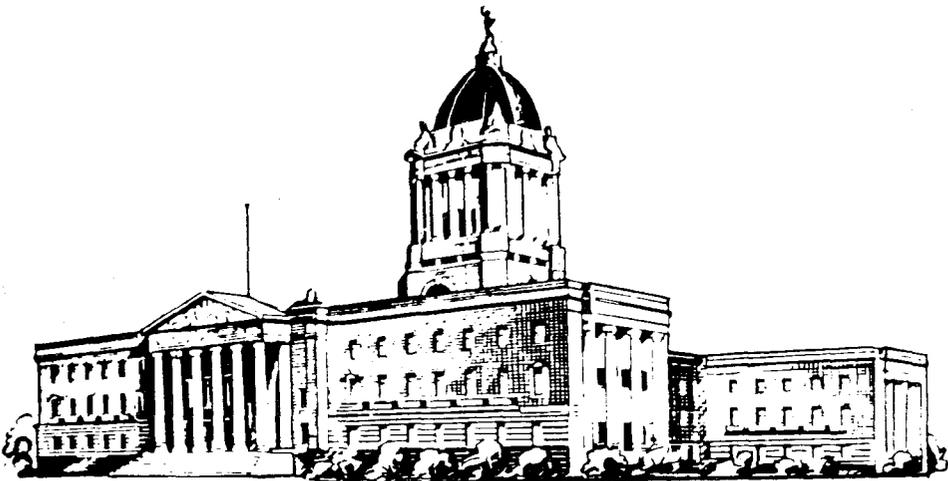




Legislative Assembly of Manitoba

HEARINGS OF THE STANDING COMMITTEE ON MUNICIPAL AFFAIRS

Chairman
Mr. John C. Gottfried, M.L.A.
Constituency of Gimli



Monday, March 22nd and Wednesday, March 24th, 1976.

THE LEGISLATIVE ASSEMBLY OF MANITOBA
STANDING COMMITTEE ON MUNICIPAL AFFAIRS
Monday, March 22, 1976

Chairman: Mr. John G. Gottfried.

CLERK'S ASSISTANT: Gentlemen, we have a quorum. Since this is the first meeting of the committee, our first item of business is the election of a Chairman. Nominations are now open.

MR. DEREWIANCHUK: I would like to nominate Mr. Gottfried.

CLERK'S ASSISTANT: Mr. Gottfried. Are there any further nominations? Hearing none, Mr. Gottfried will you please take the Chair.

MR. CHAIRMAN: Thank you, gentlemen. Our first task is the establishment of a quorum for this committee. The number of members in the committee consists of twelve and a simple majority would, of course, be seven. Would someone move.

MR. FRANK JOHNSTON: So moved.

MR. CHAIRMAN: It has been moved that the quorum be set at seven. Agreed? (Agreed)

The item under consideration this afternoon is Bill 26, an Act respecting The City of Brandon. I have here a list of some of those who intend to make presentations on behalf of this bill. Mr. McGill.

MR. EDWARD MCGILL: On a point of order. Is it necessary for the committee to move that the proceedings be transcribed? If so, I would so move.

MR. CHAIRMAN: Is the committee agreed that the proceedings be transcribed? (Agreed)

I have a list then, again, of those who would like to make presentations on behalf of this bill; I will read it to you and if the persons are present, will they kindly indicate by raising their hand. The first is His Worship Mayor E.C. Gorrie and members of his council. The second one would be Mr. David Weiss of 322 Fort Street, Brandon. The third is the Brandon Chamber of Commerce headed by Mr. Ed Schultz and Mr. Henry Neudorf. The fourth is Alderman Ron Cayer of the City of Brandon. The fifth would be the Brandon Ratepayers Association under the chairmanship of Mr. Mert Bosiak. And the sixth is Mr. George Canart, a private citizen. Are there any others in the audience who would like to make a presentation this afternoon? None?

Now generally, we try to accommodate those who have come from a greater distance -- (Interjection) -- they are all from Brandon? We will proceed then in the order in which the names have been handed to me here. So I will call first on His Worship Mayor E. C. Gorrie. Will you please come to the head of the table. If you have a brief to pass around . . .

MAYOR E. C. GORRIE: I haven't, sir. Mr. Chairman, gentlemen, I present to you today some of the background and my remarks on the bill.

About a year ago, in April as a matter of fact, the City Council of Brandon passed a resolution to facilitate the development of the downtown core in Brandon, and as a result passed a resolution to take options on certain pieces of property, eight in all. Subsequently, in September of last year they passed another motion to assemble this land, in other words acquire it; in about December of last year, again a resolution was passed to exercise the options and to purchase this property. Unfortunately, there seems to be some question that these actions should have been taken under by-law rather than under resolution, and as a result we applied for, and Mr. McGill has presented the bill to you to ratify the Acts and in fact correct the procedural mistake, if in fact there was one made. Therefore, that is the summation of where we now stand, and that is to seek your support to present this bill, or have this bill passed to ratify the actions taken in order that we can proceed, hopefully, with the renewal of our downtown core.

I notice in the last paragraph of the bill, Mr. Chairman, that this bill would be approved if Council of the City of Brandon enacts a by-law to authorize the purchase of said lands and payment of said moneys. I therefore have no amendments to recommend for the bill, I made this very short resume to indicate where we now stand, and that is my case, sir.

MR. CHAIRMAN: On behalf of the Committee I would like to thank you Mayor Gorrie. Does any one here wish to direct any questions to the Mayor? Mr. Pawley.

MR. HOWARD PAWLEY: Just a few questions if I could, Mr. Chairman. Mayor Gorrie, was it ever brought to the attention of the Brandon City Council that for the purposes of acquiring this land by a purchase option agreement that a by-law in fact was required rather than a resolution?

MR. GORRIE: No it was not, sir.

MR. PAWLEY: Was there any advice communicated from your solicitor to the Clerk of the city indicating that a by-law was required rather than a resolution?

MR. GORRIE: Not until the Municipal Board hearing on the debenture by-law, at that time it was noted that there had been a procedural mistake.

MR. PAWLEY: Could you tell me how many properties were actually involved in this connection?

MR. GORRIE: There are eight properties in total, six of which appear on this bill, two are yet to be negotiated, possibly through expropriation. So there are eight properties in all, and six are represented on this bill.

MR. PAWLEY: Were any of the properties at all purchased by way of a by-law rather than a resolution of council?

MR. GORRIE: One property known as the J.A. Keddy property, this was bought by a purchase agreement and by by-law, yes.

MR. PAWLEY: And would there have been any reason that a by-law would have been used in that case rather than a resolution of council?

MR. GORRIE: I'm not sure unless it was that it was a straight forward, it was purchased by purchase agreement and validated by by-law at the time. It was separate, it was purchased and by-lawed right at the one time.

MR. PAWLEY: Well do you see any reason that there would have been a separation as to the - did the City of Brandon Solicitor prepare the by-law in that instance?

MR. GORRIE: Yes.

MR. PAWLEY: Were the other matters, the other six option agreements, were they referred to the City of Brandon Solicitor, Mr. Meighen for preparation, also?

MR. GORRIE: Oh yes, everything pertaining to land purchase is referred to our solicitor.

MR. PAWLEY: And in the Keddy case, the city solicitor did prepare a by-law? In the remaining six land purchases no by-law was prepared by the city solicitor?

MR. GORRIE: That is right.

MR. PAWLEY: You say the city solicitor at no time indicated that a by-law was required in those six cases, in the same way as there was one required in the Keddy case?

MR. GORRIE: No, he did not indicate to me or to the Council in this particular case. These were treated as a block, a piece of property, and they were all bought by resolution as I just outlined. He did not indicate to us in this case that a by-law had been prepared or was required.

MR. PAWLEY: That at no time legal opinion was requested from the City of Brandon solicitor as to whether or not a by-law was required or not?

MR. GORRIE: It was not requested by council, no.

MR. PAWLEY: Has the City of Brandon previously purchased land by way of an option purchase agreement?

MR. GORRIE: I really don't know, sir, not in my time I don't recall. I've heard it suggested that this may have happened but I wouldn't be prepared to say it has or has not.

I might point out that to acquire titles for these properties the City Council did pass a by-law but it was subsequent to the actual purchase of the properties. They passed the by-law in order to get title.

MR. PAWLEY: What was the date of that, Mayor Gorrie?

MR. GORRIE: I would have to look the file up.

MR. CHAIRMAN: Are there any further questions? Mr. G. Johnston, Portage la Prairie.

MR. G. JOHNSTON: I have a few questions. Did I understand you to say that the property mentioned by the Attorney-General was handled by council by way of a resolution

(MR. G. JOHNSTON Cont'd). . . and a by-law at possibly the same time, or did the by-law come later?

