

COMMITTEE ON LANDS AND BUILDINGS

November 15, 2004

5:30 PM

Chairman Thibault called the meeting to order.

The Clerk called the roll.

Present: Aldermen Thibault, Roy, Gatsas, Osborne, Porter

Messrs.: J. Porter, T. Arnold, K. Sheppard, L. LaFreniere

Chairman Thibault stated before we get started I would like to address Item 19 so that Joan Porter doesn't have to stay for the whole meeting and also Item 10 after that.

On motion of Alderman Roy, duly seconded by Alderman Osborne it was voted to remove Items 19 and 10 from the table.

Deputy City Clerk Johnson stated I just want to clarify that you removed both items from the table and you will take the items in the order you stated.

19. Land on Francis Street, Map 861, Lot 25N

Deputy City Clerk Johnson stated the Clerk would advise that the Planning Department had indicated to offer it to the owners of Lot 18 or 24. The Tax Collector did submit a report and the Board of Assessors at one point had indicated a value for it. We did receive two communications from abutters indicating they had an interest and the recommendation at this time is to put it out to public auction and limit that to the abutters. Joan was going to check with the auctioneer. I don't know if Joan wants to come up and comment on it.

Joan Porter, Tax Collector, stated I did call St. Jean Auctioneers today and they recommended that the best way for the City to make money on this is to go through public auction and have whoever is there bid.

Deputy City Clerk Johnson asked so just do it as a general public auction.

Ms. Porter answered right.

Alderman Osborne moved to find the property surplus to City needs and to send it out for public auction.

Alderman Gatsas asked haven't we in the past offered this to the abutters.

Chairman Thibault answered yes we have.

Ms. Porter stated I am not privy to all of the information except I understand that the two abutters are basically at the point right now where they are bidding against each other so the thought was to send it to public auction and allow anyone who wished to bid to bid.

Alderman Porter stated this may be a question for the Solicitor. For the public good or as justice requires would it be possible to have a sealed bid between the two abutters?

Deputy Solicitor Tom Arnold responded the Committee with the appropriate findings could certainly do that. I guess it is a policy decision whether that is in the best interest of the City because of the price you will get.

Alderman Porter stated I personally have observed situations where a third party has definitely bid up the property so that the logical users of the property if they want to acquire it have ended up paying what I consider an exorbitant amount of money for it. I, myself, would have no problem if...as long as it could be done legally to the abutters a sealed bid between the abutters rather than a general auction.

Deputy City Clerk Johnson stated I would just note that my understanding in this particular instance is there is another gentleman named Peter Lawrence who has an interest and there was something to do with an easement relating to his property as well.

Alderman Porter asked is he an abutter.

Deputy City Clerk Johnson answered I am not sure whether it is a drainage easement to his property or what exactly it involved. I don't know if the Assessors might know better than I do.

Alderman Porter responded if he were an abutter I would say then include that abutter if you had three abutters.

Deputy City Clerk Johnson replied he is not an abutter but there is an interest there. There is something dealing with the drainage and I know that one of the

abutters said something about giving him an easement. Maybe if you are going to do it you can do it subject to that easement.

Alderman Porter asked does he wish to buy it or does he just have an interest in it.

Chairman Thibault stated he doesn't have an interest in buying it, however, the person that I know who is looking to buy this land doesn't mind giving him an easement for his septic problem.

Alderman Porter asked what about the other abutter.

Deputy City Clerk Johnson responded the other abutter has indicated that they are willing to pay the City \$15,000. There has been no discussion with anybody about an easement. That was something that the other fellow had come up because I think he was at one of the meetings when Mr. Lawrence had indicated a concern.

Alderman Porter asked so the easement would help to resolve a septic problem.

Deputy City Clerk Johnson answered perhaps. I am not sure what the issue is. I just know that there is an indication in the communications in your agenda about an easement.

Chairman Thibault stated what I know, Alderman, is that there is a gentleman who put a septic system on someone else's land and one of the guys who is looking to buy this property said that he would like to give him whatever easement he has to have in order to make him conform more than what he is. That is all I know about it.

Alderman Forest stated I received a call today from Peter Lawrence. Peter Lawrence is interested in that piece of property either as an abutter or as a purchaser but he couldn't make it tonight. He is a fireman and he is working. He had asked that you leave it on the table to see if he could make it another night. He is stating or at least he told me and he probably can verify that when he shows up that the person who wanted this property was supposed to talk to the abutters and that hasn't been done yet. So as an Alderman in the area I don't have an objection to this thing going to auction but I know in the past we have sent letters to abutters about property worth selling and give them the opportunity to buy it and I would like that to be done.

Chairman Thibault stated seeing as there are three people and they are not all abutters that is why I think a public auction would probably be the better way but whatever.

Alderman Osborne stated I don't think we should be getting in the middle of all of this anyway.

Chairman Thibault asked can we get a second to the motion on the floor before we take more discussion.

Alderman Roy duly seconded the motion to find the property surplus to City needs and send it to public auction.

Alderman Gatsas stated I guess if my colleague from Ward 5 would accept a friendly amendment it would be that instead of it going to public auction with an auctioneer where we are going to be paying...it has been awhile and the only time we did it was on a piece down on Sheffield Road I believe in that area because it was going to bring in a large amount of money that we put this out for sale with a minimum price of \$14,000 and whoever comes in with a price over and above that, that is fine. I think that is the way we should do it. If it is Mr. Lawrence or one of the other two abutters and if you will accept that as a friendly amendment.

Deputy City Clerk Johnson stated so he is saying public auction with a minimum bid of \$14,000.

Chairman Thibault called for a vote.

Alderman Gatsas asked can you repeat the motion please.

Deputy City Clerk Johnson stated it would go to public auction with a minimum bid of \$14,000.

Alderman Gatsas asked the offers would come back to us, not a public auction. The offers would come back to City Hall.

Deputy City Clerk Johnson asked how would we post that as a public sale. Who are you going to invite to bid since you have not...that is why we generally use the auctioneer because they do the advertising and take care of all of the notices, etc. and conduct it right on the property.

Alderman Gatsas asked in the past when we have done it with abutters what have we done.

Deputy City Clerk Johnson responded if you are limiting it strictly to the abutters and you have a just cause to do so you could offer it merely to abutters and do it through a sealed bid process. In this instance you have one person who has already made an offer so if you do it that way it has been told what the other

person offered so you have already sort of created a situation that you may want to do a public bid process. That is why I suggested abutters only but through an auctioneer.

