the parking expert's number and say 24. If it is \$1 per space for 360 days a year, it is additional revenue of about \$8,600. I think with the complaints coming in with the regard to the merge and someone having to take a right on the red to go down Elm Street and someone trying to get into that left lane to go South and looking to clear out...certainly the traffic leaving the Verizon Center leaving the City is something that is very important and we should make it as streamlined as possible to get out. I would think that this Board would want to put it back to the way it was and wait

to see what the Gas Light District does because I'm not sure why we are looking to do calming measures on South Elm Street and we're looking to get traffic out as quickly as possible from the Verizon Center.

Alderman Lopez stated just a point of order. I remember this meeting and I don't think it had anything to do with the Gas Light District as was reported by the staff that reported to CIP. This has nothing to do with the Gas Light District.

Alderman Gatsas stated you could be correct, but the discussion we heard in CIP was about the Gas Light District.

Alderman J. Roy stated I believe in Committee they also stated that they were going to continue this parking formation down Elm Street as the south end of Elm Street is developed. It was part of a bigger plan.

Alderman Shea stated we have merge there and we have people on the other side of the street who are certainly getting used to this. We can discuss this at length, but I would like a roll call whether we want to approve this or not. If people want to approve it, they can vote yes and if they don't want to they can vote no.

Alderman O'Neil stated my biggest issue was that the night we approved this...it is a hodgepodge and not a complete package of Elm Street. It came in quickly. There wasn't a lot of thought about it, in my opinion. Is the vote to approve the CIP Committee recommendation?

Mayor Guinta replied the recommendation is to restore it to the configuration prior to October 20th. There was a motion for discussion, so I would need the motion.

Alderman O'Neil stated I'll move on that, but just one point. My understanding is that the Parking Division paid to do the construction. They should pay if the vote passes to correct it.

Alderman Shea asked did you accept my motion to table this?

Mayor Guinta replied I didn't hear your motion to table. I thought you asked for a roll call.

Alderman Shea stated to table this.

Mayor Guinta stated I apologize. I didn't hear that.

Alderman Shea stated refer this back to the Traffic Committee.

Mayor Guinta asked is it a motion to table or refer back?

Alderman Shea replied first of all, I want this to be tabled and then a second motion, if someone wants to bring it forward, to refer it back to Traffic. I want the Committee to vote on this about whether they want to accept this or not.

Mayor Guinta stated I can't table it and then send it back to Committee.

Alderman Shea stated then I would make a motion that we table this.

On motion of Alderman Shea, duly seconded by Alderman Sullivan, it was voted to table this item.

Alderman Lopez stated I think the City Solicitor...Are we overstepping our bounds by statute where this should have gone to the Traffic Committee in the first place?

Mr. Arnold replied I believe it is within the jurisdiction of the Traffic Committee. Quite frankly, without having the public law in front of me, I am unable to answer off the top of my head at this time whether the Board can take direct action.

Alderman Lopez asked the only reason I ask that question is because if we are doing this, would Rule 25 apply?

Mr. Arnold replied Rule 25 deals with suspending the rules of the Board. It does not deal with Ordinances or state statutes.

Mayor Guinta stated is it possible if the Board enacts this recommendation that it is violating law?

Mr. Arnold replied it is possible. As I say, I didn't have time once I heard of this controversy to take a look at public law.

Mayor Guinta stated we have a motion to table and you asked for a roll call.

Alderman M. Roy stated for clarification...a vote for yes is to table?

Mayor Guinta replied yes.

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

Alderman O'Neil stated the fact that we are having this discussion shows how poorly this plan was presented to begin with. That is what I am disappointed in. It was poorly presented. In my opinion, it wasn't discussed enough by the Board. The fact that we have to take a roll call vote on this issue to rescind actions shows how poorly planned it was. We have a history of this with these parking issues and I think it needs to stop, going forward.

Alderman J. Roy stated with all due respect, I disagree. I think this plan was aired out in Committee the way it should be. The Committee sent to this Board our recommendation and this Board passed it. The discussion time, if anyone wanted to, would have been at that Board when we passed it, but it was aired out at the Committee.

Alderman Shea stated I totally disagree with Alderman O'Neil. I feel that people have a right to discuss things. If people don't agree with the way the vote goes...it is not discussing, it is a free exchange of ideas. That's why we are here. We should all welcome ideas. If the Board falls in favor of a particular issue and against a particular issue in someone's judgment it doesn't mean that it is a bad idea. It is because people have different thought processes working and they agree with certain concepts that others disagree with. It has nothing to do with ill conceived ideas or thoughts. I totally disagree with him.

Alderman O'Neil stated we got a presentation two weeks after the work was done from the consultant on the Gas Light District including this section south of Auburn Street. Two weeks after the work was completed we had the presentation. I don't know how we can say this was well thought out. It wasn't.

Alderman Smith stated my concern about this is...I travel this every day. I would like to address this to the Department of Traffic and Safety. There is a safety matter at that corner and there are going to be accidents, especially in the snow. I brought this up when the consultant was here. It is a safety matter with me, so I hope they can get that situation resolved because you are going from two lanes to one and then you are trying to get over to the left hand lane going south. It is a disaster traffic-wise.

Alderman Garrity asked Your Honor, don't we have to take this off the table to discuss it?

Alderman Gatsas stated I would like to make a motion to send this to Traffic.

Mayor Guinta stated it needs to come off the table.

On motion of Alderman Gatsas, duly seconded by Alderman Lopez, it was voted to remove this item from the table and sent it to the Traffic Committee.

Mayor Guinta stated that means we can't discuss it because it is going to Traffic.

Alderman Gatsas stated I have a question of the Highway Director. Did we get permission from DOT, where that is a state highway, to do the bump out and change the traffic? Elm Street is the only dead end in the country that is a dead end

on both sides of the street yet still a highway. Did we get approval from DOT on that yet?

Mr. Kevin Sheppard, Highway Department Director, replied yes, we have.

Alderman Lopez stated send it to Traffic.

13. Report of the Committee on Human Resources/Insurance

The Committee on Human Resources/Insurance respectfully recommends, after due and careful consideration, that the request from Jane Gile, Human Resources Director, for the Fire Department to be authorized to enter into a Memorandum of Understanding with the Fire Dispatchers be approved.
(Unanimous vote)

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

14. Communication from Steven Hermans, Attorney, submitting 1850 Associates Limited Partnership Community Revitalization Tax Relief Incentive Application

On motion of Alderman J. Roy, duly seconded by Alderman Garrity, it was voted to send this item to CIP Committee to vet out a cost.

Alderman Garrity stated all these applications come in front of CIP and this hasn't been in front of CIP yet.

Mayor Guinta stated after that information is received at CIP, it would then go to a public hearing.

Alderman O'Neil asked we've done public hearings on the others?

Mayor Guinta replied I believe it is required. Then it comes back to the Board for a vote.

15. Ordinances:

“Amending Section 70.78 Penalty of the Code of Ordinances of the City of Manchester by including a new penalty for parking in a permit parking space without displaying a permit and occupying more than one parking stall.”

“Amending Chapter 70: Motor Vehicles and Traffic of the Code of Ordinances of the City of Manchester Section 70.57 (B) Parking lot rates by removing metered parking at the Pine Street Lot.”

“Amending the Code of Ordinances of the City of Manchester by amending Section 118.33 (A) Rates For Fares Established, by increasing the current taxi rates from \$.25 per one-sixth of a mile to \$.40 per one-sixth of a mile.”

On motion of Alderman M. Roy, duly seconded by Alderman Osborne, it was voted to waive reading the Ordinances.

On motion of Alderman Osborne, duly seconded by Alderman Shea, it was voted that the Ordinances ought to pass and be Ordained.

16. Resolutions:

“Amending the FY 2010 Community Improvement Program, transfers, authorizing and appropriating funds in the amount of Eighty Nine Thousand Four Hundred Fifty Dollars (\$89,450) for the FY 2010 CIP 412610 Weed' n Seed Program.”

“Authorizing the Finance Officer to effect a transfer of Nine Thousand Seven Hundred Twenty Two Dollars and Four Cents (\$9,722.04) for the FY 2010 CIP 412710 Engine Eight Building Modifications Project.”