MR. GORRIE: In the particular one property mentioned, or in the six?

MR. G. JOHNSTON: Well take them one at a time, apparently there is two different cases, are there?

MR. GORRIE: Well the Keddy property, as I mentioned, was bought separate, the others were optioned and subsequently the options exercised. They were treated as a block, or a section of property and in that case they were bought by resolution and a by-law subsequently passed to register title.

MR. G. JOHNSTON: Well were you acting legally, shall we say, when you bought by resolution or did you find that in order to legalize it you should have a by-law. I am not clear there.

MR. GORRIE: We apparently were not acting within the scope of the Municipal Act when we bought by resolution, it should have been by-law. I think that's admitted to be procedural error.

MR. G. JOHNSTON: I only know a little bit about this, Mr. Chairman, by what I have read in the Brandon Sun, and there was a move, or at least there was talk about having a referendum. Do you have the power to hold a referendum on a matter like this?

MR. GORRIE: Under the Municipal Act we do have the power at any time to hold a referendum or an opinion poll if that is what the . . . and we also I understand, have the privilege to act or not to act upon it.

MR. G. JOHNSTON: Has this matter been before the Municipal Board?

MR. GORRIE: The debenture by-law to finance the properties by debenture was before the Municipal Board, yes, and the hearing was suspended.

MR. PAWLEY: I wonder if we could have an understanding after the other submissions have been heard in case we wish to pose further questions to Mayor Gorrie. We might wish to call Mr. Gorrie again for further questions. Could he keep himself available?

MR. CHAIRMAN: Will that be satisfactory to the Committee? (Agreed.) I would like to thank you, Mr. Gorrie, for taking the time to be present here this afternoon.

We will call on the next person now, second presentation, Mr. David Weiss.

MR. WEISS: Mr. Chairman, I wonder if I can change to five or sixth, because I am against the bill and there are two or three other people that also are against the bill, but I may be against the bill in a different way than they are, so I would beg, if I could, to speak later.

MR. CHAIRMAN: Is that agreeable to the Committee? (Agreed.) Fine. We will call you up later. I will next call on Mr. Ed Schultz and/or Mr. Henry Neudorf of the Brandon Chamber of Commerce.

MR. HENRY NEUDORF: I am Henry Neudorf, Mr. Chairman, and members. --(Interjection)-- I have one extra copy.

The Brandon Chamber of Commerce has been a driving force behind core redevelopment in the city since the concept was originally originated and we continue to support downtown redevelopment as something beneficial to the City of Brandon from a business point of view and to widen the commercial tax base of the city.

The Brandon Chamber has no intention, nor does it feel that you wish to hear any representations as to the merits of downtown redevelopment. Our purpose in making a representation today is strictly in support of the passage by legislature of Bill 26 and a request that Third Reading and Royal Assent be obtained as soon as possible. The bill authorizes the payment by the City of Brandon for certain parcels of land provided that a by-law is passed subsequently by the city authorizing the acquisition, and the Brandon Chamber submits that this is a housekeeping type of by-law and that objections to the acquisition of property should not be dealt with before this committee, but should be dealt with either by the Council of the City of Brandon on the passage of the required by-law, or by the Municipal Board on the consideration of a money by-law to float debentures to fund the purchases.

City Council passed a resolution on the 4th of September 1975 authorizing the acquisition of these properties and proceeded to acquire them on the basis of that resolution. Apparently the Municipal Act requires that a by-law be passed and the position

(MR. NEUDORF Cont'd) of the Chamber is that the technical error of the city in relying on a resolution rather than passing a by-law was such that it should be corrected by the passage of by-law No. 26.

Thank you for letting us have the opportunity to speak to you on this matter.

MR. CHAIRMAN: Does anyone have any questions to direct to Mr. Neudorf? Being none, I would like to thank you Mr. Neudorf for your presentation.

I will now call on Alderman Ron Cayer of the City of Brandon.

MR. RON CAYER: Mr. Chairman, if you bear with me, I have a number of points, I have quite a lengthy file to introduce here, and I think it will serve the purpose to perhaps fill you in. I realize that there is a number of details that perhaps you are not cognizant regarding the bill.

If you will permit me, what I would like to do is go through the file that I have compiled here which will indicate to you, I don't know, perhaps you should rule on this as to whether it is relevant or not, but I would like to go through a file here briefly to indicate to you the problems we have had in acquiring, when I say "we" I mean a minority, in acquiring information to delve into what we call irregularities and the contravention of the Act.

MR. CHAIRMAN: Is the proposal agreeable to the Committee? Mr. McGill.

MR. MCGILL: Mr. Chairman, on a point of order here. I am not just sure, Mr. Cayer is now going to discuss a difficulty within the City Council . . . ?

MR. CAYER: With reference to the bill, to the problems . . .

MR. MCGILL: Mr. Chairman, I am not sure, not having heard what he is going to say, but whether or not this is an internal matter within council, or whether it deals with the thrust of this bill which is in effect to determine whether this technical error which occurred was in fact just that or something more than a technical error. Really I think if Alderman Cayer is intending to deal with that problem it would be in order, but I am wondering if he could perhaps explain a little more definitely whether his representations deal with the technical error, or whether he is giving evidence to show that it is more than a technical error.

MR. CHAIRMAN: Mr. Johnston do you have a question to direct?

MR. G. JOHNSTON: Mr. Chairman, on the point of order we are speaking on I would like to speak briefly. It would appear that a certain action of Brandon Council has to be made completely legal by a by-law and really that is what the bill is all about, although I haven't perused it that closely, and if Alderman Cayer has something to say with respect to the background of why the bill was drawn wrong I think we should hear it. I gather he has a different view to the Mayor, but I think really we should hear the underlying reasons as to why the bill was drawn.

MR. CHAIRMAN: Mr. Cayer, do you have anything in reply?

MR. CAYER: Yes, I do, Mr. Chairman. For example, in answer to Mr. McGill's question here, I really want to indicate to you that relating to matters of the downtown core project I have found that I've been suppressed in trying to obtain information, and what I'd like to do is relate to you correspondence I have here and particular incidents that would perhaps suggest to you that there's really more to what appears on the surface here. I'm not suggesting that there is any deliberate wrongdoing, that's certainly for the judgment of the committee to make, but I would like to give this information to you and let you draw your own conclusions.

MR. CHAIRMAN: Go ahead. Mr. Pawley.

MR. PAWLEY: If I could just take what has been said by Mr. McGill and Mr. Johnston so that I think we have an understanding before we start, and Alderman Cayer and members of the committee.

As I would interpret this, we are interested not in the pros or cons of the Mall issue itself, whether the Mall is a good idea or a poor idea, we're not interested in whether or not Brandon City is following the correct policy in expending public moneys for that purpose. That our only interest would be in the submission that's presented is whether or not it reflects upon the procedure that was followed by the City Council and/or its staff in arriving at the particular steps along the way. But this committee I don't think is interested in getting into the pros and cons of the Mall, whether it's a good idea or a bad idea. That's for the City of Brandon to decide.

MR. CAYER: I understand that.

MR. CHAIRMAN: Mr. Miller, I believe you have a question.

MR. MILLER: Mr. Chairman, it seems to me that what the committee is faced with here is simply to determine whether or not a by-law to authorize the purchase should be approved through legislation, and that's really the only issue before us. Because as I understand it, reading it now, a resolution was passed and it was on the base of that resolution that Brandon did certain things. It should have been a by-law rather than a resolution. If it had been a by-law then this bill wouldn't be before us. It's simply to validate something that the council did by resolution instead of by by-law. So that really I think is the only issue before us and the nature of the project is really not a matter of great concern to us. It's the question of why did they trip up? Why didn't they use the procedure which the Act requires them to? Was it a human error? That's basically what I think we're faced with.

MR. CHAIRMAN: Mr. McGill.

MR. MCGILL: Mr. Chairman, on the point that Mr. Miller brings up. The bill, of course, reads that if it's passed then they have to pass a by-law. This does not ratify any by-law already passed. So it really takes it back to City Council, and essentially that just puts them back into motion on the whole project.

MR. CHAIRMAN: Mr. Miller.

MR. MILLER: One clarification. If this were passed the by-law would still have to be passed, in which case the City Council of Brandon in its wisdom could still not pass that by-law.

MR. CAYER: I think that's right.

MR. MILLER: It's totally in the hands of the City Council.

MR. CHAIRMAN: What then is the will of the committee with respect to dealing further with this matter? Do we . . . Mr. Cayer.