Alderman Roy asked what is the fee we pay our auctioneer.

Deputy Solicitor Arnold answered we do not pay a fee to the auctioneer.

Alderman Roy asked is the fee taken out of the proceeds collected at auction.

Deputy Solicitor Arnold answered no it is a buyer's premium at the time of sale.

Alderman Roy asked 10%.

Deputy Solicitor Arnold responded 7.5% I believe. That is what it has been in the past.

Alderman Roy asked so that everyone is clear on this the high bidder if it is \$10,000 is assessed a 7.5% fee to represent all costs from the auctioneer.

Deputy Solicitor Arnold answered yes.

Chairman Thibault called for a vote.

Deputy City Clerk Johnson asked can we just clarify that it is for public auction at the \$14,000 at this point because it started out as public auction.

Alderman Gatsas stated public auction.

Deputy City Clerk Johnson asked and is \$14,000 okay for the minimum bid.

Chairman Thibault answered yes. Chairman Thibault called for a vote. There being none opposed, the motion carried.

Chairman Thibault addressed Item 10 of the agenda:

10. Communication from City Library regarding space needs of the West Branch Library.

Chairman Thibault stated what we are doing here is saying that the West Library can now have the full building at the old building where the senior center was.

Alderman Gatsas moved that upon Meals on Wheels vacating the West Side Library branch that the West Side Library utilize the entire space. Alderman Roy duly seconded the motion.

Alderman Porter stated I would like to have an idea and Barbara you are here, does the senior center need that space going forward and for what purpose. Here is my dilemma. The opening of the senior center is the 17th. Now I assume everything will be moved by then. If an assessment of the needs...if that new center is adequate there would be no need for that...we are talking the kitchen area I believe correct? Barbara could you come up please?

Chairman Thibault stated let me tell you this. The new senior center was built with the supposition that Meals on Wheels that is now in the Library go to the new building so the Library would be able to use completely the standing property that was there before.

Alderman Porter asked then why is the issue even before us.

Chairman Thibault responded because we have to give the okay.

Alderman Porter asked but if that vote were already taken by a prior Board why are we voting on it. If that was the arrangement that that was the reason the senior center was built and that was a done deal...I am voting on something that I really don't feel comfortable voting on only because I don't know whether the needs of the senior center will require that space to continue or not. That is my only concern.

Chairman Thibault called on Mayor Baines to speak.

Mayor Baines stated first of all I strongly support turning over that building to the West Side Library. As you know, the Library went through many different proposals to establish a West Side Branch of the Library. They were originally looking at the Brown School, which we found not financially feasible and the concept was consistently talked about through this entire process that once the senior center was...the determination that it was going to be built that that building would be turned over to the West Side Library to fill a much needed need on the West Side for this space. It is a very active space. It gets a lot of utilization, especially from the children in the City. That is where my wife used to take my three kids growing up. It is a very intimate setting and that was always the idea of it. However, no formal action has ever been taken. If we are going to proceed with that, especially during the planning process, we need the Board to take final action so that can take place.

Alderman Porter asked so there was a commitment made to put that space to the Library.

Mayor Baines answered that was the thrust of the discussions throughout that process.

Chairman Thibault called for a vote on the motion that upon Meals on Wheels vacating the West Side Library branch that the West Side Library utilize the entire space. There being none opposed, the motion carried.

Chairman Thibault addressed Item 3 of the agenda:

Communication from Manchester Housing and Redevelopment Authority regarding the sale of French Hall.

Deputy City Clerk Johnson noted that Mr. MacKenzie's mother passed away today and he is not available to discuss this item.

Alderman Gatsas stated I understand that there is another purchase and sales agreement on this property.

Chairman Thibault responded I just found that out today. Yes.

Alderman Gatsas stated I would hope that when there is a review of it that we...I don't think anybody in Lands and Buildings has been extended a copy of that.

Deputy City Clerk Johnson stated I believe the Solicitor may be able to address this for you.

Deputy Solicitor Arnold stated just briefly Bill Craig called me this morning and indicated that they had another party that had expressed an interest in purchasing the French Hall property. He indicated that the Manchester Housing & Redevelopment Authority wanted to investigate and further research that offer before any action was taken.

Chairman Thibault asked why don't we table it.

Alderman Gatsas stated my understanding is it is a company that is looking to move 150 employees and utilizing the entire space and expanding it by 30,000 square feet so I think that it absolutely should be part of the discussion that is brought before us and I think it needs to be done sooner than later.

Chairman Thibault responded why don't we ask them to come and make a presentation.

Alderman Gatsas asked when would you like to do that.

Chairman Thibault answered a couple of weeks from now.

Alderman Gatsas replied I think you might want to do it sooner than that.

Chairman Thibault stated I won't be here next week at all.

Alderman Gatsas asked do we have a full Board meeting. I think it is probably important enough that the full Board hear it tomorrow night.

Alderman Porter asked are we going to be given some information on this at some point.

Chairman Thibault responded that is what I am asking for right now.

Alderman Gatsas stated I would assume...my understanding is that a letter has been forwarded to Manchester Housing Authority along with the Mayor's Office so maybe we need to bring them in tomorrow night and let the whole Board take a look at it.

Chairman Thibault asked do you think we can get them both in tomorrow night. Manchester Housing as well as the new...if we can get them in I have no problem with that. We can either get them in now or as soon as they can after next week.

Alderman Gatsas moved that we invite both parties to tomorrow night's Board meeting and maybe the Mayor can move it from new business to the front of the agenda so that we can at least get a full presentation. Alderman Porter duly seconded the motion. Chairman Thibault called for a vote. There being none opposed, the motion carried.

Deputy City Clerk Johnson asked can we place this back on the table for now so that it is still active in the Committee as well.

Alderman Gatsas stated let's refer it to the full Board and then it can come back.

Deputy City Clerk Johnson asked so that is part of the motion then. Presentation and referral.

Alderman Gatsas answered yes.

Alderman Roy stated in consideration of Mr. MacKenzie can we have someone from his staff or someone from MHRA be there and not make Bob feel like he needs to be there.

Chairman Thibault replied well that is the problem and I know that Bob had some particular things that he wanted to talk about on several items here tonight that I am going to have to table.

