

REPORT OF THE FINANCE COMMITTEE

JULY 18, 2005

A meeting of the Finance Committee was held on Monday, July 18, 2005 at 7:00 p.m. in the Aldermanic Chamber.

Mayor Bernard A. Streeter presided.

Members of the Committee present: Alderman-at-Large David Rootovich, Vice-Chair
Alderman-at-Large James R. Tollner (@7:20 P.M.)
Alderman-at-Large David W. Deane
Alderman Robert A. Dion
Alderman Robert Shaw
Alderman Kathryn D. Vitale

Members not in Attendance:

Also in Attendance: Alderman-at-Large Brian S. McCarthy
Alderman-at-Large Steven A. Bolton
Alderman-at-Large Paula I. Johnson
Alderman Kevin E. Gage
Carol Anderson, Chief Financial Officer/Comptroller
Rick Seymour, Div. Dir., Department of Public Works
Steve Dookran, City Engineer

COMMUNICATIONS

From: Janice Tremblay, C.P.M., Purchasing Manager
Re: Construction Contract for Primary Clarifier Rehabilitation at NWTF

MOTION BY ALDERMAN SHAW TO ACCEPT, PLACE ON FILE, AND AWARD THE CONTRACT TO THE LOW BIDDER, METHUEN CONSTRUCTION CO., INC., SALEM, NH IN THE AMOUNT OF \$4,556,393.00. SEVENTY PERCENT (70%) WILL BE FUNDED WITH WASTEWATER FUND RETAINED EARNINGS AND THIRTY PERCENT (30%) WILL BE FUNDED FROM THE WASTEWATER EQUIPMENT REPLACEMENT FUND. THE CITY WILL

BE APPLYING FOR A TWENTY PERCENT (20%) STATE ASSISTANT GRANT. ACCOUNT REFERENCE WILL BE #792-01310-3798, PRIMARY CLARIFIER REHAB – CONSTRUCTION

ON THE QUESTION

Mayor Streeter

I will note that the Board of Public Works approved this at their last meeting.

Alderman Deane

Is there someone here that can answer...

Mayor Streeter

I think Director Seymour is here.

Alderman Deane

Director Seymour the category of work projects in place – have they done this sort of project before?

Steve Dookran

They have worked at many different treatment plants – similar types of work. Methuen is well known through the wastewater industry in New England. They have done work for Lowell. If you look at the list of projects that they have completed and also projects that are on line now there is quite a bit of wastewater work.

Alderman Deane

We have checked their references?

Steve Dookran

Yes we have checked a number of references and new have gotten a number of good recommendations. A representative of Methuen is here if you want him to elaborate on those questions.

Alderman Deane

As long as you are happy with what you have heard. It also states here that the city will be applying for 20% state assistance grant. If we approve this contract is there a window in which

we have to get that done by?

Richard Seymour

Basically we did a pre-application with the State quite a while ago probably a couple of years ago when we started the preliminary design on this project. The State is involved throughout the process. When the project is completed – once it is at substantial completion then the State will grant the 20% monies to the city.

Alderman Deane

What does that equate to about \$700,000?

Richard Seymour

Roughly \$700,000 correct.

Alderman Deane

Thank you.

Alderman Shaw

I think in here it had talked about that the original estimate was basically had come in a lot lower than even what the lowest bid is. Do you have what the original working estimate number was?

Steve Dookran

The original estimate was around \$3.4 million.

Alderman Shaw

Do you actually believe that the only real factor was the increase in materials and energy costs or are we actually just in a more competitive market for finding the services? That just seems like a lot of money – we are talking about something in the order of a 30% difference.

Steve Dookran

We were quite surprised that it came in about 30% higher so we looked into it further and yes the cost of material, energy those have all gone up significantly. We also in trying to interpret what is happening we believe that with any engineer's estimate there is a margin of error so if you were to say 10-15% in there attributed to cost increases in materials, etc., then that is in the order of what we are seeing. In speaking with some other construction companies they have been telling us that in the last year this is typical – things are coming in much higher than the

engineers are estimating because engineers are estimating based on methods and means they have used for a number of years and maybe they need to refine the way they are looking at estimates especially in this economy.

Alderman Shaw

Thank you.

Mayor Streeter

Are there any further questions?

