

COMMITTEE ON HUMAN RESOURCES/INSURANCE

February 16, 2000

6:00 PM

Chairman Lopez called the meeting to order.

The Clerk called the roll.

Present: Aldermen Lopez, Sysyn, Shea, Vaillancourt, O'Neil and Gatsas

Messrs.: Harry Ntapalis, Mark Hobson, Howard Tawney,

Chairman Lopez addressed item 3 of the agenda:

City Casualty Insurance Report for year-end 1999 to be presented by
Harry Ntapalis the City's Risk Manager.

Mr. Ntapalis stated I presented a report to you about a week ago outlining the year end 1999 casualty insurance, which includes worker's compensation, property and most every insurance line we have, both commercially insured as well as self-insured. I was just going to take a few moments, pretty much for the benefit of individuals that are new to the Committee and new to the Board, to share with you some of the historical information relative to the insurance programs, how they evolved, what we have been doing, where the programs are going right now and some of the costs associated to the claims that are reflected within the report. I am certainly also going to be open for questions because a lot of this is a bit involved. I will try to be brief and summarize what is in the report. We really start out basically by saying there are three aspects of the Risk Management Program. One is a self-insured aspect or self-funded and that encompasses all of our worker's compensation for nearly 3,000 individuals. There were over 3,000 W-2's that when out last year and it is inclusive of individuals who are working for us on a seasonal basis, temporary, part-time, etc. If you get hurt on the job, you are entitled statutorily to worker's compensation benefits. We have been self-insured since 1977 in that regard. In the mid-80's, where we used to commercially insure almost every casualty line one would envision for a municipality with multi-faceted responsibilities, everything was rolled into our self-funded program as well which took on a lot more of an active role on the part of our office as opposed to turning things over to an agent who then would deal with claims accordingly. We were forced into a situation like this. It wasn't something we wanted to jump into, but the market conditions were very hard. Most individual markets really

didn't want to bid in the mid-80's on City business. Particularly, we had a rash of historically bad experiences with respect to claims activity. Once we did get into it though, from an actuarial perspective, our costs have far exceeded the anticipated expectation that we were going to be saving some money. We are doing a lot better than we did in the commercial marketplace, paying half of the premiums that we did at the very end. The last component of the Risk Management Program is loss prevention and there are two vehicles by which we achieve this. We try to access in the commercial marketplace, as well as with our self-insured third party claims administration, X amount of hours each year for free, specialized loss prevention or what we consider safety and training. We also have an in-house and probably have had since the early 90's, an individual who spends a couple of days a week in the loss prevention area dealing with safety issues. By and large the Risk Management operation services each and every City department, inclusive of all of the Enterprise Departments. We provide insurance coverage, guidance, correspondence needs, claims intervention, most anything that one would realize in a commercially insured program to all of these departments. Again, the departments vary in their nature from Airport operations to emergency operations such as Fire and Police provide, construction with our Public Works and some of the other departments, Parks and education. It is a very multi-faceted operation that we are involved with and the variant lines of insurance reflect the tendency to have very specialized areas that need to be addressed and keep us out of harm's way with respect to any liability potentials when they arise. We also need to point out that of the 3,000 employees that are covered by worker's compensation, you have over \$250 billion of property that the City owns. By and large a major grouping is with the schools, the investment that we have in the school buildings and the content values so you are looking at \$250 billion of inventory that we have to safeguard. You are looking at a fleet size that we own and operate and are exposed on City roadways of over 450 fleet vehicles. That all comes under that broad umbrella of Risk Management insurance. We have found that with the education and a lot of hard work on the part of managers and certainly the employees in the City themselves, they are being very attentive to precautions and trying to remain cognizant of safety initiatives when they are working in and around machinery, around fellow workers. We have been fortunate in not having any catastrophic losses. That is not to say that we don't experience a number of claims during the course of any given year and that is reflected in the sections of the handout that I provided. I will go over them real quickly, but if there are any questions at this point, please let me know.

Alderman Shea stated we have been joined by Alderman Gatsas and I would like to know if we have an open meeting and he can join in the discussion.

Chairman Lopez replied yes.

Mr. Ntapalis stated the first section really reflects legal activity. I know that a lot of you in times past have always asked this. What kind of activity do we generate in the way of lawsuits in the course of a year that culminate out of claims. Again, around the mid-80's we were experiencing on average maybe four dozen suits brought against the City a year. Many of which were frivolous claims but they ranged anywhere from slips, trip, fall type claims to full blown civil rights accusations against the City and its employees. Some of the attorneys were always of the mindset that look if we are holding the City up to a point where we are going to end up duking this out in court, maybe they will settle. Maybe there is something that could be derived out of settlement. The posture our insurers had taken was strictly fiscal. We had very little input and the insurers would say from a financial point of view if they decided to settle something, even against the protest of a particular department head, they would do it. We really didn't have much input as to the outcome of claims. Once we became self-insured, we got the message out pretty much in a hurry to the plaintiff attorneys and there were probably several and I am not going to mention them but they were doing what they needed to do to represent their clients, but we were going to sink the money into defense and we weren't going to just settle any claim that came down the pike if it had no merit. Obviously, there is always a situation where there is a claim that does bear some consideration based on facts and those we try to expedite some sort of a fair settlement. What it in turn did was it curbed the amount of claims from the mid-80's, cut them in half, and then cut them in half again. We have been in the single numbers, on average, for about the past five years on the amount of suits that culminated from this claim activity. It saved us a bundle of money, but the money we exercised has gone towards defense. The message that got out there that if you are going to really pursue litigation against the City of Manchester, you better have some sound ground to do so and a lot of lawyers have shied away from that. That has proven to work out very well. Any questions on that portion. Worker's compensation, I think, is near and dear to everyone. That is the big-ticket item in the City. On average, of the 3,000 employees, part-time and full-time that we do have, any given year may see possibly in the amount of worker's compensation claims somewhere ranging from 400-500 claims. Now, the claims activity that we see more often than not in recent years have been reduced to what we call medical onlies. All that is is the employee that was injured seeks the attention of a medical provider. Sometimes they may be hospitalized and sometimes it is very minor. The message from the Department of Labor loud and clear had always been if you have an employee that comes to you as a supervisor, be it a principal, the Police Chief or whomever and they say they were hurt on the job, don't discourage them. The obvious thing is err on the right side and if they have been hurt and they want to seek medical attention our obligation is certainly to provide them the opportunity to file a claim. That doesn't mean you are supporting the merits of the claim or not. It is just that you are