Alderman Gatsas stated I don't have a problem with the others but I think this one is an important acquisition.

Chairman Thibault responded well okay we can have a presentation by these people tomorrow night but we don't have to make a decision then.

Chairman Thibault addressed Item 4 of the agenda:

Request by Nicholas Bonardi to purchase a discontinued portion of
So. Bedford Street at South Commercial Street.

Deputy City Clerk Johnson stated it is not tax deeded property so there was no objection to the sale by the Tax Collector. Planning had suggested the disposition to Mr. Bonardi with the condition of consolidation with Map 274, Lot 7A. We did not receive a report from the Board of Assessors. I don't know if they are prepared to give us an opinion of value on that.

Chairman Thibault asked Mr. Nichols are you prepared to enlighten us on this.

Tom Nichols, Assessor, stated I went down to the property earlier today and Mr. Bonardi is here. We don't know exactly what he is buying down there and neither does he. I guess where the hotel is going in and the wall we don't know if he is buying to the middle of the street or up to the sidewalk. He is here tonight and he can voice his opinion.

Deputy City Clerk Johnson stated there is a map attached to the agenda, Tom. Did you look at that?

Mr. Nichols answered yes I did.

Deputy City Clerk Johnson asked did you talk to Highway because they were the ones that gave us that information.

Mr. Nichols answered I haven't had a chance to talk to Highway but here is what happened. You are looking at where the road is going to be next to the hotel it is about 4' higher than South Bedford Street and Mr. Bonardi was wondering about the turn around and what he was actually purchasing from the City and I can't tell him what he is purchasing because I don't know myself.

Chairman Thibault asked well is Highway going to be able to tell us that at some point.

Mr. Nichols answered I think if I check with Frank Thomas tomorrow he will be able to tell us.

Alderman Gatsas moved to table the item. Alderman Osborne duly seconded the motion.

Alderman Roy stated I was going to speak to the motion of tabling but it is not possible.

Alderman Porter stated I think we should wait until someone knows something with all due respect.

Alderman Roy stated I think we have someone in the audience that can answer that question.

Alderman Porter stated we have surveyors and Nick if you wish to talk.

Alderman Gatsas stated there is no discussion on a tabling motion.

Alderman Roy stated we need to vote on it and a vote of 3-2 would decline the tabling and we could actually have discussion.

Alderman Osborne asked is there a need for it.

Alderman Roy stated we have people here who can answer the question. We have 30 things tabled and we have people here who could answer the question.

Chairman Thibault replied it is up to you.

Alderman Porter stated Tom I understand that you said you didn't know what the City was selling and you said that Mr. Bonardi didn't know what he was buying. What further discussion can we have that is going to be fruitful tonight? I would hate to spend a half an hour and end up tabling this. Do you know, Nick, what it is that you are buying?

Nicholas Bonardi responded we got a set of prints that Mr. Duval gave to Auto City and myself. We looked at the prints that we got but it seems like none of the contractors have the same prints. When they are...the road that they are putting in now is approximately 18" to 24" higher than South Bedford Street and what they are talking about is after they put the sidewalks in they are just going to slant the bank down to South Bedford Street. So when they came down here today first of all I don't know how they can leave it like that because you will have a swimming pool because the road is going to come around and go up to the hotel and the condos but the road is 18" to 24" higher right from South Commercial Street right around to the condos and the hotel. That is what we came up with today.

Chairman Thibault asked Kevin would you be prepared to answer any of this.

Kevin Sheppard, Deputy Public Works Director stated I am not necessarily prepared to answer this. I agree with Alderman Roy but I haven't looked at this and I haven't been down there. We can assist Tom Nichols in taking a look at the area and defining the area.

Chairman Thibault called for a vote on the motion to table. The motion carried with Alderman Roy duly recorded in opposition.

Chairman Thibault addressed Item 5 of the agenda:

Request for sale of TM889 Lot 1-14 Pasture Drive (portion of Leandre St. so-called) by Mr. Livancic.

Deputy City Clerk Johnson stated we do not have reports on this, however, the Clerk's Office has had some discussion with the Planning Department and reviewed it. The area in question is actually a portion of what would be considered a public way under a plan that was actually filed and is recorded as part of a subdivision plan so our suggestion would be that the petitioner be requested to submit a petition to release and discharge a portion of Leandre Street and submit the appropriation petition to the Clerk's Office and we will put it through the process. The City doesn't own the land. It is part of what actually was set out to be a street but was never officially accepted by the City. There was no dedication or acceptance so it is part of a public way according to a plan that has been filed so you would have to release and discharge it under our Road Hearing process but we don't have a petition for that. What we are saying is that Mr. Livancic would need to submit a petition to the Clerk's Office to release and discharge and we would notify him of that.

Alderman Porter moved to send a letter to the petitioner to submit a request to release and discharge a portion of Leandre Street. Alderman Osborne duly seconded the motion.

Alderman Roy asked don't we have a process in which paper streets are sold or dispensed with.

Deputy Solicitor Arnold answered this is a paper street but my understanding is that it has not been 20 years since the paper street was laid out so you are not dealing with a RSA 231:51 problem.

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

Chairman Thibault addressed Item 6 of the agenda:

Request by Leo Bernier to purchase TM 415 Lot 1.

Deputy City Clerk Johnson stated the Tax Collector has no objection to the disposition of the property. Highway has no use for the property except for an easement. We did not have a report from the Assessors. I guess he is handing that out now. Planning is recommending not finding it surplus until preliminary testing by archeological experts is completed.

Alderman Roy asked is there anyone from Planning who can touch upon the archeological comments.