“Amending the FY 2010 Community Improvement Program, transferring, authorizing and appropriating funds in the amount of Eleven Thousand Nine Hundred Fourteen Dollars and Four Cents (\$11,914.04) and for the FY 2010 CIP 412710 Engine Eight Building Modifications Project.”

On motion of Alderman M. Roy, duly seconded by Alderman O’Neil, it was voted to waive reading the Resolutions.

Mayor Guinta stated the first one is not on there.

On motion of Alderman O’Neil, duly seconded by Alderman Osborne, it was voted that the Resolutions ought to pass and be Enrolled.

NEW BUSINESS

Mayor Guinta stated let me take up the hours of the Special State Primary Election for setting the hours of the Special Election.

On motion of Alderman Lopez, duly seconded by Alderman Shea, it was voted that the polling hours of 11:00 a.m. to 7:00 p.m. for the Special State Elections be approved.

Alderman O’Neil stated as someone who has traditionally been an early morning voter...am I reading this right that the polls are not going to open until 11:00 AM?

Mayor Guinta replied that is correct.

Alderman O'Neil asked are we doing an injustice to the people who traditionally vote before they go to work? I know it has an expense, but a lot of people who go before they go to work do so because they don't get home in time to vote.

Mayor Guinta stated we can ask the City Clerk the thought behind starting at 11:00 AM.

City Clerk Matt Normand stated primarily, when I did the research, we have had five special state elections. All but one had reduced hours from 11:00 AM to 7:00 PM because the turnout is so low. The highest turnout for a special election was 3,700 people for the wards that were included. It is an unanticipated expense for the department. As I say in the memorandum, it is about \$10,000 per election. Anyway that we could reduce that financial impact is what we were looking to do. The absentee process is still available to voters who aren't able to make it due to work requirements. We do home visits in the run up to the election. Because it is a mid-January and February election, we anticipate that the impact will be minimal.

Alderman O'Neil asked do you happen to know the difference in cost between 6:00 AM to 7:00 PM or 11:00 AM to 7:00 PM?

City Clerk Normand replied it will probably be about \$2,000 to save. It isn't a significant amount, but certainly for our budget it is significant.

Alderman O'Neil stated I appreciate the research that the City Clerk has done, but I don't know if we are doing a disservice to the early morning voters. I do agree that the Clerk's office goes out of their way to try to accommodate all our voters, but I think we are doing a disservice.

Alderman Lopez asked do we publicize absentee ballots because of the time?

City Clerk Normand replied we certainly publicize the hours in every election. I think we would try to work with the Union Leader and the Manchester Express to give a little more exposure for this so everyone would be aware of it.

Alderman M. Roy stated with all due respect to the Clerk whether it is one vote or 100 votes that we would lose, I don't believe that the \$2,000 cost is worthwhile. I would support the normal 6:00 AM to 7:00 PM in order to achieve the maximum voter turnout.

Alderman DeVries I have a question for the City Clerk. It has been reported to me, and I don't know how legitimate the response has been, but people have not been able to get absentee ballots because of the inconvenience of their hours of work. Are you familiar with the number of requests that may have been turned down in the past? I think there is some confusion out there with the public that because they need to be at work it is not as strictly enforced as it was in years past.

City Clerk Normand replied I guess I don't understand the strictly enforced comment, but we accept applications right up until the day before the election, which is state law. I field calls all day on the day prior from voters who haven't been able to send in an application. We send employees to the houses to help them vote on the day before the election. I'm not aware of anyone who has requested an absentee ballot and is not getting one.

Alderman DeVries stated my question would go more to the scrutiny that individuals are placed under, if in fact your office does ask the circumstance of why they are requesting an absentee ballot and if they are not meeting a certain scrutiny.

City Clerk Normand stated the state law is very clear on the requirements that are in place in order to accept an absentee ballot. We changed the form this year because in my opinion it was not clear on what those allowances were for absentee voting. I'm not aware of anyone being turned away. The state has made special exceptions for people who have work requirements, which is something that is different than the past. Again, I'm not aware of anyone being turned away. We certainly don't turn people away.

Alderman DeVries stated I would concur. I'm not in favor of shortening the voting timeline, but if that is ever going to be considered I think there has to be a great PR effort from the Clerk and I think it would cost you the \$2,000 in advertising.

Alderman Ouellette asked have we consulted with the other towns that are going to be involved in this election as to what polling times they are going to have?

City Clerk Normand replied I've spoken with each of the towns and they are not permitted by state law to change their hours, although they would like to. Each town expressed to me that they wished they could. I attached a state law to the memorandum so you'll notice that it is only cities that can change their hours by city council or the Board of Mayor and Aldermen. In the towns, it has to be done by town meeting and they don't have a town meeting planned and they are not willing to call a special town meeting to change those hours. It is hitting some of these communities hard because it is an unanticipated expense. It is a corresponding shortfall for them as well. They are looking for ways to save money.

Alderman Gatsas stated I'm asking the indulgence of this Board. I met with the Water Works a week and a half ago to talk about the budget process. They brought forward a plan of raising rates at 7% this year, 7% next year and 7% the third year. I suggested to them that now is not the time to increase rates on the residents of Manchester nor the businesses of Manchester. I asked them to go back and work on their budget and come forward with a plan that would not increase the rates. My understanding is that the Board met last night and voted to increase the rates. I would ask this Board to send a letter suggesting that the Water Works Commission does not raise rates in the course of this year to the citizens of Manchester or even the outskirts because it goes across the board for both sides.

On motion of Alderman Gatsas, duly seconded by Alderman Osborne, it was voted that the Board of Aldermen send a letter to the Water Works requesting that they not raise their rates.

Alderman J. Roy asked do we know if they justified raising the rates? Are they going to have difficulty next year if they don't raise the rates? That's my concern. Not having been involved and not having researched it at all, I don't know if it is justified.

Alderman Gatsas replied I understand your question, Alderman, but if you take a look at their budget it shows that they are doing some capital improvements right now with the interest rates. Certainly some of those capital improvements could be bonded over a period of time and not increase rates. It is always great to pay for capital improvements from working capital if you can do so, but I don't think it should be the burden right now for the rate payers to be looking at. I think we should send a very clear message that we would like them to sustain the rates where they are today.

Alderman Lopez stated I remember in the past when they were going to increase rates, because they were a department in the City, they came before the CIP Committee or the full Board. Do you recollect, Mr. Arnold?

Mr. Arnold replied no, I don't.

Alderman Gatsas stated there was a piece of legislation that was passed four years ago. They used to always have to go to the PUC for any rate increase. There was legislation that was passed that said that if the rate increase was less than 15%, they did not have to the PUC for approval. I think that took away the ability for them to come for a rate increase to this Board and the CIP Committee. When they were looking for approval for rate increases they went to the PUC.

Alderman Lopez stated I think the legality ought to be researched because I can remember during my time here that they have always come and notified the Board of Mayor and Aldermen or a Committee that they were going to increase rates and why they were going to increase rates. I think that should still hold true because they are a department of the City.

Alderman DeVries stated I too am not comfortable supporting the motion tonight only because we haven't heard from Water Works and we don't know the implications to them. I would like to hear from them before I am asked to vote on this. I also think we should do a little research on EPD because I can't recall if it was Water Works or EPD that has been before us within the last 18 months with a multi-tiered proposal for increases. I was thinking it was Water Works, but now I am thinking it was EPD. Maybe we ought to take a look at both of them. If we are going to have this conversation and ask for the departments to look for a way to offer relief to our citizens, we might want to discuss both agencies. With that

being said, I would like to see this tabled this evening so that we can get the kind of research that we need to support this and come back and take this up again.

Alderman Shea asked is there anyone here who can answer questions concerning when this 7% would be implemented?

Alderman Gatsas replied the Water Works budget year is January to December. It would go into effect, I believe, January 1st. I certainly appreciate where Alderman DeVries is going, but the problem is that their commission meeting to approve this is either the 9th or the 12th, which is before we would have an opportunity to talk to anybody or bring them before us. My suggestion is that we send them a letter. Certainly, if the Board is prepared to listen to them and they want to put their meeting off that's fine, but my concern is that the time frame that we are in doesn't give us an opportunity to weigh in.