MOTION CARRIED

From: Janice Tremblay, C.P.M., Purchasing Manager

Re: Increased Scope for Auditing Services Requested by Financial Services Division

MOTION BY ALDERMAN SHAW TO ACCEPT, PLACE ON FILE, AND APPROVE THE PROPOSED CHANGE IN SCOPE AND ADDITIONAL \$5,000 TO MELANSON HEATH & COMPANY

ON THE QUESTION

Alderman Deane

This is being funded from prior year escrow? Is that correct?

Carol Anderson

Yes. That is the request that it would be funded with prior year escrow. We have made a request for \$5,000 for this comprehensive annual financial report and for \$10,000 for internal reviews for the consultation.

Alderman Deane

Would the motion have to be amended because the escrows haven't been approved? Did the Mayor approve this through the escrow process?

Carol Anderson

No he did not. If I may Mr. Chairman – the auditors have come in and have begun their work. We are asking them to split things out, but in the event that for some reason that the escrow would be disapproved, which I certainly hope it is not, but in the event that it is disapproved, I would find the money someplace within the '06 budget because I think that this report is too

critical to the City of Nashua and to the Board not to have this prepared.

Alderman Deane

The funding, the division has requested that the \$5,000 be escrowed from '05 for this purpose. What line is the escrow request from?

Carol Anderson

It would be from a payroll line. It would be overall an 11 account because we had two individuals that were out on worker's comp. this year and we had some savings in payroll because of those. Those are the two areas. Both escrows are from payroll line items because of the worker's comp. claims. Worker's comp. is paid through the Risk Management budget not through the departmental budget.

Alderman Deane

The only confusion I am still having is the escrows, the \$5,000 isn't approved to be escrowed for this purpose then you are going to have to find another funding mechanism to fund it.

Carol Anderson

Yes.

Alderman Deane

Would a motion be in order to approve it contingent upon the approval of escrows or other funding sources?

Carol Anderson

Within the FY '06 budget.

Alderman McCarthy

I think it is actually fine to make it contingent upon approval of the escrows, but making the amendment more general than that I believe has a problem that basically we need to identify a funding source and there won't be one identified until some other action is taken that associates that funding with this expense. It really doesn't have any affect to do it that way.

Alderman Deane

What would your suggestion be Alderman McCarthy?

Alderman McCarthy

My suggestion would be to make it simply contingent upon approval of the escrows.

AMENDED MOTION BY ALDERMAN DEANE TO ACCEPT, PLACE ON FILE, AND APPROVE THE PROPOSED CHANGE IN SCOPE AND ADDITIONAL \$5,000 TO MELANSON HEATH & COMPANY CONTINGENT UPON APPROVAL OF THE FY05 ESCROW

ON THE QUESTION

Alderman Shaw

I guess I don't see the need for it quite frankly based on the statement by Mrs. Anderson that her intention would be to fund this effort over something else in the Financial Services Division if the FY '05 escrow funds are not there, and the ability to do that would be within the capability of that division to allocate the funds towards this instead of something else. I guess I think that from what I understand about this I do agree with Mrs. Anderson that this looks like it is a critical step for us to continue to make in terms of better understanding our audit process and our financial records and it speaks to I think from going from basically the three sections to I think it was 15 or 12.

Carol Anderson

From 2-3 to 15.

Alderman Shaw

I think and I know Mrs. Anderson has spoken about this several times through the course of the budget process previously. I guess I think it should be supported and if the FY '05 escrow doesn't pass I would not want to keep this from happening because it could still be funded from FY '06. I won't support the amendment.

Alderman Deane

My question is if the escrows don't pass where in the proposed '06 budget do you have any additional \$5,000 that you have planned for something else that you would use to fund this with?

Carol Anderson

I guess what I would have to do, and I don't want to do because I have a real need, but I do know that this is just very critical, would be out of that consulting line item. That is the only one I can see. I believe that is 53025.

Alderman Deane

Thank you.

Mayor Streeter

Have you withdrawn your motion Alderman Deane?

Alderman Deane

No I am not.

Alderman Vitale

If the escrows are not approved in this way are we able to revisit it to find it in the line items – go back and revisit it? If we are approving it from escrow, if we don't approve the escrow can we go back and find the money within the '06 budget?

Mayor Streeter

Since the budget hasn't been adopted the answer would be yes.