David Beauchesne, Planning Department, stated we were in communication with the Sargent Museum and the folks associated with them. They are located in Manchester and they will soon be developing their property. They indicated to me that the site in question is interestingly located on a terrace of land pretty sloping that exists between two previously highly noted archeological sites within 100' or 200' of two previously very important national class archeological sites that were created as part of the Amoskeag Bridge project back in the late 60's. One of those sites is the so-called Smyth site where the former Smyth family owned land where now the Brady-Sullivan tower is located, the parking lot. That site, for example, was deemed by the studies to be the site of Abenaki sachem Passaconaway's village on the bluffs above the Merrimack River. Just below that where the bridge abutments are on the East Side of the river were the so-called Neville site after the Manchester property owner that also owned that site and also owned the subject parcel. That site has been interestingly termed, because of all of the ancient tools going back to 8000 BC found on that site and tools that were discovered over numerous centuries and millennia after that right up to the present day would

allow archeologists to date other archeological sites throughout the entire northeast of the United States. As a result, that has been termed the New England Rosetta Stone of sites. This property falls just literally in between and slightly to the side of both of those and the Sargent Museum people would like to do some test pit type of digging to ascertain whether this property that is desired by Mr. Bernier is something that they would also be interested in. They feel it has the highest potential value and they wrote a letter to the City that indicated their interest. Mr. Bernier is understanding of this and he has indicated to us a high degree of flexibility as to his willingness to work with the Sargent Museum people. I will phrase it generally that way. He wants only a very small section of that parcel because his abutting parcel to the North Side on River Road is, I think, most of us are probably familiar with where he lives. It is a very small piece of land and he is looking to slightly expand his building and he is hoping to use a small corner of that right next to his current property. He indicated or at least I think he indicated that he would be willing to try to work with and accommodate the Sargent Museum people in their determination of the importance of the site and he seemed to be truly interested in those implications. So our recommendation was two-fold. One is that the Committee should wait before deciding on the disposition of this site because of its incredibly unique nature, potential nature, to wait for a preliminary archeological report or study on the parcel that would be submitted to you by the Sargent Museum as well as you also getting the mutually as we phrase it receipt of the results of mutually beneficial private sector discussions between Mr. Bernier and the Sargent Museum. Let them kind of chat about it on their own and work out a mutually appropriate way of handling the property and come back to the Committee and essentially hand you something that you can hopefully accept that meets their needs. That is our recommendation.

Alderman Porter moved to table this item. Alderman Osborne duly seconded the motion. Chairman Thibault called for a vote. The motion carried with Alderman Roy being duly recorded in opposition.

Chairman Thibault addressed Item 7 of the agenda:

Communication from City Clerk referenced as Installation of Replica Clock.

Chairman Thibault stated as I understand it this is a clock that has been around for a long time and is going to be installed at City Hall. I understand there is a going to be a very small cost to do this so whatever the Committee decides.

On motion of Alderman Osborne, duly seconded by Alderman Gatsas it was voted to approve the request to install an "old time" clock on Stark Street in proximity to the City Hall Complex.

Chairman Thibault addressed Item 8 of the agenda:

Communication from Robert MacKenzie, Planning Director, referenced as Blacksmith Shop on Second Street.

Alderman Lopez stated I would like to request that a copy of this be sent to CIP. Jane Beaulieu was here earlier and I know why you are tabling it but there is a request for funds in there and we want to talk about it in CIP.

Chairman Thibault asked would you like to refer it to CIP.

Alderman Lopez answered I would like to get comments from CIP on this.

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

TABLED ITEMS

9. Communication from Mr. MacKenzie and Ms. Hills referenced as Hackett Hill Business Park Master Plan.

This item remained on the table.

10. Communication from Urban Ponds Restoration Program reference: Black Brook/Maxwell Pond Street Restoration Proposal.

On motion of Alderman Osborne, duly seconded by Alderman Roy it was voted to remove this item from the table.

Steve Landry, NH Department of Environmental Services Watershed Assistance Section stated I believe we were in front of the Committee in June or July. We had a special session with the Committee and presented the restoration project that we are currently working on in concert with the Urban Ponds Program here in Manchester. We are basically investigating and requesting the Committee's approval to move forward with the restoration project to restore Black Brook to a free flowing status, which would entail the removal of the Maxwell Pond Dam and restoration of the stream channel thereafter. Funding for this project has been earmarked and secured through the Urban Ponds Program and through the Section 319 Program of the Clean Water Act through DES restoration funding and currently the City of Manchester incurs a \$5,500 per year maintenance cost for this structure and we feel that the science that we have collected and other indicators in Maxwell Pond and Black Brook...basically everything points to a restoration

project would be the best thing for this stretch of Black Brook to return it to a free flowing status and move forward with the dam removal project. We think it would be a very exciting project and definitely something for the City of Manchester to kind of herald and showcase this effort, this restoration effort. Obviously no expense would be incurred by the City of Manchester for this effort. The other thing that I might have Grace speak to is the current dam inspection and other permit issues that are before the City right now.

Grace Levergood stated the dam was inspected last September and there is not anything immediate but there are signs of the dam deteriorating. There are signs on the right side of the dam looking downstream of seepage and also a sinkhole that has been there for over a year. We have asked the City to fill that sinkhole but it has still not been done. I was out there tonight. There are signs on that upstream wall of concrete deterioration. The City is looking at a substantial repair on that wall over the next few years. It is up for another scheduled inspection next year. It is inspected once every four years. It is considered a significant hazard dam so along with that the City has to maintain an emergency action plan which has to be updated annually and they also pay to the state a \$300 dam registration fee. So there are some costs involved and there is upcoming maintenance that needs to be done.

Mr. Landry stated you will see in your agenda attachments some of the history behind this project. I don't want to use up a lot of time going through it all again but the documented backing by the Conservation Commission for this project has been a major part of the Urban Pond Restoration Program for close to three years now. If anyone has any questions, I am available to answer them.

Alderman Roy moved to approve the Black Brook restoration proposal.

Alderman Forest stated I have a couple of questions. Is this going to be a precedent setting thing with this dam? I don't think it has ever been done in Manchester anyway.

Ms. Levergood answered no. Really we are only doing...we have done three this year, bridge removal projects. They take a long time and it is usually when the circumstances come together and when there is funding the project goes forward.

Alderman Forest asked as far as the abutters along the way, again we had a lot who were opposed to this but by removing this dam if the stream fluctuates one way or the other how is this going to affect the abutters along the line as far as their property.

Ms. Levergood answered they are probably going to gain some land. If you look at the aerial photos there is not really much of a pond left. The flood level is going to be lowered.

Mr. Landry stated I think the other thing that is certainly a positive for this project site is that the City owns the entire parcel around this pond. We are not dealing with hundreds of individual land owners and as Grace pointed out the river once it has reached its stable form and the dam is removed...right now you have an impoundment and once the dam is removed it is going to be able to flow a lot freer to the Merrimack River. We really looked at the aerials and have had experts from Trout Unlimited out there doing some channel surveys and basically they feel very confident that this is going to be a very stable site over the long haul.