Alderman Shea stated regardless of whether or not we take a motion tonight, which obviously we will, what impact will that have? In other words, does that still allow them to go ahead with it or does it say to them that we are not in favor of this and therefore...

Alderman Gatsas interjected as the Chairman of the Board said, they are a department of the City and I think if this Board is weighing in and sending a message, I think that should be a message that the Commission of the Water Works hears. Back to where Alderman DeVries was going, the impacts we were hearing from the EPD were based on the idea of putting in for a new form of collection for processing storm water utilities. I think we should be sending a message and having someone here before they enact it and it goes forward and as a Board we don't have an opportunity to talk about it.

Alderman Shea asked couldn't we go on record as saying that we do not want them to go ahead with the 7% increase and ask them to appear at our meeting to justify the raising of the rate?

Alderman Gatsas stated sure. It's whatever this Board feels the wording should be. I don't have a problem with that.

Alderman O'Neil stated I don't want to confuse things. I don't think we should be having a discussion about EPD. I think and Kevin can shake his head, we spent several meetings talking about the rates for EPD and that was based on three programs: the CSO that we needed to move and they are getting ready to move into phase two; the need for sewers in southeast Manchester; and the needed improvements at the waste water treatment plant. I hope we wouldn't be going back. I think Alderman Gatsas was correct that there may be another discussion in the future about storm water, but we've had these discussions about rates for EPD. They have moved forward with the program on those three, CSO, sewer and southeast Manchester and improvements in waste water treatments, so I hope we don't go back and revisit that again. We've had those discussions. We have not had the discussions regarding Water Works and the rate increase. I don't know the legalities, but I agree with Alderman Lopez. I thought we've had discussions with them in the past. I think Alderman Gatsas is correct that at one time if they were raising rates outside the City they had to go to PUC, but if it was inside they didn't. I don't recall all the past laws. We probably should have them in and have a discussion about it.

Alderman DeVries stated EPD federal mandates have driven that project. There isn't a whole lot of ability for the City to do anything other than implement and bond the major projects that we are under mandate to compete. I believe that Water Works is in the middle of some significant projects and trying to add a

secondary source of water from the Merrimack River. They also have other long term projects. They operate as an Enterprise, where they are driven strictly by what they can raise for dollars. I don't know how much flexibility or latitude this Board has to forbid them from increasing the rates. We certainly agree that we need to have the discussion so we know the justification. I would concur that I would like to see a letter sent to them, not restricting them from the increase, because I'm not sure we have that ability, but I would ask them to justify the rate increase to us at our next meeting and ask for our concurrence at that time.

Mayor Guinta asked what is the motion on the floor?

City Clerk Normand replied that a letter be drafted from the BMA that they do not support the increase of the water rates by the Water Works and request that the director be present at the December 15th meeting for a justification of rates.

Alderman O'Neil asked should the letter say commissioners and staff? Their commission has certain powers so maybe they should be present.

Mayor Guinta replied okay.

Alderman DeVries asked could I ask the maker of the motion to add to that that the Solicitor research the ability of this Board to interact with the Enterprise and have oversight over that rate setting?

Alderman Gatsas replied sure.

Alderman Shea stated the Committee on Public Safety, Health, and Traffic respectfully recommends after due and careful consideration that the request from Heritage United Way for free parking at meters in the Hart Lot and streets

surrounding St. Joseph's Cathedral for Wednesday, December 2nd from 9:00 AM to 2:00 PM for their Annual Project Homeless Connect Event be approved.

*On motion of **Alderman Shea**, duly seconded by **Alderman DeVries**, it was voted that St. Joseph's Cathedral's request for free parking for their Annual Project Homeless Connect Event be approved.*

Alderman Ouellette stated as a member of the MCTV/MCAM Task Force we have been meeting with Committee members DeBlasi and Fisher since the better part of August. In terms of how to go forward in their funding situation for both entities, as all of you recall, we accepted into the budget process a \$500,000 appropriation. After that, we were told that we have a contractual obligation between the School District and the City of Manchester to fund MCTV at 2% of the cable franchise fee and 1% for MCAM. We have an offer that we received from MCTV last week. We have not asked MCAM to accept the same offer as MCTV. Tonight, Your Honor, I am prepared to make a motion to once and for all put this issue to bed. At this point, it has become very time sensitive. As we have heard through testimony at public hearings, both channels are very close to closing their doors and discontinuing a lot of programming that the community desires.

***Alderman Ouellette** moved to accept the offer made by MCTV, to accept payment in the amount 15% less than the total contractual obligations between the City of Manchester and the Manchester School District as they relate to the funding of MCTV through the contract date June 26, 2007, and also to ask MCAM to accept the 15% funding reduction as well. This calls for a funding reduction of the MCTV contract of \$86,937 for a new total of \$492,698, and a funding reduction of the MCAM contract of \$45,072 to a new total of \$255,409. The motion was duly seconded by **Alderman J. Roy**.*

Alderman Garrity asked what is the fiscal impact on this year's budget that we haven't budgeted for?

Alderman Ouellette replied I can answer that in two ways. If we do nothing with the \$500,000, the fiscal impact would be fully funded. I didn't bring that information with me. Do you recall the exact numbers?

Mr. Sanders replied yes, I do, Alderman. If MCAM accepted the 15% discount that has been offered by MCTV, the total amount that would be due to the two of them would \$748,000 approximately. Of that, \$500,000 is budgeted so we would need to come up with \$248,000.

Alderman Garrity asked do we have an idea where we are going to get \$248,000 that we didn't budget?

Mr. Sanders replied if it was the will of the Aldermen to do this, I would offer up the remaining money that is in the school chargeback amount in the Facilities Department. This would essentially eliminate what was left there. Or, the funding could come from contingency, or we could ask other City departments to cut back on existing spending.

Alderman Garrity asked do we have a balance that was left in the contingency fund?

Mr. Sanders replied the balance in the contingency fund right now is about \$380,000.

Alderman Garrity asked part of your recommendation is to take some of it out of there even though we haven't had snow yet? We'll probably want to save that for a possible hard winter. I would like to fully fund both of these, but we didn't budget for it. We have to come up with \$248,000. Where do we get it?

Mayor Guinta asked did you say that is the Finance Officer's recommendation?

Alderman Garrity replied that was one of this ideas or recommendations.

Mayor Guinta asked is that a source or a recommendation?

Mr. Sanders replied those were options or sources. My recommendation would be to take it from the school chargeback number in the Facilities budget and not out of contingency.

Alderman Garrity asked from the chargeback in the Facilities budget?

Mr. Sanders replied the Facilities budget at the present time has an excess appropriation of \$517,000 because the school chargeback figure was reduced. Most of that, or a good portion of that \$517,000, was used for the Police hiring of \$169,000. There is still money left in that \$517,000 that could fund this and that would be my recommendation if the Board wanted to do this.

Alderman Lopez stated I want to thank the two Aldermen who were on the Committee because I know it is a very tough Committee. I think one of the premises was for them to give up something and the compromise that has been made here...one of the services that Mr. Sanders said was that there is about \$261,000 left in that maintenance account from the School Department. This is \$248,000 that we're talking about. I agree with the Committee.

Alderman J. Roy stated I want to remind everybody that if we were to vote this motion down that we are probably going to end up in court. After having reviewed this extensively in the Committee and looking at the agreement we have, I can't believe anything but that we would lose and have to fund it fully, which would mean another \$120,000 we have to come up with along with the legal fees. If you want to know what the ramifications are, the 15% you heard from Mr. Sanders. Let's think about the ramifications if we do nothing. It will probably be another \$120,000 at least.

Alderman Shea stated he said exactly what I was going to bring up.

Alderman Smith asked how much do we have in the contingency fund? I have a different figure than the one you gave out. This is from September 30th.

Mr. Sanders asked what was your figure, sir?

Alderman Smith replied my figure was \$730,000.

Mr. Sanders stated that sounds like a severance budget. The contingency amount started the year at about \$400,000. Some of it has been allocated. Not a significant portion, but I believe about \$20,000. That's why I'd said there is \$380,000 left.

Alderman Smith stated according to my colleagues we have to do something because I think we are in violation of a contract. Where would you suggest we could get \$248,000 to make up the difference between the two stations?