MR. CAYER: Well, there was reference, Mr. Chairman, made to the aspect whether the council or the administration followed the proper procedure, and in that I interpret my having access as being part of that procedure, and that's the point. I'm not really concerned in trying to impress you whether the project is right or wrong. I really want to impress upon you that the proper procedures were not followed. And in that I'll give you one example and if you wish to pursue that . . .

I'd like to relate an incident in particular, is that I did go to what we call our Central Registry and attempted to acquire more information on various options that had been issued or let by the City of Brandon, and a directive came from the Clerk's office, a party unknown to me, indicating to the staff in Central Registry not to give me the information or show me anything. And I'm suggesting to you that I was being suppressed in trying to obtain the various aspects of the information, and I could not.

MR. CHAIRMAN: Mr. Henderson.

MR. HENDERSON: Mr. Chairman, through you. It seems to me that we could be getting into an internal program here, the way I've understood, the way that it's been explained by Mr. McGill and Mr. Miller here. I think it's our duty to turn it back to Brandon so that they can go through with a resolution there if the people so desire; and anybody that feels then that they want to oppose for any number of reasons can do it. I think we as legislators would be getting in wrong to get into this internal fight, or quarrel or whatever you might want to call it.

MR. CHAIRMAN: Mr. Johnston, Portage la Prairie.

MR. G. JOHNSTON: Mr. Chairman, I'm sure that members of the committee are a little bit confused, but what I'm concerned about when I read the preamble of the bill is that if we cut off discussions that Alderman Cayer obviously wants to put forward, we could be placed in the position of legalizing a past Act. Now whether or not that Act is legal or not I don't know, but I refer members to the preamble of the bill and also one of the last paragraphs, and I quote: "Notwithstanding the provisions of The Municipal Act, all actions and things done heretofore by the Council of the City of Brandon with respect to the obtaining of options of and the purchase of the following lands, namely," - then it lists out legal descriptions of six pieces of land I believe. But I refer members to the last paragraph: "And in all payments made on account of the purchase price and costs thereof are hereby validated and approved if Council of the City of Brandon enacts a

(MR. G. JOHNSTON Coni'l) by-law." --(Interjection)-- Right. Well, my point is that if there's another side to the story, I'd like to hear it.

MR. CHAIRMAN: Mr. Johnston, Sturgeon Creek.

MR. F. JOHNSTON: Well, Mr. Chairman, I think it's been made very obvious that even in the presentation of the bill to the House that there has been an error made, and there's no question I don't think the City of Brandon are saying that there wasn't an error made. The error that was made was that they proceeded to purchase the land by resolution instead of having the by-law passed before doing so. That it has to be decided whether that error was made by mistake and nobody did it intentionally or hid it intentionally, and I think that's what we're here to discuss today. If the error of the solicitor or whoever it may be within the City of Brandon is one that was an innocent error, it naturally has to come here to be corrected and that's what we're being asked to look at today. I don't think there's any other way we can approach it other than to decide whether the - this has happened in many cases before where the Legislature has had to write a bill because some technicality was done in all innocence, and if we believe that's the way it was done, we have to look at it from that point of view or the other.

MR. CHAIRMAN: Mr. Pawley.

MR. PAWLEY: Mr. Chairman, I suggest that we get on with the brief and if we start to deal with the merits or demerits of the Mall that you will certainly bring any submitter to order. I would just point out that the prior submission dealt with the merits of the project itself and there was no objection at that point. So I would think that we would want to carry on with the present brief.

MR. CHAIRMAN: I'm at the will of the committee. It's certainly up to the committee as to whether we deal with this matter further. Proceed? Move that we proceed. Agreed? (Agreed)

MR. CAYER: Really what I have in mind here, and I perhaps should explain, that I want to delve into the aspect of information and I also wanted to get into credibility.

Really what has happened, I related one instance to you where someone in the clerk's office directed the staff in the Central Registry not to give me information or to show me anything relating to the downtown core project, and the question I would relate to you then is what was being hidden, what was the need for that order or remark being given to the Central Registry staff? And really in light of your earlier remarks I'll just put that matter off.

My second point here was to discuss the credibility of the person involved in the project, this Damas and Smith, and what I'd like to impress upon you is that we've been told a number of things that really haven't developed or have been as such. For example, November 25, 1974, I have a copy here of the City Council minutes, and I'll quote you: "Mr. Levin said that downtown land is expensive and the potential for recovery is not all that attractive. If a developer has to pay two or three million dollars for the property the rentals do not cover that amount of input and City Council would have to look at giving some assistance." Well committee members we're looking at this bill, is to give approval of the acquisition of \$600,000 worth of property and that represents a small cost relating to the developers' earlier remarks and my question is, Why does the project, for instance, Mr. Levin, want the city involved in it?

I also have a report here which we received as council from Damas and Smith. This is going back to last August, and it's called, "The Analysis of City of Brandon's financial position on the proposed downtown project." My only comment on this is that this report is an attempt by Levin to have the City of Brandon commit itself. At this point council rejected a request by Mr. Levin that the City of Brandon commit itself to a commitment for 30 years to the tune of \$375,000.00. You can well realize it was not to the best of Brandon's benefit to have that commitment made.

There is questions as to the projections that Mr. Levin has given to us on behalf of Damas and Smith as to the department requirements. And I have here a letter from Mr. Barrow, the Provincial Planner, who takes exception to the projections in the parking that related to this \$375,000.00. And I'll just quote briefly: "In any event", this is Mr. Barrow, "we are satisfied with our findings until evidence contrary to what we have produced can be shown to exist." The planner himself has taken exception to

(MR. CAYER Cont'd) the projections. And like I said this is doubting the credibility of the plan itself.

I have the minutes here of September 2nd, of City Council, 1975, and I will quote remarks attributed to Mr. Levin: "He had been unable to find anyone willing to undertake the development as formulated." And Mr. Levin has come into the picture as the planner-developer, he's wearing two hats. And at one time council was told that Mr. Levin had 26 prospects for the project. And yet September 2nd he came to council, told us that he was unable to find anybody who would find it feasible.

Another letter, August 19, 1975. This is a letter from Mr. Meighen to Mr. Levin, and I'll quote: "That at the time the only commitment to the city was to the sum of \$10,000.00." This relates to the fact that there was a discrepancy in the billing with Damas and Smith. At this early stage there was conflict in the accounts and that again I would question the credibility of this company we're involved with."

I also have a letter, August 19th again. This is a letter from Mr. Meighen as well - I'm sorry that's the earlier one I gave. But in essence what I'm trying to do is indicate to you there's some question as to the projections that we've been given in council as to parking and so on.

My third brief that I have is a little more lengthy and it deals with the credibility of the leadership we have been given by the Mayor of the City of Brandon.

My first point is that the city had been asked to, as a . . . I'll go back. As of last September, October, November, December, the city had become involved in the situation with the downtown core and the irregularities that were alleged to it, but as of last month the city was asked to participate in a speculative purchase of an abandoned hotel in the City of Brandon. This, to my view, was supported by the Mayor, and I have to doubt the credibility of being asked to become involved in a speculative purchase of an abandoned hotel in light of the bill that's sitting before you. --(Interjection)--

MR. CHAIRMAN: Mr. Pawley.

MR. PAWLEY: Mr. Chairman, I was, I think, one that wanted to permit us to deal with the brief but I'd like again to emphasize to Alderman Cayer, that the matter should deal with the procedure, the legal procedure, the resolutions that were passed, whether or not in fact the councillors were aware that by-laws ought to have been passed rather than resolutions. Did he feel that it was any other than a technical error that the city did not pass a by-law, enact a by-law rather than a resolution. I would urge because we depart in too broad a fashion here we'll be into many side issues which we don't want to, as a committee, become involved in, we're interested purely in the procedure, the resolution that was passed and why a resolution was passed rather than a by-law, any particular arguments that can be advanced as to whether or not it was anything but a technical or innocent error on the part of the City of Brandon and/or its administration and staff. I think that is what the committee is anxious to hear.

MR. CHAIRMAN: The suggestion is well taken and I would request Mr. Cayer to make his presentation adhere more closely to the facts before us.

MR. CAYER: Mr. Chairman, there was earlier discussion here of questions to the Mayor insofar as a referendum being held. And with reference to that, if I may, I'd like to show you, there has been letters sent to the Brandon Sun and to my knowledge not one letter has supported the Mall project per se, and I have two letters here requesting that a referendum be held.

MR. CHAIRMAN: Mr. Moug.