complying with the statutory regulations that mean for employers of this State that they have a five day turn around to get that first notice of injury into the Department of Labor from the time the accident occurred. That is why you will see high numbers. If you look at the following page after the claim account, again on the worker's compensation on the expense end, that basically will tell you where we have been. In 1989 we were probably averaging the kinds of cost in a given year a little better than \$500,000. That was the tendency when 1989 closed out. In the mid-90's you see a real spike as high as just under \$1.5 million and there was a real simple reason for that. The only way we could turn the worker's compensation expenditures around was we were dealing with a lot of old claims. As I mentioned early on, we have been self-insured since 1977. With some of those old claims, you had individuals who were incapacitated from doing their work, you had the handicap of a department head not being able to hire someone to fill that vacancy and it was unfair to the employee and to the employer. You were receiving what is called the flipside of the medical onlies and what is known and indemnity payments, a weekly paycheck, whatever it happened to be at the time. If it was 2/3 of your gross, now it is 60% of your gross, but they were doing this and some of them were highway journeymen and people who had a life expectancy for many, many years. There was no financial reason that the City couldn't entertain the possibility of what is called an acceptance lumpsum through the Department of Labor to be approved by them. What we would do with their counsel who represented them and under the watchful eye of the Department of Labor, was try to structure a lumpsum settlement. If there were permanencies involved, in other words the employee who had served their time with this employer, we didn't just want to kick them out. We felt there was something owed to them and something that was reasonable. There were lumpsums and permanencies for their lack of mobility for whatever the injury on their body happened to be. So, there was a period of several years where there were many lumpsums to get rid of a lot of the old claims. We were averaging, and Mark has an individual within his department who processes very diligently, Aileen Nye, the indemnity payments for citywide payroll every week. We were averaging \$18,000 to \$20,000 per week in paying employees who were out at home on worker's compensation. That figure has now dropped to an average of about \$7,000 a week so that is substantial and you couple that with the number of weeks there are over the years and we are ahead of the game. That is really the pendulum which swung us back to an area of probably one half of where we were at, about \$500,000 a year.

Chairman Lopez asked on the worker's compensation, is there any comparison out there of how we stand percentage wise versus another workforce of 3,000. Has there been any type of study done?

Mr. Ntapalis answered we try periodically...we bump ourselves up more often than not with Public Service or some of the large colleges and universities and when they take a component of our operation such as education if we are bumping it up against NH College, which was one of the more recent comparisons that we had done looking at strictly school teacher and school related injuries versus their educational injuries and costs associated with the same, our educational workforce, for example, is about 1,000 educators versus maybe 300 for NH College, yet our costs were considerably less. The claims count, however, with School has actually gone up. It has actually gone up by about 77 this year and it went up by about 54 claims the previous year, medical onlies, but our costs have stayed lower than even people who have probably 1/3 the workforce. We do the same with Public Service. They have about a 3,000 man workforce, very heavy and very safety conscious. They probably have six full-time safety individuals. They do a remarkably nice job, but again their work is labor intense. You will see high injuries there, but when I bump them up against us, we kind of hold our ground. The thing that may skew us is again you have emergency crews, Fire and Police, doing the execution of their duties. Are there apt to be a lot of injuries. There are. Fortunately, they haven't been catastrophic.

Alderman O'Neil asked is there an analysis done, I noticed between 1998 and 1999 that the number of claims are down but yet the expenses are up. Is there a simple...and I am not looking for an answer tonight but is there an analysis you can do or that will be done that will show...that could be one injury that is the difference but to show is there a department we need to concentrate on. Just to get a view of what is going on with worker's compensation.

Mr. Ntapalis answered we always try to focus on the departments and try to identify if there is a hardship within a department based on...many times we have uncovered items that have driven and as you said sometimes it is one or two claims that can make the difference from one year to another year.

Alderman O'Neil asked have we done an analysis in the past or can you at some point do a simple one. Where were the injuries occurring, what departments.

Mr. Ntapalis asked citywide.

Alderman O'Neil answered yes. I would think it is something that we would like to concentrate on. Like if it were laborers at the Highway Department, what are we doing wrong there and what are we going to do to correct it.

Mr. Ntapalis replied we have that data right now but I could summarize it for you and provide it to all of you.

Alderman O'Neil stated I have spoken to the Human Resources Director about this and to the Risk Manager earlier. It is something that I only recently became aware of and it has to do with employees who are out on worker's compensation are only receiving 60% of their pay, but one individual I spoke to indicated to me what a financial hardship it was on him. In talking to both the Human Resource Director and the Risk Manager, they believe we have a mechanism to correct that, but maybe the word is not getting out to the departments and I don't know if either one of them would like to comment on that.