Mr. Sanders replied there was some confusion about a comment I made earlier. I was prefacing my comments by saying that if the Board was of a mind to do this.

I'm not recommending that the Board of Mayor and Aldermen do this, but if the Board was of a mind to do this I would take the money from the Facilities budget to make it up.

Alderman Arnold asked why would you take it from Facilities rather than contingency?

Mr. Sanders replied the contingency has typically been for the Highway Department for the snow events that occur in the winter. The second reason from an accountant perspective is that I would like to clean out one jar before we start into another to keep it straight.

Alderman Shea asked when you are taking money out of that particular account, do you need any kind of verification from the School Department? Can you do that on your own or can we do that with the money that would satisfy this obligation?

Mr. Sanders replied the School advised us when we did our tax filing with the Department of Revenue Administration that they were pulling back on the revenue estimate by the \$517,000. I would say that it has been verified by the School.

Alderman Shea asked do you feel comfortable, if we were to vote to take the money out of the account, that we would be justified in doing that?

Mr. Sanders replied yes, sir.

Alderman O'Neil stated I have seen more letters and emails, but I want to make sure we have the facts correct. If we fully funded MCTV at the 2% what should that number be?

Alderman J. Roy replied \$579,585.60. That's for MCTV.

Alderman O'Neil asked what would MCAM's number be?

Mr. Sanders replied it is approximately half of that. They work on different 12 month periods, but the amount for MCAM would be \$300,481.

Alderman O'Neil asked has MCTV agreed to a 15% reduction? That dollar amount equates to what?

Mr. Sanders replied \$86,937.

Alderman O'Neil asked what balance would that leave them with?

Mr. Sanders replied \$492,698.

Alderman O'Neil asked we have no agreement or proposal from MCAM yet?

Alderman Ouellette replied the indication early on in the discussions during the MCAM proposal was that they, I don't want to speak for them, but they were pretty much going to accept whatever the Committee's recommendation was.

Alderman DeVries asked are we making both of these payments in order to avoid the legal costs that will likely follow if we don't make any payments because we would be in contractual violation? That's what I have heard. We are concerned about the legal costs.

Alderman Ouellette replied for taxpayers on both sides.

Alderman DeVries stated my concern is that I didn't hear part of the motion be predicated on some sort of a response from both of the agencies, the School Board for MCTV. They have agreed to accept this, but have they agreed not to sue for the balance? MCAM having nothing in writing concerns me. I would ask you to accept a friendly amendment that we have our Solicitor have the documentation in hand that makes him feel comfortable that there will not be legal battles ahead of us with the reduced payments.

Alderman Ouellette stated in terms of the School District, the Board of School Committee has unanimously approved this so I don't foresee that happening on their side. However, I share your concern with MCAM, but again, they don't want to be in court and they were very willing to work with the City and work with the tax board in trying to come up with something so they can continue to provide their programming. MCAM is unique because they are a non-profit. They can go out and fundraise and try to make up the 15% that we are asking for. I think they are in a better position than MCTV is.

Alderman DeVries asked would you accept a friendly amendment to your motion that we have some kind of stipulation from MCAM to the satisfaction of the Solicitor's Office that will assist us if someone decides to attack us for the balance of that contract?

Alderman Ouellette replied I have no objection to that.

Alderman Lopez stated I think the City Solicitor will propose giving MCAM their money only if they accept the 15% reduction. Is that correct?

Alderman Ouellette replied I believe that is the case, but they also have the right to reject that offer.

Alderman Gatsas stated as long as we are talking about history we should talk about it all because it is important that we understand all the facts. I will remind my colleagues about a couple of votes where I was on the losing side. In 2008, this Board voted for a budget for MCTV/MCAM for a total of \$390,000. \$390,000 is what it cost us as a Board for both stations. We're now talking about \$880,000 two years later. It is not a 15% reduction. It is about a 230% increase. I look at that number while we're watching people lose their homes in the City. We're talking about what budget cuts we are going to make here. We're talking about a contract that when you go through it has a lot of issues. Once we agree to this contract tonight with a 15% reduction, it closes off anything else that is in this contract that I believe is malfeasance. I know that's a heavy charge, but once we agree to this contract with a 15% decrease we are agreeing to all the other terms in that contract and we're putting it to bed. My recommendation is to have the expert who negotiated the contract with Comcast come up here and talk to us as legal counsel about what has happened in the two contracts that we have before us with MCAM and MCTV before this Board makes any agreement to take anything. There are two lawyers on this Board. I think if we agree to the 15% reduction in the contract we have basically agreed to the rest of the terms of that contract. Certainly, there are a lot of things in question in that contract and I think everyone understands what we are talking about from the other documentation we received. I don't think the intent...when we are hearing about the School District having problems in their funding, was ever to give MCTV and MCAM \$500,000 in additional funding when we are looking in every spot in the City to reduce costs. If we think that a 15% reduction is a big deal we should take a look at the contract and see what the increases were that Comcast brought forward. I would ask that we table this, bring counsel up and go into an executive session so he can talk to us about what's

before us. I think we are putting ourselves in great jeopardy with what we see here. There is no question that the two people that worked on that Committee deserve to be applauded. Certainly, when you asked MCTV to bring something forward you didn't get it. You asked them to bring forward a budget and to look at how you would merge the two. That never happened. It went on and on and neither one of you were very happy about not getting that information. I think it is important that we realize the significance of the issue in front of us. It is not about a 15% reduction. It is about what the people entrust us to do with their money as we collect it. I think we have a fiduciary understanding of where we need to go and how we are going to react to things. Not going into executive session to have the total deliberation about what's before us is wrong. I would like to table this and have Peter Epstein, who negotiated the contract with Comcast, to go into an executive session so we can tell us exactly where we stand.

Alderman O'Neil asked is the motion to table or to bring up the attorney?

Alderman Gatsas replied it is to table and bring up the attorney for him to give us the information that we need to understand where we are with this contract.

Alderman Lopez requested a recess.

Alderman Lopez stated there are a couple of issues. I believe that if something was wrong in the contract that either you have 120 days or you can terminate the contract. If we get the money tonight those things can still happen. Am I correct?

Mr. Arnold replied I would advise that if the Board is of the mind to go ahead with this proposed agreement that it be made clear and the two other parties agree that this does not waive the City's rights under any other portions of the

agreement, including the accounting portions and the right of the City to terminate under certain conditions.

Alderman DeVries asked are we tabling this so we can meet with counsel?

Mayor Guinta replied no. As I understand the motion, it is a tabling motion and asking Peter Epstein, the attorney who offered the contract, to come up. Regardless of the outcome of this, I plan on recessing to meet with legal counsel this evening.

Alderman DeVries asked the attorney you are referencing is here and we're talking about meeting with counsel now?

Mayor Guinta replied he's not here tonight. This would be at a later date.

Alderman Lopez stated we can still meet with the counsel you are speaking of, Alderman. If we do not table this motion, but pass it, we're only passing money. We can still meet with counsel. Is that correct?

Mr. Arnold replied yes.

Alderman Gatsas stated I believe that the \$390,000 that we appropriated in 2008 was sufficient for both channels. Would we vote to table this when the appropriation is \$880,000?

Mayor Guinta replied yes.

Alderman Lopez stated it is \$748,000.

Alderman Garrity stated that is still a big increase.

Alderman Gatsas moved to table the offer from MCTV and wait for legal counsel recommendations. The motion was duly seconded by Alderman Garrity.

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

Alderman Ouellette requested a roll call vote on the original motion to the offer made by MCTV, to accept payment in the amount 15% less than the total contractual obligations between the City of Manchester and the Manchester School District as they relate to the funding of MCTV through the contract date June 26, 2007, and also to ask MCAM to accept the 15% funding reduction as well. This calls for a funding reduction of the MCTV contract of \$86,937 for a new total of \$492,698, and a funding reduction of the MCAM contract of \$45,072 to a new total of \$255,409.

Mayor Guinta stated there are a couple of points. First of all, the Solicitor is suggesting that the motion include certain language that we would not be waiving our rights as a City to either MCTV or MCAM if this motion passes. Without objection from the makers of the motion, we would include that in the motion.

Alderman Ouellette replied yes, Your Honor.

