

## SPECIAL COMMITTEE ON THE CIVIC CENTER

**March 28, 2000**

**5:30 PM**

In the absence of the Chairman, the Clerk called the meeting to order at the appropriate time.

The Clerk called the roll.

**Present:** Aldermen Pariseau, Cashin, Hirschmann, O'Neil

**Absent:** Alderman Wihby

**Messrs:** Atty. Craig, Mayor Baines, D. Butler, M. Long, M. Holden, Solicitor Clark, Aldermen Vaillancourt, Lopez, Levasseur, Gatsas, Shea

The Clerk noted that in the absence of Chairman Wihby, a motion is in order to elect a Chairman Pro-Tem.

On motion of Alderman Cashin, duly seconded by Alderman Hirschmann, it was voted to elect Alderman Pariseau as Chairman Pro-Tem.

Chairman Pariseau advised that the purpose of the meeting is to discuss resolutions to a project labor agreement for the Civic Center and such discussions to be held with members of the committee, Mayor Baines, representatives of MHRA and the Gilbane Building Company.

Atty. Craig stated I represent the Manchester Housing and Redevelopment Authority. There is not an awful lot that I can say or do other than to say that I wish this meeting had been held about a year earlier. According to last Sunday's newspaper, the attorney for the banks said that the present agreement with Gilbane and the Authority cannot be changed. The Authority's position is we just arranged for the acquisition of the site and the construction of the property and the City has to pay for it. The funds are very tight and that is about all I can say I guess. I did watch the proceedings of the Board that resulted in this meeting and there was a lot of talk about local hiring. We did build into the construction management contract as much of a requirement for local employment as is legal, but of course there is no PLA (Project Labor Agreement) involved in there. That is about where we are and what we have done and why we have done it. It was based on the instructions adopted by the Board of Mayor and Aldermen.

Alderman O'Neil stated I don't disagree with Atty. Craig that I wish this discussion had taken place a year ago. I had asked the question and I was led to believe that we couldn't do it. It went on and on and until we heard from an outside counsel who had put these together and found out that in fact we could, that brings us to the point we are at tonight. Project Labor Agreements are done all over the country. They have been done in the private sector for a long time. They are becoming more popular in the public sector because the bottom line is that low bid just isn't working anymore. You are getting, in a lot of cases, unskilled craftspeople and you are getting a poor product in return. We are seeing that in many of our schools across the City. I would certainly encourage that we move starting...well actually we need to refer this to the full Board, but that we move in the direction of a Project Labor Agreement. I don't particularly believe the argument that it would drive the cost of this project up. It has gone up once. I believe that there is even consideration currently that it is going to go up again. I don't buy the argument that a Project Labor Agreement is going to drive the cost of this project up. Many of the members of the building trades have indicated to me that they will do whatever it takes, as they do in many other projects, to deliver this within the budget that is approved. So, this should not be any threat. I think it guarantees that we will get skilled craftspeople that are paid a fair wage and benefits and I think it is the best tool for us with regards to maximizing the use of residents of the City of Manchester on this project. We don't have to be fooled that there is anybody else but the citizens of this City that are financing this project to the tune of \$54 million. If you want to have discussion before I make a motion that would be fine.

Chairman Pariseau asked Atty. Craig if we move in the direction that Alderman O'Neil is referring to, how would that affect the agreement that is currently in place with Gilbane.

Atty. Craig answered well you would have to get the...first of all, all I know is what I read in the paper Sunday as far as the bank lawyer's position is concerned. He was quoted as saying that it just can't be done. Certainly, you would have to have the consent of the Authority, as well as Gilbane and if Gilbane's price changes, it has a domino effect and it will affect everything. It will fall back somewhere as far as cost is concerned.

Chairman Pariseau asked do we have a representative here from Gilbane.

Mr. Doug Butler stated I am a Project Executive for Gilbane and I work out of Nashua in the regional office. I have had several discussions with various people on Project Labor Agreements and how it would affect this particular project. I think it might be helpful if I went back in history a little bit on this project. I will explain a little bit about the way the contract that is currently in place got to where

we are. Gilbane, as you may or may not know, is a construction management firm. We get hired, much like an architect does, on professional qualifications to assist an owner in putting together a project and helping to management the project's timeline, schedule, and budget. We got involved in this project months ago. One of our first tasks was to do an estimate and to understand the pricing basis for the estimate. To put in place any sort of criteria you like, you have to then reflect that criteria in your pricing. Gilbane started its career many years ago as a union contractor. We had close relations with trade unions in all parts of labor. We do Project Labor Agreements fairly routinely throughout New England, but we do them only when a client has a specific need for one or it seems apparent that the client will get a particularly good deal by having one and there are plenty of reasons why that may be so. On this particular project, when we got involved in it we had some discussions with the Housing Authority and the people who were working on the project and they stated to us that there was no desire for a Project Labor Agreement and they wanted to get the best pricing possible for the City. Our experience in this particular market told us that that normally happens when you do what is called a marriage shot approach and you invite all qualified bidders to make proposals on a project. So, when we started our budgeting for this project, that was the basis of the budgeting estimates that we put in place. We were going to invite all of the NH contracting markets to participate to maximize our competition. We would not disclude anyone from participating in the project. The budget on this project was extremely tight. We went through several computer ratios and estimates to try to get down to a level that would fit within the overall project budget. It was not easy for us to do but the team has come up with a game plan assuming our pricing is correct on the budgeting thus far that will see us successfully complete this project. When the budgeting was put in place, as I indicated, the ground rules were known and we felt fairly confident that our pricing was pretty good and based on that scope we put in place a guaranteed maximum price. Gilbane is now guaranteeing that the construction dollars will stay within the budget that we had established with the criteria that we had understood was desired. Anytime you change that criteria, you have to anticipate that the dollars will probably change accordingly. The schedule of the project is also a serious concern and has been a very big concern for us because of the amount of time it took to get the financing in place. We are actually starting a month after our recommended schedule. When we first got involved in the project we put together what we call a scheduling meeting with all members like the Housing Authority, architect and design team and put in place a master schedule that got us to a time when we felt pretty confident that the hockey team could get in and play when they are supposed to play. Based upon that schedule, we actually started the bidding process for the work. Even though the financing wasn't in place, we knew that it had to be ready to go as soon as it was in place otherwise we stood no chance of having the building completed when it needed to be completed. To that end, we put together a select bid list based on all of the

qualified contractors that had the capability to do this job, both union and non-union. We bid the first five packages and did intensive scope negotiations with those bidders that did submit bids to us and recommending to the Housing Authority's representatives the low bidders for each of those packages. The first roughly \$15 million of construction work that we bid was essentially right on target with our estimate so we think that if things don't change we expect that the other roughly 2/3 of the job yet to be bid will come out similarly.