Mr. Ntapalis replied we have, and have had for a number of years what is known as supplemental pay and the reason that was brought into existence is when we did go to self-insured with some of the changes through the Department of Labor and the most recent one being on February 8, 1994, they had switched the earning capacity of an injured employee in the State of New Hampshire from what was considered $\frac{2}{3}$ gross or $66\frac{2}{3}$ of your gross pay to 60%. So this 40% of your gross pay that is out there that you are not receiving when you are injured, what the City fathers had done is they embraced and had subsequently adopted a program by which supplemental pay through the payroll system is made available to the injured party but that varies from bargaining group to bargaining group. With Fire and Police, there is a differential...that balance of 40%, one has 87% of that to come to them in what is called supplemental and the other has 80% of that remaining 40% that would come to them in supplemental. The attempt here by design was not to put a financial burden, as Alderman O'Neil had mentioned, unwillingly on a family just because a loved one was hurt in the line of duty. It was challenged a number of years ago and the City was not successful in that challenge. They tried to do away with the supplemental pay all together. The Department of Labor as you must understand doesn't regulate it. They didn't condone it, but they didn't go against the supplemental pay. They said that is an employer's right or privilege if they want to provide it to the employee. Some of the Unions had taken this up to Concord and prevailed that supplemental pay was a past practice and it is going to stay. There are still some variations. I believe Water Works and some others don't have access to the supplemental pay so are there employees out there that may be hurt financially if, indeed, they have a compensation or an indemnity compensation claim that is going to go on for a number of months pay wise. Possibly and I am not sure what other bargaining groups do not have access to it, but the lion's share of the groups do have accessibility.

Alderman O'Neil stated instead of going into a long discussion, maybe Human Resources and Risk Management to draw up who has it and who doesn't and it might be a topic for a future meeting. I guess I should have known it, but I was actually surprised and this particular individual is a police officer who was hurt on

that Daniel Webster incident where he got pinned to the car and he said it was creating a financial hardship and he certainly was not aware of the supplemental pay.

Mr. Ntapalis replied it could have been just something as small as he had fallen through the cracks because Police is one that does offer that supplemental pay. They have access to it. They have an individual in their Payroll Department who is pretty astute as to the benefits that they are allowed.

Chairman Lopez stated I think it is an excellent question and asked Mr. Ntapalis to follow-up and give them some more background on the supplemental pay in writing.

Mr. Ntapalis stated one last point if I could on the supplemental pay, it is only good for 12 months. In other words, if you have someone so severely injured, the way it was drafted into our policy is that for 52 continuous weeks supplemental pay would be something accessible to the employee, but if the employee is out for two years, they are still back to that hardship. Next and real quickly, liability. That has generated a great deal of claim activity, only with respect to these are your bodily injury types of claims - your claims that the general public, if they are on our facilities, if they should get hurt; damages to properties that may end up happening as a result of City work being done in a general neighborhood like sewer back-ups, flooding and the like. All of you have had constituents in the past that have experienced some of these type of issues our self-insured fund addresses it. The thing that is important to note here for a City our size and the operations that we conduct and the amount of roadways and sidewalk responsibilities and sewers that we have, it is a small amount of claims that we are experiencing. Probably on average of about 130 or 140 per year. Many of them are driven by inclement weather situations. We have noticed when we have had lien years with respect to non-icing and frost heaves and potholes and all of that good stuff that the claims activity is minor. The costs associated, even in a bad year, doesn't even exceed the kinds of dollars that I was paying in the early to mid-80's to buy the same coverage from the insurance market. Any questions on general liability?

Alderman Gatsas asked on the 60% worker's compensation issue, that is a non-taxable item.

Mr. Ntapalis answered yes, Sir.

Alderman Gatsas asked the difference between the 60% and the 87% is that also non-taxable.

Mr. Ntapalis answered that 40%.

Alderman Gatsas replied if you said that the Police could go to 87%, I am talking about the 27% in between.

Mr. Ntapalis responded what actually happens, Alderman, and I may not have explained that correctly but what ends up happening and I am going to let HR address it, but that 40% remains in limbo and 87% is what they will get of that 40%.

Alderman Gatsas asked so it is 87% of the 40% so it is closer to 32%.

Mr. Ntapalis answered that is correct so there is still some hardship there. I don't know if that is, on the payroll end, non-taxable.

Mr. Tawney stated the supplemental money is taxable, but it is not taxed for Police and Fire. Those individuals only pay Federal income tax. Some of them also pay Social Security and some of them pay both Social Security and Medicare depending on when they came on. It depends a lot on the specific individual as to whether they are paying full tax on that money.

Alderman Gatsas asked on the Enterprise fund allocations on the various liabilities, i.e. the worker's compensation, how do you come up with a number for the Enterprise funds.

Mr. Ntapalis answered it is based on the exposures we have and, again, it depends.

Alderman Gatsas stated let's use worker's compensation and let's deal with the Water Works issue because I am a little bit more familiar with them.

Mr. Ntapalis replied generally when you are looking at experience modification or dealing with worker's compensation, you base the allocations on payroll. We don't do it. When you are self-funded, our actuaries and our consultants have mentioned to us that you give an unfair hit to your individual employees. You really have to take into account their experience, the kinds of losses that you have had, the nature of the work that they do and it varies from department to department. What the Alderman is mentioning...I charge back, if you would, on the Enterprise funds, i.e. Airport, Water Works, EPD, Parks & Recreation and soon to be School Department, for the amount of coverage and protection they have whether it be through the self-insured mechanism. They pay a certain proration towards the administration of the third party claims. They also pay a proration towards the premium that I pay to cover the whole City for property, for bonds, for excess worker's compensation. The formula that we use varies

depending on the nature of the department, but by and large it is based on trending information as opposed to payroll.