MR. MOUG: On a point of order. I think that really it seems to me if the Brandon Council passed a resolution that they, at least the majority of them, were in favour of the purchase of this land. Now had they passed a by-law in place of the resolution we wouldn't be here this afternoon. I think personally, from what I gather out of it, that Alderman Cayer and some other members of council aren't exactly on the same wave length and have a dispute as to the goods and the bads of purchasing this property. And I think that what we should do is ask anybody that's making comment here today to try and give us reasons why we should throw the whole thing back in the lap of the City Council of Brandon, or whether we should go ahead and pass this bill somewhat down the line it stands.

MR. CHAIRMAN: Mr. Cayer.

MR. CAYER: Mr. Chairman, I've abandoned those comments and I'll deal. . . I had the opportunity to read Hansard today with Mr. Pawley's remarks insofar as the remarks were made prior to second reading being given and I have prepared a file here that I did submit earlier to lend support to the aspect that it is my belief that the council did not necessarily act in the best of points here. I'll go to point one: I have a letter here dated December 3rd, 1974 and this letter is from the City Clerk and it's a motion of council indicating, and I'll read it: "That His Worship the Mayor, the City Solicitor and City Clerk explore the conflictions of the Planning Act and Municipal Act and if necessary meet with the Deputy Minister of Municipal Affairs."

And the credence to that is that I'm trying to indicate through this whole file that there was complete knowledge of all aspects of the downtown core project, and I'll go through a number of letters here that will indicate that the administration and the solicitor were cognizant of all the various aspects, and I don't accept the fact that the by-law was not given the proper reading.

I have another letter here, December 23rd. This again deals with all the various aspects, a letter from the City Clerk to Mr. Levin, that the City Clerk would discuss all the aspects to streamline the point.

MR. CHAIRMAN: Mr. Pawley.

MR. PAWLEY: I wonder, Mr. Chairman, if these letters that are relevant to the issue, the resolution by-law, will be filed with the committee, because references are being made to letters which the committee members, I'm sure, would like a chance to read. If those letters that are relevant could be filed with committee.

MR. CHAIRMAN: Is it the will of the committee that these letters be filed with the committee? (Agreed) Mr. Johnston.

MR. G. JOHNSTON: Mr. Chairman, to go back, perhaps two letters back. Did I understand you to use that letter to suggest that the council knew they should be passing a by-law instead of a resolution?

MR. CAYER: Well, if you would, Mr. Johnston, I'll get into that later on, I've got several letters. You put a question Mayor Gorrie to the Chairman, I believe, as to why a by-law was passed for the acquisition of the Keddy property. The Keddy property was purchased by the City Council November 3rd by a by-law. It was given three readings. And yet on December 9th, by resolution, council agreed to expend the funds to acquire the other properties. Now a point here that you were pursuing was that another property was purchased by a sales agreement as Keddy's was. Keddy's was purchased by sales agreement but so was another property. It was called the Beacon Lunch or Bojarski property. And yet the point you are attempting to make, from the Mayor, was that a by-law was not prepared for that. A by-law was prepared for a sales agreement relating to Keddy's property for \$90,000 and yet, I think December 19th it was that the city purchased the Beacon Lunch property or Bojarski property for \$140,000, no by-law was prepared for that. And yet prior to the Bojarski property being purchased on December 9th council by motion gave authority to the administration to expend the funds to acquire the remaining properties. That same night council gave first reading to the money by-law that was held up, and the reason it was not given full reading was because a petition was introduced by another Alderman who is not present, Alderman Thomassen.

As of December 9th council gave first reading to By-Law, I believe, 4635, so there was awareness at that time. And if you'll allow me, I'd like to get into that at a later date, I'm just dealing with the early part of 1975.

I have a letter here from Mr. McNairmay to the City Solicitor, and I quote, I've underlined a reference here, this is an inquiry by the city solicitor as to what should be done to expedite the downtown core project. And Mr. McNairmay indicates, as I've underlined here, "Including the power to borrow money." This is April 1, 1975; there was reference then being made to the money by-law.

I have a letter dated August 13, 1975 from Mr. Barrow, the Provincial Planner. Point one, regarding downtown development, raising of funds as per Section 5782 of the scheme. Further reference to the money by-law.

I have a memo from the Engineers' Office dated October 21, and it gives a sequence of events regarding the money by-law, which is at the head here, and I'll read you Section G: "If Board issues approval order council proceeds with second and third

(MR. CAYER Cont'd) reading. Time, six to eight weeks." And what I've made a notation here is that had this proper sequence of events taken place from October 28 that the options would have lapsed. The options were only good until January 2nd and this six to eight weeks would have taken the city beyond that. And the point to make, I had noted later here, was that the city had committed itself to \$275,000 approximately in expenditures relating to options, agencies and whatever. And had they not exercised those options January 2nd by resolution they would have lost the options. So you see the onus was there to go and purchase the properties without a covering by-law. I will ask for your judgment.

October 22nd here, I have a letter from the Clerk to the City Solicitor, and I'll quote what it says: "I think it is imperative that council give immediate direction as to procedure for raising of necessary funds to acquire the property in the downtown area for the planned development." That's October 22nd. So you can sense the sense of urgency in here to get the necessary authority.

I have another letter here, this is a reply from the City Solicitor to the City Clerk, and in it the City Solicitor delves into what sections could be used. He suggested Section 457 of the Municipal Act could be used to raise the money to acquire those properties. So you can see all the discussion. Page 2 of the city solicitor's letter to the clerk, he discusses, in terminology as "forthwith", indicating the sense of urgency as well because they were most aware of the time factor.

Point No. 11 here, October 31st. This is a letter from the City Clerk to the Mayor and Aldermen, and I'll quote: "And take necessary action to raise sufficient funds to exercise options and to finalize purchase of properties involved." And really what the clerk is asking is council to be prepared to authorize the administration to prepare a necessary money by-law. That's October 31st. Council authorized by way of motion the administration and the solicitor to give that authority on November 3rd, just a few days later.

This is a memo here from the City Clerk. Point one deals with the authority to sign agreement for the purchase of Keddy property, that was November 3rd, and to approve the required preparation of a money by-law and planning scheme for the downtown area.

This is another memo from the City Clerk to Mayor and Aldermen, and I would stress this seems to put a bit of pressure on the councillors to approve or give that authority, and I'll quote the Clerk's letter to the Mayor and Aldermen: "It is pointed out that should the money by-law not be approved City Council will have to include the money in its 1976 Budget". So this again will indicate to you that it was very very cognizant of the money by-law as of October 31st.

I will quote you the motion that gave the administration the authority, a motion made by Alderman McLeod, Minute No. 1363, November 3rd: "That authority be granted to prepare the required money by-law in order to exercise options and finalize the purchase of properties involved for redevelopment of the downtown core area. And further, that authority be granted to prepare a planning scheme to provide authority for expropriation of property required." That authority was given as of November 3rd.

I have here a letter dated November 4th which is a memo from the City Clerk to the Assistant City Treasurer, Mr. Hales. And I'll quote: "It is essential that the city exercise their options on January 2nd". So as of November 4th the administration was most aware that the options were going to lapse on January 2nd. "It is essential that the city exercise their option on January 2nd, 1976, and I assume that you will have the cheques available on that date."

This here is a sequence of events that was given to council by the Mayor and it just itemizes that all the council was aware of repeated reference to the money by-law, raising of necessary funds that I have discussed with you already. There's always repeated reference to the money by-law.

Point No. 20 here, is City of Brandon Public Notice that all the councillors received. This is an indication of the advertising for the money by-law. This is dated November 19th.

I have a letter here, December 5th, which is from the city clerk to Mr. Barrow, with regard to the authority for the money by-law and the planning scheme, I'll read the last paragraph of this letter, of the city clerk's. "The last regular scheduled meeting of

(MR. CAYER cont'd)City Council this year is December 15th." This letter is dated, as I told you, December 5th. "And I will need the scheme with required tentative approval by the Director of Planning in my hands on December 11th." Well I would like to inform the committee that council did hold a meeting after this and the intention of that meeting was to give approval to the money by-law as of late December. So there was a special meeting schedule for that purpose. So they were very cognizant to that time. But as I indicated to you earlier, that a petition was filed on December 9th, I believe, at the first reading of the money By-law 4635, and as you're well aware, it stopped the procedure.

I have a letter here from the city clerk, dated December 10th to Mr. Clarke, Local Authority's Finance Office of the Municipal Board. And this is a letter with reference to the authority to acquire land and borrow \$400,000. More reference to the necessity of a by-law.

I don't have the proper correspondence. I have misplaced a letter here. There was an inquiry. Here's a letter from the City Clerk to the City Solicitor and I'll read the last paragraph: "Please advise if it would be necessary to pass a by-law for acquisition at the regular scheduled meeting of city council, January 19, 1976, or does the borrowing By-law No. 4630 provide the necessary authority?"