Mayor Baines stated I have circulated two letters. One from Thomas Wright and another one from Dan Courchesne stating some contrary opinions to the other comments made about Project Labor Agreements. I just want to comment that I agree with Atty. Craig. I wish that this conversation had taken place a year ago. From my perspective, I wish that it had taken place at least four months ago. I have no problems with Gilbane if you were told that there was no desire for a PLA. The question that I have from a policy perspective is wouldn't something like that normally come from the Board of Mayor and Aldermen, the governing Board of the City. Secondly, in your experience and I am not an expert on these agreements but do they generally raise the price of the project. Has that been your experience? You touched on the fact that you do use them on a lot of projects that you do.

Mr. Butler replied it depends on the locale and some of the other circumstances. I currently have two projects that are under construction with PLA's. One is in Massachusetts and one is in Rhode Island. It depends on what the marketplace is like. You can anticipate the preponderance of bidders will be union bidders anyhow or in the case of Massachusetts where they have a prevailing wage law that you must use on various jobs, in those cases you have already done the wage scale to the point where it is not a factor in the budgeting for a project. The other part of it, which is the actually wages that people are paid and the benefits are part of the competition. A market like Hartford is a fairly large union contractor base. You are not giving up much in the way of competition if you do a PLA. The same thing is true in Massachusetts or certain parts of Massachusetts. When you find a significant union contractor base of bidders for a contract, the wages are already likely to be paid and need to be accounted for in the budgeting and you really don't see that much of a change in price. It varies from location to location.

Mayor Baines asked so that is not a given that it necessarily represents an increase in price.

Mr. Butler answered no, it is not.

Chairman Pariseau stated you said that the first five packages have been bid on which represents roughly \$15 million. How many of those five packages have been awarded to unionized contractors?

Mr. Butler answered none.

Chairman Pariseau asked you did say that they were given a shot.

Mr. Butler answered yes. We actually did receive some bids from union contractors, but none of the low bidders turned out to be union.

Alderman Cashin asked if we add a PLA is it going to add to the bottom line. That is what we are here for. I haven't heard you say yes or no.

Mr. Butler answered without doing some analysis, I can't tell you how much but my feeling is yes. The reason is just what I have stated. There are two factors at work here. You have to find bidders that would be ready and willing to bid to essentially a union project. That is what happens when you put a PLA in place. Secondly, there would probably be an adjustment in the wage and benefit package so the price will go up.

Alderman Cashin asked would you say that people in organized labor might be better skilled than people who are not. Would they give us a better product?

Mr. Butler answered that is also variable. Certainly, the labor unions provide skilled labor. That is what they are in business to do. I think you can get skilled labor out of non-union bidders by prequalifying the bidders. There is a different approach there. In one case, the labor trade unions are actually training the workers and in the other case you are depending on the contractor to provide training for their workers.

Alderman Cashin stated obviously you are going low bid anyway.

Mr. Butler replied no.

Alderman Cashin stated that is what you said.

Mr. Butler replied we go to low bid, but we use a prequalifying bid list so we try to stay with people who have good reputations and references that we check.

Alderman Cashin is there anybody here who can enlighten us on address what he is saying so that we can hear both sides.

Mr. Mickey Long stated I wouldn't mind taking the opportunity. I am an attorney for a labor management trust corporation that primarily consists of labor trade unions and employers who have agreed to pay their workers high wages that they consider fair from the employers point of view and of course to help with insurance, pension and savings plans. We have been rather successful in large areas where it is an open shop. I will give you an example of two years ago Middlebury College had two good size eight story buildings that were built 99% non-union. The union bidder went up to bid and was \$100,000 under the two or three non-union bidders. Instead of the workers making \$8/hour, they made \$20/hour and that package included health insurance so that the taxpayers didn't have to pick-up the health insurance for the workers. The important point of being able to under bid those employers shows that the non-union sector doesn't have a monopoly on low prices. It is a fallacy. Another fallacy is that a PLA will increase the cost. What it will do is decrease the profit from the employer. You cannot look at my employers, the employers from the management groups that I represent and say you are going to have to bid against somebody who doesn't pay worker's compensation because he is paying his guy green money cash on weekends under the table. Believe me I have been investigating this industry for at least 20 years and it is pervasive. I am looking over at a colleague in the construction industry and I don't know if he will privilege me by letting me call him that but we negotiated a rather successful bill in the State of NH just a few years ago and the Governor signed it because there is such pervasive cheating. Members of Mark Holden's organization can't compete against each other because they are cheating so much. We are getting word that Gilbane, in fact, is about to contract with somebody who is being charged in the Federal government for cheating on construction jobs and violating Federal law, among other things. I am going to keep his name out because the purpose here isn't to bad mouth anybody, but the point is you can't compete against folks who are saying I cannot pay workers high wages and good benefits and compete against a person who doesn't have to do that. I am not going to get the bid. It is not going to increase the cost though because what happens is the people who are running the cost are making a profit on the cost. There is a certain piece of pie. Now if you don't have a PLA, those contractors are going to get a nice piece. If you have a PLA, the worker's on the project are going to get a piece so the profit margin is going to be reduced. There was another opportunity where the contractors at the Berlin prison before it went low bid the way it did, there was a contractor who had agreed to use a PLA and had a price in pre-project labor agreement price and after he negotiated a PLA with the building trades his price did not go up a dime. He sent a letter to the building trades union and I know that letter has gotten to some of the Aldermen, and I hope to all of them and that was a year ago. I don't think that the members of the labor unions and I know that the ones I represent it is not so much that the PLA creates a union-only environment, there is never such an opportunity for a union-only environment. That is against the law. It is just that simple. There is

