

BOARD OF MAYOR AND ALDERMEN

January 7, 2025 at 7:00 PM

Mayor Ruais called the meeting to order.

Mayor Ruais called for the Pledge of Allegiance, this function being led by Alderman Long.

A moment of silence was observed.

The Clerk called the roll.

Present: Aldermen Morgan, Goonan, Long, Fajardo, T. Sapienza, Kantor, O'Neil, Levasseur, Terrio, E. Sapienza, Burkush, Barry, Vincent

Absent: Alderman Thomas

Mayor Ruais stated I have a couple of quick recognitions this evening. First, I want to welcome everybody back from the holiday break. I hope everyone had a wonderful time with friends and family. If I could please have Coach Lally come up. Coaches in my lifetime played some of the most important roles in my life as mentors and it is just a reminder of how important and precarious these positions can be. Fortunately, we have with us this evening an individual who made his mark in Manchester high school athletics, successfully coaching for over 40 years across seven different sports. His name is Peter Lally and he is the winningest girl's high school soccer coach in the state of NH. Most notable is his tenure as Manchester Central High School girl's coach from 1984-2019 where he had four undefeated seasons with a capstone of 453 wins. During his tenure, the Manchester Central girls' soccer team made the playoffs every year, to include 17 Final Four appearances, 9 state championship appearances and 5 state championships. His teams have received national recognition and he has earned an array of awards, including Coach of the Year from the National Coaches Association. Peter has been inducted into the Queen City Athletic Hall of Fame, NHIAA Coaches Hall of Fame and NH Soccer Coaches Hall of Fame. A champion for female sports, Peter has impacted hundreds of student athletes and served Manchester well. Coach Lally, our city is deeply grateful for your involvement. Not only is the gratitude for the hundreds of wins you helped engineer but more importantly for the hundreds of young

lives you so positively impacted over the course of your time here. Simply put, you have made an indelible difference upon our community. Thank you for your service to the City of Manchester.

With this being the first meeting of the year, we had some wrap-up statistics that I wanted to share with you all on homelessness in the City of Manchester. As I have said from the beginning, I think homelessness needs to be rare, brief and one-time and we have to deal with this in a comprehensive way which is why we unveiled and implemented over 15 different initiatives over the course of the previous year. This means, as we have discussed, enforcement of our laws and our ordinances, addressing those underlying drivers while building more affordable housing and that is what we have done with more on the way this year. I wanted to quickly walk through some of the updated statistics and the year-end stats that we have compiled to give you an overview and make sure we are being transparent and accountable to the City of Manchester. On the enforcement side, as you will recall during the summer we banned camping. We were one of the first cities, if not the first city in the United States to do so following that Supreme Court ruling. We also transferred \$500,000 from a program within the City of Manchester to the Manchester Police Department to patrol the hot spot areas that we were finding in our parks and on our streets, both in the downtown and around the City of Manchester. On July 12, that got under way and from that point to the end of the year, they made 130 arrests and issued 489 citations. You will recall that we thanked the Community Policing Division and the Enforcement Division as well for their efforts on our behalf. Through the Engagement Center, we released some statistics in the month of December but I have a few updates on that as well. The Engagement Center has been doing some incredible work addressing those underlying drivers and getting people off the streets and into housing. Over 800 provider connections were made and that was just since July of last year when we started releasing the monthly reports. Over 35 individuals were housed, 30 vital documents like SS card, birth certificate and driver's licenses were procured, 11 gained employment, and 8 entered rehabilitation or detox. I have an update on the effort that we launched in September to effectively end veteran's homelessness in Manchester. The release that I had prior to Christmas was 16 and we are now up over 21 veterans that have been housed through this initiative. I am deeply proud of the continued efforts there. On housing, Jeff Belanger and the

Planning & Community Development Department put together these numbers for us and we are deeply pleased to be able to report the following from last year. Through the Planning and Zoning Board and Planning Department, 543 certificates of occupancy were issued, 600 new dwelling units were approved, 707 units are in active construction, and through the 79-E Program, the BMA approved affordable housing and new units at the Lamont Hanley Building right down the street. We were designated a housing champion towards the end of last year and I would like to thank Jodie Nazaka for her efforts on that. We were designated a housing champion through the state of NH. We also deemed surplus those 15 parcels of land which resulted in \$1.13 million being added to our Affordable Housing Trust Fund. We then expended \$200,000 to create eight new units of affordable housing and I will be inviting you all to the opening of that building later this month. That is a tremendous success and a result of this Board taking that initiative. We also supported \$1.65 million of federal funds for affordable housing for the Pearl Street Lot through the budget process and at our next meeting we will have a zoning presentation on the rewrite to give the BMA an update on those efforts as well. The last piece of this that I want to address is addiction which we have some great news to report on tonight. I sent out a press release earlier but I want to make sure that I am driving this home. I want to bring up Anna Thomas and the ROAR team and I want to thank them for their efforts. Keeping with tonight's team theme, we have a group of individuals who are making an incredible difference on a different field, our streets. This is Manchester's Rapid Overdose Assessment & Response Team, better known as ROAR, led by Anna Thomas, our Health Department Director and Andrew Warner, our Director of Overdose Prevention. In 2022, overdose fatalities had reached an all-time high compared to the previous five years here in the Manchester community. In response, the City of Manchester Health Department secured funding from the CDC and the National Association of City & County Health Officials to receive national technical assistance and form a local ROAR team led by our Director of Overdose Prevention. Additionally, last year as you will all recall the BMA continued funding for this essential program through the use of Opioid Abatement Funds. This highly experienced and trained team engaged people most at risk for opiate overdose in the event of and response to an overdose fatality spike or as a preventive intervention during early morning, late evening and weekend enhanced outreach. Their primary goal has been to prevent fatal overdoses and to connect people at high risk for