Now if you can appreciate the time factor, this letter was dated December 10th, and I have here the city solicitor's reply which deals with other various aspects of the December 10th letter of the city clerk, but does not deal with the by-law request or the information regarding the by-law. I would suggest that that information was left out deliberately from the letter.

A letter dated December 19th, city clerk to Mr. Levin. This is a motion that council made accepting Mr. Levin's proposal, and I will quote you that, dated December 1, 1975 from Damas and Smith Limited advising that they intend to proceed with the downtown redevelopment project and noting that proposals for such redevelopment cannot be made public until involved parties are all under option or purchase be filed and the city proceed to exercise options in the area as previously approved by council. And this is the point here, "proceed with the required money by-law." More reference as of December 19th to the required money by-law.

And I have a note here on the sheet. To my knowledge, I have never heard of a situation like this occurring in Brandon that funds have been expended without a covering by-law. And you can well see how cognizant of all points regarding the planning scheme that's set out that the administration and the city solicitor were aware of. So it's very difficult to accept the fact that the by-law was not prepared.

I have a letter here dated December 23rd. It's a letter from the mayor and it doesn't indicate who it's addressed to. Oh, I'm sorry. This is a letter, I indicated to you that a petition of 22 names had been submitted by Alderman Thomassen on December 9 at the first by-law reading of the money by-law. And to show you the urgency that the mayor realized at that time that should the by-law not be passed before January 2, the mayor sent out a letter to the 22 people who signed the petition asking they withdraw their names. I ask you, was there not urgency here. 22 petitioners, and this letter was sent asking the petitioners to withdraw their objection as of December 23, two days before Christmas.

I would like to point out as well, Mr. Chairman, that at the Municipal Board hearing the city solicitor was asked as to what his interpretation was of Section 200 of the Municipal Act which indicates that a covering money by-law is required for the purchase of property for municipal use under Section 197, and the city solicitor took it under advisement and indicated, I think, that he would give his interpretation of Section 200 in writing. And council was asked in a closed meeting to authorize the solicitor to withdraw the bill when that point was made out that the covering by-law was not there. And the reason given to council was that, two points; firstly, that the money by-law for the \$400,000 debenture was not specific enough; and secondly, that a money by-law requires a seven-day spread between the advertising in the paper. Well there was eight days between advertising. However, I spoke to Mr. McNairnay and he indicated to me these points were of little consequence. So I suggest to you that perhaps there may be other reasons for withdrawing the by-law, because the Deputy Minister himself indicated these were of little consequence. These were indicated to me in a phone conversation.

(MR. CAYER cont'd)

I would think, Mr. Chairman, that would cover all that particular point as far as the by-law not being present.

MR. CHAIRMAN: Are there any further questions members may wish to make to the presentation. Mr. Miller.

MR. MILLER: Yes, I'd like to ask some questions because frankly I must admit that I'm not following it all that clearly. Alderman Cayer, are you saying firstly, that some lands are bought by resolution and others are bought by by-law?

MR. CAYER: That's correct.

MR. MILLER: So it's obvious they knew that by-laws were required?

MR. CAYER: I would begin to think so, yes.

MR. MILLER: Yes, okay, that's one. The other question is, are you saying that they didn't - that council knew the need for a by-law but that they ducked the by-law? Now could it be because of the petition that was filed in opposition to the by-law which means that they would lose out on the option date, the option would lapse and because of the interjection of the petition hearings would be required in which case they couldn't meet their targets. Is that a possibility?

MR. CAYER: Well I don't - it's not an attempt to lay the blame so much on council. The vote that night was 8 - 2 and I must admit that I could have easily been one of those eight that voted to expend the funds. I intend to lay the fault with the administration and the city solicitor in that aspect.

MR. MILLER: Well that's not an immediate concern to me. What I'm curious about is this; if the council voted to expend the funds, you gave certain dates, I think it was December 9th, a petition was filed; are you saying that if the petition hadn't been filed then they would have gone through by law, the normal procedure, they could have given it very fast reading. The introduction of the petition sort of gummed up the works?

MR. CAYER: I don't think even yet despite the petition they would have met the deadline, because as indicated to you is a memo from the clerk with a schedule of events, October 21st, he indicated it could be six to eight weeks from the first by-law reading. So I would think despite the petition they would have gone beyond that unless the Department of Municipal Affairs would have co-operated and expedited very very hasty permission to proceed with second and third readings, or third reading, whichever.

MR. MILLER: But it means that by filing a petition it, of course, meant a delay.

MR. CAYER: It stopped it right there.

MR. MILLER: It stopped it right there, which means that council could not have executed the options which were available to it?

MR. CAYER: They should not have.

MR. MILLER: They would have lapsed. You say they shouldn't have. You said you're not blaming council because it passed by a vote of 8 to 2 but you're critical of the administration for, I guess, not bringing to attention or challenging the resolution on that night. But isn't that internal to the City of Brandon in dealing with its solicitor and its staff. If they're getting poor advice then you find people who give you better advice. But you are saying to me that the council by an 8 to 2 vote felt that it was desirous to go ahead with this project and proceeded to pass a resolution permitting the expenditures, or approving of the expenditures for this project?

MR. CAYER: Council did give that authorization.

MR. MILLER: By a vote of 8 to 2?

MR. CAYER: That's right.

MR. MILLER: Thank you. That's all I want to know.

MR. CHAIRMAN: Mr. Moug.

MR. MOUG: Mr. Chairman, I just had one question to ask him. I was wondering, this resolution that was passed affecting the six parcels of land, was that passed at a regularly held council meeting, or was it a special meeting of council? Just a simple resolution of council to go ahead with the purchase of these six pieces of property. Was it a regular council meeting or a special meeting of council?

MR. CAYER: December 9th. Committee of the whole council.

MR. MOUG: Committee of the whole council.

MR. CAYER: I think we had the meeting broke up into . . .

MR. MOUG: Were you present at that council meeting of, December 9th. did you say?

MR. CAYER: Yes, I was.

MR. MOUG: And you were aware at that time that a resolution wasn't satisfactory, that really you should have a money by-law, or a by-law passed for the purchase of these properties.

MR. CAYER: I was aware that a by-law was to take place and I was aware there was urgency, but as far as the legality of Section 200, to be frank and forthright, I must admit that I was not aware of the legality of it.

MR. MOUG: You were in ignorance of this problem that we have and the reason that bill is in front of us today, You were, as well as apparently the balance of council, you were no more aware of it than they were that really you should have a by-law and not a resolution of council?

MR. CAYER: That's an assumption that you can make and frequently in a minority position I find myself ill-informed. I'm sure all council did have access to all the information I did. Well, as a matter of fact they do. And whether or not some of them were aware of what the legalities were, I can't speak for them. They're here, you could direct the question yourself to them. But I had indicated, Mr. Miller, earlier that I could have found myself easily in that position because I found myself in the outside circle, I don't have access to much information at all.

MR. MOUG: Did you try and convince council at that time that it was more important to be giving third reading to a money by-law more so than just going around a table of eight or ten and saying, we'll pass the resolution and we'll purchase the property?

MR. CAYER: I would like to find the Minutes. I have here. Minute No. 1463, motion by Alderman Hudy, and I'll quote you Alderman Thomassen's and my remarks: "Alderman Thomassen and Alderman Cayer requested that their opposition to the motion be recorded. Prior to voting on the motion Alderman Cayer said there was a lack of value between a downtown and a shopper mall. We are going to be asked to pick up Levin's options, the developers have acquired options on the perimeter of the city's development area. And if members check the assessment of downtown people they might have a different opinion. His Worship again pointed out the city has all the legislative power. Again Alderman Thomassen said, 'Why not hold off on the Damas and Smith offer and see what other developers have, if there are other developers.' His Worship pointed out the city has a moral agreement to carry on with Damas and Smith until they make a decision. The moral agreement was to go ahead and acquire the properties."

There were four developers ready to talk to the city about a plan, I don't have things set up to indicate to you, but there was frequent discussion going back to last July. And I was most adamant, I think, from last July until the last meeting we had on the purchase by-law - we passed the purchase by-law, I believe January 19th - I've continually spoke against the city's handling of this affair. I've continually suggested the city should have only taken the options on the property and I've gone on record as saying that the city should never have put any money out, and so has Alderman Thomassen, frequently. We've got full pages of inquiries relating to downtown core projects. Every meeting where there's inquiries, I would suspect probably we've had at least six, seven, eight or nine inquiries relating to downtown core projects, there has been a continual discussion on the way council has handled this affair. And as you know earlier, property was purchased by resolution and property was purchased by by-law.

MR. MOUG: If that had been a money by-law that was introduced the day of that meeting rather than a resolution, would that have changed, in your opinion, the 8 to 2 vote or would it have still been in the same ball park?