nobody who wants a union-only environment. That is not good. The problem is responsible employers and if Gilbane is about to sub-contract with somebody who is being charged with or litigating a matter in Federal court for violating Federal law, it puts a question on what type of caliber he considers qualified bidders. He can do the job, but at what price? How much are we going to pay for those workers who are not employed? I gave you two examples. In Vermont a rather serious project in a completely open shop environment and in New Hampshire up in Berlin where I think the price was about \$30 million and the contractor wrote a letter saying you did not increase my number at all. Not a dime. The biggest point thought is it is not so much the union...there is no such thing as a union-only agreement. Again, it is against the law. Who are you going to allow him to put on as sub-contractors and how are you going to monitor that? You can tell him six ways from Sunday that you want the best contractor to provide good wages and to hire local people but the bottom line is the bottom line and that is what is going to direct his decision to advise you. We tried, a year ago, and we came here and we were on videotape and we said come on it has nothing to do with union. It has something to do with people. We cannot complete. The employers cannot continue to pay workers good wages that they have money to go and spend in a store. I just had a sandwich at the restaurant over here and if I didn't have the opportunity to earn decent wages, I couldn't do that. Some of the contractors that he is thinking about employing do that. Mark is a nice fellow. I have met him and he agrees that there is so much cheating that his only people can't compete. The bottom line is how you get responsible employers. We have given two responsible employer clauses. We are willing to sit down with this gentleman today and come up with a responsible employer clause that will put Mark's people on the job, that will put union people on the job, that will put open shop people on the job and that will take care of everybody without increasing the cost of this project. They have yet to engage in serious negotiations towards that goal. A lot of it has just been sitting there saying how can we convince folks that this is going to increase money that this is nothing but a big union gig. That is now what it is. Right now, it is a big contractor gig and that is what we are looking at and we are saying we backed this because we thought it was going to be good for the community. Now we are finding out that it is not the community that is going to benefit. It is profit seekers and that is okay. We are in America. I am not asking for the whole pie, just a little bit. Just a small piece. Thank you.

Chairman Pariseau asked what is your response to Mr. Butler's statement that they did send RFP's to pre-qualified bidders, some union and some not, and all of the union people came out higher than non-union.

Mr. Long answered I don't know who he has for qualified bidders. I did not see his bid process. I do know one thing. We have been trying dearly to get involved in his bid selection process to no avail. That is unfortunate. The bottom line is...I guess what I am saying is I don't trust Gilbane. He says one thing and I have been finding out it just ain't so. On a public works project like this, I would suggest that if we work together we can find both union and open shop contractors who are both responsible employers and can meet the budgets.

Alderman Hirschmann stated I appreciate you comments Mr. Long and Mr. Butler and Mayor Baines. What I want to do is I want to give some history and perspective to this group that is meeting today. Mr. Long did appear before this Committee almost a year ago and he did talk about Project Labor Agreements and he did talk about this issue so this isn't anything new or any new revelation. A month ago, this Committee took up this same issue. It did not go the way that some people wanted it to go so what happened? The process came back around to the full Board and was sent back here again. This is not the first time this was discussed. Atty. Craig, Alderman Cashin, Alderman Wihby, and Alderman O'Neil did discuss PLA's with Mr. Butler I believe. We were told that a contract had been signed and that this could not be done. Mr. Sklar reported in the newspaper that the contract had been signed. The language could have been changed a long time ago, but that date has long since passed. Alderman O'Neil, Alderman Pariseau, Alderman Cashin, we all sit on this Committee. The one thing I like about Mr. Holden's letter that you provided, Mayor, is that 85% of the workers in New Hampshire in the construction industry are non-unionized and a good testimony to not going into a PLA is our very own City Hall next door. I know for a fact that unionized and non-unionized labor worked on that building next door and it is a beautiful project. I don't see any reason to change the course of history with the civic center. I don't see these fellows jumping up and down for PLA's on our Riverwalk or other big projects. I don't know what this angle is. I am not making any insinuations. I am just saying that I haven't heard of any other projects in town, just the civic center. Most certainly, this issue has been discussed and discussed in our Committee and the minutes of the meetings will reveal that and to change the course tonight doesn't make sense. This gentleman said he put out perspectives to qualified bidders, which in our procurement code probably like his says pre-qualify the bidding process for the best contractors available at the best price. They did that process. Whether it is union or non-union, as long as we have some local representation building this building I will be happy. I want to see painters and workers and people that I know. When I walked into that new building next door, I saw a high school chum. I didn't ask him if he was in a union, but he was painting the building and he said Hirsch, it is good to see you. That is why we are here. We want local labor, that is all and I think we are going to get that with the language that Atty. Craig put in the contract.

Chairman Pariseau asked does anyone have any opposition to letting Aldermen who are not on this Committee speak.

Alderman Hirschmann asked could we hear from Mr. Holden first.

Mr. Mark Holden stated I am the Executive Director of Associated Builders and Contractors and we represent commercial contractors throughout New Hampshire. Actually, we are a national organization. I saw the demonstration last Tuesday and I have read some articles in the paper and heard some anecdotal comments made here and there. The comments and the suggestion seems to be that there is evidence that people should be concerned that local citizens will not have the opportunity to bid or to work on the civic center project and that there is evidence that good wages and benefits will not be paid to workers on the civic center project. I don't know where that evidence is coming from. I have heard a lot of words. I haven't seen any kind of real statistical information, quantitative or qualitative, that provides background to justify that. Non-union versus union is an issue that has been discussed and debated for years and it will be until the end of civilization. This issue, I do believe, is an issue of local hiring and good wages and good benefits. All I want to do is provide some facts. Not words from ABC that we have created, but some facts. I have done the best I could in response to what I have read and heard relative to claims of local issues and unfair wages and the first thing I want to present is information on the fact that union membership in the State of New Hampshire does represent in the private sector actually under 10% of the workforce. Total workforce including public and private is around 14%. That is a fact. These aren't ABC's statistics. They are from the Bureau of Labor Statistics in Washington and I don't know if the Committee wants to look at those. The last full year of numbers is 1998 and that is where those numbers are from. 85% to 90% of the construction workforce in the State has chosen and made the conscious decision not to be represented by unions. Some more facts and this I just printed off of the Internet today. It is from our own Department of Employment Security. It shows the unemployment rate in New Hampshire and if you look at the State of New Hampshire, the average is 3.5% and in Manchester specifically which is on the second page, the unemployment rate actually for the month of February was 2.7%. Again, these aren't numbers that we created. They are factual numbers. I guess my statement relative to that is that it doesn't really provide evidence that local citizens in the City of Manchester should be concerned about employment opportunities whether it is in the construction industry or working at Burger King. There are opportunities everywhere. Wages. The contractors that I represent are proud of the wages and benefits that they provide and quite frankly I am a little bit offended to have words spoken without any evidence accusing contractors of paying low wages. I have seen it in print. I have heard it. It is not accurate. We have information here that again isn't from ABC, but it is from the State of New Hampshire on the construction industry. The