Chairman Thibault stated I have had several calls from people from the area who would like to leave it the way it is. I just want to make the Committee aware of that. I have had several calls on it telling me they would like to leave it the way it is. The Committee can vote the way it wants. I am just bringing that out for your information.

Alderman Gatsas asked Mr. Landry have you had any communication with maybe not the abutters but surrounding properties. Have you had any public input?

Mr. Landry answered actually I want to say two years ago now we organized...we didn't call it a public hearing so much but it was a public informational meeting at one of the area high schools. We had a meeting and I think there were probably 40 people in attendance and three or four people definitely expressed their opposition to the project at that public meeting and were presented with all of the information that we had gathered to that point. Certainly we have had fact sheets developed and other information on the Urban Pond Program website and as far as contacting individual landowners we haven't undertaken that effort but we would certainly be willing to have another public meeting or whatever. We understand that there is always going to be people on either side of this fence and we want people to be as comfortable with the decision as we are.

Alderman Gatsas moved that before we go forward with the Black Brook Dam Restoration Dam we hold a public hearing so that whatever people are in that area have an opportunity for public input and see something that is a little more current than two years ago. Alderman Porter duly seconded the motion.

Alderman Osborne asked which way would be more environmentally safe for the abutters. The way it is now or what you are trying to do?

Mr. Landry answered that is a very good question. I would probably have to refer that question to somebody from Trout Unlimited who has more experience with that. I think you have a very aging structure there now. My personal feeling is that the situation right now is fairly unstable. If the dam is gone you have a free flowing stream, a very low volume stream. My personal biological opinion is that it would be safer without the dam there but I would much rather have an expert answer that question.

Alderman Osborne asked so either way the cost is...what you are involving here this \$6,000 cost or whatever to maintain it if we did that would it be just as environmentally safe doing that or would it be better to go your route.

Mr. Landry answered well no because I think...

Alderman Osborne interjected is it just a matter of the \$6,000 here or do you feel there is more to it than that.

Mr. Landry responded there is about a \$5,500 annual maintenance cost to the City Parks, Recreation and Cemetery Department. If you go forward with the repairs it may be \$60,000 to repair the dam to get it up to good standing and under a permittable status. For our removal of the dam we have a quote that was developed yesterday actually and I believe it was \$50,000. So your repair costs are going to be fairly high.

Alderman Gatsas stated Mr. Landry I guess it comes back to once we have the public hearing the state is going to foot the \$50,000 bill. If we do nothing and the dam erodes and there is a problem then it is a City cost.

Mr. Landry responded that is essentially correct.

Alderman Gatsas stated I will stick with my motion that we have a public hearing.

Chairman Thibault called for a vote. The motion carried with Alderman Roy being duly recorded in opposition.

Deputy City Clerk Johnson asked is the intent to refer it out to the full Board of Mayor and Aldermen to hold the public hearing or is the Committee.

Alderman Gatsas answered I think DES would hold a public hearing as they did two years ago.

Deputy City Clerk Johnson asked so you want them to hold a public hearing on their own.

Alderman Gatsas answered yes. They should contact the abutters and do whatever advertising they have to do.

Deputy City Clerk Johnson asked is that within your purview Mr. Landry.

Mr. Landry stated for the record the Urban Ponds Program organized the public hearing last time so we can do that again.

Alderman Porter asked where was that held.

Mr. Landry answered at a high school in Manchester.

Deputy City Clerk Johnson asked can we be informed when that hearing is being held.

Mr. Landry answered yes.

On motion of Alderman Roy, duly seconded by Alderman Osborne it was voted to remove items 12-20 from the table.

12. Disposition of West Haven Road, Map 922, Lot 39-A.

Deputy City Clerk Johnson stated Planning had recommended offering it to the abutters. Letters were sent to the abutters and Assessors provided a verbal report earlier. The Board of Assessors is here this evening. I don't know if you want to take some action.

Mr. Nichols stated I guess there is no report. I thought there was one in here.

Alderman Roy stated there are two letters in our packet received back in July from the two abutters or two of the three abutters looking to clean up this area of land that is used by the City. At this time I would like to make a motion that the property is sold to the two abutters or given to the two abutters because it is virtually value less.

Deputy City Clerk Johnson stated it needs to go to one or the other and be subdivided.

Chairman Thibault asked do you want to sell it through auction or sealed bid.

Alderman Roy answered I would like to sell it to the abutters. The Assessors came up with a plan of dividing it right down the property line out to the corner,

which would divide the parcel equally between the two parties that have interest and sell it.

Chairman Thibault asked Tom can you put a price on it.

Mr. Nichols answered I can put a price on it but you won't get it until the next meeting.

Alderman Gatsas stated well somebody has offered \$500. One of the abutters.

Alderman Roy responded that was just to help out with costs. Kevin Sheppard may be able to touch upon this piece of land and some of the problems we have had in that area.

Mr. Sheppard stated I would add that it is excess property. I guess I interpreted the Assessors e-mail in here also that that was an offer for the property. The \$500 from one of the abutters.

Deputy City Clerk Johnson responded that was an old piece and he did come back and verbally state some other things at the last meeting.

Mr. Sheppard stated I remember at the last meeting or one of the previous meetings discussion was held that the Assessors would contact the abutters and see if each would be willing to take half of that property. I am not sure whether both abutters have agreed to take half of that property so to say that we should give it to each of the abutters I guess we would have to make sure that each abutter is willing to take that.

Alderman Porter stated I think a logical approach might be to at least have the abutters, if they do accept it, pay for the subdivision and the recording. I don't think that would be unreasonable. Has that been offered Tom? What letter went to the abutters?

Mr. Nichols responded I don't know what letter is sent. I think what you just said is very important because the City is not in the business of subdividing land and giving one half to one person and the other to someone else. It is either you take the whole thing or nothing.

Alderman Porter asked could you get me a copy of what was sent.

Alderman Roy stated it is in your agenda package Alderman.

Deputy City Clerk Johnson stated maybe you just want to retable this and allow Mr. Tellier to follow through because he is the one who was working on this item as I understand it.

Chairman Thibault responded you want to let the Assessor follow through. Is that what you said?

Deputy City Clerk Johnson replied yes but also I guess it is my understanding that you are thinking that you would turn it over as long as they would pay subdivision costs so that could be what he goes back to them with.