Alderman Vitale

We would have to make adjustments. I would agree with Alderman Shaw – I believe that it is critical that the changes are made as have been discussed a number of times.

Alderman Deane

I couldn't agree more I think the process should be put in place. I think we should clearly identify how we are going to pay for it period. I have no problem with what has been stated, and as both you and Alderman Shaw have stated on occasions and Mrs. Anderson has brought forth to us – she wants to implement this because she has explained the importance of it. That is her line of work and I agree with her – having read through this and understanding it, but identifying how we are going to pay for it I think is important.

Mayor Streeter

Is there any further discussion on the amendment?

Division Taken

MOTION FAILED

Mayor Streeter

Are we ready for the main question now?

Division Taken

MOTION CARRIED

UNFINISHED BUSINESS - None

NEW BUSINESS - None

HELD IN COMMITTEE - None

WARRANT

MOTION BY ALDERMAN SHAW TO APPROVE WARRANT #1 IN THE TOTAL AMOUNT OF \$7,346,430.69 OF WHICH \$2,193,964.45 ARE ACCOUNTS PAYABLE, \$3,735,143.30 ARE PAYROLL AMOUNTS, \$59,537.66 ARE PREPAY AMOUNTS AND \$1,357,785.28 ARE WIRE TRANSFERS

ON THE QUESTION

Alderman Deane

I had sent in a request to Mrs. Anderson. I didn't get an answer from the Emergency Preparedness people that I could find, but I wanted to briefly discuss the 581-19210 – the \$444,688.98. These are retirement dollars from the 19 account. I spoke with Mrs. Anderson about this I think it was on Friday. These payments of positions and the check dates – if you go down the bottom of the list you will see that on the 7th of July we paid the outgoing superintendent \$89,099.23 in accumulated sick time, but yet I forget when our last full Board meeting was – we sat here for 45 minutes and discussed one piece of legislation and made motions to reduce it by this amount and lo and behold the check had already been cut. The monies have been paid out of excess payroll – out of an 11 account from what I was told.

I do realize there are laws in place that once the separation you have to pay what is the city's obligation to pay, but the disturbing thing was we sat here and discussed it for 45 minutes and the check had already been cut and deposited probably. Then we have transfers of this magnitude going into this account where these monies are paid out of a balance out of a payroll account. I just think that whole scenario is wrong. I think it should be addressed. I don't think that we should be doing that. The legislation had come in to transfer an additional \$600,000 into

retirements, which will go into supposedly into this 19 account and then supposedly make up the checks that are owed out of the 19 account, but there is already a transfer that has taken place out of excess funds in an 11 account to probably pay this entire amount is that correct?

Carol Anderson

No actually this account historically runs in the red until the transfer is done. It is not done each time there is a check cut out of this particular account. At the end of year is when it is done.

Alderman Deane

So what funds were used to cover the \$444,688.98?

Carol Anderson

What happens is originally the School Department when they submit their budget at the beginning of the year that money is in their department and then it is moved to the contingency retirement with a line item specifically for the School. This isn't blended with the city funds. This is designated as school retirement and this is exactly the account that it is meant to go into. It was originally budgeted there, transferred out into contingency school retirement, and then there is a request made at the end to transfer it back.

Alderman Deane

So there was no money taken out of an 11 account to cover any of these checks?

Carol Anderson

None of these checks. If you look at the commodity it is all out of 19-210. That is that severance line. The ones that came out of the individual 11 account Alderman Deane was the vacation time.

Alderman Deane

Why didn't that come out of the retirement?

Carol Anderson

Because out of the retirement is an accumulation of the sick time.

Alderman Deane

Vacation was an accumulation..

Carol Anderson

That came out of his 11 line item, the two digit 11 account.

Alderman Deane

And the sick came out of where?

Carol Anderson

Out of this one, the severance account, where the original \$600,000 was budgeted and when they submit their budget out of this 19-201.

Alderman Deane

What is the difference between vacation time and sick time?

Carol Anderson

I am not sure how they designate that, but they take the accumulated sick out of this particular account. This is something we could ...

Alderman Deane

Who submits this for approval?

Carol Anderson

This is something that we ...

Alderman Deane

Who puts their signature on all of this when it comes – when it gets submitted whose signature is on this for a final approval for payment?