Bureau of Census nationally surveys 1/3 of all businesses throughout the State and summarizes the wages that are being paid. We are not concerned about having any of these wages reviewed by Gilbane or whoever is qualified to review them to lean up against the type of wages that the contractors are paying who are bidding on the work. Speaking of Gilbane, it was quite some time ago and I certainly wasn't involved in the process, but there was quite a process to select the most qualified construction manager for this project and part of their responsibility is making sure that they get a qualified list of sub-contractors. Qualified list of sub-contractors who will perform the work. The initial comments made at the introduction of this meeting referenced low bid is not the way to go. We are finding that out. We are not going to disagree with that. A pure low bid lumpsum open to everybody can cause some problems. Construction management eliminates that by bringing in a qualified entity who knows the industry, has the experience and can help the owner, the City of Manchester, qualify sub-contractors to make sure that they are getting trades people who are skilled and who are being paid fair wages. I guess the bottom line from our point of view is there is no evidence that there is a problem for local people being hired to work on the civic center and there is no evidence to the contrary that contractors in the State of New Hampshire pay lousy wages and don't provide benefits. It is not true and if anybody would like to come forward with some real evidence of that, I think it would be worthwhile. Claims that contractors that are about to sign with Gilbane have charges against them, again, where is the evidence of that. I don't think it is fair to the process and I don't think it is fair to use the civic center to facilitate the discussion of non-union versus union. It is a philosophical issue. It is going to go on forever. This project is happening right now and I think it is time to move on. I don't think a PLA, which is basically a union-only issue and it is not coincidental that the building trades are the only people who are pushing for it, is not necessary in this State at this time.

Alderman Vaillancourt stated I am most welcome that we are allowed to be here and to say something. I have three questions and just to point out that I am absolutely neutral in this regard, I have a question for each side. I want to state at the outset that my neutrality is in regard to labor and I am the only Alderman who refused endorsement of labor during the last campaign. Somebody wanted to endorse me and I said that I would prefer not to so I could have an absolutely blank slate with regard to this. I just did want to say before I ask the questions that I kind of resent the fact that we started this discussion with that mantra that I think I heard. I didn't hear the words, but it almost sounded like done deal. Well if we were to agree with that, then we would certainly hear today that Catholic Medical Center and Optima would have been merged so I don't like to start out by saying that this is a done deal. We have elections in this democracy because we change people and if they want to vote a certain way then we can undo certain deals. So, I don't like that suggestion, but now to the question. The most

alarming thing I have read in the documents that have been handed out I will refer to the fifth paragraph, last sentence, in the letter from Thomas Wright to Mayor Baines dated 3/27. Can you tell me if this is correct? The independents don't carry worker's compensation and many times don't pay taxes. I will address this question to Mr. Butler. Is that true or not?

Mr. Butler answered I don't know what the document is that you are referring to. Can I take a look at it? This is probably a tactic that some contractors use. Instead of employees, they try to farm out work to independent contractors. That is something that we do not support nor do we hire contractors who allow that to happen. That is specifically done to get around the worker's compensation regulations. It is one of the sham processes. Our contract language specifically forbids that tact.

Alderman Vaillancourt replied I would suggest that at the very least we come away from this meeting with some kind of written guarantee that we will hire no worker on this project who is not entitled to worker's compensation.

Mr. Butler responded I would support that fully.

Alderman Vaillancourt stated regarding the charge and I think we do have a charge on the table that Mr. Gilbane's company is about ready or is perhaps going to be charged with Federal law, I think we owe it to ourselves to get to the bottom of that. I think it is a serious allegation and we should get to that.

Mr. Long replied I didn't say that Gilbane was. I said that a contractor that we suspect he is about to contract with was and the only reason I chose not to say the contractor's name is because I am not sure whether he will actually be engaged in that.

Alderman Vaillancourt stated I think that is most relevant and maybe we will need to go into executive session if that happens. The third question would be directed to Mr. Long regarding the Berlin prison. I, as a Representative, was very involved in that public works project. This company that you were referring to that was going to use this type of labor situation, they didn't get the bid did they?

Mr. Long replied they did not.

Alderman Vaillancourt asked why didn't they.

Mr. Long answered I suspect they didn't get the bid...it had nothing at all to do with the price they submitted. My point of the example was to tell you that here was a contractor that had a set price and he negotiated a PLA after that set price and it did not change. The fact that he didn't get the bid wasn't the point. The PLA did not affect the budget numbers. The issue is, had he got the bid those workers up there would have been from Berlin. I am sitting with a guy here who represents workers in Berlin and he couldn't get on that job. They couldn't get welders. They had to go to Maine. There were welders right in town that could not get on that job and they applied. That job was awful from a worker's point of view. The amount of money people were getting paid and the amount of local people who applied for it and were willing to work for the low wage with no benefits and could not get hired just because they were members of the labor union. I don't think anyone wants that and I know Mark Holden. I have spoken with him enough to know that that is not what he wants either.

Mr. Holden replied it is illegal not to hire because of your labor affiliation.

Mr. Long responded, Mark, you know better than me that that happens very often.

Alderman Vaillancourt stated just one final point. I think we should underline the statement that Mr. Long made and it came up at the Aldermanic meeting last week about whether this would increase the cost and the statement was made that this would not increase the cost. What it would do is decrease the profits. Obviously, if you don't increase the cost you decrease the profits so I think that is why Gilbane is against this because they don't want the profit decreased. Is that not true?