overdoses with life-saving resources, treatment for substance use disorder and recovery support. As part of this work, the team has partnered with the Manchester Police Department, American Medical Response, the Manchester Fire Department and a wide range of community partners to produce real-time overdose data on a neighborhood level to anticipate and prevent hot spot areas. Tonight I want to celebrate more successes with the updated numbers from 2024. According to the latest data from AMR, opioid overdoses are down 24% from 2024 to 2023. This number represents the second lowest annual amount since AMR began tracking in 2015. Opioid overdose fatalities are down 21% from 2023. This is also the second lowest annual amount since AMR began tracking in 2015. I want to thank Anna and Andrew for leading this very talented team and our congratulations and thanks also goes to Janelle Brophy, Ira Foler, Kip Grubbs, Jennifer Meler, Kaleen McKahey, Daniel Provencal, Ira Streep, Anika Sarette, Deedee Travers and Stephanie Vary. Thank you so much for the life-saving work you are doing in the City of Manchester. We deeply appreciate your efforts and let's continue on in 2025.

PUBLIC COMMENT

Mayor Ruais advised that the purpose of the public comment session is to give residents of Manchester the opportunity to address the Board. All people wishing to speak must sign up with their name, address and topic prior to 7 PM. Once called, they will have up to three minutes to speak and any comments must be directed to the chair and concluded when their time is up. If the Clerk calls their name and they are not present to speak, they will not be given a second opportunity. Any resident wishing to speak will come forward to the nearest microphone, clearly state their name and address when recognized and give their comments.

Jessica Spillers, 73 Jobin Drive, stated:

I am the school board rep for Ward 8. I hope you all had a nice holiday and a good new year. I am here tonight because it has been about a month and a half or maybe two months since the vote to halt the land transfer for the Beech Street School. I understand that there were some questions that folks still had regarding that project so I hope that you all have taken some time to contact the district, the administration, school board or whomever to get those questions answered so you can re-evaluate your vote

on that land transfer. It is important because there is a fiscal impact to the continued halt of the land transfer and to the halt of the construction for the school. I hope that we can continue this conversation and move it forward as we start the new year. Thank you.

Roger Bleau, 1620 Union Street, stated:

I am in favor of this project. I want the city to honor the agreement that was made in 2023 to improve our city schools. That would do it. We already have the bonding and everything was agreed to and we moved kids out of other schools. To me it doesn't make any sense to delay it or to try and change it. I think it is awesome and I think it will really help. Three of my kids went to West High School and they all did well. My grandchildren, three of them went to Central and they all did well. The school system is good. Unfortunately, the state seems to be pushing for vouchers more all the time so I think if you do this project it would help people want to come to the Manchester schools instead of going to private schools. I think that would help a lot and I think it would be good. My understanding is delaying this costs \$250,000/month to the taxpayers. That doesn't make any sense. To me, it is all good. I think it was done in good faith by the last administration and I don't see any reason not to do it. I hope that you can do it. One other problem is the state of NH, according to the NH Supreme Court, is not funding public schools enough. We are only getting \$4,100 per student and the state Supreme Court said they have to give at least \$7,356. We better do this when we can save the money before it gets worse. I don't see the state of NH increasing the amount. They said they don't have the money. They just cut the dividends and interest fund, which cut \$160 million off of our revenue which could have been used to increase the amount of money given per student to the schools which I think is important. I believe in public schools. I believe this move is a good move for the public schools and I think it helps equity in the schools so we don't have some kids in good buildings and others in not good buildings. They should all be good in my opinion. I hope the Board will vote in favor of it and do the same thing the last administration did and fund this thing to improve our schools.

Glenn RJ Ouellette, 112 Auburn Street, stated:

Yes, I trimmed my beard. It was too long and too thick. Happy New Year to you all. We are in a new year and it is going to be an election year for the City of Manchester so between now and September when the primary comes, I hope we get some work done; some serious work done. For example, the charter says that every 10 years we must establish a charter commission. We are going on year 13. If it is not done by the end of March, I will start the process to get the petitions going to get it done. This is our charter as a public and it is important that we follow the charter as it has been written. Number two, there are street lights that have been out for months. One on Central Street; an entire block. I don't know how you guys can find out how they are out other than someone reporting it. I know that in the center city on Chestnut Street almost for a month even the city parking lot had the lights shut down. When we break a window so to speak, it causes problems. It brings in people to do evil things. Please check into those lights because we are paying for them. The next thing I want to say is that I am a strong believer that after the election is over it is over until the next election. It bothers me when certain aldermen make motions so that something doesn't pass just because they don't want to give somebody else credit. That is not your job. Your job is to do what is best for the City of Manchester. Let the citizens deal with the rest of it. I wish you all a new year and please let's get some serious work done. Thank you.

Betty Delisle, 31 Lamonte Street, stated:

I am here today because I came to a meeting and was hoping to speak at that meeting but my paperwork was received and filed. I owe some money to the City of Manchester from the revolving loan fund when I had a business that closed down years ago. I have a 10% interest rate with my home right now and am looking to refinance, get a lower rate and pay back the city. That is what my goal is but I was told that my paperwork was received and filed and that is why I am here today. I want someone to take a look at it and help me move forward with that to get a lower interest rate and pay the City of Manchester what I owe them and that is why I am here. That is what I would like everyone to take a look at. It is called subordination of a loan but people are calling it subrogating but it is not. It is subordination. Thank you for listening. I just came to see if you would consider letting me refinance so the city can get paid. Either that or we just

keep going to court because I am unemployed right now and it is \$150/month and it keeps going back and forth. It is a win-win situation if we both look at it together and come up with a solution to have the city paid and I can refinance. It is better for me too, in the long run.

