COMMITTEE ON JOINT SCHOOL BUILDINGS

October 13, 2009 **4:30 PM**

Chairman Beaudry called the meeting to order.

The Clerk called the roll.

Present: School Committeemen Beaudry, Craig, Gelinas; Aldermen M. Roy, J. Roy

Absent: Alderman Sullivan

Messrs: K. O'Maley, T. Arnold

Chairman Beaudry addressed item 3 of the agenda:

3. Ratify and confirm phone poll conducted July 16, 2009 approving Change Order #'s 206, 205, 209, and 207, for projects at the Manchester School of Technology.

On motion of Alderman M. Roy, duly seconded by Committeeman Gelinas, it was voted to ratify and confirm the phone poll conducted on July 16, 2009.

Alderman J. Roy asked this money is money that was available within this project, correct?

Chairman Beaudry replied that's correct.

Alderman J. Roy asked how much money is left now?

Chairman Beaudry replied that was out of the $1.8 million. I don't have the number.

Mr. Kevin O'Maley, Facilities Department, replied we have about $240,000.

Chairman Beaudry addressed item 4 of the agenda:

4. School Construction Updates.
   - Highland Goffs Falls Project
   - Manchester School of Technology Project

Mr. O'Maley stated I hope you got the packages I sent out about a week ago. There are a couple of pieces of reference information in there. The first one is on Highland Goffs Falls. We had a budget of $2.775 million and we've spend everything except $138,000 of that. We're looking at a few other projects at Highland Goffs Falls. The parking lot needs some work. We have a problem with an oil tank there. We're looking at getting the Building Commission to work on the mechanical side. There are a couple of small projects with the ceramic wall tiles and filling in the concrete side walks that we didn't contemplate earlier. The next page has the Manchester School of Technology. Again, we had a little over $10 million budget there and we currently have $266,000 left that hasn't been encumbered at this stage in the game. The other projects we're contemplating include commissioning that building as well. The school would like some improvements in the dining hall area and they would also like a carpentry storage shed that wasn't contemplated in the design. We're also looking at some alternative energy projects to spend the balance of the $266,000.

Chairman Beaudry asked on the bottom of page 3-2 it had a variance of $613,881. Now you're saying that that number is $200,000?

Mr. O'Maley replied I categorize these things a little differently than other meetings you have had. You wanted a simplified financial statement so that's what I intended to do. We included an estimate for commissioning, but I did not include that on the summary. They are two different things. Under "Future Work Under Consideration" I left all those projects with the available balance. I hope I didn't confuse you, but I was trying to distill the financial statements a little more.

Chairman Beaudry asked would I be right in saying that the change orders that we did this evening, if we took that out of the $613,000, we would come up with the $200,000 that's left?

Mr. O'Maley replied the change orders have already been encumbered so that's already been calculated out of that number. After that we still have the $266,000.

Chairman Beaudry state I know this is from July, but do we have anything that indicates the drawdown from the change orders to the variance number?

Mr. O'Maley replied yes. If you look at the detailed financial statement for the Manchester School of Technology every single change order is in there. It starts off at the top of the page with the design fees. The second box has the construction costs with the base contract and the alternates. Finally we have change orders from one down to eighty. After change order 80 those are change estimates that we haven't finalized yet, but those are the cost estimates for each one of those. Does that help you?

Chairman Beaudry replied no, because these are not numbered. I can't find that in my packet. I see the change orders and the descriptions.

Mr. O'Maley stated if you look in your package on page 4-5 it details the financial information. The top block is the design fees. After that is the construction costs and it talks about the base contract costs at $8,973,000 and all the change orders are listed after that. After 80, there are the change estimates that we can finalize into a change order, but those are the expected costs for all of those.

Chairman Beaudry asked where would the $240,000 show up if you continue on this form? Is that on the second line? No, that would be amount encumbered. Where is the number you just told us about?

Mr. O'Maley replied the number that I have is the estimate that we have left that we're putting into some of the other projects. It is $266,000. It shows the amount unencumbered. It is basically the same there. There is a variance of $16,000 because I put some of the things we have as estimates in. For example, I put in the detailed one for the building commission, but I didn't put it in the other change estimate to try to give you a better idea of where we are. The detailed financial estimates are the actual ones we go by.

Chairman Beaudry asked could we add a line to the column that shows what is left?

Mr. O'Maley replied okay. I'm still experimenting with this to try to give you the information that you are looking for. If that is more helpful we can do that.

Chairman Beaudry replied this is helpful to see what you are spending the money on, but unless we go down and do the math ourselves there isn't a line that says what's remaining.