Mr. Butler replied no that is not true. Our fees are set at the beginning of the process and the cost of the job is almost transparent to us, but it is not transparent to you, the client. We get hired for a service for a fee and the service that we are trying to provide to you is the lowest possible construction costs consistent with the other criteria that you have set. I think it is a little unrealistic to think that the marketplace doesn't control the amount of money that the sub-contractors make and certainly the marketplace controls the amount of money that I as a CM can charge. The fees that a CM get are extremely small in comparison to the risk that is associated with it. We rely upon the marketplace to control the sub-contractors piece of the pie. The more competition we can get, that keeps their profit margin down to where it should be. I will tell you that they are extremely low. They are not ¼ of the pie or anything of the sort.

Alderman Vaillancourt stated just a comment. It wasn't meant to be a trick question. It was meant to be a softball and I expected the answer to be obviously we don't want our profit to decrease.

Alderman Thibault stated as you know, last Tuesday I believe I spoke on this and another Alderman questioned what I was saying. I would just like to read from the text here and I would like everyone to listen carefully to what I am saying here. The next and most important issue is the annual salary union worker's average an annual salary of \$33,000 as opposed to the \$40,000 that Mr. Holden had said his non-union construction workers got. Therefore, when Gilbane makes the argument today day that this would increase the cost of the project, this is what I base my statement on tonight. That there will be no increase to the project if we, in fact, hire union workers as well as non-union workers. I took it from this text that it said that it would not increase the project cost and that is what I believe. I certainly hope that this City that is going to build such a project in this City would be open to hiring union workers as well as non-union workers. That is all I want to say. I just don't feel that we should knock anybody out.

Chairman Pariseau replied I think the issue is that the City has, in the past, hired union and non-union people to work together. That is how the Center of NH came into existence.

Alderman Thibault stated I just wanted you to be aware of this note that was there. The non-union workers are making \$40,000 a year compared to union workers who are making \$33,000. Chances are that won't increase the price of the civic center. That is what I was trying to say.

Alderman Shea stated just so I can understand, Mr. Gilbane is the major contractor and the sub-contractors are the people who bid on the job. Do they set the wages for the workers? The sub-contractors? In other words, when you are saying that there are wages, these wages haven't been set yet have they? In other words, the workers that are going to work on the civic center, those wages have not been set yet have they?

Mr. Holden replied it is like any other employee, whether it is construction or any other industry. The employer has policies relative to their employees. The employees have reviews and different employees get reviews at different times and increases are given or what have you. The wages are probably structured right now for the employees who would be working on the civic center. Is there a chance that during the course of the project some employees may have a review and because of their performance get an increase? That is very possible. There are companies in this room here tonight that may be able to answer that more specifically, but if you ask any company are your wage scales established right now for your electricians or your plumbers or what have you, the answer would be generally speaking we know what the scale is going to be. Keep in mind again though that with all companies and again this isn't just construction, not all

employees make the same wage. It depends on their performance and their tenure and those types of things.

Alderman Shea asked with each sub-contractor is there a guarantee that each sub-contractor would award workers compensation and benefits or...

Mr. Holden answered I don't know what the contract calls for or if Gilbane has a clause that requires them to demonstrate that they are providing benefits. I can't answer that question. I don't know if there is or not.

Mr. Butler replied there is no requirement relative to that.

Mr. Holden stated I can tell you that there is a requirement in the marketplace right now and even if there wasn't, most employers right now and I can give you another survey if you want some more paper and I don't mean to be obnoxious by handing all of this paper out here but it will show you that the 90% of non-union employers in the State are providing health insurance benefits.

Alderman Shea replied my point is that there is no provision for this to be a guaranteed provision.

Mr. Butler responded on.

Alderman Shea stated so a sub-contractor can pay according to his bidding in terms of workers and benefits and so forth. In other words, he is not obligated to give any workers any benefits, any worker's compensation or a specific wage. He can give a higher wage than the union would or he can give a lower wage. Is that correct?

Mr. Butler replied that is correct. Just to rephrase what Mark Holden just indicated, we are expecting bidders to come from both the union and non-union sectors. They each deal with labor slightly differently. In the case of the union contractor, there are union agreements that are in place that set the levels of wages and benefits that get paid and that is known when the sub-contractor puts the bid in. In the case of a non-union bidder, they have their own workforce and their own policies and procedures for setting wages and benefits. He knows what those are as he puts his bid in so the two bidders are working from a known knowledge base. Me, as a construction manager, know on inviting these different bidders to come to the table but I don't know who has the better ratio. In some cases the union people come out ahead and in some cases they don't.

Alderman Shea stated a union contract guarantees that the wages will be a specific price and that the benefits will be of a specific nature. A non-union contractor or sub-contractor says we don't have to necessarily pay a specific wage nor do we have to insure that our workers will get a certain type of benefits. Is that correct?

Mr. Butler answered yes.

Alderman Shea asked and of the five bids that you received there are no union sub-contractors involved.

Mr. Butler answered of the five people that we have recommended to award contracts to, none of them are union.

Alderman Lopez stated you want to make decisions on people who give you expert testimony and I remember testimony from Atty. Craig when he said that if someone could come in and produce a building document that there was room to negotiate. It is in the minutes. I think it boils down to the banks. Alderman Hirschmann said this has been going on a year. I think the opportunity is in your court as to why in the world if there isn't wiggle room for a percentage for the unions for a PLA. Instead of 100%, there must be some legal room in there. It seems to me that the powers to be such as the attorneys and the President and whoever else has to sit down, if they can make a \$50 million agreement but they can't sit down and agree to what we call sidebars in the union to do something to make sure that it be 20% or 30% or whatever. It doesn't seem fair and I understand that anybody can get it but we all understand how unions and how other contractors work. There was a comment made that they work side by side. Of course they work side by side, but I will tell you that this project over here came in really high and if the trades people are saying it is not going to cost anymore, there must be some wiggle room that the contractor could give. It is beyond me with the money that the people are making on this project and I don't deny it that they should make money - the attorneys for setting up the whole deal and everybody else but it really bothers me and disturbs me that for such a project for this community the contractor can't find some wiggle room to negotiate faithfully to make sure that the people of Manchester and the trade unions get their fair share.