Alderman Gatsas moved to table this item.

Alderman Gatsas withdrew his motion to table.

Alderman Roy stated this property has been in discussion in this Committee since May 20 of last year. It is an area where leaves get dumped, water gets backed up and goes into homes in Ward 1 and is a constant nuisance. We have had signage to keep people from dumping there. We have had Parks and the City Highway Department go and keep it clean but with it not in private hands it is a blight on that neighborhood. I have been asked to fight for this vigorously and I will ask my colleagues to do the same. This property is virtually no value except to the two abutters that expressed interest back in July.

Alderman Osborne asked what are the costs involved going to be for just dividing it between the two abutters. What is the cost to the City?

Mr. Nichols answered there is a recording fee. I think the City Solicitor's Office can answer that or maybe Carol. They would have to record a split deed saying that so much of the property goes to this abutter and so much of the property goes to that abutter.

Alderman Osborne stated whatever costs are incurred should be paid by the two abutters so the City is left harmless of costs. True?

Alderman Roy responded I would gladly accept that in the form of a motion just to move it along.

Chairman Thibault stated why don't we ask Tom if he could send a letter to both of these people to see if they will buy it...\$500 you said.

Alderman Roy responded that was accomplished in July of this year.

Deputy City Clerk Johnson stated what he is trying to do...what was suggested was to divide the property in half between the two abutters. Steve Tellier was going to go back to those two abutters and see if they wanted to do that. He is not here tonight obviously so you don't have his report as to what happened when he recontacted those abutters. If you want to take an action to offer it to the two abutters having them pay the subdivision cost and have the property divided in half you can do that. We can submit that to the Board and in the meantime somebody can go...Steve or Tom can go back to the abutters and we can change it at the Board level.

Alderman Roy moved to offer the property to the two abutters with a subdivision provision and have them pay the cost for the subdivision. Alderman Osborne duly seconded the motion.

Alderman Porter asked, Kevin, would you anticipate that the cost to subdivide and record would exceed \$500.

Mr. Sheppard answered if we were to do it internally...well either way the cost to subdivide that parcel would be more than \$500. I believe that was one of the concerns.

Alderman Porter asked what would you estimate that it would cost. I am not going to hold you to the number.

Mr. Sheppard answered \$2,000 to \$3,000 if you were to go with a private surveyor.

Alderman Porter asked and if it is done internally.

Mr. Sheppard answered minimal costs. If we were to charge some time to it maybe \$1,000.

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

13. Land between Valley and Grove Streets previously owned by B&M Railroad Co.
14. Land at Belmont/Valley Grove formerly owned by B&M Railroad
15. Land at Maple/Somerville formerly owned by B&M Railroad

Chairman Thibault stated we can take all of these together. They want to use a section of land and we would let them have it with a permit from the City.

Deputy City Clerk Johnson stated these were placed on the table pending a policy that was going to be put together, which you actually have a copy of. The suggestion at this point for these parcels would be to do some kind of a licensing where we would allow temporary usage but no construction and other criteria that were set out in Mr. MacKenzie's communication. I did ask the Assessors, because we didn't have value ranges for anything like that, I asked Tom today if he could at least put together some kind of an annual license fee or something for these parcels.

Mr. Nichols responded I haven't had a chance to do it on all three of them. I did it on Item 14 but I didn't do Item 13 and 15.

Chairman Thibault replied my idea would be if you figured out more or less what you would get for taxes on that land and figure that as a yearly fee.

Mr. Nichols responded here is what I did. I figured out what we would get for yearly taxes and then I said well if the City sold the property we would charge 6% and they would get \$786 as a commission. I added that to the \$365 and came up to \$1,151.75 or roughly \$1,200 for a license. I can do the same thing on Items 13 and 15 but it is going to take time. I have to go back and remeasure. There is a fence around on of them and I couldn't get in. There were a couple of dogs out there and I wasn't about to get out of the car.

Chairman Thibault stated well I guess they would have to be done individually. Maybe you could do this and get back to us.

Alderman Osborne asked we are talking what there, a 50' width.

Mr. Nichols answered some say 30' and some say 50' that is why I have to go back and measure Items 13 and 15. Item 14 is self-explanatory. He told us exactly what he is buying. Items 13 and 15 do not give us the width. They give us the length but not the width.

Alderman Osborne asked how can we charge them what we would have gotten in taxes when you can't sell it anyway.

Mr. Nichols answered well let's say we put an assessment on it of so much money. I am saying \$13,100 times the tax rate, which would give us \$365.75. The commission for selling the property if you did sell it on \$13,100 at 6% would give

you \$786. I add both of them together and it gives me a total of \$1,151.75. Just to get an idea of what the license would be. The City doesn't really want to sell it.

Alderman Osborne stated this is in my ward that is why I am asking. How many abutters are we talking here? Luigis and...

Mr. Nichols answered there are quite a few.

Alderman Osborne asked how far are you going with this.

Mr. Nichols answered Item 14 is just Luigis but Item 13 involves that apartment building.

Alderman Osborne responded yes the two apartment buildings.

Mr. Nichols replied that is 200 feet long but he doesn't give me the width. I think it is going to be the same as the other one but I am not too sure.

Alderman Osborne asked what about all of the other people who are accessing that by hopping the railroad tracks and doing whatever they are doing and not getting any license at all.

Mr. Nichols answered I don't think anybody else is using it.

Alderman Osborne stated well I don't know.

Chairman Thibault stated this would give them permission to use this land.

Alderman Osborne asked how can you assess them taxes when they are never going to own it. That is what I am saying.

Chairman Thibault answered it is not taxes. We are charging them a fee to use it.

Alderman Osborne stated well I don't want to argue.

Chairman Thibault responded if you have another idea bring it up.

Alderman Osborne stated you can give them a license for \$1. They are never going to own that property. If we have to go through there whatever they have done has to come up. I think they made a nice area. If you go up there now they did a nice job of cleaning that whole area up and I can't see them having to pay taxes for that. Well not taxes but coming up with a license fee that way.

Alderman Porter asked what are the conditions. It says usage with conditions.

Deputy City Clerk Johnson answered it is based on the policy that we handed out from the Planning Director or actually it is from Dave Beauchesne. There are a lot of restrictions on that. Perhaps the amount you are talking should be discounted somehow.