Carol Anderson

I would imagine it is the Board of Education that would finally sign off on the final payments for this.

Alderman Deane

Who submits it to the Board of Education?

Carol Anderson

It would be administration I would imagine either ..

Alderman Deane

Would it be the Superintendent?

Carol Anderson

If it is not Mark Conrad it would be Chris Hagan.

Alderman Deane

They were both on vacation when this happened.

Carol Anderson

No Mark Conrad was here the day that \$89... because I had something from him to make that payment. It was a letter that was sent to me and signed by Mark Conrad.

Alderman Deane

Yet this – this just kind of disturbs me when I look at this. It is not that people are owed their money it is the way that the process unfolded. As I said earlier we spent 45 minutes discussing a piece of legislation that we ended up amending by this amount. Low and behold our thoughts and concerns about the 207 sick days didn't matter because the check had been cut and the monies were gone. We have absolutely no recourse with any of this. I had mentioned it to you and I think as these Warrants unfold I think people's names should be on the Warrants. It is public information. When you go through the end of that Warrant and you start looking through payroll and they have a – if they have a commodity code with a position there is a number of people in that position such as school teachers for instance how ever many of them there are and there would be a total amount – I know it would be a little more work, but boy when you get up into this and you take everything and combine it, it becomes confusing.

Carol Anderson

It does. I would agree.

Alderman Deane

It shouldn't be confusing it should be user friendly and we should be able to look at it and understand what is being cut out of these accounts.

Carol Anderson

What we do have – this is the Warrant that you see, but there is also a check register – there is what we call labor detail and that has the names on it. That is a report that we have that is generated every week and that does have names on it.

Alderman Deane

Why isn't that...

Carol Anderson

That is another whole report. We have just – no one has ever asked to have it provided before, but that certainly is something that is available if not the check register is the other item. I could see which one is easier to follow and submit that along with the Warrant.

Alderman Deane

It is just disheartening that we sat here discussing this and nobody said anything.

Mayor Streeter

I think Alderman Vitale had her hand up.

Alderman Vitale

It was mentioned that night that the check had already been cut.

Alderman Deane

For the vacation.

Carol Anderson

No.

Alderman Deane

Absolutely.

Alderman Vitale

The whole thing had already ...

Alderman Deane

I will go back and review the minutes. Mrs. Anderson for one was not sitting up here.

Alderman Vitale

It was mentioned that night.

Carol Anderson

In fact if I may Mr. Chairman I actually the newspaper had been inquiring about it and I had told them that check had been cut on that day, on June 30th.

Alderman Rootovich

I assume this happened last week. I apologize I was on vacation. Was this a resolution?

Alderman Deane

Yes.

Alderman Rootovich

I thought a resolution was binding once the Board passes it.

Alderman Deane

The checks had been cut before the resolution was passed. They used other monies to cut these checks correct Carol?

Carol Anderson

I wouldn't say they used other monies only because this money was designated when they submitted their '05 budget it was in there and then it was moved to the '05 into a specific line item for the school, and I know we have had that problem before – in fact Alderman McCarthy if you can remember back to when we had that school curriculum when we took the money out of the school and designated it as school curriculum I think it was then in a contingency account and I believe that Corporation Counsel ruled then that was still school money because they had challenged us on that and that was the ruling. In my understanding of that I would understand that this is still school money. Maybe I am wrong on that. Alderman Bolton you were at that time with the school curriculum...

Alderman Bolton

The whole point of contingency is that it can't be spent until it has been transferred and made the subject of an appropriation by transferring it to a specific line item appropriation account. We do have an ordinance that says that once an account has been exhausted no payments will be made. I think that is the problem.

Carol Anderson

Then I think we also have a problem on the city side because particularly in the contingency line item – I am not talking general contingency, but when we have specifically retirement contingency when a lot of the resolutions come before you for retirements to go a replenishment to another department those people have already retired and then the request is made for the funds to be transferred into the department. It is something that they have accrued, it is a liability, we owe it, and that is the same with this line item. Those monies are paid out prior to.