Alderman Gatsas asked do they pay claims also or do we pay the claims.

Mr. Ntapalis answered what I do is charge them strictly for administration. My feeling was if they pay for that privilege on administration, they have already made, in my opinion, a just contribution for that coverage. I don't feel that I have a right to go back and charge them if they have a claim. No more than if you paid a premium to insure your auto and for many years you had no car crashes and all of the sudden one year you have an incident and you have been paying your auto premiums and your agent comes back and says now I am going to charge you for what it costs the company. I believe that might be happening, but it is not coming from my department. If there are any other billings coming to the Enterprise, it would be coming from our fiscal department.

Alderman Gatsas stated so what you are saying is we are not charging them for claims. If they had a catastrophic, who is going to pay the catastrophic claim.

Mr. Ntapalis replied if we had a catastrophic loss in the area of worker's compensation, I have what is called excess worker's compensation. It is a \$10 million policy. It overrides your underlying, what I call, primary limits of coverage that are self-funded. What happens there is if you have a multiple loss situation where something bad happens and a lot of individuals are hurt or killed or maimed, this excess umbrella kicks in and a commercial carrier pays that loss.

Alderman Gatsas asked if there is a loss of \$20,000 on an injury, does the City pay it or does the Enterprise Fund pay it.

Mr. Ntapalis answered not the Enterprise. There are two funds established and I am sorry, I should have made that clear early on. I have charge of two funds. One is a worker's compensation fund and money is allocated and set aside in that fund each year to pay losses that would be forthcoming. Then there is another fund that is the GL fund and that covers automobile, general liability, civil rights cases, it even pays towards the premiums I have to pay. What I end up doing with Enterprise is I just charge them back a prorated share of what I am paying for that, but I have responsibility for those two funds.

Chairman Lopez stated let me try to understand and I am a little bit confused so I am going to put it my way and see if I can get this point across. In the Enterprise fund, you get an administrative cost to do the paperwork and everything else, but the Enterprise fund does not pay the worker's compensation, the City pays for it.

Mr. Ntapalis replied what they pay for an only pay for once a year is the administration. If I am buying a service or an insurance policy for protection, they are paying either that service fee or a portion of that service fee I should say and they are paying for a portion of the premium. When they generate a claim, say \$20,000 to use your analogy, such as Parks & Recreation, if they have a claim my fund will pay that claim to make them whole from dollar one with no deductibles. I am hearing on the Enterprise end from some of the Business Officers, including Water Works, that later down on the pike they are being charged for the claim itself. That is not coming from me. It is something that is happening I believe, and I don't know if there is an IRS regulation or something that gives the City an opportunity to recover Enterprise funds, but that is really a question for the Finance Department.

Alderman Gatsas asked so if you are billing out to an Enterprise fund, let's use a round number, \$10,000 for your services and premiums and whatever else is included in your bill and they come back and they have a \$20,000 claim, if you were an insurance carrier and I was your insured and my premium was \$10,000 and my claim was \$20,000, I think my mod would be going up drastically.

Mr. Ntapalis answered that is correct.

Alderman Gatsas asked so if there is no risk to the Enterprise funds for what claims are out there, the City is at risk. That doesn't make sense to me.

Mr. Ntapalis answered without getting into a big debate, it doesn't make sense to me either.

Alderman Gatsas asked so what you are saying is it doesn't make sense to you either.

Mr. Ntapalis answered and I don't do it. I am just charging an upfront cost.

Mr. Tawney stated we charge back to the departments the cost for the disability payments so if the person has a worker's compensation claim and they are out and we are giving them the 60% or 80% or whatever it is, each department gets charged back that towards their payroll account. That is where that money comes from.

Alderman Gatsas asked what about an indemnity claim.

Mr. Ntapalis asked the worker's compensation entitlement.

Mr. Tawney answered yes, that is what gets charged back to the department.

Mr. Ntapolis stated only on the supplemental portion. Under the law, the worker's compensation, that is an entitlement that is free and clear. That is paid from my fund 100%. That worker's compensation fund that may be \$1 million or \$1.5 million, when people generate that activity, it comes out of that fund.

Mr. Hobson stated let me get some clarification from the Treasurer's Office and Finance and get that cleared up. As some of you may know, we had a split literally a year ago of Risk Management into one group and Finance doing another group and Human Resources doing another group. Just so I am clear that I can give you a nice follow-through of what happens in these cases, would it be all right if I put something together.

Chairman Lopez replied I think so because it would clear things up. I think the Alderman raised some good questions.

Mr. Hobson stated I would just like to make sure that the answers are right.

Mr. Ntapolis stated as Mark had mentioned, the component that he has taken over really is the payroll. That used to be a fiscal function. Finance still will disseminate the checks for a lot of the activity. I work on the worker's compensation and all of the other insurances to make sure that we have the proper coverages in place and follow and monitor those types of things for each and every department. The last piece here is really the automobile, which is self-explanatory. The auto is, again, if we had bad years with snowfall and our trucks happened to have fender benders with parked vehicles, etc. that will generate auto related claims. If the years have been more lean, that is not the case and we have less claims to have to deal with. The last portion really gives you a schedule of our insurance coverages and what we do have in place.

Alderman Shea asked if a fellow is driving an automobile and he or she is neglectful, what happens. Do we still pay the claim and then go after that particular individual or do they pay it.