*On motion of **Alderman Long**, duly seconded by **Alderman O'Neil**, it was voted to take all comments under advisement and further to receive and file any written documentation presented.*

PRESENTATION

Update on the EPD's CSO Program and economic impacts on sewer rates.
(Note: Attached for the Board's approval is a contract regarding the construction of the Cemetery Brook Drain Tunnel.)

Tim Clougherty, Public Works Director, stated joining me tonight to my left is Owen Friend-Gray, Deputy Public Works Director and to my right is Asha Echeverria who is legal counsel with Bernstein Shur. Also joining us tonight in support of the project is Robert Robinson, our interim Chief of Environmental Protection, Ben Lundsted, our CSO program coordinator, Dave Pelcari, Project Executive with the lead engineering firm CDM Smith and Molly Foster lead engineer from our program manager, Parsons. The agenda tonight is going to consist of a little bit of background on the CSO program and the meeting purpose. We are going to talk about the program benefits, the economic impacts and current conditions. Lastly, we are going to detail proposed rate structure modifications. I apologize that the projector isn't working so I would ask that you follow along and Owen will hold up the sheet that we are on. I am on sheet 3 right now. The purpose of this meeting is to seek approval for rate structure modification associated with EPD and most specifically our tunnel project. Some of you are familiar with this but I will explain for the benefit of those who are not. EPD is wholly funded through user fees in the corresponding rate structure. These fees have no effect whatsoever on the general fund or the tax rate. User fees support operational expenses as well as capital projects such as the tunnel project. Capital projects are largely dictated by either regulatory guidelines or equipment obsolescence. Some of you may or may not be familiar with the fact that every time you read about the EPA or DES regulating air or water emissions, this has a very direct effect on how our wastewater

treatment plant operates. Recent and proposed regulations require that we monitor and filter for various elements. Those in the news most recently include nitrogen, phosphorous, mercury and PFAS. These regulations are all for the most part unfunded mandates. Every time the emission regulations change, or a new element is approved for regulation, we are forced to study then design, install and construct new equipment to control these regulations and these elements. We must maintain this equipment and finally report compliance with these regulations. Every one of these is very costly when you consider that we treat, on average, 23 million gallons of water per day. With regard to our CSO and specifically our tunnel project, the city has little choice in moving forward as we have entered into a negotiated consent decree with the federal government which recognizes how and when the city will establish compliance with the Clean Water Act. In other words, the city does not have much of a choice whether to move forward or not as the consequences of doing so are severe. If you move to the next sheet, the Cemetery Brook Project Tunnel is part of the larger overall CSO Program. The tunnel is the largest part of the program consisting of a tunnel solely constructed to convey storm water. It is 2.25 miles long and about 14' in diameter. It will travel through six separation areas and go from the Merrimack River all the way to Mammoth Road. The project is currently in Phase II and the completion of the overall federally required program is dependent on the execution of the tunneling contract. This tunnel construction is scheduled to start next month with execution of a contract and selection of a tunneling contractor. It is important to also consider the benefits that all of Manchester, as well as the surrounding towns will enjoy through construction of this tunnel and the corresponding storm and sewer separation such as improved water quality in the Merrimack River and the removal of raw sewage discharge, improved public health, reduced flooding and basement sewer back-ups for all of our residents. We will also be removing two brooks from the system and leveraging the program to promote urban revitalization; roads, sidewalks, curbs, trails and other green initiatives. We have seen that demonstrated first on the west side and also through the first phases on the east side when we completed the Chestnut Street project. The Department of Public Works has worked very hard to maintain a consistent, affordable rate structure through its Environmental Protection Division. As such, EPD's current rates are 49% below the state average. Over the past 20 years, the average sewer rates across the state have grown annually by 11.83%. However, we are currently in an unenviable

financial position. There is no federal assistance in funding this tunnel project and the cost must be borne by users through rate structure. We have greater than anticipated capital commitments necessitated by federal mandates, coupled with the current rate structure that is forecast to be in deficit within four years without modification. As such, we are here tonight asking the Board to support moving forward with rate structure modifications necessary to support this project, as well as the overall financial health of the Environmental Protection Division. Any time we contemplate rate increases, the subject is certain to be met with justifiable skepticism. Even after modification of the rate structure, we anticipate rates to remain about 11.5% below the state average. The next sheet depicts the current state of EPD's finances charted along with what the proposed modifications will do to the financial health of EPD. As you can see, the blue line shows us in deficit in roughly four years while the green line represents the rate structure modifications that we are proposing. Our recommendations moving forward to support this project, as well as the many others planned to support CSO in the coming years, is as follows. We recommend changing the current rate structure from 9% increases to 19% increases over the next four years. We also recommend an increase in Year 5 of 15%. After that time, it will be necessary to relook at rates as costs will likely continue to grow and federal regulations will continue to be stricter. In order to move forward, we are asking the Board to take the following actions:

1) Approve the rate modifications as proposed, 2) Authorize the Department of Public Works to execute a contract for the construction of the tunnel, and 3) Authorize the Finance Department to issue bonds in the future to support the tunnel and CSO Program. I would be remiss without noting that we have consulted with our Finance Department over the past six weeks regarding this. We have also talked with PFM, our Financial Advisor. We have also reviewed where we are with the City Solicitor's Office and obviously the project team. With that, we would be happy to entertain any questions that the Board may have.

Alderman Long stated thank you Tim. So the tunnel contract is how much?

Mr. Clougherty answered we don't have a contract amount for the tunnel yet. We have received bids. We have two bids and we are currently negotiating with both of those bidders so it wouldn't be appropriate for me to disclose the amount at this point.