Mr. Holden stated without evidence of an issue that there is this force out there that does not want local people and does not want to pay fair wages and benefits and with evidence that in some cases non-union wages are higher and in some cases union wages are higher, what is wrong with open competition to the most qualified contractors. Why is there this white flag waiving, in effect, by the unions right now saying we are not going to get anything on this project so we want some kind of language that guarantees we are going to get something? What

is wrong with competition and letting the chips fall where they may and may the most qualified contractor get the job, union or non-union?

Alderman Lopez replied if there is a fair process and it is all in language not vocal cords and it is written with the trade union, I don't see anything wrong with it but from what I understand it is not there with what I am hearing from the attorney over there and other people. You tell me.

Alderman Levasseur stated 2.6% unemployment. The lowest unemployment we have had in this City. We are lucky to even get the unions in there to work because everybody is so busy. The economy decides what is going on. Economics decides what is going on. I think the least of our fears that we have to worry about is between union and non-union. It is just who is going to get the work done and who is going to do it for the price that we contracted with these people for. Let's get the ball rolling on this thing.

Alderman O'Neil asked, Mr. Butler, what is the guaranteed maximum price.

Mr. Butler answered \$43,987,792.

Alderman O'Neil stated I received a document dated the end of February of which the price quoted on it was \$38,481,770. My point with asking that question and getting that number goes to Mr. Butler's point about it will drive the cost of this project up. We have seen two documents with an increase in this project of over \$5 million. Construction costs. The construction cost is \$43 million?

Mr. Butler answered that is correct.

Alderman O'Neil stated I have a document that shows it is supposed to be \$38 million. I don't buy this argument that it is going to drive the cost of this project up. This project is already going up. The five packages that have been awarded, where are the firms from?

Mr. Butler replied the steel contractor is from Canada.

Alderman O'Neil asked where are their installers coming from.

Mr. Butler answered my understanding is their installers are coming from Manchester.

Alderman O'Neil asked how many residents of Manchester will be working on that job installing steel.

Mr. Butler answered I don't know the answer to that question. The excavation contractor is from Candia. The pre-cast contractor is from Canada. The double issue contractor is from Amherst. The concrete contractor is from Massachusetts.

Alderman O'Neil asked where is their workforce coming from.

Mr. Butler answered I don't know the answer specifically. He tells me that he has some people from both sides of the border.

Alderman O'Neil stated so not only is it not maximizing Manchester people but we are going to rely on Massachusetts people to do this job on the concrete.

Mr. Butler replied I can't tell you that as we sit here.

Alderman O'Neil asked could you get us the information on the steel, pre-cast and concrete and ask them to submit something as to where their workforce is coming from.

Mr. Butler answered yes.

Alderman O'Neil stated in my opinion where there is a will, there is a way. I certainly am aware of many cases where contractors have to sit down and sharpen their pencil to really get a job and if they happen to be affiliated with a union there are many cases where they go back and ask the union to make a concession of some sort. Many of the unions have target or market recovery money that they can put into the project to keep the costs down. I think the bottom line here is it has nothing to do with the cost, it has to do with there is no will to attempt to get into a PLA. With regards to Atty. Sklar's comment, I believe that his comments had to do with the price couldn't change, not that we couldn't enter into a PLA. Again, I go back to fair wages and benefits and skilled craftspeople. We have seen in many of our school buildings that we are just not getting skilled craftspeople and we are getting a poor quality product. If we absolutely positively maximize the use of Manchester residents on this job and I don't have anything in front of me that shows that that is accurate. That is why I strongly encourage us to attempt to enter into a PLA. I agree with Alderman Lopez. You have to sit down and work it out. At this point, there is no will to work this out. I was led by our legal counsel to believe that we couldn't do this for almost a year until an attorney, an expert in this said that we could and it is done all over this country. I will make a motion now, Mr. Chairman, unless you are entertaining more discussion.

Chairman Pariseau stated I don't know if it would be necessary to entertain a motion.

Alderman O'Neil replied one of the concerns is that they said they have not been directed by the Board to enter into a PLA. I have been told that.

Chairman Pariseau responded that is because of the advice of counsel.

Alderman O'Neil stated that is not what I was told. The reason that there has not been discussion about a Project Labor Agreement is because there has not been direction from the Board of Mayor and Aldermen to start that discussion.

Chairman Pariseau asked weren't we informed by Solicitor Clark and Atty. Craig that it was too late into the process.

Alderman O'Neil answered I have never seen any documentation relative to that.

Chairman Pariseau replied I don't think there was any documentation, but verbally I think it was said at my first meeting of this Committee in January.

Mr. Butler stated obviously I have done a lot of research on other PLA's that Gilbane has been involved in and one thing I have to caution this Board about is that there is a fair amount of legal case history on how you go about putting a PLA into place. We have had some success doing that in some cases. It is particularly onerous if a public entity wants to put in place a PLA. Gilbane has been sued by the agency on occasion over trying to do PLA's when we thought they were in the owners best interest. If a public owner wants to do a PLA, there is a fair amount of legal preparatory work that needs to be done in order to build up the case that it is actually in the public interest to have a PLA. What you are, in essence, doing is creating an environment that you are giving preferential treatment to a certain segment of the industry. I only caution you that while there may be no legal impediment, there is in fact a legal challenge that has been recognized. That is just a word to the wise.

Alderman O'Neil replied I happened to attend the meeting that Alderman Hirschmann talked about with Alderman Wihby and there was an attorney from Hartford, CT who specializes in these and has put over 50 of these together in 4 different states. This goes back to the advice and Mr. Butler was one of the people a year ago that said we couldn't do this. I certainly respect his opinion, but I don't necessarily believe he is correct with his statement.

Alderman Levasseur asked have the contracts with the five sub-contractors already been signed.

Mr. Butler answered the contract with the steel contractor has been sent to them for signatures. He has started work so we had to do that. The others are in the process of getting signed as we speak.