Alderman Bolton

In both cases I think it violates the ordinance. I think what happens is there has to be another mechanism in place or else the timeframe has got to be created that enough advance notice is provided so that the Board of Aldermen can act on it in time to comply with the law and make the payments as the law requires. Failing that maybe we have to have some mechanism in place where it is the Finance Committee can approve those payments, but I just don't think that we can continue to have accounts run in the red. This is – it happens here. I know we found out that for years it has been happening in the whole Public Works Division, and I think we occasionally find out that there are other situations where it is assumed that either the account will run in the red, but the overall budget of the division or the city will be in the positive or it is assumed that eventually the Board of Aldermen eventually is going to do what the Mayor wants and make the transfer. The whole checks and balances that is supposed to be in place is just overridden if it doesn't matter what the Board of Aldermen does, it doesn't matter what is written in the law that this administration will just do what it feels like doing and tell the Board of Aldermen well it doesn't matter what you want we have already done it. It continues to happen.

Carol Anderson

I just wanted to say that the monies that are put into retirement are specifically for retirement. We have the obligation already there. If you want the resolution beforehand we can do that. What is going to happen is there will be instances where it will be changing because that time can be depleted right up until the day the person leaves. We really don't have an exact number. We can give you an approximate number, but we are not overrunning the budget because the money is put there specifically for retirement. If a person is going to – I know what my accumulated sick and vacation is – that is an obligation of the city should I retire, and that is

what we have is the funding specifically for that and not for anything else.

Alderman Bolton

Mrs. Anderson it is up to the Board of Aldermen in the case of making the appropriation or it is up to the Finance Committee in determining that it is an obligation of the city. It is not up to the Mayor it is not up to any employee. The Charter of this City makes it up to the Finance Committee to make that determination that the city is obligated and the money should be paid. We have got to develop a mechanism by which the Finance Committee gets an opportunity to make that decision and it is not made by someone else and the Finance Committee in determining that yes that is an obligation of the city and has to be paid or the Board of Aldermen in determining that we need to provide an appropriation in order to pay for the lawful obligations of the city.

It is who makes the decision and with all respect those decisions by our laws, by the Charter of this community are to be made in the case of an appropriation by the Board of Aldermen and in the case of a determination that something is an obligation of the City by the Finance Committee. It is not up to the Mayor or anyone else. It is up to those two bodies.

Alderman Rootovich

Back to my question – if that is the case then the majority of the members of the Board of Aldermen amend the resolution to take out the \$89,000 how could that still be paid? This Board has the authority to do that, it passed by the majority, and the check was still cut. If it was cut prior to that – I have to agree with Alderman Deane – I have a problem with that discussion or not.

Mayor Streeter

Alderman Tollner ...

Alderman Rootovich

Before you go to Alderman Tollner could I get an answer to that? Corporation Counsel is here. He drafted the legislation. To me I would expect an answer. I have a problem with that. This Board passed a piece of legislation which authorizes to amend that resolution and it was ignored.

Mayor Streeter

I though that Mrs. Anderson explained to you the process perhaps not to everyone's satisfaction, but she explained it.

Alderman Rootovich

I would like to hear from Corporation Counsel with respect to what means this Board can now act on since something was passed that shouldn't have been and what action we can take at this time.

Mayor Streeter

Is Corporation Counsel here and willing to comment on such short notice?

David Connell

What is the context? I was working on something else.

Alderman Rootovich

The context was the Board of Aldermen in a majority vote amended a resolution authorizing certain payments to retirees in the School Department. There was an amendment made to decrease the amount in the retirement by \$89,099.23. That resolution passed by the majority of the Board of Aldermen. The check was still cut.

David Connell

Assuming that the obligation is owed the money would have to be found from another source.

Alderman Rootovich

Which brings in the discussion that Alderman Bolton and Mrs. Anderson discussed, but I agree with Alderman Bolton – the ordinance is pretty clear. This is not the first time. I guess I am just frustrated to hear that it continues. I just think it is wrong. My name is in the Warrant, but I am going to cross my name off the Warrant and I am not going to sign that Warrant. Is this in this Warrant here?

Carol Anderson

The \$89,000 is.

Alderman Rootovich

Thank you.