Alderman Long asked so you are looking for us to approve you moving forward with the tunnel.

Mr. Clougherty responded yes; with the tunnel contract as well as the rates to support that.

Alderman Long asked so we haven't given you that authority already. I thought we had.

Mr. Clougherty stated the Board doesn't typically authorize us to enter into contracts. The Board authorizes financing to sell bonds which would support EPD's rate structure and the finances. If the contracts fall within that rate structure, then we have the authority as the Department of Public Works to enter into those contracts. In this case, because of the timing of the contracts and the timing of the rate structure modification, we are asking the Board to authorize us to enter into a contract with the anticipated rate structure modifications. Does that make sense?

Alderman Long replied yes it does. Now the construction for the tunnel, is that going to be bonded?

Mr. Clougherty answered yes.

Alderman Long asked is it a performance bond which this additional 10% would go towards paying. Do you know how that is going to work?

Sharon Wickens, Finance Director, stated they are revenue bonds.

Mr. Clougherty stated the financing of the project would be through the sale of revenue bonds. The bonds that you are taking about, performance and payment bonds, are a requirement of the contract that the contractor will provide that to the city as surety for their faithful performance.

Alderman Long asked so the only approval you really need is...we can't approve the 15% in 2029 because that is another Board. Are you looking for us to approve moving forward on the tunnel construction and the 10% increase through 2029?

Mr. Clougherty responded correct but the Board does have the authority to approve that 15% for 2029 as well.

Alderman Long asked do we know that is going to be the number.

Mr. Clougherty answered that is what our calculations show right now. If you look at Slide 8, the rate structure that we have proposed will keep our Environmental Protection Division in the black for the next 10 years.

Alderman O'Neil stated Tim you mentioned three action items – the rate increase, the tunnel contract and what was the third thing.

Mr. Clougherty stated authorizing Finance to issue bonds to support this program.

Alderman O'Neil asked when this was first presented many years ago, you could only act on what you knew regarding pricing, etc. correct.

Mr. Clougherty replied correct.

Alderman O'Neil stated as we know, nothing has gotten cheaper. We have some real numbers to work with now. I applaud the department for doing the tunneling versus open cut because that would have been very disruptive in the city. I think for the quality of life of our citizens, this is a great way to go. I have a question for Sharon. Is it a revenue bond because it would max out our general obligation?

Ms. Wickens answered no. It is a revenue bond because it is an Enterprise. It is the same with the Airport. They issue revenue bonds. What the airport earns pays for their bonds.

Alderman O'Neil asked so for all of the Enterprises like Water Works, that's all we use is revenue bonds.

Ms. Wickens responded we did when we did the water treatment plant. We issued a revenue bond but after 10 years when we refinanced it and it came down quite a bit, we were able to absorb it into the GO issuance. This is a lot of money and really should be issued as a revenue bond with a sole source of funding behind it which would be the revenues from EPD's sewer rates.

Alderman Terrio stated I know people are struggling in Manchester and I have one constituent that contacted me today and was pretty upset about the rates. As I look here, we combined our sewer and water bills so when it says an average of \$669, that is for both sewer and water right?

Mr. Clougherty replied yes.

Alderman Terrio stated when I look at your chart for 2029, that \$669 is going to go up to approximately \$1,575. It is going to more than double according to this chart. Is that current or with the increases? I am assuming it is the increases.

Mr. Clougherty responded that is with the increase.

Alderman Terrio stated so \$1,575 would be the average sewer bill...I thought they were combined.

Mr. Clougherty stated this is only sewer.

Alderman Terrio asked so water would be on top of the \$1,575.

Mr. Clougherty answered yes. We only manage the sewer side of it. Unfortunately, they are billed together so it is a bit misleading.

Alderman Terrio stated the reason we have to do this is because the settlement with the federal government was \$300 million. Is that what it is costing us?

Mr. Clougherty replied there is no upper limit on what it will cost the city. It is a program-defined consent decree.

Alderman Terrio asked but what is our guess or our projection for the total cost of the decree. I thought I heard \$300 million in the past.

Mr. Clougherty answered that was probably for different parts of it. Our total estimate at this point is closer to \$700 million.

Alderman Terrio stated since some of the surrounding towns are going to benefit from this...in your presentation you said the surrounding towns will benefit...

Mr. Clougherty interjected the surrounding towns will benefit from the water quality of the Merrimack River improving.

Alderman Terrio asked so it is not anything we could bill them for.

Mr. Clougherty answered no.

Alderman Terrio asked before the project, how often does urine and feces overflow into the Merrimack River.

Mr. Clougherty responded it happens almost every time it rains.

Alderman Terrio asked and after the project is done is that never going to happen or is it still going to happen.

Mr. Clougherty replied it is still going to happen and if you give me a minute I can tell you what the percent reduction will be with the CSO. I don't have that data but I bet someone with me does.

Alderman Terrio asked so how many years are we bonding this project for.

Mr. Clougherty replied we are looking at 30 year notes.

Alderman Terrio stated I am just concerned because a lot of people are struggling and their bills are going to be going up. After the bonds are paid off in 30 years, does that mean the rates could possibly go down because the bonds are paid off?

Mr. Clougherty answered most definitely.

Alderman Fajardo stated you said a total of \$700 million projected and you referenced phases I and II. Phase I is done and Phase II is underway. How many phases are you projecting and does that \$700 million intended to cover all phases?

Mr. Clougherty responded it is intended to cover all phases that we have entered into a consent decree on, which is a 20-year commitment.

Alderman Fajardo asked so it could be 10 phases or 3 phases but if it is within the 20 years it doesn't matter.

Mr. Clougherty answered I believe the most the city has committed to is a third phase but there is no scope associated with that.