Mayor Guinta stated secondly, I feel that, prior to the vote, I should convey that if the motion does pass, I will respectfully veto the motion. I believe that there are concerns and issues in writing that have been passed out to this Board that are

public documents that suggest that there are issues that we need to discuss relative to the contract. I think that if we move forward without resolving the latter issue, we are sending an incorrect message to both entities. I think we put ourselves in jeopardy with respect to our obligations and responsibilities as to how we appropriate funds that we are responsible to appropriate. The letters that I handed out tonight, which are all public documents, state several things, but specifically, Kevin Buckley will be conducting an audit of the financials of MCTV as outlined per our rights in the contract. I would suggest that without knowing the outcome of that review and audit, if we were to vote in favor of this and continue operations as they exist today and then find out that there is either a misappropriation or a misuse of funds or an inappropriate action by an entity in question, we would be doing ourselves as stewards of the City a disservice. There is no doubt that there is an immediate need to resolve this issue and that I recognize that both entities are looking for a resolution and an answer with regard to funds. My suggestion would be not to support this vote, but expedite this matter. I would be willing to ensure that we do everything within our power and authority to call meetings through this month to try to resolve this so it doesn't go beyond the end of this calendar year. Obviously, additional information will be provided under confidential cover, but there are serious concerns and questions with respect to the use of funds that are identified in the documents that have been presented this evening.

Alderman DeVries stated not all of us were given copies of the document you are referencing. I have something from Belden Jewelers supporting the 15%.

Mayor Guinta stated this document was handed out this evening to every Alderman. If you don't have one, we can get you a copy.

Alderman J. Roy stated with all due respect, I disagree with what you just said. We're talking about two separate issues here. If there was malfeasance we should

take care of that. These two entities have waited long enough. We started this process in August. It has been four months. The comments I have heard here...there was a group of very prominent Manchester citizens who got together in 2007 and came up with this plan that this Board voted on six months before I came into office. Now, all of a sudden, two years later, we want to throw it out. It was quite obvious when I read all of this, and I blame myself for not reading this before we voted on the budget this year, that it was going to escalate over the years. There is no doubt about it. That escalation has already been agreed to by this Board and it is enforced for another eight years, whether we like it or not. My suggestion is that the next time we want to change a contract we should negotiate with the people before we cut out their funding. I would also treat them like I would like to be treated. What we did this year is not appropriate. We were talking about someone being in violation when we have been in violation for months because we haven't funded them the way we agreed to on June 26, 2007. I think we need to fund them at the 15% less right now. I think it was a generous offer by them. It is more than any of the other departments have cut. We can start negotiating with them if we have to about the upcoming years and changing the agreement that we just agreed to two years ago.

Mayor Guinta stated I appreciate your comments. The issue I feel began much earlier than August. I believe it began in February when I made notification to this Board and the School Board that changes had to be made because of the fiscal and financial challenges that we were having. My intent, as I have said before, in making that announcement in February, a full month before my budget address, was to try to come to a financial resolution in the spirit of cooperation. I still believe that as the governing body that established these entities and funds them, while we have a good faith contract in place, we have to recognize that we have is a fiscal reality. I would hope that the entities that were created by the City, the governing body, would come to the table. While you say this has been going on

for several months, and I don't disagree with that, I wouldn't suggest that it is solely because a decision hasn't been made by this Board. There are other implicating factors as to why a resolution has not been identified sooner. While they are two separate issues we are talking about, one has impact on the other. I can't in good conscious support providing additional funds if we are going to be discussing misuse or malfeasance by an entity. That is the concern that I feel that we are in jeopardy of if we make that decision to say that we are going to continue funding the operation, knowing that there is a possible misuse. I think that reflects poorly on our decision-making process. That being said, if it is determined that there is no misuse, we can expedite this decision-making process and try to collect that information and data, make a decision and try to get it resolved in December of 2009. I think we have to contemplate the other issues that are before the Board as we progress with the funding question.

Alderman Sullivan stated over the past few years we have had audit reports from Kevin Buckley relating to the City Clerk's Office, the Highway Department, and OYS. Have we defunded or withheld funds from any of those departments?

Mayor Guinta replied I don't believe we have, no.

Alderman Lopez stated you mentioned something about all the facts. We don't have all the facts in reference to malfeasance or misappropriating money. That's a legal issue. That is Buckley's issue. If something comes out that there was something wrong, the contract would be cancelled anyway. It doesn't make a difference. I think in the MCTV contract it states that we have 120 days to cancel.

Mayor Guinta replied that's correct.

Mr. Arnold stated under certain conditions that's correct.

Alderman Lopez asked what about under misappropriation?

Mr. Arnold replied then you would have the 120 days.

Mayor Guinta stated I agree with what you are saying. I'm stating my opinion.

Alderman Lopez stated you are stating additional facts. We don't have those additional facts.

Mayor Guinta stated what I said was as the additional data and facts are collected, which is ongoing, we would get them to you. I would say that we have a duty and an obligation to try to resolve it expeditiously and try to gather the additional information that is necessary and try to do this within December. We will gather the additional information and set meetings to try to resolve this in December. I respect the fact that there is a financial implication for both entities and that's causing some concern. I don't disagree with that. If the Board disagrees with my assessment, that's okay. We'll take the vote that's on the floor.

Alderman Lopez stated I have one other point. When we talked about the budget process and we talked about the \$500,000 that was presented, we agreed that we would go back and we wanted them to compromise. I think they did compromise. There was a compromise that came up and the Committee thought it was best to move forward for the community. There are a lot of people who watch MCTV. I would hate to see it go off the air. I think we are conscious of what you are saying. I think the City Solicitor can guide us in the legal aspect of it as well as bringing the other attorney up. I think that we are being fruitful and moving forward.

Alderman Shea asked is Kevin Buckley conducting an internal audit?

Mayor Guinta replied that's correct.

Alderman Shea stated let's assume that he finds something during the course of his auditing that has a detrimental effect upon the operations of either MCTV or MCAM.

Mayor Guinta stated it is relative to MCTV.

Alderman Shea stated I want to know what effect that has if we approve this tonight.

Mayor Guinta stated that would go on regardless.

Alderman Shea asked what would change in terms of our decision? In other words, how does our decision have an impact on his internal auditing?

Mayor Guinta replied it doesn't. It doesn't have an effect on his audit.

Alderman Shea stated basically, if he discovers something, he is going to call it to our attention and if it is a contractual issue we would listen to the expert concerning whether or not there is malfeasance on their part. What I can't understand is why we're not making a decision. We can keep kicking it around for a couple more weeks, but it still is going to be the same whether we get a report back from him or not.

Mayor Guinta stated if I misled you, let me clarify. I'm not suggesting that we wait to see if there is misuse or malfeasance. I'm using those terms because they are used in the contract. Those would be reasons for potential cancellation of the

contract. I'm not saying that we are waiting for him to see if that exists. He is doing an audit because I received a letter from the Superintendent, which is a public document, dated November 24th, notifying me that the School District was going to proceed with a payment to a contractor in the sum of \$19,500 for work that was completed at MCTV studios. The Superintendent then asked me to get back to him within 24 hours if I had any concerns or objections regarding that payment. The follow day, the Wednesday before Thanksgiving, I reviewed it and sent a letter, which is also a public document, back to the Superintendent stating that the contract between the City and MCTV requires that any expenditures over \$20,000 have to be approved by the Committee on Administration and the full Board of Mayor and Aldermen. That did not occur. I have consulted with the Solicitor's Office regarding that issue. After that consultation, it was my opinion to the Superintendent that the authority does not exist to make the payment for the contracted work. That's one issue that we are talking about. As a result of that, I asked Kevin Buckley, as the contract allows, for an audit and review of the books.

Alderman Shea asked what impact does that have on our approving tonight whether or not we are going to approve the proposal? In other words, is it a separate entity that is going to impact that phase of the contract?

Mayor Guinta replied if an expenditure occurs of over \$20,000 and it doesn't get approval as the contract requires by the Committee on Administration and the Board of Mayor and Aldermen, that in and of itself is a violation of the contract. My point is why would we continue to fund and support the operation without having the discussion about how to resolve that outstanding issue?

Alderman Shea asked could we put that in as a sidebar and say we would like you to be aware of the fact that if there is an internal audit conducted and it is found

that there is a malfeasance involved in the contractual agreement with us, that will have a profound impact on how the funding will continue?

