

COMMITTEE ON LANDS AND BUILDINGS

November 30, 2004

5:15 PM

Chairman Thibault called the meeting to order.

The Clerk called the roll.

Present: Aldermen Thibault, Roy, Gatsas, Osborne, Porter (arrived late)
Aldermen O'Neil, Lopez, Forest

Messrs.: Mayor Baines, Dick Dunfey, Bill Craig, Ken Edwards,
Jane Hills, Bob MacKenzie

Chairman Thibault addressed item 3 of the agenda:

3. Brown School Property
(MHRA found in default of agreement with regard to the property and referred back to Committee by action of the full Board on 11/16/2004.)

Alderman Osborne moved for discussion. Alderman Roy duly seconded the motion. There being none opposed, the motion carried.

Chairman Shea asked do you want to hear from their directly or do you have a certain question?

Alderman Roy replied I have a number of questions.

Alderman Osborne stated we can let them discuss and then we can question them.

Mr. Dunfey, Executive Director of MHRA, stated just briefly as stated by me in the latter signed by me to the Committee we've consulted with our Board and we're prepared to...the essence of it is offer \$400,000 for the Brown School site; that this would not be contingent upon successful procurement of financing, it would be merely the normal due diligence and, of course, with this site a variance would be required. But, upon completion of those two items we'd be prepared to buy the site outright and we anticipate that that would be in the vicinity of September of next summer. And, of course, this would be for the purpose of developing low-income affordable senior housing at the site.

Bill Craig, Attorney for the Authority, stated I think there's two big differences between this proposed purchase and sale agreement and the previous one. This one is the unconditional requirement the real estate taxes will be paid and second the previous one was contingent upon the buyer's getting financing and as Dick said this is not contingent upon financing.

Alderman Roy stated anyone of you can probably answer this...in the purchase and sales it has through September 30, 2005. We're not subject to financing but you really think a variance is going to take that long to accomplish?

Mr. Edwards replied yes. We just recently went through this process in development of the Gale Home and once the purchase and sales is executed we would need to take proposals from architectural engineering firms to prepare the drawings required to submit for the application for variance and with that time frame and getting on the schedule and getting it approved...the Gale Home went very, very quickly and it was a 7-month process and we're anticipating that this would be about the same. Obviously, we've indicated that we would close immediately after receiving the variance. If we can do it quicker we will.

Alderman Roy stated at our last discussion you had talked about the dates of the 202 financing, I believe this would be 202.

Mr. Edwards replied we have talked about a combination of tax credits and/or 202. Each of them have different time frames...202 is once-a-year in July they usually invite and make selections in the fall...tax credits is twice-a-year, I think the first offering is the end of January, the beginning of February.

Alderman Roy stated so it's safe that the 202 financing, if you go that route would be able to be in place by September 30, 2005.

Mr. Edwards replied we're not sure. Funding for that is very, very competitive. It could be that we would have to go to a second round to get that and that's why we have elected to offer to purchase the building rather than have the City wait for us to secure the total package of financing that we would be looking for.

Alderman Roy stated, Ken, since you seem to be answering these questions for me and I appreciate your efforts...if we look at closing by October 31st construction would be partial winter and then beginning again in spring...we're not looking at actually having this on the tax rolls until possibly late 2006, possibly the beginning of 2007.

Mr. Edwards replied I would say that that's realistic. We would hope for sooner, but we certainly can't guarantee it.

Mr. Dunfey stated a good example Ken mentioned the Gale Home...you're all familiar with that site...that was a little bit over two years ago that we began that process. It moved at what most parties would say was warped speed considering all of the factors and it's about to be ready for occupancy; that would be pretty good turnaround time.

Alderman Gatsas asked, Mr. Craig, in your expert real estate field what is normally the deposit for a \$400,000 purchase?

Attorney Craig replied well that can vary from nothing to 10%.

Alderman Gatsas asked what would you recommend your client asking for if you were representing a client as a seller to ask for a deposit?

Attorney Craig replied it depends on the buyer...we're dealing with a couple of public agencies. If the buyer was somebody I didn't know I would first of all want to make sure they had financing and secondly with something this size I'd probably want \$10,000.

Alderman Gatsas stated so \$10,000 is a deposit that you would think would be fair and equitable.

Attorney Craig stated depending upon qualifications, I said if I didn't know the buyer and if it was contingent on financing. This is not contingent on financing and you've got a buyer here that you've been in business with for years. And, that was the deposit and the previous purchase and sale agreement too.

Alderman Gatsas stated correct but we know what happened with that one.

Attorney Craig stated yes they backed out.

Alderman Gatsas asked can you show me where in this agreement it says it's for elderly housing?

Mr. Dunfey stated on page 2, Alderman Gatsas, Obligations of the Parties at Closing...5.01(I) midway through that paragraph.

Attorney Craig stated on page 2, 5.0(I) second sentence...“In addition, the Deed shall contain a reverter clause, reflecting that in the event the Premises is not developed for affordable housing within a reasonable period of time, to be determined by the City of Manchester City Solicitor in conjunction with the City of Manchester Planning Director, the property will revert to Seller.” and the purchase price will be returned to the purchaser.

Alderman Gatsas stated what you're saying in this paragraph is that if you should close on September 25th, wait three years, don't develop it for senior housing, the reverter comes back to the City so we have a piece of property again in a 3-year period with nothing developed on and you think that we should turn around and give back the \$400,000 totally; that would be what you would give your client as advice.

Attorney Craig replied yes because given the certainty of this happening I'm not really worried about this happening. In other words, I think this deal will go through and will be built for senior housing.

Alderman Gatsas stated I understand but the timeframes and guarantees that you're going to give us I don't think are timeframes that the taxpayers should be looking at that in three years if it's not senior housing we get back a piece of property that's not on the tax rolls. I don't think that that's a condition that we should put taxpayers on this side of the ledger at exposure on. There should be some sort of default in there, if you don't do it and it's a three-year period there should be some loss of tying up the property for a three-year period without anything coming back to the City other than a reverter.

Attorney Craig stated first of all I think the reverter was unfair, but everybody has their point of view. Reverters are just almost unheard of these days. They go back a hundred years. The last I knew there was a reverter on this building, but that goes back 130 years.