Alderman Fajardo asked can you refresh my memory. I also recall \$300+ million that we approved I think two years ago. Was that for Phases I and II?

Mr. Clougherty replied I am not sure exactly what that \$300 million referenced.

Alderman Fajardo stated the other thing I am curious about with regard to asking us to approve you bonding, do we have any sense of what the amount of the bond is that you are asking us to approve.

Mr. Clougherty responded we do.

Alderman Fajardo asked and you can't disclose it because of negotiations.

Mr. Clougherty replied we could do that in non-public sessions.

Alderman Fajardo stated I would like to hear that.

Alderman Vincent asked the 10% increase between now and 2028, what is the annual you are looking at. Do you have that broken down? When is this year's increase going to take effect?

Mr. Clougherty answered I think it would take effect in April.

Alderman O'Neil asked do we know what that percent would be in April.

Mr. Clougherty replied that would be 19%.

Alderman Vincent stated so we are just going right to 19% and not working our way up to 19% between now and 2028.

Mr. Clougherty responded no sir.

Alderman Vincent asked so it is a flat 19% and then we hit everybody with a 15% in 2029. That is a lot. I get it but that is a lot of money for people. Is there any way that 15% could be lower? There was a good point made before on whether we had to vote on that right now. Could that be lower possibly? I know your calculations figured that but could there be a chance that it could be lower?

Mr. Clougherty replied there is a chance it could be lower but one thing we have to look and our investors look at when we go to the bond market is they look to say how much revenue is the Environmental Protection Division going to generate over the next X number of years in order to support the capital of the bonds that we are realizing. If we

don't have a rate structure approved that supports that, then I don't know what would happen but our bonds may not sell. I will let Sharon talk about that.

Alderman Vincent stated I get what you are saying. When we get to year 2029, if we recalculate these numbers and the only reason I am saying this is because you are asking us to vote on something for 2029 so we have to play hypothetical 2029 so when you run this could you say there is a chance that when that year comes we aren't going to dedicate the 15% but it could be 12% or 10%.

Mr. Clougherty answered yes.

Alderman Vincent asked then why do we want to vote now on 2029.

Mr. Clougherty responded again, it is based on the amount of money we anticipate bonding to support these projects and to cover the indebtedness and the financial health of our Environmental Protection Division.

Alderman Vincent asked can we spread the 10% out over the next four years.

Mr. Clougherty replied no.

Alderman Vincent stated I do get it. I am just trying to help out the people who are going to have to pay this. This doesn't just affect homeowners. This affects people that rent and everybody in the City of Manchester. It is important that we make it clear that we are in a position of no alternative. This is what it is. If that is what you are telling me then that is what it is.

Mr. Clougherty responded that is correct.

Alderman Levasseur stated the federal government mandated this project. How big of a document is that? Does anyone know or has anyone read it?

Asha Echeverria, Attorney, answered yes. It is 65 pages and then signature pages.

Alderman Levasseur asked does it have a mandatory end date.

Atty. Echeverria replied it has mandatory deadlines for the completion of...it is very direct about when you have to start design and implement every single aspect of both the Cemetery Brook and Christian Brook projects, as well as monitoring requirements. It is a document that the EPA uses very often as one of their consent decrees. You can see many versions of it and they use it to enforce the Clean Water Act.

Alderman Levasseur asked what is the end date on that project.

Atty. Echeverria answered the end date is 20 years.

Alderman Levasseur asked so 20 years to finish it.

Atty. Echeverria responded from 2020 to 2040. There is one project that can go until 2040 and a half years.

Alderman Levasseur asked where is the language in there that if the costs go up they have to bear the same percentage as we do.

Atty. Echeverria answered actually it specifically states that the projects must continue even if there is no federal or state funding. There is no reprieve for the city if there is no funding and regardless of costs.

Alderman Levasseur asked why is Manchester singled out as mandated and not other towns around the state.

Atty. Echeverria replied that I cannot tell you. As I mentioned, there are hundreds of these actual consent decrees that have been issued across the country by the EPA for violations. I am assuming they are focusing on larger wastewater facilities so that they can get the most effective change in a water system.

Alderman Levasseur asked is there a page in there or five pages with a penalty for failure to go forward or failure to finish on time.

Atty. Echeverria responded yes. The penalties are \$1,000/day. It is a penalty per day per violation. Like I said, there are many, many deadlines in this document associated with start of design, approvals between EPA and NHDES and then start of construction and substantial completion. It is broken into at least 10 contracts. It is \$1,000 per day per violation for the 1-10th day. It is \$2,500 for the 11th through 20th day and then it goes up and sits at \$5,000/day until any violation is resolved.

Alderman Levasseur asked is there a penalty for not finishing by 2040.

Atty. Echeverria answered the entire project and the entire scope of the work has to be finished by 2040. The tunnel project, and this is where it gets a little complicated in that when the initial consent decree was created it was assumed that it would be a cut and cover project and then it was shifted into a tunnel project, which was for cost reasons and effect on the city. There were many reasons why it was shifted to a tunnel project. So the formal consent decree was never modified to make that distinction but it was run through NHDES and through the EPA and they have at least accepted that this is the way forward but the expectation of the EPA is that the entire project, the purpose of the project of removing, for example, Cemetery Brook from the wastewater facility and making the separation and reductions in overflow events into the Merrimack will be achieved by 2040.

Alderman Levasseur stated this was voted on I think four years ago. What was the original cost? \$328 million or so for the full project?

Mr. Clougherty responded I think at that time the entire project was estimated at \$365 million.

Alderman Levasseur asked and we are at \$700 million now.

Mr. Clougherty answered we are at \$700 million now but that includes phases that have already been completed that weren't included in that \$365 million number.