Mayor Guinta replied I think the language that the Solicitor is suggesting regarding our rights would cover the suggestion that you are making.

Alderman Ouellette stated I want to clarify something that you said. There are two different pots of money. One is a capital amount of money that they have. This is an operating account. This is what they use to operate their studio 365 days a year. This is the monies that the \$500,000 was budgeted for. You are confusing, in my opinion, Your Honor, two separate issues and you are trying to mesh them into one. I'm trying to make sure that MCTV and MCAM can go forward operating. That's all I'm trying to do with this motion. Let's fix that immediately and then if we want to open up the contract and have audits and look at any malfeasance we can do that as well. With the language that the City Solicitor has we're going to protect ourselves.

Mayor Guinta stated I would disagree with the characterization that I am confusing the issues. I don't believe I am confusing them. I think that when you are talking about management of an entity, when there is an unauthorized financial action, there is recourse by one of the members that signed the contract. That's the City of Manchester. I think that they both should be resolved. I think we have an opportunity to resolve both in the same period of time.

Alderman Ouellette stated I do too, but I disagree with the same period of time. I think it is going to take a lot longer than 30 days.

Alderman O'Neil stated I appreciate you informing the Board of your intention to veto it. I don't think it is going to change my vote at all. Should we have Kevin Buckley take a look at MCAM? I have no idea what's going on there. I don't think there is anything wrong, but I have no idea what they have been spending their money on and the public has asked me that question. Why wouldn't we have Kevin look at both of them?

Mayor Guinta asked does the contract have a provision to allow us to do that?

Alderman J. Roy replied their contract says we can go in and ask for that at any time, I believe.

Alderman O'Neil stated I would think we would want to review both of them. I agree with Alderman Ouellette that I don't think this is going to happen in the next 30 days. I agree with Alderman Jim Roy that they are two totally separate issues. We need to address one issue tonight and the other issue later. We have been given some letters. Thirdly, I do support Alderman Gatsas' suggestion that Peter Epstein come up and meet with us. I've heard some crazy rumors where the funds are going regarding using lawyers to sue us out of the public funds. I don't believe that's legal. Peter is certainly an expert. He has worked for us as our counsel during our last two or three contracts. I support Alderman Gatsas in having Attorney Epstein coming up.

Alderman J. Roy stated I have a copy here of MCAM's financial statements from 2006 to 2008. I will give them to the Clerk to hand out.

***Alderman Ouellette** requested a roll call vote on the original motion to the offer made by MCTV, to accept payment in the amount 15% less than the total contractual obligations between the City of Manchester and the Manchester School District as they relate to the funding of MCTV through the contract date June 26, 2007, and to ask MCAM to accept the 15% funding reduction accordingly. This calls for a funding reduction of the MCTV contract of \$86,937 to a new total of \$492,698 and of the MCAM contract of \$45,072 to a new total of \$255,409. There is a caveat that the City is not waiving its rights that fall under the contract with MCTV and MCAM.*

Mr. Arnold stated I want to make it clear that there is no waiver of any other rights, including any right that we may have under the funding, accounting or termination clauses.

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

***Mayor Guinta** vetoed the motion.*

*On motion of **Alderman Ouellette**, duly seconded by **Alderman M. Roy**, it was voted to override the Mayor's veto.*

***Alderman O'Neil** requested a roll call vote on the veto override. Aldermen O'Neil, Lopez, Shea, DeVries, Smith, Ouellette, Arnold, M. Roy, Sullivan, J. Roy, and Osborne voted yea. Aldermen Garrity and Gatsas voted nay. Alderman Pinard was absent. The motion passed.*

*On motion of **Alderman Lopez**, duly seconded by **Alderman Ouellette**, it was voted to instruct the Finance Officer to remove \$248,000 from the Facilities maintenance account to fund MCTV.*

***Alderman Gatsas** requested a roll call vote on the transfer of funds. Aldermen Gatsas, Sullivan, Garrity and M. Roy voted nay. Aldermen J. Roy, Osborne, O'Neil, Lopez, Shea, DeVries, Smith, Ouellette and Arnold voted yea. The override motion passed.*

***Mayor Guinta** vetoed the motion.*

*On motion of **Alderman O'Neil**, duly seconded by **Alderman Ouellette**, it was voted to discuss this issue.*

Alderman Gatsas stated I think it is important to understand that what we are doing this evening is going to impact the next budget that some of us are going to have to work on. Unless we are assuming that for some reason the School Department is not going to get that \$500,000 for maintenance of the buildings and we're assuming that we are going to go back to a contract with MCTV and MCAM...they are getting pretty close to the amount of money that we give to the MTA. If we are assuming that that is going to happen in the next budget, we've just sent a very bad message to the department heads that I have been meeting with who have been working very hard to find every dollar they can in their budgets. The Fire Department came forward this evening to talk about their dispatchers and how they were going to save \$10,000 in the next budget or at least in the process going forward. I commend them for that because I think it is important. Let's not forget that we are going to increase the budget we are working on already by the amount of money that we are appropriating tonight. I don't think we are doing ourselves any favors. I think the discussions should

include everything. I don't think Peter Epstein is going to come up and give us advice because we're going to be in the middle of a lawsuit because that is the next thing that is going to appear before us is if we appropriate the funds to pay the construction costs that went on. I want to watch everyone take that vote because that was supposed to come before this Board. Do we tell the contractor who spent \$130,000 on renovations that he shouldn't be paid? Or are we going to bypass the contract and pay him? That will be an interesting vote. That discussion should happen tonight. It shouldn't wait. It is not a different issue. It is before us this evening. It is all part of this package. It is what's going to happen during the next budget process that we are now working on. I look at my colleagues and realize they are participating in the same budget process. Let's remember that the money we are taking from schools because they didn't extend their maintenance budget is going to come back. Let's remember that the money we are giving to MCAM is going to come back. We've now put ourselves in the deficit of about \$1 million that we are going to have to find funds for in the next budget process or we're going to ask them to cut their budget again, which would be the reasonable thing to do. We're sending a very strong message to Water Works to not increase rates. However, the rates from Comcast are going to go up. What's the impact to MCAM and MCTV? We're going to give them another raise and I don't think that's something we should be doing.

Mayor Guinta stated that's an issue that we haven't discussed. I hope people understand that the increases that go to MCAM and MCTV are tied to rate increases and subscriber increases. It is not based on expense increases of either entity. There is a separate issue that I think is flawed within the contractual requirements. I was hoping that was going to be addressed this year. I think by the Aldermen supporting my recommendation of appropriating \$500,000 this Board agreed with that principle. I hope that regardless of the outcome of the other matters that that is considered moving forward because at this rate, within the next

three years, you are going to see at least 1% of the tax rate going to these two entities, which seems to be rather excessive.

Alderman Shea stated in deference to Alderman Gatsas, the problem is that if we do not fund MCTV we are subject to a lawsuit that they have pledged to bring forth against the City.

Mayor Guinta stated Alderman, there is a letter that I read to you to Tom Brennan that stated that based on the contractual obligation to come to the Committee on Administration and the full Board for expenditures over \$20,000, which did not happen, there is a violation of the contract that could be cancelled by the City of Manchester, crossing out their ability to sue.

Alderman Shea stated my vote was predicated on the understanding that they are in a legitimate position to sue the City. They have hired legal counsel. They have indicated in other correspondence that they plan to sue the City.

Mayor Guinta stated they don't have the votes for that yet. The School Board has to...let's be clear about who that lawyer represents. That lawyer does not represent MCTV. That lawyer does not represent the advisory board of MCTV. The advisory board has zero authority and standing. That attorney reports, right now, to the Superintendent. The Board of School Committee has to authorize a suit and it would be the Board of School Committee that would be suing the City of Manchester.

Alderman Shea asked have they taken any vote yet?

Mayor Guinta replied no. They have a lawyer sitting and waiting. The authorization to sue has not been given. Talk about trying to bring two Boards together. I think the last thing you need is that Board suing this Board over a contract issue, while there is a separate contract issue that was clearly violated. That's why I am suggesting trying to resolve this quickly. I know both entities want an answer. I know you have taken several votes, but I would urge you to reconsider your position. If you did, someone else might and my veto would be sustained.