Alderman Levasseur asked if we were to change the process and we opened it up by allowing a PLA into the process, would that then open us up to reaching our agreement with Gilbane and then they might have to change the terms of the contract or would that not affect it. It is very important that if we have that set price and that set contract price now and now we go out and change the terms of the contract by allowing a new term in does that essentially reach the original contract with Gilbane and it might go up more.

Alderman O'Neil replied in my opinion, if it is determined that there are agreements with those five contractors and we can't do anything about it, then we can't do anything about it but this would be going forward.

Alderman Levasseur asked so the original five would be the same and then...

Alderman O'Neil answered I don't know specifically if we can. Maybe with the particular contract that Mr. Butler sent out there is nothing that we can do anything about.

Alderman Levasseur replied I think it is important because I think it important to decide what we can legally do. If we start changing the terms of the contract where there is a set price and that allows them to escape out of that set price, we are going to be really...this is going to turn into a nightmare. Solicitor Clark, do you have an opinion on that?

Solicitor Clark responded first of all, the City doesn't have a contract with Gilbane, it is the Housing Authority. We do have a guaranteed maximum price and we have to maintain that guaranteed maximum price. We have signed contracts with the banks and all of the documents that all of the parties have signed that say that is indeed the guaranteed maximum price and we can't go any further on that. Anything that is discussed with regard to PLA's or other kinds of participation agreements or anything else has to make sure that it stays within the guaranteed maximum price.

Alderman O'Neil stated I am not suggesting that we exceed the guaranteed maximum price. I am not suggesting that.

Alderman Levasseur replied I agree with you. I understand that, but I just want to make sure legally that if we do change it they don't get an escape clause out of it.

Alderman Gatsas stated it is a pretty simple issue. If the quote that I am seeing in The Union Leader from Atty. Sklar and certainly I wouldn't say that it has to be 100% accurate that there is no change to the contract and we are all sitting here having a long discussion about things that can't change unless the Aldermen that voted against the civic center are willing to step up to the plate and guarantee the \$12 million. Then we can get into this discourse and go from there. I think that the biggest question we need to address is that Mr. Sklar is talking to the banks and if he was quoted correctly and if it is then the choice certainly comes back to this Board and says we can change it but we are going to have to step up to the plate for the \$12 million that the bank is guaranteeing. I don't think we can have it both ways. I certainly think that a PLA was discussed before and if that is what the Board's wish was I could understand it, but I think that if Mr. Sklar is being quoted correctly, then we are certainly taking up an awful lot of time. The first comment that Atty. Craig made was that it couldn't be changed. If it can't be changed, anything can be changed, but it is going to be a price. If we are all in favor of that, I say fine and for the people that voted against the civic center we need to step up to the plate and guarantee the \$12 million to put a PLA in place or it can't change.

Alderman Vaillancourt stated I guess I am one of those. I just wanted to ask about Mr. Sklar, this mystery man who is getting quoted in the paper. Is he here? It is time for us to start getting people on the record and as we said at the meeting, not referring to newspaper articles. Is Mr. Sklar here? Maybe we should get him here.

Chairman Pariseau stated, Alderman, we are sticking to the issue.

Alderman Vaillancourt replied that was the issue. I am trying to get that quote nailed down.

Alderman Gatsas stated I agree with Alderman Vaillancourt. That is something that needs to be addressed and that is why I brought it forward. I don't know if Atty. Craig can answer that question, but it certainly has to be addressed.

Alderman Hirschmann stated Atty. Craig is the attorney for the Manchester Housing and Redevelopment Authority. His opening comments were that we cannot do this.

Alderman O'Neil replied that is not what he said and he is shaking his head no.

Atty. Craig stated with all due respect, first of all I said that I wished we had this conversation a year ago. Secondly, I quoted the article in the newspaper where Mr. Sklar was reported to have said that the contract couldn't be changed. That is what I believe I said.

Alderman Vaillancourt stated that was my point, Mr. Chairman. It is time to stop relying on newspaper accounts and get direct testimony.

Chairman Pariseau asked Mr. Ashooh if he were familiar with Mr. Sklar's statements.

Mr. Ashooh answered in the conversations I have had with Atty. Sklar and my experience with the bank financing agreement that we put together, this whole deal comes together for a fixed amount of money. Period. \$50 million from the City with the balance of private money. Anything that happens to change these agreements that may force this deal to exceed those amounts...the City can't put anymore money in the deal and any more private money means we would have to go out and raise more and that would change the budget. If there is ample testimony there that a PLA could affect the price of this, we don't have the ability to get additional money for this project and if the project does go up, the bank financing does go out the window. That is a fact. You would have to do the project over. Since I am here, I am not going to walk away quietly. Just one thing. We started this conversation last July with an effort, unanimous by this Committee and unanimous by the Board of Mayor and Aldermen, to put language into this contract to promote the greatest number of Manchester employees working on this project. The Chairman of the Committee at that time made the statement that his proudest moment would be to see the names of Manchester residents on the steel beam that goes up on top of the civic center. That is where we started with this thing. It ended up with PLA's because now we have a real project and everybody wants in on the deal. The fact of the matter is the language in the contract does not preclude anybody from participating and was left as open as possible to make anybody who is a qualified bidder in on this deal. That is all I have to say.

Alderman O'Neil stated I was just reading the newspaper article. Mr. Sklar was quoted as saying, "It is a guaranteed price and a guaranteed completion date." That is what he said.

Alderman Hirschmann replied there is another quote in the paragraph before that that says the construction contract cannot be reopened.

Alderman O'Neil responded but he references guaranteed price and guaranteed completion. I think Alderman Vaillancourt is right. We should get Mr. Sklar in to determine that.

Alderman Hirschmann asked read the closing out loud.

Alderman O'Neil answered I just read it. It is a guaranteed price with a guaranteed completion.

Alderman Hirschmann asked could I read the closing. "Daniel Sklar, a lawyer representing the banks said that the construction contract cannot be reopened. That is not possible, Sklar said. It is a guaranteed price with a guaranteed completion date. That is not going to change." That is the context.

Alderman O'Neil answered I guess we all interpret that quote in many different ways. I believe we should move forward on this and at least direct the Housing Authority to have serious discussions with regards to a Project Labor Agreement.