MR. CAYER: No. I believe we called a special meeting prior to the Committee of the Whole meeting to read the money by-law, at which Alderman Thomassen presented his petition of 22 signatures and then council was unable to proceed with any other readings beyond first reading.

MR. MOUG: Yes.

MR. CAYER: So the two sequences happened the same night.

MR. MOUG: The same night?

MR. CAYER: I believe the special meeting, if I'm correct, but I'm sure they both happened the same night; the special meeting for the by-law was held prior to Committee of the Whole at 7:30, the Committee of the Whole met at 8 o'clock and authorized the expending of the money by resolution.

MR. MOUG: Am I given to understand then that this by-law would have passed this particular night, the same night as the resolution was, if it hadn't been for the petition of 22 names which wouldn't let you suspend the rules and give second and third reading, is that the idea?

MR. CAYER: I think that would be the proper . . .

MR. MOUG: I see, okay, thank you, Mr. Chairman.

MR. CAYER: You can well realize the urgency that was prevalent from October to late December.

MR. CHAIRMAN: Mr. Pawley.

MR. PAWLEY: I wonder if we could just take a look again at the question of by-laws. It would seem to me that there would be two types of by-laws required here. One would be the purchase by-law which would permit the purchase of the land itself and on the other hand there would be a by-law which would permit the borrowing of moneys to complete the purchases, if the money was not otherwise available. If the money was available within the current expenditures of the City of Brandon then, of course, the borrowing by-laws would not have been necessary.

So Alderman Cayer, I would like you to indicate to the committee if those letters that you referred to as exhibits in which reference was made to by-laws, if they were in connection with borrowing by-law or purchase by-law, or was there reference to both forms of by-laws?

MR. CAYER: I think there was, at a later date, reference to both forms. I think there was a separation made of the two. I think there was three things under discussion, one was the purchasing by-law, the second was the money by-law and the third was the planning scheme. And in the correspondence that I've read off to you from perhaps early October until mid December there was continual reference to all three in correspondence to Mr. Barrow, Mr. Levin and between the city solicitor and city clerk.

MR. PAWLEY: It's your view that the reference to by-law in the correspondence leading up to the time of the appearance before the Municipal Board included a reference to purchase by-law rather than to the necessity for a borrowing by-law?

MR. CAYER: I'm not clear on your question, Mr. Pawley.

MR. PAWLEY: Is it your opinion that the references to by-law in the letters of the clerk and the solicitor included a reference to the purchase by-law rather than only to borrowing by-law?

MR. CAYER: No, I think the reference was quite explicit. I could peruse the papers and find out whether it was a reference to all three, separately. So I'm suggesting that the money by-law was a thing in itself, that there were letters exchanged between the city clerk and the city solicitor as to how to expedite getting the necessary authority, October 28th, I believe, and council met November 3rd to give the administration board that authority for the by-law. And November 19th, I think, I have a letter here that indicates the schedule of advertising to advertise the money by-law. And December 9th, as you're aware, first reading was given at the time the petition was filed. So I think you can make quite a clear distinction in the money by-law.

MR. PAWLEY: Right. You see my concern here is that we are correcting really the fact that purchase by-laws were not passed but in fact resolutions were passed, which is contrary to the provisions of the Municipal Act. So basically that's the area that we are concerned about, is the purchase by-laws. And it's your view from the correspondence you say that you have tabled that we're referring to purchase by-laws being required as well as money by-laws.

MR. CAYER: The purchase by-law was not introduced to council, if I'm correct, for passage until January 19th at which time council gave third readings.

MR. PAWLEY: Well was there any discussion, I want to forget about the borrowing by-law, any discussion of the necessity for a purchase by-law?

MR. CAYER: I'd have to go through the papers, Mr. Pawley, and indicate, but I am sure there has been discussion between the city clerk and Mr. Barrow.

MR. PAWLEY: You made reference to time being of the essence and I gathered from the remarks the inference was that council - and correct me if I'm wrong, if I'm misinterpreting the remarks - that council proceeded to pass a resolution rather than a by-law because of the need for haste, to meet deadlines. Would you just advise the committee as to in what way you feel that the passage of a proper purchase by-law would have delayed the movement towards taking up the option on January 2nd of 1976?

MR. CAYER: Well I don't wish to involve litigation here, Mr. Pawley, however, I can lend support to your remarks made in Hansard that there is perhaps some credibility to that particular point. I do have some notes here, I had a brief I had submitted earlier to your department that, I'll just quote: "One must realize that the city had purchased Keddy's for \$90,000, Bojarski's or Beacon Lunch for \$140,000. The city had to pay \$10,000, Manson the real estate agent who acquired the options \$10,300 and had incurred other miscellaneous expenses of about \$5,000." I can't substantiate that but I certainly find it to be a logical sum. Adding Levin's original fees of \$20,000 the city was committed to the tune of approximately \$275,000 as of December 1975. In face of all this criticism levelled at the mayor and administration and in view of all the opposition to the Mall project and in view of the moneys spent, I would suggest that there was all the initiative for the council administration to proceed with the acquiring of the option of January 2nd. Having not acquired those options January 2nd the city had to go back to the people and there was a lot of controversy over the amounts paid on the options. A good deal of controversy, and there still is. And I would suggest that had the city not taken those options January 2nd they would have had to retain the agent a second time and pay him, they would have had to re-incur the option expenses which totalled, I believe, a small sum of \$2,500. But the more significant point, that the city would have had to renegotiate the option to it, and you could appreciate that some of these people were aware what the fellow next door had got and there is several. . . There are two property owners that have not sold their property to the city and are planning to go into expropriation. And also the fact that the ones who did sell, there was some dissatisfaction amongst them when they realized that one . . . the Bojarski property had been paid \$140,000 which is ten times the assessment. That I'm suggesting to you that the city might have been faced with perhaps double the cost of acquiring those same properties because of the controversy relating to the amounts paid, the fact that the city would have had to pay the agent a second time and the city would have been faced with option fees a second time.

MR. PAWLEY: I wonder if I could just return, because I'm trying to obtain your explanation why the council would not have been able just to have passed a by-law, the three readings in one evening and it's done, rather than proceeded by way of resolution and still have been able to expedite those purchases that you mentioned.

MR. CAYER: If I'm correct in my sequence of events, the petition was filed prior to the Committee of the Whole meeting. I don't have the minutes of that meeting handy here, but if I'm correct, council met at 7:30 to give reading to the by-law at which time the petition was presented which froze further readings.

MR. PAWLEY: Would that not have related to the borrowing by-law rather than the purchase by-law?

MR. CAYER: That's right it would have.

MR. PAWLEY: So that the purchase by-law need not have been held up due to the petition, if there had been a purchase by-law in front of council, three readings could have been given to the purchase by-law. I don't think it would have been held up due to a petition. On the other hand, a borrowing by-law which is a separate by-law for the purposes of obtaining the moneys to complete the purchase, true enough it would have been held up due to the petition, but the actual purchase by-law need not have been held up if there had been a purchase by-law before council at that time. Am I correct?

MR. CAYER: I would suggest to you, Mr. Pawley, that if the legal mechanism was present in delaying the purchase by-law through objection, that the purchase by-law would have been delayed as well as the money by-law. I can say that without any qualification at all.

MR. PAWLEY: I'd just like your reasons why you would make that statement, that it would have been held up.

MR. CAYER: Because Alderman Thomassen and I particularly have been fighting

(MR. CAYER cont'd) the city's handling of the whole downtown care project going back to last July. It has been mishandled, there has been irregularities, to having funds expended which I can document in this file that I have on the table here, having funds expended without authority, unquestionably, and I'm saying that it was not my belief, that I did support the downtown core project, but when I came to realize the irregularities that were prevalent, that I did not support it and I certainly would have opposed the purchase by-law and I'm sure that Alderman Thomassen would have and as a matter of fact Alderman Thomassen did oppose the planning scheme as well. So I can say without hesitation that the purchase by-law would have been held up and I would like to inform you as well that Alderman Thomassen and I did vote against the purchasing by-law on January 19th.

MR. PAWLEY: Oh, and you're saying that because it would have required unanimous consent to . . .

MR. CAYER: No, I'm saying I'm not sure if the law in the Municipal Act indicates that the purchasing by-law could be held up with the objections on that, I don't know that. I don't think it can because there were two councillors that did oppose, there were two of us that did oppose the purchasing by-law, it was passed three consecutive meetings on January 19th but I will suggest to you as well, there were no petitions to oppose it.

MR. PAWLEY: The only way I could see it being held up, and unfortunately we don't have the Municipal Act in front of us, is that unanimous consent was required to give it the three readings in the one night, at the one council meeting.