Committeeman Craig asked with the $266,000 that is left do you feel that you will be able to accomplish these four items that are listed: the building commission, the dining area improvements, carpentry storage shed and alternative energy models?

Mr. O'Maley replied we won't be able to accomplish all of those based on preliminary budget estimates we have.

Committeeman Craig asked how are you prioritizing those?

Mr. O'Maley replied we'll meet with the School District and the school principals to determine their priorities and see what is most important.

Alderman J. Roy stated I'm looking ahead and I know we're going to discuss the roof at Central High. Are these funds available for that?

Mr. O'Maley replied the funds for Central are going to be in a different bucket of money.

Alderman M. Roy stated to Committeeman Craig's question about having enough funds you replied that there weren't, but you would work on a plan with the School Committee to prioritize. The $240,000 that is remaining isn't remaining. You have that plan that's not encumbered yet, but it has a destination within the project.

Mr. O'Maley replied that's exactly correct. We'll work through to prioritize and see what we can and cannot do. Those will be the ones we accomplish with the School District.

Alderman M. Roy asked what is the difference, or what is the negative, to Committeeman Joyce's question?

Mr. O'Maley replied I don't have those figures in front of me, but I would say it's in the range of a couple hundred thousand dollars.

Alderman M. Roy asked ideally, if we had $500,000 we would be able to complete everything versus the $240,000?

Mr. O'Maley replied exactly.

Alderman M. Roy stated I wanted to make that clear for the record.

Mr. O'Maley stated all the Committeemen understand that the MST project is the $10 million project and that is the one where the state is funding 75%. That money is remaining out of this project. The design/build had $1.8 million for any of the punch list issues, plus we have money left over from the OSEP and interest. That's what going to take care of the roof at Central. There will be two separate pockets of money.

On motion of Alderman M. Roy, duly seconded by Committeeman Gelinas, it was voted to refer this to the Board of Mayor and Aldermen for informational purposes.

Chairman Beaudry addressed item 5 of the agenda:

5. Design Build Project Updates.
    - Financial statements for project
    - Completion Report for project

Mr. O'Maley stated I put in the detailed financial statements for where we are with the $1.8 million. We roughly have about $246,000 left over on that settlement. On page 5-1 it gives you an overview of the entire design/build project. That was a very complicated

financial transaction and there are still, even at this stage where it seems like 98% of the construction is behind us, a number of things we have to sift through on the financial side. When we start to talk about the Central High gymnasium…the account balance plus interest in the $109 million design/build funding process is $1.38 million. The line below that is less the committed funds. Those are funds that have already been encumbered. There is the outstanding line of credit that we can't touch because of the way the insurance arrangement was set up with Liberty Mutual. When you take those few things out, we currently have $748,000 left in the design/build project. A big portion of that would be the funds that have been accumulating interest. The interest earned for all the things we are talking about was about $556,000. As we get into the Central roof project, those are the funds we would like to tap into for repairing the roof and the gym floor.

Chairman Beaudry asked is the $300,000 the OCEF insurance? Once they realize there are no more claims out there they are going to relinquish that money? Do you know what that timeframe is going to be?

Mr. O'Maley replied I can tell you that as we've developed this we've made sure the Finance Department is comfortable with this. We've had conversations about that and apparently it has been quite a feat to get the money. I think that was originally $750,000 and Harry Ntapalis had to go to the insurance commissioner of the state to get it reduced to the $300,000. We're currently going through that same exercise to see what we can do to get that number diminished even further. Ultimately, that is the City's money. The way I understand it, it is like a lien on the project. Until all the criteria are met there is nothing we can do to touch those funds.

Chairman Beaudry asked who has the money? Does the insurance company have the money or do we? Is that collecting interest for us or is it sitting in some type of fund the insurance company has?

Mr. O'Maley replied my understanding is, and I would have the verify this, that the City has the money, but it is shown as a liability on their balance sheet. There is nothing we can do with that right now. I would have the confirm that.

On motion of Alderman J. Roy, duly seconded by Alderman M. Roy, it was voted to refer this item to the Board of Mayor and Aldermen for informational purposes.

Chairman Beaudry addressed item 6 of the agenda:

6. Discussion regarding Central High School.
(*Note: Pictures of the gymnasium floor and the James Building roof are included*)

Chairman Beaudry stated this is the reason we are here this evening. Kevin, can you give us a synopsis of how we got to where we are today?