Alderman Porter I was also looking at that section I and with the reverter if it is not developed for senior housing within a “reasonable” period of time...that's quite open, it could be three years, what would you have in mind. I know you're referring to the City Solicitor and the Planning Director but what would be a reasonable period of time?

Attorney Craig replied first of all that bothered me...we're putting our faith in the hands of the City Solicitor and the City Planner back to the seller again to say okay you're in default and there's nothing we can do about it...a reasonable period of time would be as outlined by Ken as far as going through the permitting process and the construction process and say by a tent up time, it could take about three years I guess. I would prefer a definite period my self as a lawyer.

Alderman Porter stated a rent up time can be over a period of time depending on a construction rate and number of units.

Attorney Craig stated there's a big demand for them hopefully and it'll still be there.

Alderman Porter stated this is it. When you close you will have a pretty good idea of what you're going to be able to do and from that point on assuming things follow the way you anticipate, how long might it be before you started renovations?

Attorney Craig stated I'll let Ken answer that, I think he answered it somewhat before but I'll let him answer.

Mr. Edwards replied it really depends on how long it takes to secure all of the financing necessary.

Alderman Porter stated so you wouldn't have all of that set up by the closing time, Ken.

Mr. Edwards stated probably not. If we get bumped from (1) 202 funding round to the other that's a year and there's a likelihood that that could happen. I guess our hope would be that we could demonstrate through the efforts that we have undertaken that we are diligently trying to seek all of the funds to accomplish the project. If we fail to do that, if we fail to demonstrate steps that we have taken then the City would have the option of saying that you haven't pursued this actively, there's not evidence that you've applied for funding every time it was available and your reasonable time has expired.

Mr. Dunfey stated if I may and perhaps it's useful to keep in mind we look at this as if we're members of the same team working toward a common public interest, a common public good, that's what we're here for. Our only interest here is to develop senior house, low-income affordable senior housing. We're going to do

everything in our power to get there and you can count on it. Those are very simple terms but that's the reality here; that's all we're interested in doing, we're not a private developer, we're not going to make money here, we're simply interested in serving low-income senior citizens as we know you are. To me that's the bottom line here.

Chairman Thibault stated one thing I'd like to have this Committee be aware of before we go any further is that we all know how much senior housing is needed here in this City and for the first time Manchester Housing Authority is saying that they will pay a full tax rate on this building. This is in my ward and let me tell you this has been a derelict building, if you will or a derelict spot in my ward for years, it's been 15, 16 years I guess it's been closed. I would certainly like this Committee to look at it very carefully before we make a decision but I would personally like to see it go through because I believe that they're good landlords, they take care of their property and it would certainly embellish my ward, I'll tell you for something that's been let go for a long time. Thank you.

Alderman Gatsas stated a full tax rate...let's make sure we get a clear understanding of what we mean by a full tax rate. Does that mean all full portions of the tax rate...county rate, local, school rate.

Attorney Craig replied to me that means whatever the Assessor's put on it.

Alderman Gatsas stated I want to make sure that we all understand that it's based on the four bodies of the tax bill which is the statewide property tax, the local tax, the local education tax and the county tax. So, it's incorporating all four pieces.

Mr. Dunfey stated if that's customarily what would apply here as indicated on the bill sent by the Assessor's that is what we'll pay.

Alderman Gatsas stated well, we're all on the same team.

Mr. Dunfey stated yes we are.

Alderman Gatsas stated even though sometimes there's players on that team have free agency. The \$400,000 can I ask where that is going to come from at closing?

Mr. Dunfey replied we're going to use a loan from Tarrytown Road Reserve Account and as we build our financing and complete the financing package and proceed with the project over time that will be repaid to that account.

Alderman Gatsas asked can you be a little clearer, what is the Tarrytown Road Reserve Account, what does that mean?

Mr. Dunfey replied it's a reserve account built up over time...I'm sure your familiar with our Tarrytown Road housing which is our only (technically) non-HUD housing and was developed in a bit of a complicated venture a couple of decades ago...we build up reserve accounts for our properties over time to deal with things we need to deal with to keep those buildings up and running and up to speed and we have enough in that account to borrow some funds at this time for this purpose which will be replaced again as I said over time.

Alderman Gatsas asked how much do you have in that account?

Mr. Dunfey replied I believe there's \$700,000 or \$800,000 at this point.

Alderman Gatsas asked how many reserve accounts do you have on other properties?

Mr. Dunfey replied I'm not sure of the number right off the top of my head but there are several.

Alderman Gatsas asked how much would you say (roughly) that those total to? Give it to me within a million, within two million.

Mr. Dunfey replied it depends on what we're talking about.

Alderman Gatsas stated it would show on your financial statement, I would think.

Mr. Dunfey stated there are several million all total. But, some of those public housing reserves, for instance, Bill will tell you back through the decades and at this point here today...we're required by HUD to maintain a certain level of reserve to protect all of our properties. I don't recall the current number off the top of my head but I'd be happy to give it to you in the morning if you like.

Alderman Gatsas asked but anything over and above that what would the status of that be?

Attorney Craig replied the monies we're talking about...for every project that the Authority owns other than Tarrytown Road comes from HUD (Housing and Urban Development). There's an agreement called the *Annual Contributions Contract* and HUD monitors that and HUD absolutely prohibits the use of any of those funds for anything other than the specific project for which it is allocated. So,

they couldn't touch it legally and they'd be in real serious trouble if they did if they used it for any other purpose. Even, for instance, if they were to borrow against the Brown School even though it's a laudable reason to build elderly housing you still can't do that.

Alderman Gatsas stated but those contracts are renewed on a yearly basis.

Attorney Craig replied yes.

Alderman Gatsas stated they're renewed on a yearly basis depending on what the tax status is in the particular community that those properties are in.

Attorney Craig replied up to a point, yes. In other words, you just can't send our bill saying okay the taxes have gone up we've got to pay school taxes, county taxes and everything else and HUD will say okay we'll pay it, they won't do it.

Alderman Gatsas stated they'll do it depending on what the cash flow of that building is.

Attorney Craig stated I don't think so, now I wish we had the Chief Financial Officer here to answer that question, but unfortunately we didn't expect that question.