MR. CAYER: Well that consent wasn't given certainly.

MR. CHAIRMAN: Mr. McGill.

MR. MCGILL: Mr. Chairman, to Alderman Cayer. I think these questions have been asked of you before, Alderman Cayer, but I just wanted to be sure that I understand you correctly.

You have been introducing letters which you say indicate that other people knew in advance that there needed to be a purchase by-law passed, is that correct?

MR. CAYER: I said that when I was answering Mr. Pawley, that I think if I were to peruse the letters I have on the table that I could find a reference to the purchasing by-law, to the planned scheme and certainly have indicated to you a number of times there's continual reference to the money by-law. I'm sure there's reference to the purchase by-law as well at earlier stages.

MR. MCGILL: At what stage did you become aware that there should have been a purchase by-law passed? Did you know it before the Municipal Board hearings when it became evident that that error had occurred, did you know that?

MR. CAYER: I believe in the inquiries at one time, and I'd have to check the minutes, that I did question the mayor as to why a by-law was prepared for the Keddy property and not the Bojarski property and I was aware that there was a purchase by-law required and I felt that seeing as the money by-law had been delayed December 9th, that a purchase by-law could not have been introduced.

MR. MCGILL: Well did you know in your own mind that this was necessary, was a necessary step?

MR. CAYER: No, I didn't and I indicated that to Mr. Miller at the initial stages.

MR. MCGILL: Well, then what you're saying is that you didn't know it but you think that other people knew it. All the other council members knew it and the administration knew it?

MR. CAYER: Certainly the administration knew it because the correspondence is right there to indicate they did, but I indicated to Mr. Miller earlier that I can't speak for the other councillors. You would have to direct those questions to them yourself. But I'm suggesting that from time to time they're a little more informed than I am because I don't, I'm afraid I don't navigate in the same circle as they do on council.

MR. MCGILL: You are an alderman . . .

MR. CAYER: That's right.

MR. MCGILL: And you attend the meetings and you have the same input as any other alderman I guess?

MR. CAYER: That's right.

MR. MCGILL: Well you made a rather serious charge, Alderman Cayer. You said, if I understood you correctly, that the city solicitor had deliberately withheld reference to a purchase by-law in his letter to council?

MR. CAYER: No, I didn't say that. I said it was continual reference and I indicated later that I was lending credits to Mr. Pawley's remarks as to whether the error was technical or not in the Hansard report that I just read before I came to the meeting here.

MR. MCGILL: So I misunderstood you when you said that, I thought you said that the city solicitor had deliberately not mentioned a by-law in his letter to council.

MR. CAYER: I did make reference to the city solicitor. I indicated that the onus was there, the fact that the city had expended the funds or was in a position where they had owed or put out \$275,000, but I'm not accusing anyone of deliberate wrongdoing. I suggest it to you and you must remember that I said the information I'm tabling here is for your judgment.

MR. MCGILL: But you're not suggesting there was any deliberate wrongdoing in the procedure?

MR. CAYER: I don't have the prerogative to do that, Mr. McGill.

MR. CHAIRMAN: Mr. Evans.

MR. EVANS: Yes, Mr. Chairman, I believe Alderman Cayer more or less answered a question that I was going to put that . . . well, first of all, I think we all recognize that we are treading a fine line between, you know, discussing the substance of the matter of the administration and the internal problem if I can call it that and the matters of procedure that affect this bill and that are of interest to the Legislative Committee because it has been said before that the committee per se does not want to get involved in the pros and cons of a downtown project and how the city should or should not be involved, and I think my position on that has been made clear, but my question was that you have put to us documents and you have made reference to many sequence of events, many items of correspondence, etc., questioning the adequacy of city administrative procedures and, you know, you made allegations of mistakes, etc., and so I was going to ask you whether you were alleging some wilful wrongdoing but I think you've now answered that, you know, you're not alleging wilful wrongdoing per se. You've accused that there have been a lot of mistakes made but not necessarily with some particular object in mind, is that correct?

MR. CAYER: Well the intent by my tabling this information, Mr. Evans, is for this committee to decide that. I have made my views now in council a number of times and I'm not prepared to get involved in litigation over whether there's wrongdoing or not. If I had immunity I'd come forth and perhaps indicate some various points but I don't have that immunity and I'm not prepared to proceed.

MR. EVANS: Mr. Chairman, I would like to ask Alderman Cayer, you know, in view of his concerns and the various statements that he's made, whether he has any particular recommendations vis-a-vis the bill before us, Bill 26, is there anything specific that you are recommending? You've given us a lot of information and pointed out a number of pieces of correspondence and what they contained, etc., but are you recommending anything specific to the committee, Alderman Cayer?

MR. CAYER: Well, Mr. Evans, the mayor has made continual reference and publicly in the paper to the fact that he would invite public input and that he would call, perhaps have the people indicate what their wishes were regarding the downtown project and I would suggest to you that this would be your prerogative to perhaps amend the bill that the referendum should be called. I would go so far as to suggest that certainly the general citizenry of Brandon are behind with what the minority of council are doing with regard to the downtown core project. Another councillor and I were on a radio program and we did not receive one call that was unanimous, that was explicit in supporting the project because the public funds were being used and, Mr. Evans, as you're aware there's a number of grey areas. The city does not have the development agreement, does not have projections on revenue, whatever, and on the basis of those and other points, I think the public should have a right to have its will or determine itself whether or not its funds should be used to support a downtown project.

MR. EVANS: Well again, without really taking one side or the other of the matter, what you're suggesting, that the bill be amended to require a form of referendum.

MR. CAYER: Not a form, I would go so far, Mr. Evans, to say that if a plebiscite which is a non-binding decision, that I would go so far as to say I don't think council would honour it, the results of a plebiscite. I think that really a binding referendum would be the only alternative. However . . .

MR. EVANS: Alderman Cayer, you realize that the Municipal Act does not require any municipality to call a referendum. I think you're aware that, I believe you're aware that a city or a municipal government may seek a plebiscite or some type of opinion, I think the wording is such that it's pretty general that a city council or a town or a municipal council may seek opinions of the citizens but they may or may not be bound by the opinions expressed, so that there is no requirement for a compulsory type of referendum that's legally binding on the council. So would you not think then that your suggestion is requiring the City of Brandon to be bound or the city administration, by that I mean the whole city council, mayor and the council, to be bound by a restriction which is not, you know, required of all the other municipalities and then, that we're asking . . . You know given the fact that, as I understand it, that other municipalities have run into technical difficulties in the past and have come to the Legislature long before I got here and some others of us, that this sort of thing has come up in the past and based upon some mistake made somehow or other or a series of mistakes in the past and have come to the Legislature long before I got here and some others of us that this sort of thing has come up in the past and based upon some mistake made somehow or other or a series of mistakes, do you not think then that we are imposing something on the city council in an unfair way, unfair in the sense that no other municipality is forced, you know, to carry on a referendum or is being forced. I don't know of any, I've no knowledge of - maybe the Minister of Municipal Affairs does or maybe other members of the committee have knowledge of other municipalities being forced to have a referendum because of some technical errors or mistakes made.

MR. CAYER: No, I agree with your point. The point I was going to make, Mr. Evans, is that I certainly agree with the amendment to the bill insofar as it would require the city to reintroduce a purchasing by-law but I would like clarification on the one aspect of it. It says "and the moneys," I don't have the bill handy, I guess it's on my other file there, but this city would be compelled to reintroduce a money by-law, in payments of said money.

MR. EVANS: You have it have you? Have you got the bill before you?

MR. CAYER: No I'm just recalling . . .

MR. EVANS: It says that all payments . . . the latter part, the very last sentence if this is the . . . or the last part, if that's the one that you're referring to, "and all payments made on account of the purchase price costs hereof are hereby validated and approved if the council of the City of Brandon enacts a by-law to authorize the purchase of said lands and payment of said money."

MR. CAYER: So payment of said money explicitly refers to the introduction of the money by-law. Because it seems to me to be a bit ambiguous and if this bill is passed, cannot council not go to a money by-law, simply reintroduce this purchasing by-law and put the \$400,000 or whatever is required into its 1976 budget?

MR. EVANS: Well, Mr. Chairman, I think we have some experts with us. I wonder if we could get an opinion from legal counsel on that.

MR. TALLIN: My opinion would be if they passed a by-law authorizing the payment they might then have to look around to find out where they were going to get the money to do so, and they would then rely perhaps on a borrowing by-law, but the authorization of the payment is not the money by-law that you've been referring to in your correspondence, that's a borrowing by-law, the authority to raise money by borrowing, not the authority to spend it.