Alderman Tollner

I remember at last week's meeting Alderman Deane made the original motion and I amended the motion to exclude the amount of money that we are talking about. Maybe my recollection is

wrong I do recall somebody saying that the vacation dollars were paid. It was my impression in that conversation that the sick time had not been. I was going to bring the same point up that Alderman Rootovich did. Quite frankly I don't care that the check has already been cut. The allocation of dollars to that individual this Board voted that they wanted to have held until we got some additional information. The response that I just – I am a little puzzled really – the response that Alderman Rootovich got was well then that money will have to come from somewhere else. I don't think the issue or the concern of the more than the majority of the Board that night was where the money was coming from, I think the concern that the Board had the other night was the money going to that particular individual until we got some clarity. The reason why I made that motion was I wanted to be very careful to make sure that all of those other individuals that were supposed to get their retirement dollars that process wasn't impeded and they were able to get the money and to take this other money and set it aside for a week or two until we got some additional information.

To find out that money was taken from a different account and I guess it seems to me very quickly processed because I don't recall stuff getting processed usually in this fashion. The individual got that money, which is exactly not in tune to the way that motion was made and that motion was passed. If I do recall it was beyond the majority of the Board of Aldermen that night that approved it. What is our recourse to at least get that money back and hold it until we get the information that we were looking for and I think that was the intent of the motion.

David Connell

Getting the money back – assuming – we have no reason to believe – I have no reason to believe the man is not entitled to the money at this time. The Board of Education has not issued a lengthy explanation, but my remarks last week quite carefully phrased, I started with the statement that the Board of Education has the power to spend its budget as it votes to spend it. I am assuming without any other information to the contrary that is what they are doing. If there was something wrong with it then possibly the money could be retrieved from whoever it was paid to, but if there wasn't then they had the power to vote to spend that money.

Alderman Tollner

My question is we passed a piece of legislation not to withdraw those funds.

David Connell

Yes.

Alderman Tollner

And pay it out to that individual and that is the purview of this ...

David Connell

Two things could happen if that vote stayed the way it is; either the money would be found in some other portion of the Board of Education budget or there would be a confrontation assuming again that the money was obliged to be spent.

Alderman Tollner

Finding the money somewhere else I don't think is an issue or a question at least I think that a good chunk of us have because that is not the issue. The release of those dollars to that particular individual until we got a little more clarity – I don't think there was a discussion that we didn't think that the money should go to them I think the question that was brought up by one of our colleagues was that there was a non-public session and the contract was amended and changed, allegedly changed I say because I don't know what took place there, and that was the result of it.

Alderman McCarthy

I want to re-ask part of the question. I would respectfully disagree that I don't believe that we did anything that precludes it being spent from another place. We put a condition on the transfer of a certain set of dollars that it be used to satisfy a certain set of obligations of the city and not another obligation, but from that account. However, I suspect and I will ask Alderman Deane who I think has looked at the Warrant, was the check drawn on that account anyway?

Carol Anderson

Yes.

Alderman Tollner

This whole process is pretty bothersome.

Alderman Vitale

Like I said again I remember it being said that the check had been cut and I remember asking if we would in fact find anything improper in the distribution of those funds – what could be done for the money that was already the check cut and it was said that we would have to go after those funds. I understand being able to have it clarified, I believe that is what is going to be done, and that will satisfy the question that was there. I do also believe that maybe there should be some changes that need to be made related to this that help with this not happening in the future. As I am listening to the discussion and looking at payouts I wouldn't want to see it happen where we take individual payouts to individual people and hold some and not pay others and have it become more of a personal thing versus a the way it should be done for everybody. I think there needs to be – we do the approval, the checks are paid, but as far as we can have it to make sure that everything is paid out appropriately, but I don't think we should allow it to

become personal to the employee that it is being paid out to. I think it does need to be looked at the way we do the legislation as it comes through.

Alderman Tollner

Let me be clear there was nothing personal about any of the discussion or motions the other night. I think the concern that some people had that the original contract was amended in non-public where people had interest in seeing what the difference was. We were told by members of the Board of Education that some adjustments were made. I have no idea what they were, but there is no individual personalization in this. We pass legislation all the time. I think the concern that people have is an outgoing staff person is going to get a significant amount of sick time over and above what I think either board had anticipated up until three weeks ago. I have high regard and I think the gentleman did a fine job so there is nothing personal about it, it is the process and the change that I think brought up the original motion by a colleague and a subsequent amendment to the motion by myself to get a little bit more information. I want to be very clear there was nothing personal about it.