Alderman Gatsas stated I would assume the HUD contracts in communities throughout the country are very similar.

Attorney Craig stated yes and some of them have gotten into real trouble for doing just what I described to you.

Alderman Gatsas stated correct...doing it outside of what that spectrum of that building would allocate for.

Attorney Craig stated correct.

Alderman Gatsas stated but in different communities throughout this country they're allowing full tax rates on these buildings.

Mr. Dunfey interjected that's not correct to my knowledge. The formula is the same everywhere for the pilot, the payment in lieu of taxes as it regards to public housing. We have an inventory of 1,271 public housing units...as you know we also have over 1,800 Section 8 units owned by private landlords and we provide a subsidy. On those 1,271 public housing units we are strictly restricted by federal law and it's reiterated in State Statute for payment in lieu of taxes which works out

to about 14.5-15% of what the customary tax amount would be for the value of that property. We cannot go above and beyond that or we risk losing our property to HUD...they'll come and take it away from us. We have no flexibility whatsoever, I think we've discussed this before in these Chambers and it remains that way. If you're aware of a different arrangement in another city in this country I'd be interested in looking at it, but I'm not aware of any such arrangements.

Alderman Gatsas stated my understanding is that the RSA is what restricts you. If the RSA has changed those guidelines change, it's the State RSA.

Attorney Craig stated that's news to me also. If HUD gives us money I'm sure the Authority wouldn't for extra taxes, I'm sure the Authority would not object to paying extra taxes, so if you can pass us some information where we can get that money we'd be glad to.

Alderman Gatsas stated I'm sure in this tight budget process we're going to find that.

Attorney Craig asked from HUD?

Alderman Gatsas replied I think we will find an RSA change that allows you to do more than just the "in lieu of taxes".

Attorney Craig stated yes but if we don't get the money from HUD though that's what I'm talking about.

Alderman Gatsas stated I think you have to show within your cash flow.

Attorney Craig stated I learn something new everyday...I've been doing it since 1965 and I've never seen it, but I hope you're right and I'm wrong.

Alderman Gatsas stated I'm sure the taxpayers hope I'm right and you're wrong.

Attorney Craig stated exactly, I'm a taxpayer myself.

Alderman Porter stated I do have a question on that tax issue. How does the financing make it taxable? Property is taxable based on the ownership and what entity will own this?

Attorney Craig replied it will depend on the financing...if it's 202 and I'm not as familiar with 202 as Ken is but it has to be other than the Redevelopment Authority and if it's tax increment financing it has to be a limited partnership which would not be the Redevelopment Authority, it's a separate entity. It may be controlled directly or indirectly by the Authority, certainly it will be in the case of a limited partnership and I suspect under the 202. So, that takes us out of the realm (RSA 203) which says that the Authority does not have to pay real estate taxes, however, it can enter into pilots as I'm sure you know.

Alderman Roy stated a few questions for Bob MacKenzie, Planning Director. Bob, before I get started with questions I agree with the Alderman of this ward that the reason why we're scrutinizing this is to actually get something accomplished there and I think elderly housing and affordable elderly housing or subsidized elderly housing is a direction we need to be going. But, I do have some concerns that we now...as long as I've been a member of this Board have this in front of us. Turning to Section 6. Due Diligence and Deliveries Prior to Closing...and the reason I'm asking you these questions is because I'd like to relate it to the Jac Pac site which the City is working on...the due diligence period, the title search...we've got 120 days under Section 6.02 for due diligence, 45 days for Section 6.01 title search...can we shorten this up in order to make it that this actually gets accomplished in the near term.

Mr. MacKenzie asked for the Jac Pac property or this property?

Alderman Roy stated it's my understanding that on the Jac Pac property the due diligence was 60 days.

Mr. MacKenzie stated yes I know that that is in process...MHRA has done their Phase I Environmental Site Assessment and is well into Phase II which is the final portion of the due diligence.

Alderman Roy stated so if we tightened up the restrictions on due diligence and title search is that something that MHRA would be able to accomplish.

Mr. MacKenzie replied I'm not sure if I can answer that I'd probably defer...I would hope we could shorten it but I would defer to MHRA.

Attorney Craig stated I'm involved also in the Jac Pac P & S...as you probably know I reviewed it and helped with it. There's a big difference between the two. First of all, with Jac Pac we're basically taking the land "as is". We're not going after any variances at the present time at least before we close and there's no

architectural drawings that have to be done. Whereas with the Brown School architectural drawings will have to be prepared and as Ken Edwards says that's the big reason for the length of time.

Alderman Roy stated so in order to do the due diligence the environmental, review of zoning and use you feel then you have to wait for all of the architectural drawings to be done to accept that.

Attorney Craig stated we have to do the architectural drawings before we can get into the Zoning Board, the title work has been done already. We did it under the first P & S and basically it's okay, I can tell you that right now.

Alderman Roy asked has an architect been consulted with regarding that time frame?

Mr. Edwards replied we had some preliminary discussions with an architect when we were working with FIT just on a very preliminary feasibility analysis which is what concluded in our report to you that it wasn't feasible to go forward with both parties, but we have not done an RFP to select an architect to begin meaningful work on this project.

Alderman Roy stated the other problem that I have is that the property tax would not be Section 6.03 final line... "purchaser further agrees that upon receipt of financing and completion of development the property shall be subject to the payment of property taxes." I, as one Alderman, would like to see this built and used for the purpose you intend it to be used for, but I'd also want to help that neighborhood out in getting it up and running as quickly as possible. So, I have some concerns over the incentive if this could go another, two, three, four years before development is completed depending on rounds of financing... I'm happy that you're willing to take a loan against another property to get this purchased it shows a commitment on your side but we need to get this built and I think some incentives to get due diligence done whether it's in shortened timeframes or some pressure from the city side... if we can do it on Jac Pac I'm sure there's enough architects in the City that are clamoring to get a hold of a historic building like this that would happily get it done in time. So, I would like to see the last line of 6.03 taken out as well as maybe some shortened timeframes.

Alderman Osborne stated I know myself that Brown School has been vacant for at least 15 to 20 years, is that so.

Mr. MacKenzie replied it was discontinued in use when the Northwest Elementary School was completed which I think was about 1987.