Mr. O'Maley replied sure. The two roofs outline the James Building at Central High School. We haven't been able to determine exactly how old that roof is, but we think it is between 24 and 26 years old. It has been a priority within the Facilities Department to get this replaced over the past few years, but the project hasn't been funded. Over that period of time we've increased the priority level. As of last year, it was considered our number one priority to get it replaced. In the December/January timeframe we had a problem with water on the gym floor. We had to do some repairs in the southwest corner. I was up on the roof a couple of times. It is a rubber roof and it is so brittle. It is to a point that the gym floor is buckling and is not usable. I wouldn't recommend doing any more gym floor repairs until we go ahead and deal with the roof.

Chairman Beaudry stated I know you heard this once already, but I have to reiterate that this really upsets me. If the roof was 24 to 26 years old I never would have voted to do all that work inside until the roof was fixed, especially since we now know that they have patched that roof several times. There are patches on top of patches at this point. I don't know what we can do as a Committee. I know this goes to the Aldermen and they have to relinquish the CIP funds, but I think we should be more aware, at least on the school side, when these projects come forward that we know exactly what the overall condition of the building is before we start dumping money inside. If this were someone's home, they wouldn't spend hundreds of thousands of dollars maintaining their walls and floors just to have their roof leak. I know there isn't much we can do about it now except to get it fixed, but this is good money going to waste. It is unfortunate. The taxpayers are asking how this could have happened. I'm venting my frustration that we have over $100,000 in damage that never should have occurred. Maybe it was an assumption that I had that under the design/build we were taking care of the roofs and doing a lot more work than what it really came out to be. With that being said, we do have the $650,000 left in the design/build. We can look at moving that forward. I know I did talk with an Alderman recently and he stated there were other funds available to fix this roof and the floor. He wouldn't tell me where the money is, but he said it was available. We have to go with what we know and what we know is what is in front of us. Unless something comes up on the Aldermanic side to relinquish the $650,000 from the design/build…the money could be well used on other issues that we have in the design/build that still have to be done. I know we can't move that money to MST, but we have projects that have not been completed and that money could be well spent in other areas.

Alderman M. Roy stated I thoroughly agree in the sense that there are places that we could be spending the money more efficiently, but when you look at the design/build, there were a number of projects that needed to be funded between the passing of the design/build in 2003 and today. While this is the one leaking and getting the headlines and has the largest impact, not only to Central, but to the entire City, if Kevin went back

and made a list of all CIP projects that have been requested and not funded, that would be a dramatic list. I think we should be more proactive. Luckily, we do have the excess interest from the design/build.

On motion of Alderman M. Roy, duly seconded by Committeeman Gelinas, it was voted to use the excess interest earned from the design/build and apply it to the Central High School roof replacement.

Committeeman Gelinas asked does this now go the full Board of Mayor and Aldermen for information? Can they change what we are doing here?

Chairman Beaudry replied no. If they find other money, they would have to let us know. We would have to come back and make an alternative motion. When it comes to the projects, we were told by the Solicitor that this Committee oversees the money, the expenditures and any changes to the design/build money. We are set up by state statute.

Committeeman Gelinas stated the reason I mention it is because I don't want to find out that the other source of funds that is supposedly available, but has not been told to us, all of a sudden appears and it is charged back to the School District.

Chairman Beaudry stated that's a good point. That's something the Aldermen said would not happen, but I would concur. We don't have any money at all available for any charge backs. I concur with you. If that happens, it would be up to the purview of this Committee whether we wanted to accept or deny those funds. That's my understanding.

Committeeman Gelinas stated I would hope that this Committee votes unanimously.

City Clerk Matt Normand asked is there a total dollar amount?

Chairman Beaudry replied I believe it was up to $650,000.

Mr. O'Maley stated we've done a number of similar type roofs over the course of the last couple of years. We figure the cost of the roof replacement is going to be about $500,000 to $520,000. It will be about $40,000 in design fees. We'll have to go back in and do some repairs to the floor. We might have to replace the whole floor. We could spend up to $100,000 just to repair the floor.

Chairman Beaudry stated the problem I have with doing this in public is that people are watching this and maybe the contractor is watching it, but I don't want to be giving out numbers on what our assumptions are if we are going to have a bid going out.

Mr. O'Maley stated based if we get authorization or approval today, we're meeting with a designer and two contractors tomorrow. The first question that needs to be answered is if we can get this done before the winter. We'll have some experts to tell us yes or no. We're going to do this under emergency procurement to see if we can get this thing moving along pretty quickly.

Committeeman Craig stated I wanted to confirm that this motion includes fixing the roof and the gym floor. Is it correct to say excess interest or is that we are using monies available from the design/build?