Alderman Deane

I wanted to clarify that too Alderman Vitale. It is nothing personal for me as well. We sat here and I believe you were here – we sat here for 45 minutes and discussed this and as far as I knew and I had talked to Mrs. Anderson previously about the \$28,000 worth of vacation time check that had been cut and I had asked about the additional \$89,000 for 207 sick days and was told and under the impression that had not been paid out yet. We sat here all of us sat here for 45 minutes and at that point thinking back on it if you had known that the check had been cut you should have told us time out he has already been paid and I think we all would have just moved on, but we didn't. I believe everybody in this room had something to say about it including yourself.

Carol Anderson

I am not sure if I spoke at that particular meeting, but I know that I thought I had made it clear about the \$89,000, but what I was thinking of is how we could improve this process because when this came through and that check was cut and a lot of it I would say 95% or more probably closer to 98% of all of the checks that are cut for retirement purposes are all contractually obligated, they are all part of the contract. I am thinking as a way of trying to keep the process moving if at any time there is any change to the existing agreement that we have for any type of retirement whether that is on sick or vacation any check that comes through that is not the norm, the way it was originally established, if we put a hold on it at that point until we get clarification, but like I say I would say 98% are all contractually obligated. If that might help the process that is not a problem for us to do. Then the Finance Committee could see that before that payment is made, before the check is cut.

Alderman Johnson

One of my concerns was I remember at the meeting I asked for the whole Board to get a copy of the contract that night, which I have not seen a copy of it. I think in the future when something is going to be made public or one member gets it I think maybe we all should get it because I think it makes it a lot easier to understand what is being discussed. I thank Alderman Deane for getting a copy of the contract and bringing a lot of it to light the other night because \$117,000 between sick and vacation pay is a lot to dish out at one time. When things were changed and we didn't have any inclination of it money is being added in and we are being expected to pay for this and yet programs are being cut in the school district. I would suggest in the future and I agree with my colleagues that when changes are made maybe the Board of Aldermen needs to get a little clarification and be privy a little to this information rather than picking up the paper and reading about this. The one thing I don't like to do is read about something in the paper, having my constituents calling me up and asking me, and I don't have any information.

I am not going to get into the specifics of other contracts, but you know we all get to see the terms and agreements of any collective bargaining contract that comes through here we have the right to read it. We didn't get the right to read any additional changes to that contract and that is unfair to us. Thank you.

Alderman Deane

As Alderman Bolton stated earlier we really have to make sure that we adhere to the process that is in place. That hasn't been done. I too am not going to sign that Warrant or support voting for it either because I think it is not right what went on and I can't support that type of activity. Thank you.

Alderman Rootovich

I just want to clarify my position with respect to the compensation Mr. Giuliano is getting. I don't have any qualms with what the Board of Education does. They have authority to do certain things and I respect their territory and whatever they decide is fine. I just want to make sure that if this Board passes any resolution or ordinance that the integrity of that resolution or ordinance is followed through to the letter of the law. That comes down to credibility. Again I have some grave concerns based on what I hear this evening where this Board through a majority amended legislation and it was not followed. I have a problem with that. I have such a problem with it that I think that this Board should take some sort of action. I am livid over it. I am that upset over it. It is the integrity of the entire system. It makes you wonder how many other things have been passed in the recent past or in the far passed that have not been followed through on. I have grave concerns over that.

Carol Anderson

I want to make it clear we follow the letter of the resolution to the T. What was said last week

was that when the resolution came through the \$600,000 they subtracted \$89,099 and said only the net difference of about \$510,000 could be transferred in. That is all that is being transferred in. That \$89,000 did not get transferred in. We would never do anything that is contrary to what the Board's wishes were. That night it was my understanding that where that money had been paid out that what it was is that they didn't want to give the school the funding to cover the \$89,000 – that was my understanding of it. I had said I know on previous occasions that had been paid out, but the Board did not want to transfer in the whole \$600,000 and the whole \$600,000 was not transferred in only the \$510,000 that the Board of Aldermen agreed to.

Alderman Rootovich

But those monies were still cut on an account that did not have enough money in it correct?

Carol Anderson

The prior week that check had been cut when I received the letter from Mark Conrad, and I had gone to Legal to find out what I should be doing at that point if that was a legally binding that I was to pay that out, and they said yes. That is how I proceeded.