Alderman Osborne stated I remember my daughter was a substitute teacher over there and I used to drive her back and forth...I know it's been quite a while and time flies...but, anyway we haven't been collecting taxes over there for the last 21 years or whatever it's been, I can't see anything myself waiting another year to see low-income housing go there. I think it's a good spot for it. What exactly are you looking for this evening from this Committee.

Attorney Craig replied basically approval of the Purchase & Sales Agreement. Be sold to the Manchester Housing and Redevelopment Authority by the City based on the terms in this Purchase & Sales Agreement. And, the this Committee would recommend that to the full Board, of course.

Alderman Gatsas stated you talked about a "TIF" zone...why do you think that this building qualifies for a TIF.

Attorney Craig stated Tax Increment Financing (TIF).

Mr. MacKenzie asked can I clarify that. I think what they were talking about is what I call the LIHTC (Low-Income Housing Tax Credits) which is not a TIF.

Alderman Gatsas asked I was just wondering if had voted a TIF zone here and I didn't know about it. I'm going to go back obviously two issues that I have. One is the reverter and obviously it's going to take you a year to do your project and I don't have a problem with that, but should you close on this project and two years down the line the real estate market falls through I don't think the City should be left at risk for a piece of property that was sold three years before at \$400,000 and the value goes to \$200,000...I don't think the taxpayers of this City should be at risk for that and I don't think that anybody that would represent a seller would tell them to take a reverter back...I would hope that our City Solicitor wouldn't recommend that, that we'd take a reverter back at the same price three years later if the market had changed. And, I know the next question is going to be well what happens if the market goes up...

Attorney Craig interjected or down.

Alderman Gatsas stated or down...we're going to be at risk. The taxpayers of this City are at risk and I don't think that that should be the...I think there should be a spot in there that we say whether it's \$50,000 or \$100,000...if we had taken this property off the market for two more years it's going to take us another year to go forward and certainly we're all talking about this getting completed for elderly housing and that's what the objective is. But, we all understand the real estate market is not going to continue...at least I don't think it's going to continue in the

robust fashion it's been going for the last seven or eight years and I don't think any seller would take a reverter on a piece of property that could be less in value two or three years later...I don't think that that's what we should be expected to do.

Attorney Craig stated you're forgetting who the buyer is here. If you put a penalty in there then that comes out of the Redevelopment Authority and that means they've got that much less money to spend for housing for the elderly. It's sort of a circle, I won't say a vicious circle but it's an unpleasant circle.

Chairman Thibault asked wouldn't the City be put at the same risk if another developer developed this? The City would have the same risk if what you're saying now...

Alderman Gatsas interjected no because the developer would close on it...the reverter comes back to us. If another developer buys it they would have to put in 26 units or whatever units of elderly housing in there and so be it.

Chairman Thibault stated looking at their track record in the City of Manchester for the last 40 years I can't imagine something like this happening. I think that the Committee should look at who we're dealing with here. We're dealing with people that have done business in the City for 40/50 years that I think are quite reputable. I don't see a real problem with that.

Alderman Gatsas stated I'm not impugning their reputation one bit...I'm talking about us being a seller, us being a fiduciary of the taxpayer's money and making sure that that's protected.

Chairman Thibault stated I'm sure we're all in agreement with that. But, I think you can over regulate also and to me that's almost over regulated. When you know who you're dealing with, if it was a stranger maybe I would feel more comfortable with it but not this way.

Attorney Craig stated if you take it from the Authority and use it for general funds that means less money the Authority has to use for housing for the elderly. It's not like the Authority is going to go to the City of Concord, for instance, and put up another project someplace else with that money. It's going to stay right here and it's going to be used for the elderly. When all is said and done the problems of the elderly, the problems of the poor and the problems of those that are unfortunate are your problems shared in this case with the Authority.

Alderman O'Neil stated first of all I think we're all in agreement there is a desperate need for affordable elderly housing in this City and Alderman Thibault could not have said it better, I'm not sure that there has been a better partner in the City of Manchester than the Manchester Housing and Redevelopment Authority whether it's been doing senior housing, other workforce housing in the City, redevelopment...they have been a great partner with the City for as you said for 40 years. I think Director Dunfey said earlier we're on the same team here. I'm very interested in this focus on taxes because I don't know if they're paying taxes on any other property in the City, Mr. Craig.

Attorney Craig stated as Dick said there's payments in lieu of taxes.

Alderman O'Neil stated think about what's being asked here...they're providing elderly housing, no demand on our schools, limited demand on Police and Fire, no demand on public works, maybe they pick up garbage at some of the facilities maybe they don't but they're certainly not plowing and maintaining their property and there seems to be a focus on taxes with elderly housing. So, I would like you to keep that in mind and I just would encourage you this has been a great partner with us in the past...I would just encourage you to approve this purchase and sale tonight. For some reason there was a breakdown on our side of the table with some communication...I'm sure we're going to try to get that straightened out. But, let's not stop this project because of that. Thank you, Mr. Chairman.

Alderman Porter moved to recommend approval of the Purchase & Sales Agreement between the City and MHRA. Alderman Osborne duly seconded the motion. The motion carried with Alderman Gatsas duly recorded in opposition.

Chairman Thibault addressed item 4 of the agenda:

4. Communication from Manchester Housing and Redevelopment Corporation regarding the sale of French Hall.
(Note: proposals from Brooks Properties and The Herrington Corp. enclosed).
(Offer rejected by action of the full Board on 11/16/2004 and referred back to Committee.)

Alderman Porter asked, Mr. Chairman, could I have something clarified...just so we know. I'm of the understanding that in this particular facility the function of the MHRA Board is to take certain actions and report either to this Committee or to the full Board. Does this Committee or do the Board of Aldermen have the

authority to vote up or down either of your agreements or are we just here to listen to a report. I just want to know what my responsibilities are in this issue and I'd like to direct that to Tom Arnold.

Deputy City Solicitor Arnold stated under the Development Agreement it calls for MHRA to report to the Board of Mayor and Aldermen. We have interpreted that as meaning that the Board of Mayor and Aldermen must authorize a signature on a Purchase & Sale for French Hall.

Alderman Gatsas asked what was the last statement.