Alderman Levasseur asked so it is actually more than the \$365 million.

Mr. Clougherty answered it would have been more than \$365 million regardless. We have already completed \$75 million worth of projects - Chestnut Street and some of the stuff you see going on in the north end, the Christian Brook projects. Those are already completed.

Alderman Levasseur stated I will make a suggestion that is going to be out of line with most people's thinking as it usually is. I voted against this project four years ago because I just knew. At the time we were talking about 5% increases for five years and then at the end of the fifth year we would go to 9% for five years. I think after only two years at 5% we came back and went to 7% and that 7% has already increased to 9% and now we are going to 19%. I understand that we are on the low end compared to the state but we are also the biggest city and I can only imagine what this is going to do to rents as we go forward. My thought process on this is different. I would rather we meet with counsel and consider two things. One is writing to our Congressional delegation and requesting that somebody file a bill or seek some remuneration from the federal government because of the outlandish costs of this project. This project has doubled in cost practically and there is absolutely no reason why the people in the City of Manchester should have to bear the cost for basically what the federal government has done to the country with its \$3 trillion spending bills and on and on creating inflation and what we are now living through. We could start with a Congressional request where we ask for help. Even if they were just able to give us a low interest bond and not give us any money towards this, that would help. If that doesn't work, I am sure there are tons and tons of cases in the federal system of municipalities who have fought the government on mandated projects. A mandated project like this that would almost double in cost is outlandish. It is just absolutely...well talk about getting bullied by people in Washington, DC. The people of this good city are being forced legally to pay for this. My first proposal would have been we could have delayed it for five years if there wasn't an end time on it. Maybe we could delay it for a couple of years and wait

for interest rates to come down and construction costs to come down but you say there are penalties so that doesn't look like an option. An injunction on the project to start and then maybe ending up going to federal court if they refuse to help us out is something that I think we should do. That is just my outside the box thinking. I don't know if it is possible but I would like to speak with counsel about that maybe in non-public and get some outside counsel on this because the City of Manchester cannot tolerate 19% increases. When you say in 2028 you want to implement at 15% increase, that is on top of the 19% right? It is not just dropping to 15% in 2028 right? That is an additional...

Mr. Clougherty interjected that is correct.

Alderman Levasseur asked so that will be 34% going forward for how many years or is it just one year on the 15%.

Mr. Clougherty answered just one year on that 15%.

Alderman Levasseur asked and in 2030 it would drop back to 19%. Is that what you are saying?

Mr. Clougherty replied no. We don't have any rate structure proposed for moving forward from 2029 on.

Alderman Levasseur stated but that project doesn't end until 2040 so we are looking at another 10 years of work at least and you don't know what the cost is going to be.

Mr. Clougherty responded well once we execute this tunnel contract, we are going to know what 75% of the costs are. Those are going to be locked in. This rate structure, as it stands in today's economy, supports the cost of the tunnel as well as the separation projects moving forward.

Alderman Levasseur stated my other concern is if we are bonding, and I don't know what the rates are now maybe 4.5% or maybe higher but why wouldn't we bond this

money at 5% and then be paying 5% on the bond instead of paying the 19% increase. I understand the difference between revenue bonds and regular construction bonds but why can't we go away from a revenue bond and just go to a straight bond like for the \$306 million school project? I assume that is 4.5%. Why can't we do it that way? Does it have to be a revenue bond because it is an Enterprise or can we do it in a different fashion and get a lower rate on a bond that is not a revenue bond?

Ms. Wickens answered the rate differential between a revenue bond and a general obligation bond is very slight. In fact, EPD issued a revenue bond recently and it was 4.3%. It wasn't anything that was crazy and the GO bond would have been pretty similar. It might have been a smidge better like maybe 5 or 10 basis points if that. We are not talking big dollars. A revenue bond has the revenues that have been approved by the Board that are backing the payments for this issuance. The rating agencies already feel that the city itself has high debt. With our GO issuances, we try to pay them off as quickly as we can and keep it flat without going up and down. If we start throwing the revenue bond in as a GO issue, it is going to hurt our rating, which is just going to make the rate go up.

Alderman Levasseur stated I can't think any fair minded person in Congress would think that this was a fair mandate based on what we have seen in the last four years. I would think someone out there would feel somewhat responsible for this. I don't believe they are just looking to hurt us but obviously this is a very hurtful mandate. When it first came out and the price was \$335 million and they were going to pay \$235 million I believe and we were going to be on the hook for \$100 million. That was 1/3 right?

Mr. Clougherty replied no. The federal government was never going to pay anything.

Alderman Levasseur asked they weren't paying anything.

Mr. Clougherty answered no.

Alderman Levasseur stated I am glad I voted against it. I think we need to do something about it and I think we need to fight it. I think this is abhorrent and this will be

devastating. Even if we just stuck with the tax cap, our water bills keep going up and now the sewer bill is going to bone crush businesses. I feel bad for big apartment buildings and restaurants. This is going to really sting. I think you are looking at a \$669 cost that is going to go to \$1,600 in the next five years that is significant. Those are my thoughts. I don't know if anyone else will join in that idea but I think we should try to get the federal government to give us a hand on this matter.

Mr. Clougherty responded I will note, alderman, that we have applied for money through our delegation through the Congressionally directed spending program and that has been unsuccessful.

Mayor Ruais stated my understanding is that the EPA in our region, Region 1, is different than other regions. Is that correct?

Atty. Echeverria replied I don't know what you are referring to specifically.

Mayor Ruais replied they have more authority to take action within Region 1. I used to work on these issues when I worked for a member of Congress and we dealt with a similar wastewater treatment facility plant in Dover at the time. We worked as hard as we could with EPA Region 1 on this and at the end of the day we were told to pound sand.