Alderman Osborne stated I think they just wanted to get rid of the blight of the whole thing.

Chairman Thibault responded well some want to use it for parking for their business.

Alderman Osborne asked do you know how many cars I have had towed off of that railroad track. Quite a few. It is either clean it up and get rid of the blight or...

Chairman Thibault interjected most of them are using it for parking. That shouldn't be free.

Mr. Nichols stated the one on Maple and Somerville Street – he has a used car lot there and the cars were all over the place this afternoon. I am going to go back tomorrow and see if I can find out exactly what are he is talking about and the square footage.

Alderman Osborne asked what place are you talking about.

Mr. Nichols answered at Maple and Somerville.

Alderman Osborne asked and it is a used car lot or something.

Mr. Nichols answered yes it is a used car lot.

Alderman Osborne asked how much square footage is he using roughly.

Mr. Nichols answered I don't know. I am going to measure it myself.

Alderman DeVries stated I have a question because on the list of conditions that was handed out tonight, David, it says discourage private sector uses on any portion of the former railroad branch and railroad corridor. I was looking for a little bit of clarification. What do you mean by discourage private sector use?

David Beauchesne, Planning Department, stated this is a public right-of-way. We acquired it from the State of New Hampshire with caveats which required among other things that the state has to approve any sale if it were to go that way and a couple of other things. They require that 30' at minimum, I believe, be reserved for future rail access if that were ever to come about. In addition to that, the Lands and Buildings Committee asked us to develop a policy on how to deal with these various segments of the line out on the Portsmouth branch, that is from the Center City going out to the interstate. We have done. We found that left to their own devices and I mean that nicely, private sector entities tended to rip out City owned field tracks, which are worth money and timber ballasts which are worth money and disposing of it themselves without asking anybody in the City for permission to do that kind of thing. They put blockages at each end of their properties for example where the apartment building is that we are talking about on Valley and Grove and preventing public access and trying to do everything they can to discourage the public from walking through public land.

Alderman DeVries stated I am still looking for a little bit better clarification. My thought is this. That do the individuals that have made a request of the Lands and Buildings Committee understand what they will be allowed to do?

Mr. Beauchesne responded no because several requests came up before the development of the policy document, which came about through discussions with Planning, Parks & Recreation and the Solicitor. So the people in the several cases you are now discussing have no idea that this draft document exists and needless to say this Committee has not technically approved the policy.

Alderman DeVries stated I have one more follow-up if I might because I guess it would be my suggestion to the Committee that when and if they Committee returns to those individuals seeking a license that there be better definition or clarification as to exactly what they will be able to do and where before you seek to enter into an agreement with them. I don't think that this one document given to an individual would tell them you are allowed to pave and park vehicles on it or you are not allowed to disturb it at all and that might change their request for use of the property and a license.

Mr. Beauchesne responded we think it very well could.

Alderman DeVries replied I would agree.

Alderman Porter asked, Tom, you mentioned that some of these are used for parking.

Mr. Nichols answered Luigis has been using his for parking. I went over to the area right behind Luigis and that section is all fenced in by the apartment building.

Alderman Porter stated one of the recommendations, David, from your policy states that "the general public will retain continual freedom of movement over the entire area." If we accept this draft and these items that would preclude parking, fencing it in and things of that nature. I would like to see these back on the table, all three of them.

Chairman Thibault asked why couldn't we have each individual asking for this to make a site plan as to how they are going to use that property and then give them a license accordingly. I mean figure out a way of licensing them accordingly? Wouldn't that work?

Alderman Osborne stated the way you have it now is they can't build on it. There is not much they can do with that property anyway. We all know all they are going to use it for is either parking or they are going to beautify it. One or the other. That is all it is going to be used for and that is all it can be used for.

Mr. Beauchesne responded we don't disagree at all. The question really relates going back to the question of public access over public land.

Alderman Osborne stated well we always have that. They can't put any structure there so in other words are you saying that if cars are parked there that would be in the way for some reason?

Chairman Thibault replied they have blocked the tracks completely on both ends of their property. That is blocking the public.

Alderman Osborne stated right they can't do that. We have to table it for now and get more information.

On motion of Alderman Porter, duly seconded by Alderman Osborne it was voted to table Items 13 through 15.

Chairman Thibault asked can we give them some kind of clarification as to what we want to have happen there so we know how to make a decision.

Alderman Osborne answered I think all we can do is let them know what they can do and can't do. I can't see charging them money, taxes or anything like that. I think we just have to...

Chairman Thibault interjected if they use it for parking for their business...I mean they can't get parking free anywhere. There should be a charge.

Alderman Osborne asked how are we going to police that.

Chairman Thibault answered I don't know but if you charge them a fee by the year you don't have to police it. Whatever. It is up to you guys. It is now back on the table.

16. Discussion of area for dog park

Alderman DeVries stated as you recall I am working with a group of volunteers who would like to find a suitable location for the establishment of a dog park and we investigated City owned properties. Out of the investigation only one property has been found suitable and that would be within the contours of the existing landfill. What I would ask of this Committee is that they allow the volunteer group that is looking to go forward with the dog park to negotiate with the Highway Department a license agreement and to bring that back before this Committee.

Chairman Thibault asked, Kevin, do you have anything to add.

Mr. Sheppard answered no I believe Alderman DeVries covered it. We have a letter that was part of the package. We would work with the private group for fencing off and maintaining that area.

Alderman Roy asked have you talked to the shelter people up there about this.

Mr. Sheppard answered I have not talked to the shelter people. I thought it was a good location because it is across the street from the shelter but I haven't talked to them.

Chairman Thibault asked isn't that the old stump dump.

Alderman DeVries stated it is not the...I don't believe it is the stump dump we are referring to. It is within the actual fenced enclosure of the encapsulated landfill that we are talking about and yes I have reached out to the shelter and they were made aware of the effort that we would like to have go forward. We asked or I asked basically what they would have for concerns and that would be another item. Basically the Board of Directors has given it their blessing but would like to be informed through the process to be sure that they continue to give it their blessing. They have their own fears as to how their shelter dogs, which they don't always know how they would react might be placed in some sort of contact with

other dogs. I think that will be part of the rules and regulations process as they are formed for the dog park. How dog park dogs will be separated within fenced in closures and always maintained on leashes when outside of the enclosure.