Deputy City Solicitor Arnold replied we, meaning the City Solicitor's Office has interpreted that clause in the Cooperation Agreement as requiring that the Board of Mayor and Aldermen authorize the signature on the Purchase & Sale disposing of French Hall.

Alderman Porter asked does the Board have the authority to choose which of the buyers it wishes to accept or is that strictly the prerogative of MHRA?

Deputy City Solicitor Arnold replied the Cooperation Agreement envisions that MHRA is going to go out and do the due diligence and come back with a recommendation to the full Board. The full Board, I guess, by refusing to authorize a Purchase & Sale could reject that but again the ultimate action that the Board has to take is to authorize a Purchase & Sale for French Hall.

Chairman Thibault asked, Tom, don't they have to first of all come to this Committee and then it goes to the Board?

Deputy City Solicitor Arnold replied the Cooperation Agreement said report to the Board, however, I gather at the last Board meeting the Board rejected the proposal for Brooks and sent it to this Committee.

Alderman Gatsas asked can I see a copy of that Cooperation Agreement?

Alderman Roy stated while Deputy City Solicitor Arnold is looking for that for Alderman Gatsas could the Clerk refresh what was done at the full Board and I believe it was to send it back to MHRA and to come back to this Committee with a recommendation.

Deputy City Clerk Johnson replied at the last meeting of the Board of Mayor and Aldermen they rejected a proposal that was presented to them and that was at the November 16th meeting and they did suggest that MHRA come back with a proposal to the Lands and Buildings Committee. But, the matter was referred here to this Committee so at this point whatever comes in would come to the Committee and then go out to the Board.

Alderman Porter interjected, Mr. Chairman, I believe I made the motion to refer it...

Alderman Roy stated not to cut you off but has MHRA come back with a recommendation.

Mr. Edwards replied no we have not.

Alderman Roy stated so there's absolutely no reason that this Committee should be discussing this because of Alderman Porter's, I believe, motion.

Alderman Porter stated as I recall the motion was to refer this issue to the Committee rather than have the Board act on it that night with very little information. I don't recall that my motion made a proposal but rather to submit more documentation as to what had transpired with the Letter of Intent between Brooks and MHRA and subsequent to that another offer had come in which we hadn't yet seen.

Attorney Craig asked may I read what I understand is the actual vote from the Board on November 16th.

On November 16, 2004 in Board of Mayor and Aldermen.

On motion of Alderman Gatsas, duly seconded by Alderman DeVries, it was voted to reject the offer before the Board for Hackett Hill and ask the Board of Directors of MHRA to continue working with whoever comes forward with a purchase price.

That's the entire motion.

Deputy City Clerk Johnson stated there was also a motion to refer it back to the Committee, which you may not see on that.

Chairman Thibault asked so where do we stand now.

Deputy City Clerk Johnson stated basically it's up to the Committee, I think what my understanding of the matter is is that you have a Cooperation Agreement which the City Solicitor has advised you that MHRA needs to bring you a recommendation, you can accept or reject those recommendations as a Board of Mayor and Aldermen, but since the Committee is looking at it those recommendations would come here and then back out to the Board unless you want to refer it back to the Board. But, lacking a recommendation from MHRA I think...you can certainly request that they do anything with whatever proposals they've received and they could take that back to their Board of Directors and staff and go from there.

Chairman Thibault asked are you able to make a recommendation to this Committee tonight?

Mr. Edwards replied no, we're not. Our board of Trustees has met with both The Herrington Catalogue folks and with Brooks again and our Board is deliberating now on issues that were raised during those presentations, they've asked us to gather some additional information and we're trying to meet with our Board again next Tuesday to move this process along...that is exactly where we are.

Chairman Thibault stated I guess if we go along to what Alderman Porter was saying before looking for information this is what these people are trying to do is get information so they can give us a presentation from the two people who are now interested in the property. So, where do you want to go from here?

Alderman Porter replied I would say if you're not prepared to make a recommendation we leave it back on the table until you are.

Chairman Thibault stated right, I have no problem with that.

Alderman Gatsas stated I'm reading this disposition of French Hall and associated improvements and in this it makes it pretty clear that: one, that the Authority will notify the City or its designee, in writing, of all notices of such orders or other requirements within 72 hours of the time of their receipt. I would assume that that's any Purchase & Sales Agreement.

Mr. Edwards replied that wouldn't be my interpretation.

Alderman Gatsas asked then what's yours?

Mr. Edwards replied my interpretation is that we were charged with a responsibility to market the property, to review proposals, to evaluate proposals with our Board and we're supposed to select a developer and report to the Board of Mayor and Aldermen. That paragraph 1 has to do with compliance with governmental orders.

Attorney Craig stated that's right and so far there have been none.

Alderman Gatsas stated you don't believe that it's in the best interest of the City for us to know whether you've rejected an offer. If an offer comes before you folks for \$3 million and you've rejected it you don't think it's an obligation to tell the seller that there was an offer on the table.

Mr. Edwards replied throughout this process we've been working with City staff they have been participating in the meetings that we've had with perspective developers and all of the potential purchasers have participated with us and with the City prior to going to our Board.

Alderman Gatsas stated you don't think it should be the responsibility of whether it's you or City staff and I think it's you because the Authority is getting paid a commission, I believe, or a fee. Are you folks getting a fee on the sale of French Hall?

Mr. Edwards replied our agreement is that we're paid the actual time that various staff members spend. We have an estimated administrative line item in the budget, which we charge against all predicated on reimbursement after the sale of French Hall. We're not getting any money up front from the City.

Alderman Gatsas stated I'm looking at a budgeted project here and it says that there's a broker's commission of 5% (\$60,000) and an annual administration cost of \$60,000.

Mr. Edward stated that is correct.

Alderman Gatsas stated now we're paying fees I would think that there is some obligation whether it's City staff that's supposed to report to this Board...if you folks saw a Purchase & Sales and refused that we should know about that. I shouldn't have to walk down Elm Street and have somebody tap me on the shoulder and say we offered \$1.4 million for that project and we were considered but staff and MHRA decided they didn't want to sell it to them and I said what are you talking about. I don't think that any Board member on this Board should ever have that happen to them and when somebody tells me that there was a \$1.4

million offer on the table...now, I agree that maybe that wouldn't be the best use that came forward but we as a Board should at least know it was before us.