Alderman Bolton

The first point is those members of the Finance Committee that would vote against the entire Warrant because they are dissatisfied with what has been done with regard to this item – I can understand the frustration, but if that Warrant doesn't pass there are a lot of other valid claims and expenditures that can't get paid, which are completely unrelated and you are just inflicting wounds upon the city that will do nothing but harm. I would urge you to try and make your protest a little more particularly directed.

Let me point out that Nashua Revised Ordinances Section 2-798 Subsection C says "No account or claim shall be chargeable to any appropriation which has been expended." I think that is pretty clear you can't overdraw on the account; you cannot let it run in the red, you cannot charge a claim to an account that has been expended. I ask you Mr. Mayor will you cease this practice?

Mayor Streeter

Alderman Bolton I didn't start this practice. I played no part in this practice. I will ask our CFO to come up with a different scenario...

Alderman Bolton

I am sorry I thought you ran the administration of this city Mr. Mayor.

Mayor Streeter

If you are inferring that I did something dishonorable or dishonest I can tell you that is not my style okay. I will talk with our CFO and I will ask if this process can be bettered, but for you to infer that I had something to do with this you are all wet Alderman Bolton.

Alderman Bolton

Mr. Mayor I asked you civilly if as the head of the administrative branch of this government you will see that the law is followed that is a civil question directed to the person who is in the position to achieve that goal that this law is followed.

Mayor Streeter

I am not aware that a law was broken Alderman Bolton.

Alderman Bolton

I am.

Mayor Streeter

If in fact it was then I will take corrective action.

Alderman Bolton

I have been listening and I have heard it said that this account was allowed to go into the red, and now I have read to you the law that says you cannot do that. You are now aware are you not that that law has not been followed? Will you take action to prevent that from happening again?

Mayor Streeter

As I said before Alderman Bolton, perhaps you didn't hear me, I will talk with our CFO and ..

Alderman Bolton

The volume was quite sufficient.

Mayor Streeter

I will also talk with our Corporation Counsel to make sure that what is being done follows the letter of the law.

Alderman Bolton

Maybe we should ask him. Can we get Attorney Connell up here?

Mayor Streeter

I would respectfully ask Alderman Vitale who is next, Alderman McCarthy, and then Alderman Deane.

Alderman Bolton

I am not to be allowed to ask Attorney Connell a question?

Mayor Streeter

Did you hear the question?

David Connell

I heard the preface to it what is the question?

Alderman Bolton

The question is is it in fact a violation of that section that I read to allow an account to go into the red?

David Connell

If it stays in the red for any considerable length of time then it is a problem. With respect to the School District I think it is probably not applicable in the sense that they have authority to transfer their appropriations at will. On the city side it is something that the Board of Aldermen has control over and any practice that is institutionalized to be in danger of that ought to be changed.

Alderman Bolton

No they can transfer, they can transfer, and as long as they make the transfer then no account has to go into the red right?

David Connell

Right.

Alderman Bolton

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This Ordinance is applicable to the School Department and every other agency of government. The fact that they can make those transfers will prevent accounts from going into the red, but it says unequivocally no account or claim shall be chargeable to any appropriation, which has been expended. I don't see where it says for any length of time. Is there reason to believe that no does not mean no?

David Connell

People have a right to be paid their retirement on a certain date and that was a legal requirement.

Alderman Bolton

Right and if the Board of Aldermen fails to provide the funds to do that and the Finance Committee fails to authorize that payment then the city has violated the law, but it still is those two bodies that have to make those decisions correct?

David Connell

I agree with you that these things should be done in advance yes.

Alderman Bolton

Thank you.

Alderman Vitale

I would agree the process needs to be changed so that we can do those things in advance. As I pointed out before as we change that process I didn't mean to indicate that people voted to personalize it at this time, but as we change the process it is something that I believe we should keep in mind so the process is changed, but it is not changed in such a way that at a future point it could be personalized that you are withholding money for any personal reasons. I am not saying that anybody did it now I am just saying to keep that in mind as we go forward and we look at changing the process of paying out the funds. Thank you.

Mayor Streeter

Are there any other comments or concerns?

MOTION CARRIED

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DISCUSSION

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ADJOURNMENT

MOTION BY ALDERMAN DION TO ADJOURN MOTION CARRIED

The Finance Committee meeting was adjourned at 8:00 p.m.

Committee Clerk

Alderman Rob Shaw
Committee Clerk