Alderman Vaillancourt stated this is like having a witness that you can't question because you are reading somebody's testimony. This is the reason why you need somebody here, so you can clarify quotes like that. You would never have a witness and refer to his testimony that is written. You would have him here so you can question it and then we can get to the bottom of it.

Chairman Pariseau replied if I knew that I was going to be acting Chairman, I would have done just that.

Alderman Vaillancourt responded well we could always adjourn and come back.

Alderman Shea asked do we have two separate contracts or one. Atty. Craig do we have one for the \$50 million and one for the \$12 million?

Atty. Craig answered I think the gentleman next to you can answer that.

Mr. Butler stated I think the question has to do with the overall financing of the project.

Alderman Shea asked we have two different types of financing, right.

Atty. Craig answered we have one contract.

Alderman Shea asked so we have one contract, which oversees the entire amount.

Atty. Craig answered basically that is correct. May I say something with respect to what Alderman O'Neil just said? The issue is not with the Authority or the City and Gilbane. It is with Gilbane and those parties who want a PLA. There is no way we can persuade them or anything like that. We have no leverage.

Alderman O'Neil asked so we have no leverage to direct them to sit down and talk.

Atty. Craig answered if you direct the Authority to sit down and talk, absolutely we will do it.

Alderman O'Neil moved to direct the Manchester Housing Authority to sit down with Gilbane and talk.

Alderman Hirschmann stated it has already been done.

Alderman O'Neil stated, Atty. Craig, you made the comment to me if I may that you had no direction from the Board on whether or not to do that. Is that a true statement?

Atty. Craig replied I don't recall. Let me tell you what the Authority's guidelines are. There is a cooperation agreement between the City and the Authority, that was approved first by this Committee and then the full Board back in the middle of June and it sets out a whole long laundry list of requirements. It doesn't say anything about a PLA. It does say, however, that it has to have as strong wording as possible with respect to the hiring of local people number one and number two with respect to this any change orders in excess of \$25,000 has to be approved by this Committee. Those are the two specific items in that agreement approved by the full Board and signed by the City and the Authority. If you had put something else in, we would have done it.

Alderman O'Neil stated and if we were given the proper legal advice on this...Atty. Craig I was told by both you and Tom Clark that you didn't believe we could do this. That is why it never got put in there.

Atty. Craig replied that is not true.

Alderman O'Neil responded it is true, Atty. Craig.

Atty. Craig stated let me clarify. At the time we were asked, we had some serious concerns on whether we could force it to be put in because the contractor Gilbane had already been hired and RFP's were sent out and there were no requirements in the RFP's for a PLA.

Alderman O'Neil replied this wasn't a recent discussion. This goes back almost a year ago.

Atty. Craig with all due respect, I don't agree with that.

Alderman Cashin asked, Atty. Craig, I don't know if this would accomplish anything or not but would you be willing to sit down and facilitate a meeting between Gilbane and these people who are concerned with the PLA and see if we can work something out. Let's talk politics here. This civic center was actually passed on a 53%/47% vote. That is a very slim margin and I don't think this City wants during construction to have picketers and everything else around that site. It is not going to help anything. It seems to me that we ought to be able to get together to work this thing out. Atty. Craig, would you just sit down with Gilbane and whoever represents the unions and see if we can come to some kind of mutual understanding here? Would you do that for us?

Atty. Craig replied I will try, but I can't guarantee anything.

Alderman Cashin responded I am not asking for a guarantee. I am asking for you to try.

Alderman Hirschmann asked, Atty. Craig, didn't you in fact just have one of those meetings with Mr. Butler, Mr. O'Neil and Mr. Wihby.

Atty. Craig answered there was a meeting with Alderman O'Neil, Alderman Wihby, myself, one of my partners...

Alderman Hirschmann asked what was the outcome of that meeting.

Atty. Craig answered Mr. Butler was there and I believe Dennis Adams was there and two lawyers.

Alderman Hirschmann asked to no avail.

Atty. Craig answered yes.

Alderman Cashin stated I would still like to have you do it.

Atty. Craig replied my answer is that I will do it.

Alderman Gatsas stated can we...I am going along again with my colleague from Ward 8. We need to address one answer first. I certainly am not opposed to whatever you make for a motion because I am not privy to making a motion but we need to get an answer first before anybody sits down and wastes anymore time. If Mr. Sklar says no, the banks aren't moving on this issue then we need to address it either we continue down that road with the financing in a different situation or we stop. I don't see us going any further if Mr. Sklar says no. Am I wrong?

Alderman Cashin stated with all due respect, if we don't change the bottom line I don't think they will mind us changing the contract. As long as the bottom line stays the way it is. Everybody is saying we can do all these things and work them out and not change the bottom line so I am saying let's give it a shot and try.

Alderman Gatsas replied but can we get an answer from a lawyer who is saying no.

Alderman Cashin responded you get a lawyer that says no and I will get five that will say yes.

Alderman Gatsas stated there is only one lawyer in this whole deal that really makes a difference and that is the guy who is holding the purse strings to \$12 million. You are right. You can put 10 lawyers in here and you will find 10 different answers, but there is only one that counts - the guy who is holding the \$12 million purse string.

Alderman Cashin replied I would still like Atty. Craig to sit down and see if he can work something out.

Chairman Pariseau asked could we have the City Clerk send a letter to Atty. Sklar on behalf of this Committee.

Alderman O'Neil moved to send a letter to Atty. Sklar asking for clarification of his statement that appeared in The Union Leader on Sunday, March 26. Alderman Cashin duly seconded the motion.

Alderman Hirschmann stated I will have to vote no on that motion because the attorney for the Housing Authority said that it was between Gilbane Construction and the Housing Authority. Even Mr. Sklar is a sideline person. He has no say over a PLA.

Alderman Cashin replied we are only asking him to explain his statement.

Alderman Hirschmann stated you want him to write us a letter.

Chairman Pariseau stated we just want clarification as to whether or not a PLA will increase the bottom line of the contract.

Chairman Pariseau called for a vote on the motion. The motion carried with Alderman Hirschmann being duly recorded in opposition.

There being no further business, on motion of Alderman O'Neil, duly seconded by Alderman Hirschmann, it was voted to adjourn.

A True Record. Attest.

Clerk of Committee