Mr. Ntapolis answered those are the kind of claims that usually end up in litigation. Those are the ones that our fund does respond to. In other words, if we are at fault, found at fault for whatever reason like the driver was under the influence or something or they were careless and made a faulty turn and created a lot of damage and we have had that, we have had some severe claims as a result, we avail ourselves to what is known as governmental immunity. There are two things that we can attach in any of the liability exposures we have with the

exception of Federal US District Court actions. The maximum exposure that the City of Manchester has from a financial perspective on any claim does not exceed \$150,000. We paid that amount once in a severe claim and it was a backing incident with one of our trucks. We also avail ourselves of the limited statutory immunities and they only apply to street, road and sidewalk issues.

Alderman Gatsas asked about reserves. Do we have a reserve.

Mr. Ntapalis answered we have reserve funds set aside for both the worker's compensation and general liability. Are they sufficient. Are they in accordance to what our actuaries have said they should be...

Alderman Gatsas interjected and asked how much are they.

Mr. Ntapalis stated I almost hate to tell you. When we are looking at recommendations of \$5.5 million in compensation alone, and we have probably \$1 to \$1.5 million max, it falls by \$4 million short of what the reserves are recommended to be. It is a juggling act. You have to really spend a lot of attention not to run into trouble. I know that it is a lean budget and we could get into that at another time.

Alderman Gatsas asked so obviously we are not under any restrictions by State or Federal statues or anything because of the self-insured plan.

Mr. Ntapalis answered we are under the watchful eye, strictly, of the Department of Labor in the State of NH.

Chairman Lopez addressed Item 4 of the agenda:

Ordinances:

"Amending Sections 33.024, 33.025 and 33.026 (Laborer) of the Code of Ordinances of the City of Manchester."

"Amending Sections 33.024 and 33.026 (Watershed Patrol Officer I & Water Shed Patrol Officer II)."

"Amending Sections 33.025 and 33.026 (Public Utilities Coordinator) of the City of Manchester."

"Amending Section 33.026 (Planner I) of the Code of Ordinances of the City of Manchester."

On motion of Alderman O'Neil, duly seconded by Alderman Sysyn, it was voted to recommend that the ordinances ought to pass and be referred to the Committee on Bills on Second Reading for technical review.

Chairman Lopez addressed item 5 of the agenda:

Recommendation of the Human Resources Director relative to the bid opening for Term Life Insurance and Accidental Death and Dismemberment Insurance.

On motion of Alderman O'Neil, duly seconded by Alderman Shea, it was voted to approve the recommendation of the Human Resources Director.

Chairman Lopez addressed item 6 of the agenda:

Communication from the Building Commissioner for an unpaid leave of absence for Paul Houghton for ten (10) days with recommendation from the Human Resources Director that this item be approved.

On motion of Alderman Shea, duly seconded by Alderman Sysyn, it was voted to approve the requested unpaid leave of absence.

Chairman Lopez addressed item 7 of the agenda:

Communication from the Library Director requesting \$13,500 from the City's salary adjustment account for their Library-based Adult Literacy Program with recommendation from the Human Resources Director that this item be approved.

On motion of Alderman O'Neil, duly seconded by Alderman Shea, it was voted to approve the recommendation of the Human Resources Director.

Chairman Lopez addressed item 8 of the agenda:

Copy of a communication from Louise Gazda to the Amalgamated Transit Union advising of continued personnel/management difficulties with recommendations from the Human Resources Director.

Alderman O'Neil moved to approve the recommendations from the Human Resources Director. Alderman Sysyn duly seconded the motion.

Alderman O'Neil stated I believe there is still a sub-Committee of the Board that exists and they should be kept in the loop on this.

Chairman Lopez stated I should inform the Committee that Don Clay has called me and I have a meeting scheduled with him on February 23 at 10 AM. As you all read in the recommendations, there has been a situation there. We don't have that much authority, but we will see what we can do and report back to the Board.

Alderman Vaillancourt asked why would you be having a meeting with him. The Charter of the City of Manchester notes that Aldermen should do things as a body. I am wondering why one individual would be meeting with one individual to find something out. Why shouldn't the entire Board be meeting with him or at least this Committee. I am committed to having things done in the open. This is a serious letter and there are some serious allegations and I don't want one member of the administration trying to coerce one member of this body without other people being aware of it.

Chairman Lopez replied he asked me to come down to talk with him and meet with him and that is it. I am going down.

Alderman Vaillancourt stated I suggest that he come before this entire body so that we can all be aware of what is going on.

Chairman Lopez stated a motion has been made and seconded to accept the recommendation from the Human Resources Director. Chairman Lopez called for a vote. The motion carried with Alderman Vaillancourt being duly recorded in opposition.

Alderman Shea asked for clarification as to what the motion was.

Mr. Hobson answered we have been working, as you probably saw in the first paragraph, we have been working for about a year on an off with the MTA at the direction of the sub-Committee of the Board. Things have fallen apart again. The wheels have fallen off, if you will, and we received this letter. We conferred with the Mayor and I spoke directly with the MTA management and I believe that we need to sit down with these folks and try to put a plan back in place so that they stay on task and on target. My problem is, as I shared with the Mayor and Chairman Lopez briefly, I do not have any organizational or positional authority to tell Mr. Clay or anyone else at the MTA what to do or what not to do. I can only put a plan in place. They have funds in their budget for management training. It is, in my opinion, needed.

Alderman Vaillancourt asked why can't we have Mr. Clay and Mr. Webster in here before us and answer these allegations before us.

Alderman Sysyn stated you have a Union that you are dealing with also.

Mr. Hobson replied I would include MTA labor leadership in my recommendation. They would be at the table as well.