Chairman Beaudry replied I would leave it as using money from the design/build because the excess interest may not be sufficient.

Alderman M. Roy stated I'm looking for the exact language in the Charter, but I don't believe if we use design/build funds, funds that were allocated under design/build, that we can switch them to this project.

Chairman Beaudry stated this project was part of design/build. I know we are splitting hairs…

Alderman M. Roy stated I want to make the motion in the broadest form, but I don't want it to come back to us legally that we can't get the project done. I think the spirit of it is that we move the dollars, but my understanding is that because it was excess interest it was outside of the design/build and therefore could be used. I'm flexible to anything that will get the project done, using the most cost effective means possible.

Committeeman Craig stated there doesn't seem to be enough money in the excess interest, which is why I asked.

Mr. O'Maley stated it would be our opinion, because Central is included in the design/build project and the roof replacement was considered for that design/build project at one point in time, that the entire design/build excess funds would be eligible for a repair of this nature.

Alderman M. Roy stated I am very flexible on it. I've had it handed back a number of times from the City Solicitor. I do not want to see delays in this project. If the Solicitor calls it back, I would like the Chairman to call a meeting 24 hours later to get the funds from the right location.

Chairman Beaudry stated I would concur with this, but I do believe we have transferred money in the same project. I know we did something at West High School with funds that were not part of the initial design/build, but we moved money to allow that to happen. I think we are going to be all set, but I'm glad you're moving cautiously forward.

Chairman Beaudry addressed item 7 of the agenda:

7. Activity Summary Form FY2009/2010 and Activity Summary Form FY2010-2011.

Mr. O'Maley stated you had brought up why this did not get funded and how we are managing the roofs. We are also disappointed. We would have liked to spend $750,000 on something else. I try to be fairly objective since I am still fairly new. When I look at the way the decisions were made in the design/build and the way the CIP process was handled, the project floated up the priority list, as you would have expected, but as it competed with other funding priorities it was something that could not be funded. I don't think there was much in the way of CIP funds for the Facilities Division at all. Each year it moved up on the Facilities Division priority list. The School District also needed to arrange its priorities relative to CIP. It never made it up to the top of the list on the School District's priority list. We completely understand that, but I think it was something that always had someone's attention. We just couldn't get the funds available to do the work.

Chairman Beaudry stated the thing that I wish Facilities would do when they come before the Building and Site Committee, at least on the School side, is to be more emphatic on what needs to be done. We had our top four priorities, but then the life safety issues came in. The Fire Department did some inspections and came back saying that we had deficiencies in these areas and they had to be done immediately. That bumped everything down in order to get the four life safety issues resolved. If we knew that Central's roof was leaking and it had to be repaired, at least in my mind, that would have played a different role on how we were going to spend that money.

Mr. O'Maley stated when you look at the list that the Facilities Division put together we had that as our number one priority even above all the life safety items because we knew we were going to have significant problems in a short period of time.

Chairman Beaudry stated one thing I noticed was that from fiscal year 2009 to 2010 the cost of that roof went up $100,000.

Mr. O'Maley stated what we included in that was the entire James Building roof. Before, and I didn't have anything to confirm the estimate other than from conversations, but that was just the gym roof repair and not the entire James Building, which is basically the same type of roof. We're having leaks into the classrooms under that too.

Chairman Beaudry stated it is actually a $400,000 difference not $100,000. The Solicitor is now here. We have a question on the design/build. The Central roof has to be repaired because it is leaking and damaging the floor underneath. There is approximately $700,000 left in design/build. $300,000 of that is from interest in bonds. We want to take at least $650,000 of that to fix the roof and the floor at Central High School. I know we have done something similar to that in the past, but there was a question about whether or not that was in the scope of the project. What is your opinion on this?

Mr. Tom Arnold, City Solicitor, stated I couldn't give you an off the cuff opinion as to whether it is in the scope of the project or not. If it is, you can most likely move the money. If it is not in the scope, you cannot. The funding and bonds and for the design/build specifically state that any funds remaining after that project is completed are used to pay down the principle and/or interest to the bonds. In addition, if you move it from one bonded project to another, that requires the approval of the Board of Mayor and Aldermen.

Chairman Beaudry asked how would we proceed this evening? This needs to get done quickly. Every time it rains it is causing more damage.

Mr. Arnold replied if you would like the City Solicitor's Office could sit down with the Finance Department, take a look at the project and try and arrive at some recommendation as to whether it falls within the original design/build project or not.

Chairman Beaudry stated I understand that you are going to work on this immediately. What do you need for a timeframe, Kevin? I know you wanted something done yesterday.