Mayor Baines stated, Mr. Chairman, I'd like to address that issue. Having been relatively new in terms of the relationship in the City with the Manchester Housing and Redevelopment Authority I talked to people like Jay Taylor and talked about the history of this relationship. I believe these Cooperation Agreements go back to approximately 1967, maybe longer than that and in response to Alderman Gatsas' suggestion I would give the history of the Housing Authority dealing with many parcels of land including most recently at the AirPark that they might deal in the course of marketing that property to many different potential sellers and the idea that was established way back when was to keep the political entity which is "us" at arms length from those things so the professional staff could go through an analysis of each entity without the politics that sometimes start to emerge...the different entities bidding on different properties and that the professional staff would come forward with recommendations and that's why it was shifted over to the Housing Authority that are somewhat removed from that. They would do an analysis with the professional staff and once they'd done the analysis it was brought to the Board of Mayor and Aldermen. That is the relationship that's existed probably about four decades, at least. I understand your concerns there, Alderman, but in practicality I think it would not be in the best interest of the City to have that kind of situation where the different entities...oh by the way we can start talking to individual aldermen...I'm not saying that's your intent, but there could be the danger of that or coming to the Mayor and saying do we think we might have a better proposal or to individual aldermen and we've all been around long enough...that's the type of thing that starts to happen. So, the City in its wisdom maybe 1960 or whenever this came about said we need a process to allow the professional staff to go through the analysis within the parameters that the City has set up on Hackett Hill or at the AirPark or other properties and then come in with a recommendation to the Board of Mayor and Aldermen. So, to have the scenario that you just set out would be to change what has been existing for some very legitimate reasons because none of us ever want to be in the situation where people are lobbying us as aldermen because of our various connections with different entities about what they think might be a better deal because of some relationships they may or may not think they have with us as individuals. So, that would be my clarification of that.

Alderman Gatsas stated, your Honor, with all due respect I'm not questioning that and I don't think it should come back to this Board, but I think that if MHRA has said not to a contract and they've said that they don't think that's the highest and best use this Board should at least be aware of that. I'm not saying that we should

be in the position of making a decision to overcome where they're at because we can't do that. The only thing we can say is no to any contract that they bring forward to us as a Board.

Mayor Baines stated that's why you have the Manchester Housing and Redevelopment Authority and the commissioners that are appointed over there to make those decisions and make recommendations to us. By altering that arrangement you would really have them being almost part of a ping pong game...oh, by the way this is the thing we've selected but we rejected these 10 others and then have people sit on this Board and say well, gee why can't we have the tenth one and I think that might be a better use or I might think number five might be a better use. They do the analysis, the professional staff participates immune from the political establishment and comes up with professional recommendations. It has served the City well for these decades and it probably kept many of us out of some of the trouble that elected officials find themselves in other parts of this universe that I'm familiar with and some of them aren't very good, the consequences of that. So, the City has worked pretty well by keeping the politics at arm length, letting the professionals do the analysis and make the recommendation and I would urge the Board not to change that dynamic.

Alderman Roy stated, Ken, you said you're meeting with or finalizing with your Board of Trustees next Tuesday.

Mr. Edwards stated we're trying to set up a meeting I'm not sure whether that date has been confirmed but that's what we were shooting for. I'm not it has been confirmed, so it will be next Tuesday.

Alderman Roy stated, Madame Clerk, we have a meeting on the seventh of next month, what I would ask my colleagues on this Committee to do is to table this or send it back to the full Board because this is an item that I believe warrants the professional work done by MHRA, we should get it as a full Board and approve it or deny it and send it back and get it done. This ping pong back-and-forth between this Committee, the full Board and MHRA I believe just adds to the confusion. So, if it is possible, Ken, my recommendation would be that you bring something to the full Board next Tuesday night.

Chairman Thibault asked are you asking to table this at this point.

Alderman Roy replied no I'm asking to move it to the full Board with a recommendation from MHRA next Tuesday, December 7th.

Chairman Thibault stated this proposal that I'm looking at, the disposition of French Hall states in here that the Special Committee on Civic Center or its designee is to oversee this, it shouldn't even be in this Committee.

Attorney Craig stated referring specifically to French Hall disposition and the Cooperation Agreement...Project #2, Section 3 (B) French Hall...the Authority will review proposals, select a developer and report to the Board of Mayor and Aldermen...and we're doing just what Alderman Roy is suggesting and that's been previously approved by not only the Redevelopment Authority but by the full Board of Mayor and Aldermen.

Alderman Gatsas asked then what am I reading? Somebody needs to explain to me, Mr. Solicitor, can you explain to me why this is here, can you tell me?

Deputy City Solicitor Arnold replied no I couldn't tell you other than the Board sent it.

Alderman Gatsas stated so it should be at the Special Committee on the Civic Center. It's pretty clear in that proposal, it states it.

Alderman Roy stated I do agree with Alderman Gatsas that the disposal does have that language in there, I ask my colleagues though we should not be sending this to yet another committee. It should be something that we get a proposal from MHRA, good or bad or indifferent to the full Board at their earliest convenience.

Chairman Thibault stated okay so you're making a motion that we send it to the full Board and they come and make a presentation to the full Board. Can I get a second to that. Alderman Lopez has a question.

Alderman Lopez stated I've had some conversation with the Mayor and I think he has to agree with me that there are some people like Alderman Thibault who have been here for a while and Alderman O'Neil and others that are not aware of the agreement and I think it's been said many a times...I've had conversations with Mr. Edwards in reference to that and I think it boils down to one thing... communication. I know through resources back when some other people were involved in this whole process they used to call all the different aldermen on the Lands and Buildings Committee years ago and whether it be the commissioners, whether it be somebody, but it was communication and I think that is what we have here. Alderman Gatsas is reading off of something, we have Attorney Craig reading off something else and I think just the procedure...there's so much delay here and I don't know why there's so much delay in this whole process. If somebody could get a one-sheet document and say this is it, this is how we're

doing something and when you come in with something you just come in and ask for a purchase and sales agreement...end of ballgame, we have everything right there. But, so much conversation back-and-forth...everybody's afraid and nobody trusts anybody and it's getting ridiculous totally from everybody's perspective and so I wish that we would give some type of clear cut administrative process so it makes our job easier to trust everybody. But, apparently nobody trusts anybody because everybody is reading off a different page. That's the only comment I have.