Atty. Echeverria responded they have a lot of authority. I think District I is very diligent in their enforcement of the Clean Water Act.

Mayor Ruais stated I don't have any problem talking in non-public and saving the conversation until then because I know we are going to go into some legal and potentially contractual issues. We can revisit this at the end of this meeting.

Alderman Levasseur stated I have to wonder if it was federally mandated did it not go through Congress. The Supreme Court has said that federal agencies don't have the power and authority to just pass things along. Did this come up before Chevron was decided? Is there an angle there where we can say they mandated something that

didn't go through Congress and did so illegally based on the recent Chevron case?
Maybe there is an angle there.

Atty. Echeverria stated we can definitely look at it. We can get into the discussion in non-public.

Mayor Ruais stated we will go into non-public at the end of this meeting. We don't have to take the vote tonight but I understand the reason why we did this during this meeting is because you are under a timeline.

Mr. Clougherty responded that is correct. We received bids on November 22 and between then and now I have been working with legal counsel and our Finance Department to figure out exactly how we can move forward and to structure this. We have interviews scheduled with contractors towards the end of this month and per the consent decree schedule, we need to be moving rather quickly.

Alderman Fajardo stated I am curious. Can you say specifically when you want us to vote?

Mr. Clougherty replied we are requesting a vote tonight.

Alderman Fajardo stated I wasn't aware of that. This was put forward to us as a presentation and I didn't have an expectation of that.

Mr. Clougherty responded at the end of the presentation and where we included approval and action items.

Alderman O'Neil asked Sharon has this been vetted by our financial advisors and our Bond Council.

Ms. Wickens answered it has and with this last issuance they did caution that if we were to go back out again we would have to revisit the rate structure.

Alderman O'Neil asked are there general obligation bonds.

Ms. Wickens replied they do revenue bonds as well. These really can't be issued as general obligation. They can but it is only going to hurt the city's bond rating and in the end it will cost us more. A revenue bond is the way to go. It is an Enterprise so they can do this. Tim has been very forthright in talking with Bond Council and our financial advisor and showing them the models. They are all over this.

Alderman O'Neil stated Tim I think it was great that you pointed out there had been other projects in the previously approved rate increase – Chestnut Street and Christian Brook. I was surprised that combined they only totaled \$75 million. Weren't there some treatment plant projects in there?

Mr. Clougherty answered yes there were. There was a \$25 million silage drain upgrade construction. We also had a \$5 million system optimization project that we did just outside of Fisher Cat Stadium. That is also part of this consent decree work.

Alderman O'Neil asked and you have been proceeding based on rates that were already approved to pay for legal, engineering, etc. correct.

Mr. Clougherty replied that is correct.

Alderman O'Neil stated not only were some of the smaller projects designed but this project was designed.

Mr. Clougherty responded that is correct.

Alderman O'Neil stated to just stop it now doesn't make a lot of sense. I share the concern of the significant rate increase but we have to move forward on this. I don't know that we should stop it.

Mayor Ruais stated I would suggest we table this for now and revisit it at the end of the meeting. Let's clear out the rest of the agenda and then come back to this.

CONSENT AGENDA

Accept BMA Minutes

3. Minutes from the December 3 BMA & Finance meetings.

Information to be Received and Filed

4. Data and information related to activities at the 39 Beech Street Shelter.

REPORTS OF COMMITTEES

COMMITTEE ON ACCOUNTS, ENROLLMENT AND REVENUE ADMINISTRATION

5. Advising that the update on the Revolving Loan Fund has been accepted.
(Unanimous vote)
6. Advising that the Finance Department reports:
 - Accounts receivable over 90 days
 - Aging report
 - Outstanding receivableshave been accepted.
(Unanimous vote)
7. Recommending that the request from the Finance Department to write-off the second quarter receivables as identified be approved.
(Unanimous vote)
8. Advising that the Monthly Financial Report (unaudited) for the first five months of fiscal year 2025 has been accepted.
(Unanimous vote)
10. Recommending that Ordinance Amendment:

"Amending Chapter 52: Sewers of the Code of Ordinances of the City of Manchester by adding language to Section 52.029 Grease, Oil, and Sand Interceptors; Section 52.122 Separate Connections; Section 52.125 Size and Slope; and Section 52.133 Stormwater Prohibited."

ought to pass and be Enrolled.
(Unanimous vote)

COMMITTEE ON ADMINISTRATION/INFORMATION SYSTEMS

- 11.** Recommending that the attached list of non-public minutes remain sealed per the City's recently adopted Review and Release Policy for Non-Public Minutes.
(Unanimous vote with the exception of Alderman Thomas who was absent)

COMMITTEE ON LANDS AND BUILDINGS

- 12.** Recommending that the request from the Tax Collector to declare six tax-deeded properties surplus to city needs, and dispose of them through public auction with minimum bid recommendations from the Assessor's Office, be approved.
(Unanimous vote with the exception of Alderman Thomas who was absent)

*HAVING READ THE CONSENT AGENDA, ON MOTION OF **ALDERMAN O'NEIL**,
DULY SECONDED BY **ALDERMAN BARRY**, THE CONSENT AGENDA WAS
APPROVED.*

REPORTS OF COMMITTEES

COMMITTEE ON ACCOUNTS, ENROLLMENT AND REVENUE ADMINISTRATION

- 9.** Advising that the request from Betty Delisle for subordination of an existing loan with the City of Manchester was received and filed.
(Unanimous vote)

Alderman Long stated normally we don't subordinate existing loans if they are receiving cash. From what I heard in public comment, that cash is going to pay back a loan from the city. I just want clarification. That is what I heard tonight.

Alderman Terrio stated that is not how it was presented to us in the meeting.