Mr. O'Maley replied we can still move forward with the meetings we have planned to see if we can get it done in a short period of time, but as soon as we get the official authorization we can move forward on it. Since we are doing this under emergency procurement procedures, we'd like to make some commitment within two weeks.

Alderman M. Roy stated with you indulgence, I would ask that as this Committee authorized Building Maintenance to move forward with the source of funds to be allocated by the full Board of Mayor and Aldermen meeting next week and have the City Solicitor prepared to authorize those funds. I believe because it is excess interest is

doesn't fall within…the only reason we have these funds is because the project has dragged on as long as it has. I don't believe they were in the original allocation.

Chairman Beaudry stated I think Committeeman Craig made a good comment as far as…we're already paying on this bond. Would the interest create more of a debt if we are paying additional on the interest? If we bonded $109 million it is going to be $109,556,000. Are we going to be paying debt service on the $556,000 that was interest?

Alderman M. Roy replied no.

Mr. Arnold stated I am unsure, although I think that interest on the proceeds is accounted for. Obviously, you are not paying debt service, I don't believe, on earnings. You only pay your debt service on the original bond and the interest that you are paying to the bond holders.

Chairman Beaudry stated that's fine, but the School District does not have any additional money to be paying more debt service.

Alderman M. Roy stated the School District is already paying debt service on these dollars. The only reason we have the excess interest earned is because it has been sitting there. When we received the bond money, it went into a bank account and got doled out by Building Maintenance. Because of the length of the project, there is excess interest earned on the dollars that have stayed in the City's possession. That's where I believe and where I'm willing to wage the battle that it is somewhat outside of the allocation or the original bonded budgetary amount.

Committeeman Craig stated I'm fine with the motion as long as you are taking the money from the design/build project. Is that correct? We have no other money to pay for this and we can't pay for a chargeback. With your motion you are assuming that it is either coming from the excess interest or the total available. Is that correct?

Alderman M. Roy replied I would accept a friendly amendment saying that the dollars could come from anywhere that did not add debt service or a chargeback to the School District or impact the School District budget in any added fees or costs. Let's say the Aldermen say that this has to be done and they agree with me and we say take it from one time revenues or other interest earnings throughout the City. I don't want it limited from this Committee. I agree that the School District does not have the money to pay anything extra. I don't want to limit where it can come from. As long as there is no additional cost, I would be happy moving this forward to the Board of Mayor and Aldermen.

Chairman Beaudry stated I think that would suffice. My only concern, and this is to the Solicitor, is that we have had restriction on the jurisdiction of this Committee and the Aldermen, but I would like to have it reiterated as far as when money is to be expended

within a project. It is my understanding that Joint Building and Sites has full authority over that money under statute. I don't understand why we have to go back to the Aldermen to have their approval when this Committee is the authorized group to expend money within the project.

Mr. Arnold stated you need the approval of the Board of Mayor and Aldermen when you are switching funds out of a bonded project to another project. It is because they are bonded.

Chairman Beaudry stated if this change is deemed to be outside the scope of the project, that's when it has to go to the Aldermen for approval. If it is within the scope of the project, this Committee can move it and get it accomplished.

Mr. Arnold stated I believe that is correct, yes.

Committeeman Gelinas stated I think the approach we should take on this is what we already voted on. The City Solicitor has not indicated whether or not the approach we are taking is not within the realm of the design/build. That will be determined later. I think we have to assume, and I think it is the safe assumption right now, that we're operating under the way we can operate. I think that maybe we should allow the motion that has already been made and voted to continue and wait to see if there is a decision that will come forward that is adverse to the motion that we passed. At that point we can make a new determination.

Chairman Beaudry stated I agree. Kevin, you have your instructions to go ahead and move forward, unless the City Solicitors office in the next 24 hours says we have to do something differently. Is that alright with you, Tom?

Mr. Arnold replied we will certainly meet with Finance. I wonder about the 24 hours. We will certainly do our best, but it takes coordination with other parties.

Alderman M. Roy stated I would ask the City Solicitor that any meeting regarding this subject has a representative from Building Maintenance, either Kevin or Tim Clougherty, to sit in to give testimony or argument.

Mr. Arnold stated I can do my best to coordinate with an additional party.

Chairman Beaudry addressed item 8 of the agenda:

8. School District CIP priority lists for FY 2009/2010 and FY2010/2011.

This item was placed on the agenda in error and was therefore not discussed at the meeting.

There being no further business, on motion of Committeeman Gelinas, duly seconded by Committeeman Craig, it was voted to adjourn.

A True Record. Attest.

Clerk of Committee