Alderman O'Neil stated I don't necessarily disagree with Alderman Vaillancourt's comments, the only thing is that the past Board specifically set-up a Committee on this issue and I believe that it was the wish of the Board that the special Committee address this issue and not necessarily limit it to the HR Committee so that probably needs to be cleared up as to who is going to take responsibility for that.

Mr. Hobson stated I should have included, and I apologize, we would certainly let the Human Resources Committee and the Special Committee know of the outcome of whatever meeting we had with the management and if it was not satisfactory we would let you know that. We have been doing that. In our defense, Maureen McCarthy is here tonight and she has been at several meetings and reported to that sub-Committee on several occasions as well.

Chairman Lopez asked could you get us the names of the members of that Committee so that we know who they are.

Mr. Hobson answered yes.

Alderman Shea asked if you are meeting on February 22, is that correct, are you meeting on February 22.

Chairman Lopez answered Don Clay asked me to come down on February 23 and meet with him.

Alderman Shea asked when are you meeting with him, Mark. Is it the same time?

Mr. Hobson answered no.

Alderman Shea asked so you are just going down to meet with him and say hello or whatever.

Chairman Lopez answered that is about the size of it. I don't know what the stipulation is. He called me and asked me. It has nothing to do with...I shouldn't say it has nothing to do with the situation, but he wants me to be aware of the Union aspects and all of that stuff before we meet.

Alderman Vaillancourt moved that all meetings like that be held in public so that everyone can participate and there not be these behind-the-scenes movements that lead to one group of people knowing one thing and another group of people knowing another thing. I don't think that is in the spirit of the Charter. Alderman Shea duly seconded the motion.

Alderman Sysyn stated we didn't finish our vote on the first motion.

Alderman Vaillancourt replied well then consider that an amendment to the first motion.

Chairman Lopez stated we finished the first motion. He asked the Clerk for clarification.

Deputy Clerk LeBlond stated the motion carried with Alderman Vaillancourt having voted in opposition.

Alderman Vaillancourt asked what was the vote. Was it 4-1.

Deputy Clerk LeBlond answered the vote was Alderman O'Neil by Alderman Sysyn that they approve the recommendations from the Human Resources Director. Chairman Lopez called for a vote on the motion and everyone said nay with the exception of Alderman Vaillancourt who was duly recorded in opposition to.

Alderman Shea stated I said no too.

Deputy Clerk LeBlond replied I didn't hear your nay.

Alderman Vaillancourt stated well I think I did that is why I wondered when you said that I was the only one opposed.

Chairman Lopez stated the vote on the motion is corrected to 2-2 and I am going along with the recommendation of the Human Resources Director. The motion carries.

Alderman Vaillancourt replied then my next motion stands and it is seconded by Alderman Shea.

Chairman Lopez asked what is the motion on the floor.

Deputy Clerk LeBlond answered that all meetings such as the one you just mentioned regarding your meeting with Mr. Clay be held in open, public sessions.

Alderman Vaillancourt stated it is simply to live up to the Charter. I don't have the exact provision with me, but actually I do have it with me, to meet the provisions of the Charter, Section 9:03(G): The Board of Mayor and Aldermen, the various Boards and Commissions, and the Board of School Committee shall act in all matters as a body and not seek individually to influence, etc.

Alderman O'Neil stated, Alderman Vaillancourt, I guess you are going to interpret that the way you want, I mean if a department wants to meet with me to discuss an issue, I certainly don't need to be with the Committee to do that. The fact that he asked Alderman Lopez to meet with him, I don't believe there is anything wrong with that. If he wanted to meet with you, Alderman Shea, Alderman Sysyn or myself, that is entirely up to them.

Alderman Vaillancourt replied the point is that he should be meeting with all of us together.

Chairman Lopez called for a vote. The motion failed with Aldermen Sysyn, O'Neil, and Lopez being duly recorded in opposition.

Alderman Vaillancourt stated I want to be recorded in the minutes that I believe this is in violation with Section 9:03(G) of the Charter. I can't imagine how that can be interpreted any other way. Words do have meaning.

Chairman Lopez addressed Items 9 & 10 of the agenda:

Drug and Alcohol Policy submitted by Ronald Robidas, Security Manager, with recommendation from the Human Resources Director that the policy be adopted as submitted.

Drug-Free Workplace Policy submitted by Ronald Robidas, Security Manager, with recommendation from the Human Resources Director that the policy be adopted as submitted.

Mr. Hobson stated I would like this item to be tabled for at least this month or I suppose we can withdraw it. We have had some changes and some corrections that we would like to continue to work on that the City Solicitor brought to our attention. We have had several meetings with the City Solicitor's Office. After the agenda was pulled together, they brought some more information to our attention.

Alderman O'Neil moved to table Items 9 and 10 and get input from the EAP manager. Alderman Sysyn duly seconded the motion.

Alderman Vaillancourt asked are we having a private meeting with the EAP manager here also.

Alderman O'Neil answered no; we are asking him to respond to the policies as they are drafted.

Chairman Lopez stated I think we have the right to ask anybody we want for information.

Chairman Lopez called for a vote. There being none opposed, the motion carried.

Chairman Lopez addressed item 11 of the agenda:

Communication from the Human Resources Director advising that a special meeting of the Committee has been scheduled for March 15, 2000 for the purpose of discussing outstanding classification and compensation employee appeals only submitted for informational purposes only.