Katie Broderick, Solicitor's Office, responded I would be happy to answer your question but it is best to answer it in non-public.

REGULAR BUSINESS

- 13.** Communication from Peter Richard advising the Board of his resignation as a member of the Heritage Commission.

*On motion of **Alderman Long**, duly seconded by **Alderman O'Neil**, it was voted to accept with regret.*

14. Nomination:

Board of Trustees of the Trust Fund

Ryan Oldeman to succeed Lyn Gelinis as a regular member, term to expire January 1, 2028

(Note: Pursuant to Rule 23 of the Board of Mayor and Aldermen, this nomination will layover until the next meeting of the Board.)

15. Confirmations:

Board of Water Commissioners

Bill Trombly to succeed Harold Sullivan as a regular member, term to expire January 1, 2028

Phil Sapienza to succeed Liz Kotowski as a regular member, term to expire January 1, 2028

Highway Commission

Arthur Gatzoulis to succeed himself as a regular member, term to expire January 15, 2028

Alderman E. Sapienza stated I am going to abstain from the vote on Phil Sapienza.

*On motion of **Alderman Barry**, duly seconded by **Alderman O'Neil**, it was voted to confirm the nominations as presented.*

16. Confirmation of Richard Bilodeau as the Central Fleet Services Director.

*On motion of **Alderman O'Neil**, duly seconded by **Alderman Goonan**, it was voted to confirm.*

17. Report(s) of the Committee on Bills on Second Reading, if available.

There were none.

18. Report(s) of the Committee on Community Improvement, if available.

The Committee on Community Improvement respectfully recommends, after due and careful consideration, that the request from the Fire Chief to accept the amended terms of the Hazard Mitigation Grant Program which changes the awarded amount of grant funds to \$26,104.02 with a required match of \$2,610.42 be approved.

*On motion of **Alderman Morgan**, duly seconded by **Alderman Goonan**, it was voted to accept the report and adopt its recommendation.*

The Committee on Community Improvement respectfully recommends, after due and careful consideration, that the request from the Fire Chief to apply for Hazmat funds in the amount of \$18,902 to be used for hazmat training be approved.

*On motion of **Alderman Morgan**, duly seconded by **Alderman O'Neil**, it was voted to accept the report and adopt its recommendation.*

19. Report(s) of the Committee on Public Safety, Health & Traffic, if available.

The Committee on Public Safety, Health & Traffic respectfully recommends, after due and careful consideration, that the request from the owner of Granite State Escape for the installation of direction road signs to her business, contingent upon the approval of the NH DOT to add the business to the I-293 attractions sign at Exit 5, be approved.

***Alderman Vincent** moved to accept the report and adopt its recommendation.*

***Alderman Barry** duly seconded the motion. Mayor Ruais called for a vote. The motion carried with Aldermen O'Neil, Long, and Burkush duly recorded in opposition.*

20. Report(s) of the Committee on Human Resources/Insurance, if available.

There were none.

21. Ordinance Amendment:

"An Ordinance repealing Sections 32.025 through 32.035 relating to the Arts Commission and replacing Sections 32.025 through 32.035."
(Note: The Committee on Administration/Information Systems referred the proposed Ordinance Amendment to the BMA on 12/17/24 without a recommendation.)

*On motion of **Alderman Long**, duly seconded by **Alderman T. Sapienza**, it was voted that the Ordinance Amendment be approved and referred to the Committee on Bills on Second Reading for technical review.*

22. Ordinance:

"Amending Chapter 52: Sewers of the Code of Ordinances of the City of Manchester by adding language to Section 52.029 Grease, Oil, and Sand Interceptors; Section 52.122 Separate Connections; Section 52.125 Size and Slope; and Section 52.133 Stormwater Prohibited."

*On motion of **Alderman O'Neil**, duly seconded by **Alderman Long**, it was voted to waive the reading by title only.*

*On motion of **Alderman Long**, duly seconded by **Alderman T. Sapienza**, it was voted to Ordain.*

NEW BUSINESS

There was no new business.

TABLED ITEMS

- 23.** Report from the Committee on Community Improvement recommending that the Amending Resolution and Budget Authorizations providing for the transfer and expenditure of funds in the amount of \$400,000 for CIP 610625 80 Merrimack Street (Residence at Chestnut Phase II) be approved.
(Unanimous vote)
(Note: Tabled on September 4, 2024.)

This item remained on the table.

- 24.** Report from the Committee on Lands & Buildings recommending that the request from Alderman Morgan to name the soccer field at Sheridan-Emmett Park after Thamba Mbungu be approved.
(Unanimous vote with the exception of Alderman Long who abstained)
(Note: Tabled on November 19, 2024.)

This item remained on the table.

*On motion of **Alderman Fajardo**, duly seconded by **Alderman Goonan**, it was voted to recess the meeting to meet with legal counsel.*

Mayor Ruais called the meeting back to order.

9. Advising that the request from Betty Delisle for subordination of an existing loan with the City of Manchester was received and filed.
(Unanimous vote)

*On motion of **Alderman Long**, duly seconded by **Alderman O'Neil**, it was voted to accept the report and adopt its recommendation.*

***Alderman Long** moved to approve the rate modifications as proposed, authorize the Department of Public Works to execute a contract for the construction of the tunnel, and authorize the Finance Department to issue bonds in the future to support the tunnel and CSO Program. **Alderman O'Neil** duly seconded the motion. Mayor Ruais called for a vote. The motion carried with Aldermen Levasseur, Terrio, Morgan and Kantor duly recorded in opposition.*

*There being no further business, on motion of **Alderman E. Sapienza**, duly seconded by **Alderman Kantor**, it was voted to adjourn.*

A True Record. Attest.



Clerk of Committee