Chairman Thibault stated I would like to thank Alderman Roy for bringing the motion he just brought because I think that would probably solve the problem, however, it didn't pass.

Alderman Porter stated, Mayor, I agree 100% that the political side should be kept out of it, however, when things do come to the Board or a Committee as elected officials and we have to vote on something I know, I for one and I'm sure my colleagues want to know as much as we can about it. I do think that there is a difference between lobbying politicians and I do agree with Alderman Gatsas... our City staff should keep us informed. I don't like coming to a meeting and just being totally in the dark and even if it is just to know there was an offer rejected. I don't believe that that should be put into the realm as if they're lobbying us but I think it's our City staff's obligation when we have to vote on something to at least let us know what's going on because as Ted said we circulate and people say hey, how come...why didn't that guy get the light of day...what are you talking about...hey, you're an Alderman you don't know and I think that's keeping us in the dark. So, I do agree, Mayor, with the politicization of this, it would be incorrect but I do think that City staff has not kept us informed as they should.

Attorney Craig stated I don't know but traditionally in the past when the Authority makes a presentation for a given project and a given developer they do review all of the proposals that have been submitted and all of the developers and give the reasons why one was selected over the other and to the best of their ability they answer all the questions that the Aldermen have at that time. As far as this particular Cooperation Agreement is concerned, Aldermen, it's only two years old...adopted November 6, 2002.

Deputy City Clerk Johnson replied it is contained within the agenda, it is not a separate document that people were passing around.

Alderman Forest stated I've worked a little bit with MHRA on this French Hall project since I became an Alderman. There were agreements made long before I was elected, so I don't know if all of you were privileged to it but there were some agreements made, there were some things that were done prior to me being elected

and everything else and I think they have done very well in working with a lot of people to sell this place and in the past year there's been a lot of controversy on it mainly because of this Board. We've asked them to do things at the last minute, we've interjected new people at the last minute...that's why we're in the predicament that we're in. But, I think either we let them do their job as the agreement was signed by the prior Board or we change the agreement and have them do it differently, but French Hall has been there for a while, I think it should be sold, I think it's something the City needs to develop that property but we've got to go in the right direction. We can't just do what we're doing here and keep putting it off and putting it off. So, I think we ought to give them a directive as to what we want, get them to where we want them to and I don't think we should be threatening them or doing what we're doing to them tonight. I think they're working hard and I think they give us the information that we ask for.

Alderman Roy stated taking a leave from Alderman Forest I'd like to issue a directive and move that we ask MHRA to come in next Tuesday, December 7, 2004 with their recommendation for who would be the best purchaser for that property. Alderman Porter duly seconded the motion. The motion carried with Alderman Gatsas duly recorded in opposition.

TABLED ITEM

5. Communication from Mr. MacKenzie and Ms. Hills referenced as Hackett Hill Business Park Master Plan.
(Tabled 7/27/2004)

On motion of Alderman Porter, duly seconded by Alderman Roy, it was voted to remove Item 5 from the table for discussion.

Chairman Thibault asked are they going to make a presentation here or what? Jane, you're going to make a presentation on this.

Alderman Porter asked where are we?

Mr. MacKenzie stated the Master Plan for Hackett Hill is necessary for the City to move ahead in selling the properties and developing it for commerce. There was a public hearing actually several years ago where a number of questions were raised...the staff has worked with the consultant to answer those questions, we have a slightly revised Plan, a Plan that is actually lower in investment cost and the Plan has to be adopted by the Board before the City can move ahead and

dispose of the properties and build them as commercial. So, at this point, we have professional staff here, we have MHRA here, Jane Hills...the Plan, we think, is appropriate. We do believe that the Board should adopt it so that they can move ahead in putting this particular property back on the tax rolls.

Alderman Gatsas asked have we approved the Project No. 4 under the Cooperation Agreement, have we already approved this as a Board?

Mr. MacKenzie replied no. The Cooperation Agreement on Hackett Hill would have to be approved after the Board adopted the Master Plan.

Alderman Gatsas asked can we then put somebody else in charge of developing?

Mr. MacKenzie replied the Board has the option although I would say that the property is controlled and owned by a subsidiary of the MHRA, but I'm not sure how long it would take or what it would take to transfer that but I think the Board does have the capability of changing direction. But, it may take longer.

Alderman Gatsas stated but in all essence it was owned by the City we just put it in there for the purposes of developing as we have for French Hall or other projects...the AirPark.

Mr. MacKenzie stated I would defer perhaps to Tom Arnold I don't know if it went in temporarily in City hands, I think it was submitted directly into the subsidiary of the MHRA and not passed through City hands when the City put the money to purchase several years ago.

Alderman Gatsas asked have those environmental concerns been addressed so that they are no longer there so that...

Attorney Craig replied not to my knowledge. Ken Edwards would be the one to answer the question and he says no they haven't been addressed.

Alderman Gatsas stated I guess I have some concerns that...is this part of the, does this go to the Civic Center Committee? Can somebody tell me because obviously it made mention of the Civic Center Committee and French Hall and I'm just checking to see if Alderman O'Neil is just throwing hand grenades from back there.

Attorney Craig stated the special committee or any successor thereto as it's designee will oversee and monitor the project.

Alderman Gatsas asked what is the committee?

Attorney Craig stated it's up to the Board of Mayor and Aldermen.

Alderman Gatsas asked which committee is it, the Civic Center Committee?

Attorney Craig stated that refers to the...

Alderman Gatsas stated so it goes to the Special Committee on the Civic Center.

Attorney Craig stated no...or any other committee that the Board of Mayor and Aldermen shall designate.

Chairman Thibault stated it must have been sent to Lands and Buildings.

Alderman Gatsas stated it should be at Civic Center.

Chairman Thibault stated okay I would just as soon it go there. How come it's here tabled?