Mr. Hobson stated we have some employees here tonight who have some concern about where the appeals process is going. We worked today with the City Solicitor's Office and we would like to insure that the Ordinance that does exist on this Classification and Compensation Appeals Process is followed properly so we will hold the March 15 meeting. We will work with the City Solicitor's Office to make sure that we are following the process accordingly and we will take his advice and counsel about how we should best react and dispose of and I don't say that in a negative sense, but dispose of or deal with all of these appeals. Right now, we have this March 15 meeting and we hope to get all of these appeals settled in the very near future.

Chairman Lopez stated depending on the guidelines the City Solicitor gives us, the meeting on March 15 might not materialize and we might have a different type of meeting before then depending on what he says. Otherwise, we will continue with the March 15 meeting.

Alderman Shea asked how many appeals are there.

Mr. Hobson answered roughly between 85 and 100 frozen still.

Alderman O'Neil stated I have spoken with the Human Resources Director about my concerns with this process. I was a member of the HR Committee as were

Alderman Sysyn and Alderman Shea. I will tell you that the process of the HR Committee being the final decision is not a very pleasant position for us to be in. What I had talked to the Human Resource Director about was possibly considering whether or not we should bring Mr. Decker back to review the 100 or whatever the number is and make a final recommendation to the Committee and we either accept or don't accept his report and end it right there because it gets into personalities and it gets into politics as much as everything and I don't think every employee gets treated the same. If we did do that, then we should freeze it for two years. There were mistakes made. I think it put the Human Resource Department in a very awkward position. I think it put the Board and the Human Resource Committee in a very awkward position, but I am aware that there are some legitimate appeals out there as well. Some employees thought they were following the right process, they gave it to their department head and it never got forwarded. There are some that I don't know why they are appealing to be honest with you, but the process that we spent the last year or 18 months going through wasn't a very pleasant process. I don't want to speak for Alderman Shea or Alderman Sysyn, but my personal opinion in retrospect is I wish we would have frozen everybody at the beginning and lived with it for a year or two and see how it worked out. I don't know if we can do anything with that or if the Human Resource Director wants to respond to my comments.

Mr. Hobson stated I happen to think that Alderman O'Neil's idea has merit and it is one of the things that I have brought to the Solicitor's attention and asked for his counsel on. I want to be sure, since the Ordinance on the appeals process is relatively new, I want to be sure that we are following that in the right spirit and I tentatively endorse using Mr. Decker to help us clean up these issues because frankly we need to move on with life.

Alderman Shea stated I don't know if he needs to be involved. He has complicated matters just as much as everyone else and the buck stops with us. Whether he comes and he says something or he doesn't, it is up to us to have the guts to make the judgments that are going to be fair. That is how I feel. Why should we pay him to come back some more. We have paid him and paid him and to me I don't see any reason for him to come. If he comes and we disagree with what he says, what is the sense of him coming. We have the ability to make judgements. We have made them up until now and we didn't have him. I don't know really why we would want him to come back. We have the ability to make the judgements predicated upon what is fair and just and honest. I respectfully disagree with Alderman O'Neil.

Alderman Vaillancourt asked how much would it cost to have him back.

Mr. Hobson answered he is approximately \$250 a day plus expenses.

Alderman Vaillancourt asked meaning he has to fly in.

Mr. Hobson answered yes.

Alderman Vaillancourt asked from where.

Mr. Hobson answered most likely Boise, Idaho. It is about a \$600 or \$700 plane ticket.

Alderman Vaillancourt asked so he doesn't fly other than first class.

Mr. Hobson answered I am not sure.

Alderman O'Neil stated I don't necessarily disagree with Alderman Shea's comments about making the call, but I thought we took some shots from our fellow Aldermen who weren't on this Committee that we were generally too liberal towards the employees. It created some animosity with department heads when we didn't feel the employee was justified. I am willing to make the call, but I think there is a better process than what we went through. I really do and I am willing to let...my personal opinion of the Decker Study is I think it was a very good study. He did admit, the night he made his formal presentation, that he missed some employees but he did over 2,000 or close to 2,500.

Mr. Hobson replied he sent out around 2,000 position descriptions.

Alderman O'Neil stated we originally had somewhere in the vicinity of 100 appeals and some keep resurfacing or showing up new but the percentage of that is pretty low. The majority of the employees believe they were treated fairly with this study. It is a step in the right direction. I support the study that was done. I am willing to live with it, if we agree to do that at some point, I am willing to live with it as long as it is within the parameters of the Ordinance and then let it freeze for awhile. We can't keep going on with appeals. The other thing is there is one other problem that I have heard from some employees and there are some concerns about longevity. I am not sure...it was kind of caught at the end of the study and I am not sure that it got the look that it really needed, but if it is the wishes of the Board that we make the call then I will make the call but I don't want to be criticized for making the call.

Chairman Lopez stated I think that what we are doing is just trying to get clarification here because the way I understand it in reading the Ordinance is that this is the Appeals Board and if they disagree with us they can go before the full Board. This is not the final say so and your comments, Alderman O'Neil are

justified as well as Alderman Shea's. We just need some legal counsel as to whether we are doing justice.

Alderman O'Neil stated I thought the Human Resource Committee was the final appeal. I didn't think they could appeal to the full Board.

Mr. Hobson replied we had actually established an appeals process that the full Board agree to and then there is an Ordinance for the appeals language that is supposed to take effect once that appeals process was over with. The problem is that we had the never ending appeals process that went on for quite some time and that is where I want to make sure that I am not putting this group, this Board or myself in any kind of jeopardy. I want to make sure that I am following the Ordinance.

Alderman Sysyn stated I didn't know that we had that many left.

Mr. Hobson replied again, it was when we froze certain items and then we went through the contractual negotiations process, certain things have surfaced so when I am talking about 85 appeals, I am actually talking about that amount of people and an appeal may cover a group. One appeal may cover 15 people in a class.