Alderman Ouellette stated I think the difference is, while I agree with a lot that Alderman Gatsas had to say, that we have a contract. You can't break the contract and then try to renegotiate it to make it fit with what you did. The proper thing to do and the proper thing to do right now would be opening up the contract and fixing this escalator.

Mayor Guinta stated we can't do that unilaterally. They have to agree to sit at the table.

Alderman Ouellette stated the School Board would have to agree.

Mayor Guinta stated you had that same frustration when you sat on the Task Force. We've shared that same frustration about the lack of a cooperative effort.

Alderman Ouellette stated I think moving forward, if we lay down the issues we have in terms of funding these two entities with the School District, I don't understand why we wouldn't sit down and try to work this out. I agree with you that this is flawed. I'm sure reasonable people on the School Board would say that this is flawed. I disagree. I think they would be open to sitting down and trying to

work this issue out because it is a big issue. It is unfair that we see a lot of department heads sitting down and already struggling with next year's budget and these people are getting a huge jump. I agree with that, but unfortunately we can't fix it the other way. We have to be proactive and fix it at the table before we can fix it through the budget process. That's why we are here today. Unfortunately, that's the way it is.

Alderman Lopez stated the reason I made the motion is because the Finance Officer is going to have to know where to take the money from in order to pay them. The second reason I wanted to take it out of there is because everyone sees that it was \$500,000 and committee after committee came in and took money out of it. You took \$161,000. This person takes \$89,000 so there is \$261,000 left. It is harder to take money out of contingency than it is the maintenance fund. It has been appropriated. You had a special meeting of the School Board last night. Could you not get them to do something with the information that you had?

Mayor Guinta replied Tom Brennan asked to have a special meeting. The agenda was a non-public item so I can't divulge what occurred in that meeting.

Alderman Lopez stated fair enough. I think a new mayor is coming in January and will have an opportunity to sit down with the School Board. I agree with Alderman Ouellette that he is going to have to present a persuasive case about reopening those contracts. We got ourselves in this mess. We divorced both people.

Mayor Guinta stated I would hope that they would reopen the contract. I would point to the history of this current year to suggest that they are not interested in that. I hope that that changes either this month or next year, but I can tell you that so far they have been unwilling to have that discussion.

Alderman Lopez stated you made the case, not us.

Mayor Guinta asked I made what case?

Alderman Lopez replied you said there was a violation of contract and all these things occurred.

Mayor Guinta asked on \$20,000 did they come to Administration and ask for your opinion? No. Did they come to the Board of Mayor and Aldermen? No. It was \$130,000.

Alderman Lopez stated the point I want to make is that I talked with a lawyer on this Board and it could go either way. Until we get all the facts and what the charges are, we'll never know.

Alderman M. Roy stated I voted against the funding source because I believe we are underfunding school maintenance. After discussing this for an hour and a half I think it would be appropriate if we send the department heads home. They are watching us debate this with no input. If anyone has anything for a department head ask them to stay, but if we are going to debate this for more than five more minutes, I would ask the Mayor to send them home.

Alderman O'Neil stated I don't disagree with Alderman Gatsas. We have some tough challenges ahead of us and we may very well be asking the same request next year and we may be asking to open up the contract. I agree with him.

Alderman Gatsas stated I want to remind my colleagues that when this contract came before us in 2007 it was not the School District presenting this contract. They were nowhere to be found in the discussions. I think that the new move forward would give us the opportunity to make sure they are at the table to have these negotiations. I'm not negotiating with an entity that we shouldn't be negotiating with. I think it is time that that entity understands that there is supervision and that somebody is going to call them to task on it. The easier thing to do would be something that Alderman O'Neil suggested we wouldn't do. We could give all the cable customers back their 5% and these meetings would shortened up. At that point, maybe it is better for the public because they could fill the chamber and hear us doing business on an up close basis. We had that opportunity. As a City, at any time, we can give that 5% back to the cable customers and this contract is dead and gone because there are no funds. You are right. That would put the City in jeopardy. We should make sure that we understand that because there is a position this Board can take and it doesn't need to negotiate that with anybody. Again, I would suggest and understand that Alderman Ouellette and Alderman Roy went through some tough times sitting on that Committee and not getting information. You were waiting for people to bring things to you and they never arrived. From now on, the negotiating needs to be with the School District. I think they are prepared to work with us hand in hand going forward. If it means cutting that budget, then we need to go through the contract line by line or have someone else do it. We are only going to hear from one entity and that's not right.

Alderman Smith stated I concur with Alderman Gatsas, but I would like to remind everyone that there were ten Aldermen who were sitting here when that vote took place in 2007. In my opinion, and I'm not a lawyer, but it is a poorly written contract. I think that at this stage the contract is binding. I think we should

progress right now and I think you should meet with the School Board and try to consolidate a new contract for the remaining years.

Alderman Arnold stated I concur with both Alderman Gatsas and Alderman Smith. I am a lawyer and I agree that there are some legitimate concerns with the contract, but it remains a contract. I think that the discussions tonight have divided two issues. I agree that there is a short term and a long term. I think that some of the issues you are talking about, Your Honor, like an audit fall into the long term category and I think that might be a good idea, but I don't think that is something that is going to be resolved as soon as the issue tonight needs to be resolved.

Alderman Garrity stated I think everyone knows how they are going to vote so let's take a vote.

Alderman J. Roy stated I agree with Alderman Garrity that we need to move this along. Number one, I agree that we need to negotiate and be proactive like Alderman Ouellette said. I think the ground work was laid during our Committee in that we couldn't negotiate with the entity. That's why the entity didn't bring forward a proposal. It had to be the Superintendent that brought the proposal forward. I think we have laid some ground work about negotiating with the School Board directly on that. As far as giving the cable company back the 5% that is going to mean \$600,000 less to us, not \$400,000 because the money we are talking about tonight is not a give away. It is an obligation because of this contract that was signed two years ago. The problem that we are discussing about malfeasance I believe needs to be addressed by the School Board and not us. If there are any problems it will come forward. It is an employee that needs to answer some hard questions to the supervisor. As far as the motion right now, we have already approved this money. It is a matter of where the money is coming from. Let's figure out where we are getting the money from and let's get this done.

Alderman Gatsas stated I certainly see where Alderman Roy is coming from and I respect his opinion on it. I respect my colleague from Ward 12, being from the legal profession. However, we either discuss a contract or we cut it up and decide when we are going to talk about it and when we are not. I would show you item six with MCTV: 'Long term obligations and expenditures over \$20,000 to the extent MCTV operations involve any long term obligations, i.e. more than one year, all said obligation shall be approved by the City'. That's in this contract. 'The City and the district shall be necessary signatures on all obligations, including any lease agreement'. I'm not too sure we signed as a City on the lease agreement. 'Such signatures shall not be construed as incurring or agreeing to any liabilities except as is specifically assigned to the City or the District in the obligations or agreement to the extent that MCTV operations require the expenditures over the amount \$20,000 shall be approved by the City. Any request for an expenditure over \$20,000 shall be presented to the Committee on Administration and approved by the Board of Mayor and Aldermen before the District releases any such funds'. We are putting the Superintendent in a very tenuous position. He reads this and understands that there is a \$130,000 obligation before him. He understands that this agreement is saying that that obligation must come before this Board before he distributes any funds. If we are sitting here and understanding that, there is a contract awaiting payment. The Superintendent has said that he is not going to pay so either this contract is in full force along with everything we are talking about and giving them their reduction in rate. This is a very significant part. The Superintendent is either going to have to be here or default in that payment in the contract. I think you all received a letter that the contractor sent back about how those payments were perceived to happen. The obligation was \$130,000, not \$20,000, so they met the procurement code or under the amount of the procurement code. I think it is important that we understand that. That is part of this agreement. What do we tell the Superintendent for paying

those bills? Do we tell him he needs to come back here and present it to the Administration Committee or do we tell him to pay the bill? That is part of this agreement and that is a discussion that we should be having tonight because he is under turmoil to make that decision now. This Board needs to decide tonight whether we are going to give him the authority to pay the bill. That is part of this contract. I know we all say we have a contract and we're going to be sued because we have an obligation. It's an obligation that they are supposed to come to this Board for any expenditure.