Mr. MacKenzie stated if I could, Mr. Chairman. The sequence that would happen is that the Board would approve the Master Plan and then they would approve the agreement. I think the Master Plan of such a major area of the City is appropriately at the Lands and Buildings Committee. So, that is an action that has to occur first, I believe this is the appropriate Committee. The actual agreement with MHRA might be referred to any other committee but the Master Plan is appropriately here.

Alderman O'Neil stated I read that this evening and I was kind of shocked that that was in there, but to the best of my knowledge land use and building use is the jurisdiction of Lands and Buildings Committee. Somehow that should be...I think that's just a misprint...

Alderman Gatsas stated no, no, no, it was intentional.

Alderman Lopez asked how long has this plan been on the table...two years?

Ms. Jane Hills, Assistant Economic Development Director, stated longer than that, I believe. I think about four.

Alderman Lopez stated if the Committee so desires and approves this how are the numbers in here in comparison to what the total process...the last time we talked about it it was \$25 million that we were going to have to put into that park, does that still hold true.?

Mr. MacKenzie replied we did go back and refine the numbers, we evaluated what was absolutely critical to be done. The actual hard cost numbers for the project now is significantly less. The hard cost numbers are just over \$14 million. We did factor in, although it's not normally done operating impacts on some of the City departments, but that's never been done in these evaluations before. But, the hard cost for the project is \$14.3 million and that does compare against \$25 million, which was originally anticipated.

Alderman Lopez stated the other thing I was curious about is the amount of traffic and the interstate and interchange for that particular area as to whether they're going to have an on-ramp there, etc. and a road. I think the point I want to make is that if somebody could put something together into some type of order...two years is a long time...I don't know if Manchester Housing Authority is ready to move on this and start getting people up there or whatever the case may be, but there hasn't been any communication regarding that particular area maybe because we have not approved the Master Plan. Is that what's holding us up because there's no approval, do you have clients waiting and stuff like that.

Mr. MacKenzie replied I'll start that by saying that it is a low time right now for industrial and commercial parks in New England. But, I think it is an appropriate time for the Board to consider approving the Master Plan so that we can catch the next wave when it does happen. There are a lot of vacancies in northern Massachusetts, southern New Hampshire...but, it is appropriate for the Board at least to start the process and approving the Master Plan is the first trigger. We have had a couple presentations to the Board of Mayor and Aldermen on it...we've shown the maps, there have been questions by others but at this point I think the Master Plan is to the point where can be approved by the Board of Mayor and Aldermen. It is the first step and if you want to see these return to the tax rolls the Master Plan approval is the first step in that.

Alderman Lopez stated the point I made at the full Board when it was presented and I was amazed that the Plan wasn't approved at that time. But, one of the major questions that I ask was...a new fire station up there...whether or not the impact fees and everything was going to come up with \$1.2 million or \$3 million to build a new fire station and I was assured that that question was going to be addressed by the people making the presentation and I have no received an answer to that.

Mr. MacKenzie replied I do apologize if we did not give you that answer. But, the land will be dedicated from this project towards the fire station. Impact fees for fire stations are not paid by commercial projects, so this project is not going to pay for the building; that is paid by residential developments that will be coming up in this area, but the land contribution which will probably be on the order of \$400,000 to \$500,000 depending on the size of the parcel would be coming out of the project and that would be a contribution towards the new fire station.

Alderman Roy stated just a statement to Bob regarding the Master Plan. One thing I noticed and I know we had a discussion regarding chain of title that the City was not actually in it, but in a number of places in the Master Plan are reversed to the City as a developer and I do have concerns over just some of the language...how it could be interpreted later on and I also want to reiterate, I know the development plan in a number of places mentions that site impacts...we do have to quote this...the nationally recognized preserve and that needs to be something that is protected with the utmost caution through this development process and I could reiterate that from this Alderman's standpoint to MHRA and City staff that we do have a nationally recognized preserve there and that is significant.

Alderman Gatsas asked, Mr. MacKenzie, if we approve this Master Plan can we then ask for outside bidders to come in for development?

Mr. MacKenzie replied yes you could although the City has been going along the path of allowing MHRA to do that. The Master Plan itself does not specify who the actual developer would be.

Alderman Gatsas stated so if we approved this we can ask anybody to come in and offer their expertise of how to develop that and what timeframe they could do it in.

Mr. MacKenzie replied yes, I believe the Board could do that.

Chairman Thibault stated maybe I'm confused but I thought that this was supposed to be strictly a corporate office type setting and not industrial or...what am I looking at here? Are we looking to change that now? If another developer comes in there and has an idea of putting 2,000 people to work up there that's not what we were looking for I thought.

Mr. MacKenzie stated I'm not saying that would be an easy change, I'm just saying that the Master Plan per se did not lock in MHRA and I think that given the amount of time the City staff has that MHRA is the appropriate vehicle to accomplish that. But, the Master Plan does not lock them in. It is locked in to

some extent by the zoning now, so there's protection against heavy trucking or other industries that might impact on that particular ward, so the zoning is there as a buffer to protect it if someone else was going to develop it.

Alderman Gatsas stated...Harvey Industries...is the zoning there reflective that they couldn't have gone there.

Mr. MacKenzie stated...Harvey Industries...we actually looked at the site for Harvey Industries. There might have been a...I think generally a manufacturing facility could go there. There might have been a few zoning issues although I think they're more technical in nature. I think the primary issue of why they couldn't go there is the topography of the land was such that they couldn't get one large flat floor plate that they needed for a large manufacturing facility.

Alderman Gatsas stated so the industrial space that you said in New England that's going down...Londonderry just got a coup when they got their 500,000 sf of Harvey Industries.

Mr. MacKenzie stated again I would love to see Harvey Industries stay in the City of Manchester we are running out of flat land though and we need land like this in order to keep at least some of the businesses in the City so they don't leave the City.

Alderman Gatsas moved that the Master Plan be approved. Alderman Porter duly seconded the motion. The motion carried with Alderman Roy duly recorded in opposition.

Alderman Gatsas moved to bring to the table all developers that want to bring ideas to the City to develop this industrial park along with MHRA. I'm not looking to block them out but I think that anybody that's got an idea that thinks they can do it in a better time frame should be available to do that. Alderman Porter duly seconded the motion. There being none opposed, the motion carried.

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

A True Record. Attest.

Clerk of Committee