Alderman Gatsas asked so what you are saying is that the 85 is not necessarily 85 people. It could be 175 people if there are 40 within a group.

Mr. Hobson answered we have a running spreadsheet total that the City Clerk has for us based on all of the meetings that we had. When I calculated that spreadsheet last, there were between 85-100 appeals left that had to be disposed. You are right; there may be more people behind that appeal.

Alderman Gatsas asked have we looked into a local mediator instead of bringing Mr. Decker back in because I am sure that this process could continue for awhile.

Alderman Shea stated anyone can appeal at any time for any reason and that is what you are getting. In other words, my own thinking is that anyone who didn't get, in their own opinion, satisfactory compensation is going to appeal their classification. It is not necessarily that they are going to win their appeal, but they are free to appeal it. That is my understanding and Mark may contradict me.

Mr. Hobson replied I am not contradicting you. The Ordinance language has that type of a flavor. To answer Alderman Gatsas' question, we actually had a working body of labor and management that helped dispose of a number of those appeals and that went along well for a time certain and then the wheels fell off of that and it began to crumble. In terms of looking at a local person as a mediator,

no, we have not but we did look internally first and then we came to this Committee and worked within this Committee. Again, what I am trying to dispose of or look at is we have these appeals that are still out there and they are languishing and the people call our office every week asking what are we doing with these things. I am just trying to get rid of the original appeals that happened as a result of the Yarger Decker study that is now two years old. It was January 3 two years ago when the guy first came to town. I am just trying to get rid of the original stuff.

Chairman Lopez stated that is why we are waiting for the City Solicitor for some guidance.

Alderman Shea stated the appeals board that was set-up was made up of labor and then we as a Human Resource Committee received these appeals. At times we agreed and at times we disagreed and that is when there was a certain amount of confusion. I have to say there wasn't the consistency. In other words, there was a breakdown. For whatever reason, good, bad or indifferent, there was a breakdown so that has added to the confusion. It is kind of a difficult situation and the sooner we get a handle on it, the better.

Alderman Vaillancourt asked what do you want the City Solicitor to do. Why do we have to wait for the City Solicitor?

Chairman Lopez answered he is reviewing the Ordinance to see if we can or we should get some guidelines as to whether we are going to bring in Mr. Decker or whether this will be the final appeal process right here and we will have to do that here to be fair and equal to everybody. Alderman O'Neil and Alderman Shea both have good points and Mark is trying to sort this out to see if we are doing something fair and square for the employees.

Alderman Vaillancourt stated I trust the judgement of myself and my colleagues at least as much as the City Solicitors.

Alderman O'Neil moved to receive and file the communication from the Human Resources Director. Alderman Shea duly seconded the motion.

Alderman Vaillancourt asked does this include any monies to get the gentleman back here from Idaho.

Chairman Lopez answered the guidelines would be that once Mark Hobson gets information from the City Solicitor he is going to be informing us as to those guidelines and we will take it from there and make a decision as to whether we want to follow those guidelines. We don't know at this time.

Alderman Vaillancourt stated I will not vote for anything that involves spending money to get them back here. If that is the next recommendation, I will not go along with that.

Alderman Gatsas asked what happens to a person that appealed two years ago and comes to whatever Board and they say yes we find in favor of your appeal. Does that go back to two years ago when he filed his appeal?

Mr. Hobson asked do you mean retroactive pay. Is that what you are asking? I don't know if I want to step on that. I can't even think of a good example off the top of my head so I don't know the answer to that question and I guess we probably also put that to the Solicitor in terms of the...I feel like I need to answer Alderman Vaillancourt's comment because I think it was a valid comment. What we are attempting to do is get rid of or dispose of those appeals that happened as a result of the study itself. We are not looking to go out there and generate more activity from the employees to say let's find some more appeals that we can bring to people's attention. It is possible that Mr. Decker may come back for nothing to do this. I don't know that. I haven't even talked to him about it. I just want to make sure that I don't put this group in any kind of jeopardy. I want to make sure that I do the right thing by all of us.

Chairman Lopez called for a vote on the motion. There being none opposed, the motion carried.

Chairman Lopez addressed Item 12 of the agenda:

Quarterly Turnover Report from the Human Resource Director submitted for informational purposes only.

On motion of Alderman O'Neil, duly seconded by Alderman Shea, it was voted to receive and file the communication.

Chairman Lopez addressed Item 13 of the agenda:

New hire and terminations reports for the month of January, 2000 from the Human Resources Director submitted for informational purposes.

On motion of Alderman O'Neil, duly recorded by Alderman Sysyn, it was voted to receive and file the communication.

TABLED ITEMS

14. Communication from the Human Resources Director relative to the structure and status of department head and deputy department head positions in the Yarger Decker pay grade allocation.

This item remained on the table.

15. Ordinance:

"Amending Section 33.026 (Electrical Inspector) of the Code of Ordinances of the City of Manchester."

This item remained on the table.

NEW BUSINESS

Alderman Vaillancourt moved that it be the consensus of this Committee that no action be taken against Louise Gazda for sending the letter to the Board of Mayor and Aldermen and that the Board would not look favorably upon any repercussions to her as a result of her sending this letter. Alderman Shea duly seconded the motion. Chairman Lopez called for a vote. There being none opposed, the motion carried.

Mr. Hobson stated before you leave, I have some handouts.

There being no further business to come before the Committee, on motion of Alderman O'Neil, duly seconded by Alderman Sysyn, it was voted to adjourn.

A True Record. Attest.

Clerk of Committee