Alderman Lopez stated if we don't override this veto the Finance Office will not know where to take the money from. He has no authority to take the money and just give it to him, unless he can correct me. Apparently, he doesn't want to correct me so I'm right. We voted to take the money out of the maintenance fund. I'm asking to override. I'm not saying Alderman Gatsas is wrong or right. I think the ball is in the Superintendent's court. He had this information for a while. He knew what was going on because he was the direct supervisor. He needs to be held accountable also. The buck stops with him as well as it starts with any of the department heads sitting here.

Mayor Guinta stated he brought it to my attention as soon as he was notified that there was \$100,000 in invoices that had to be paid.

Alderman Lopez asked the first time he did it was Wednesday? That's hard for me to believe.

Mayor Guinta stated he had \$100,000 worth of invoices in front of him, at \$19,000 increments, to make sure we are under the \$20,000, that he had to pay. He brought it to me and asked if he had the authority. If we are going to lay it on the table, let's lay it on the table. That's the issue.

Alderman J. Roy stated he already paid one of them.

Alderman Gatsas stated he may have paid one of them without knowing there was another \$110,000 more.

Alderman Lopez stated I'm going to call for a vote to override because I think we can handle this situation the way we talked about.

Alderman O'Neil requested a roll call vote to override the veto. Aldermen O'Neil, Lopez, Shea, DeVries, Smith, Ouellette, Arnold, M. Roy, J. Roy, and Osborne voted yea. Aldermen Garrity, Gatsas and Sullivan voted nay. Alderman Pinard was absent. The override motion passed.

Alderman Gatsas stated as we have been standing by the contract this evening, that's something we should tell the Superintendent. Based on the contract we have before us, there has been a breach. We would like the Committee on Administration and the full Board to have an opportunity to voice their opinion on it.

On motion of Alderman Gatsas, duly seconded by Alderman Shea, it was voted to instruct the Superintendent to not make any other payments until the Committee on Administration has an opportunity to see what the bills are. The expectation that they not release any more funds is not in any way to be construed as giving the Board's approval of the monies that have already been paid.

Alderman Ouellette asked Your Honor, is there an ongoing investigation in this issue right now that the School Department is conducting?

Mayor Guinta replied I don't think it would be appropriate for me to answer that question.

Alderman Ouellette stated the reason I ask the question is this: Why don't we wait to see what happens with the investigation or when more facts come out? Then I think it would be appropriate to act. I think it is a little premature now, Your Honor.

Mayor Guinta stated what Alderman Gatsas is asking is for the contract to be adhered to. They have to come to the Committee on Administration and this Board has to vote on any obligation over \$20,000. He is asking to have the contract honored. If you want to vote against that, that's up to you, but it's simple.

Alderman Ouellette stated it's not that I want to vote against it. I'm uncomfortable voting for something...there is an investigation going on and we're not privy to the facts. I don't think we have all the facts.

Mayor Guinta stated here are all the facts: There's a letter. I don't know what more information you need. Alderman O'Neil, did they come to your Committee?

Alderman O'Neil replied no.

Mayor Guinta asked did they come to this Board for approval? Does anyone remember that? For a \$130,000 project?

Alderman Ouellette replied they did the studio upgrade.

Alderman Gatsas stated that was the first part. This is the second part.

Mayor Guinta stated this Board never authorized \$130,000 fix up. We reviewed...

Alderman Ouellette interjected there are two different subjects.

Mayor Guinta stated I cannot believe this Board is acting the way it is acting. There is a blatant violation and breach of this contract. We had an obligation and the Alderman is simply asking to honor the obligation in item six of the contract. That's all he is asking in his motion.

Alderman J. Roy stated I agree that this could have been handled differently. In our packet there is also a letter from a lawyer that says the work to be completed for the leasehold improvements is based on a phased agreement. The cost of each phase is less than \$20,000, which is the threshold for approval, and he says that's okay. I'm in a quandary wondering if it is or isn't okay.

Mayor Guinta stated that lawyer likely feels that he represents MCTV. If this was approved by the Committee on Administration and the BMA why didn't an invoice go out for \$130,000? Why is it coming in under \$20,000 in phases? This is as blatant as you can get. No department head on the City side would ever do this.

Alderman J. Roy stated I think it could have been handled better, Your Honor, but like Alderman Ouellette said they should be handling this and then we should handle it after that.

Mayor Guinta stated we're part of this contract, Alderman. I'm speaking specifically to the motion that is being made by Alderman Gatsas. He is saying let's honor the contract by bringing them to the Committee. I don't think that is unreasonable considering the contract states that they have to do that.

Alderman Lopez stated Tom, is it appropriate to do this motion?

Mayor Guinta stated on the advice of the Solicitor I wrote this letter.

Mr. Arnold replied I can't answer with a yes or no. I think the language of the contract is clear. They need the approval of this Board to make an expenditure over \$20,000. In review of the letter that Mr. Brennan sent, and the letter from John Cronin that Mr. Brennan provided, it advises the School Board of a contrary view that he needs approval to make any payment over \$20,000.

Mayor Guinta stated let me read what he wrote in his letter because the majority of the people on this Board seem to think that that attorney seems to think it is okay. The second to last paragraph says, "Notwithstanding our opinion, we recommend that notice be provided to the Board of Mayor and Aldermen prior to making any further payments". He is saying in the letter to pay it, but notice them. It is so clear that this is a violation.

Alderman Gatsas stated I would have supported Mark Roy that we should have sent the department heads home because I would hope that none of this language, and I know they never would consider bringing in contracts less than \$20,000 on a phase basis to get a projects done. I know they would never do that.

Alderman M. Roy asked if I understand this correctly, instead of having this City, the School District, the Superintendent or the employee who made the decision be held responsible we are now holding up a contractor who does business with the City of Manchester for \$110,000 for work which he performed?

Alderman Gatsas replied certainly, the direct answer would be that I'm not looking to hold the contractor at bay, but certainly someone needs to address the problem that's here. Either we have a contract for when it is convenient or we have a contract that is always in effect for anything that comes before us.

Alderman M. Roy stated I don't disagree with that, but our problem is not with the contractor and that's who we are leaving holding the bag at the end of the day. Our problem is within City government. It is either a City employee, a School District employee, the Superintendent's Office, School Board or this Board. There are only five entities that can have responsibility and those five, if there was a mistake or malfeasance, are left holding the bag, not a contractor.

Alderman Gatsas stated I agree with you, but the only place we are going to get that answer is in Alderman O'Neil's Committee on Administration where those questions can be asked and drilled down to the bottom to get all the answers they need and have the bill paid. That's what needs to happen.

Mayor Guinta stated for the edification of the Board, I have spoken to the contractor to convey the fact that this was brought to my attention and we would be discussing it this evening and we hoped to resolve the bill that he is waiting to be paid. I explained to him the circumstance and the situation and he appreciates the contact I made to him on behalf of the City. At this point, I have notified him that that payment would be not made until we would resolve this. He is aware of this and understands it. I told him we would be in contact with him this week and try to at least give him a timeline of when this would be resolved. That contact has been made because as a City we do want to have good relationships with anybody who is doing business with the City.

Mr. Arnold stated I think in line with Alderman Gatsas' motion, we need to make clear that the expectation that they not release any more funds, is not in any way to be construed as this Board's approval of the monies that have already been paid.

Alderman Gatsas stated that's fine to add.

Alderman Gatsas requested a roll call vote on the motion to instruct the Superintendent to not make any other payments until the Committee on Administration has an opportunity to see what the bills are. Also, the expectation that they not release any more funds is not in any way to be construed as giving the Board's approval of the monies that have already been paid.

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

Alderman Arnold stated I'll be shocked if anyone is still watching on TV, but if they are, hats off to them. As members of the Board know, in the spring renovations are going to begin on the Kelley Street Bridge. I know an informational meeting has been scheduled for Tuesday, December 8th at 7:00 P.M. at the library at Northwest Elementary School to gauge feedback. If there are concerns from individuals in Ward 12 or 11 or anyone else using the Kelley Street Bridge going to Pinardville, you can come to the library at Northwest Elementary School on Tuesday, December 8th at 7:00 P.M.

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

A True Record. Attest.

City Clerk