Chairman Thibault asked are you going to be working with the Highway Department on this.

Alderman DeVries answered I think there are a lot of items that will have to be worked out from the City side. Obviously as with any lease that has been negotiated or proposed before this Committee it addresses liability, use, how improvements to the property are to be maintained and that sort of thing. That all needs to be worked out and clarified and make sure that it is something that both parties agree to.

Chairman Thibault asked Alderman Forest do you have a problem with that.

Alderman Forest answered I don't have a problem with it. I just have some concerns. Liability was one and of course the parking out there is limited also so we will have to work with them as far as parking.

Alderman Roy moved to allow the dog park to go forward at the landfill and ask the Highway Department to work with Alderman DeVries and any member of her group and have them come back at the next meeting.

Alderman DeVries responded I am not sure we will be ready for your next meeting but we will come back to you as soon as we are ready.

Alderman Porter duly seconded the motion. Chairman Thibault called for a vote. There being none opposed, the motion carried.

17. Use of landfill – NH Flying Tigers R/C Club

Deputy City Clerk Johnson stated I think there was a question of whether or not both could co-exist and perhaps Kevin could address that for you.

Mr. Sheppard stated I have spoken to the people from the R/C Club and they feel they can co-exist. I don't see any issues with it. I don't know whether Alderman DeVries has concerns.

Alderman DeVries stated I can speak to it but certainly I am only one individual addressing it. Yes, there would be very grave concerns about co-existing because of the noise and the disturbance. As a matter of fact when I did go before the Board of Directors for the animal shelter I think they were expressing some

concerns as to how it might affect their animals and scare or bring a reaction from their dogs. I would think that needs to be investigated a little bit further. I think that part of that prior lease agreement or license agreement that we did see also was looking for exclusive use and I know that concerned me. It asked for exclusive use of the entire landfill any day at any time. I am not sure that that would have been a direction that I would have taken.

Mr. Sheppard responded that is true. They proposed an agreement with the City and we had taken a look at it and obviously that is not something that we would agree to – exclusive use of the landfill. One of the things we have got to take a look at and the City has to take a look at is the future, the long-term use of that land. Do we want it as passive use recreation? Do we want to potentially let the R/C Club use it on a six-month trial period? Remember Alderman Gatsas asked us to ask our Highway Commission what their thoughts on it were and their thoughts at the time were to use a six-month trial lease to see how well it worked and negotiate an agreement subject to the City Solicitor's approval. I understand Alderman DeVries's concerns.

Chairman Thibault asked, Kevin, at the same time you are doing the dog park can you look at this also and see how you can handle this and come up with a recommendation of some kind.

Mr. Sheppard answered this is an outside group that we don't necessarily approve or oppose.

Chairman Thibault stated and if you heard the Committee, we are not that crazy about it either I guess. So come up with a ruling as to what you think you would want to do and bring it back to this Committee at the same time as you bring the dog park.

Alderman Porter moved to put this item back on the table. Alderman Osborne duly seconded the motion. Chairman Thibault called for a vote. There being none opposed, the motion carried.

18. Request of Norm Hebert, NHDC Realty Trust, for acceptance of proposed ROW 2989 Brown Ave.

Deputy City Clerk Johnson stated my understanding is that the Highway Department believes that this actually belongs in the CIP Committee. I don't know if you want to refer it there.

Chairman Thibault stated let me just say that I have talked to Frank Thomas on this and he has been around the horn with this guy a million times and he has been

through several Aldermen, including myself, several times. Frank Thomas tells me that this should be handled by CIP so I would like a recommendation to send it to CIP.

Alderman Porter moved to refer this item to the Committee on Community Improvement. Alderman Roy duly seconded the motion.

Leon LaFreniere, Building Director, stated I actually don't want to comment directly on this other to point out to the Committee that this matter has been adjudicated through the NH Supreme Court and I think the Solicitor's Office should be given an opportunity to speak on it. I would be concerned if it is moved forward or referred to another Committee without an opportunity for that input.

Chairman Thibault stated thank you for bringing that up and let me say this. I already talked to Tom Clark on this and he told me we shouldn't touch it. Frank Thomas tells me it should go to CIP so do what you want with it.

Alderman Porter stated I think we already voted to send it to CIP.

Alderman Roy asked when it comes out of CIP could they report back to this Committee so we know what happened.

Deputy City Clerk Johnson responded it will be reported out to the full Board.

Chairman Thibault called for a vote. The motion carried with Alderman Gatsas being duly recorded in opposition.

20. Brown School property

Alderman Gatsas moved to...I guess Mr. Arnold have you prepared your statement for this Committee in regards to the deposit.

Deputy Solicitor Arnold answered yes.

Alderman Gatsas asked is it in here.

Deputy Solicitor Arnold answered no it is not in writing.

Alderman Gatsas asked what is your report.

Deputy Solicitor Arnold answered I did speak with Sheehan, Phinney Bass & Green who was holding the escrow account. They advised that \$500 of the \$1,000 deposit was made I believe at the time of the signing of the purchase and sales

agreement, however, the remaining \$500 was not deposited by the Manchester Housing & Redevelopment Authority until June of this year. Based on that, I am of the opinion that if this Committee or if the full Board wished to do so they could find them in default of that purchase and sales agreement.

Alderman Gatsas moved to return the deposit to the Manchester Housing Authority and put the property back on the market. It has been two years and I think it is probably going to fetch more than the \$400,000.

Deputy City Clerk Johnson asked do you want to sell that at public auction.

Alderman Gatsas moved to put it out for public auction.

Alderman Roy asked, Tom, though it is not a lot of money are they in default of this to the point where we are keeping the \$500 deposit.

Deputy Solicitor Arnold answered I would suggest that if this Committee or the Board were to find them in default that the deposit be returned since we are finding that default on the basis of non-payment of the deposit.

Alderman Osborne duly seconded the motion.

Alderman Gatsas amended his motion to send it to public auction at a minimum bid of \$400,000. Alderman Osborne duly seconded the motion.

Deputy City Clerk Johnson stated it would actually be to find that the Manchester Housing and Redevelopment Authority (MHRA) has been found in default of their agreement with regard to the Brown School property, that the deposit received from MHRA be returned to that agency, and that the Brown School property be placed up for sale by public auction with a minimum bid to be set at \$400,000.

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

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

A True Record. Attest.

Clerk of Committee