MR. CAYER: So there's no compulsion in here to the city to reintroduce that money by-law?

MR. TALLIN: No.

MR. CAYER: So this means that if you passed this bill third reading as amended now in its present form, that we could go back to Brandon and arrange to introduce the

(MR. CAYER cont'd)purchasing by-law next week and the general public wouldn't have a damn right to say anything?

MR. TALLIN: No more than they have in any other case where a council decides to do something.

MR. CAYER: Well I would suggest to you that certainly the intent of the bill should be amended to force council to reintroduce the money by-law. This is where the whole problem began and really if the city doesn't do that, you are aware that there was a Municipal Board hearing and we have, when I say we I mean the Brandon ratepayers group have a petition of 2,400 people opposing the city's involvement in the scheme and these 2,400 names were not acquired by going door to door. There was about eight locations in the city that had petitions made available for the public to sign and I suggest to you that if the door to door campaign was made that I would expect that probably 8, 9, 10,000 names could be acquired opposing the scheme, and if this bill goes through in its present form then you're depriving those people of any right in the use of its money.

MR. TALLIN: Were you asking me a question on that?

MR. CAYER: I was commenting on . . .

MR. TALLIN: I don't think that's true at all. They have exactly the same right then as they have now, which is to put their petition into council and find out what reaction the council will have to the petition. That's the same right as a petition is to councils or to legislatures in all circumstances. They petition and they hope --(Interjection)-- people petition public bodies in order to get a particular decision. That doesn't necessarily mean that they're going to get that decision.

MR. CAYER: No, I realize that but I'm saying this bill in this form here gives the public the opportunity to petition council and as a result of that petition that the project cannot be proceeded with and that ultimately 2,400 names on a petition were tabled in council that a municipal board hearing would be called. --(Interjection)-- I'm saying...

MR. TALLIN: . . . on the borrowing by-law.

MR. CAYER: The borrowing by-law as to this bill here would have to be re-introduced.

MR. TALLIN: No not the borrowing by-law. The borrowing by-law is already before municipal board, as I understand it, is it not?

MR. CAYER: No, it's been withdrawn on the basis of the two points - the improper advertising and what we were told is the inadequate wording on the . . .

MR. TALLIN: Has it been withdrawn to be reintroduced or has the board hearing just been adjourned to allow the time for proper advertising?

MR. CAYER: It's been withdrawn.

MR. TALLIN: Then they would have to reintroduce it.

MR. CAYER: And at that time could present the 2400-name petition.

MR. TALLIN: I suspect so or perhaps they might have to get a new petition.

MR. CAYER: Well this is the point that really I think has to be clarified because if council can just reintroduce, if council doesn't have to advertise the by-law and can ignore the 2,400 name petition, then I'd say as far as I'm concerned all is lost.

MR. EVANS: Well Mr. Chairman, I think again, you know, I mean if you reverse the thing and supposing eight were against proceeding and two were for proceeding, you know, and then you had a petition reverse. . . You know if you can just imagine the entire reverse situation and you being on the majority, then the question would be whether you should exercise your rights as a duly elected alderman along with the majority in this hypothetical case I'm putting, or whether you should pay attention to 2,400 signatures or what have you. So I really think, Mr. Chairman, that we're getting into the whole question of the authority of a city council or of a municipal administration in the way it wishes to proceed because ultimately they're responsible to the people that elected them, you know, you may be 100 percent against the way they're proceeding but they're accountable to the electorate eventually and they're acting under the Municipal Act of Manitoba just like any other municipal government. You know, again trying to put the substance aside, you know, of the issue, whatever it might be, you know, whether you're talking about a municipal park or construction of a bridge or whatever the item might be, I think the question revolves itself, you know, you are throwing into question

(MR. EVANS cont'd)the whole jurisdiction and the ability of the city administration, by that I mean the city council, the elected representatives, to be able to make their own mistakes the way they see fit, just like provincial legislatures. Legislators make mistakes as we see fit. We try. No we don't make any mistakes. So I think this is the dilemma, you know, while one might sympathize with sort of a popular feeling the dilemma I think that faces this committee, is to whether Brandon should be treated differently than any other municipality under the Municipal Act.

MR. CHAIRMAN: Mr. Miller.

MR. MILLER: Mr. Chairman, I'm going to ask the question I started off with. If this entire project had been undertaken through by-laws and the purchase by-law had been duly passed and the borrowing by-law had been properly passed, do you feel, Alderman Cayer, that notwithstanding that had occurred, that there would still be a gross error in proceeding with the project simply because there are 2,400 petitioners against it?

MR. CAYER: Well, Mr. Miller, I supported the project insofar as the saving involved in the \$600,000 towards land assembly but really, when I came to realize the irregularities, there is one particular aspect I hadn't gone into, that moneys were spent without authority, but at that time when the questions were not answered as to the expending of funds unauthorized, I withdrew my support on January 19th, I think it was, the same night that the purchasing by-law was passed, but I don't think that the money by-law would have been passed even if it was introduced last summer, because I think the opposition at that time was prevalent.

MR. MILLER: Are you saying the money by-law, now you're talking about the borrowing by-law, are you . . .

MR. CAYER: That's right.

MR. MILLER: . . . not the purchase, the borrowing by-law you say would not have passed. In other words, you're saying the eight aldermen that supported the project, who voted in favour of the 8 to 2, would not have voted in favour of a money borrowing by-law after having voted for a purchase?

MR. CAYER: No, I'm saying, Mr. Miller, that in light of the controversy over the input of public money into the project, that I'm confident that in view of the information that would have been presented to the Municipal Board hearing, that the board would have turned it down.

MR. MILLER: The board you feel would have turned down the borrowing by-law?

MR. CAYER: I'm confident that it would have.

MR. MILLER: Because you know the board is not involved in the purchase by-law.

MR. CAYER: I realize that.

MR. MILLER: So the board, in your opinion, would have turned down a borrowing by-law after purchase had been made?

MR. CAYER: I'm sure it would have. It's my opinion that the Municipal Board was proceeding in that direction.

MR. CHAIRMAN: Mr. Pawley.

MR. PAWLEY: No, my questions have been answered, Mr. Chairman.

MR. CHAIRMAN: Mr. Johnston, Sturgeon Creek.

MR. J. JOHNSTON: Mr. Chairman, I would like to ask the solicitor an opinion if I could here. The statement that says that if the Council of the City of Brandon enacts a by-law to authorize the purchase of said lands and payment of said money, the City of Brandon when it enacts a by-law will have to go through, you know, they're stopped now because they hadn't done it, and we're saying that they must enact, if they enact the by-law, it would have to be advertised, it would have to go through council and people would have the right to come and oppose it then if they want to, the aldermen in the Brandon council would be able to speak for or against that by-law. Am I not correct in that?

MR. CHAIRMAN: Mr. Tallin.

MR. TALLIN: With the exception of the advertisement, I don't know of anything in the Municipal Act that requires an advertisement for a purchasing by-law.

MR. JOHNSTON: But Alderman Cayer, you're stopped at the present time. The Municipal Board has said that there's a technicality here that has to be corrected

(MR. J. JOHNSTON cont'd)before we could go any further. What this says is that you're going to - you're going to go back a step and you're going to have to do it all over again, and everybody is going to have their day in court all over again.

I really don't know where you're going to go if you don't go this way.

MR. CAYER: The point is, Mr. Johnston, I'm not clear, pardon my ignorance, but I am not clear, will the city be compelled to reintroduce a money or a borrowing by-law --(Interjection)-- a borrowing by-law, because if council is compelled to reintroduce a borrowing by-law, then it's fine, I would accept this bill.

MR. TALLIN: They have to find the money somewhere. They can either put it into their budget and raise it as a current levy, . . .

MR. CAYER: But they still require a borrowing by-law for it.

MR. TALLIN: No, no, not if you're going to raise it as a current levy. But I suspect in an amount of this amount they would borrow, in which case they would go through the borrowing by-law procedure.

MR. CAYER: I wouldn't be all too sure of that. In light of the controversy . . .

MR. TALLIN: You'll have a hand in fixing the mill rate for this year, so . . .

MR. CAYER: In light of the controversy, I could very easily see that council could go back to Brandon and put it in the 1976 Budget. As late as last Monday, under inquiries, I asked the Mayor what his program for budget discussions were for 1976 and he declined to tell me what those were, and I suggest perhaps there is serious thought being given already to including the \$400,000 into that budget, and what I want is your assurance or an amendment to this that will force a borrowing by-law or force some legislation that will give the petition the opportunity to be filed and sent to the Municipal Board, and if you don't give that authority then I don't think the bill's going to do much. I haven't got enough confidence in council in reintroducing a by-law. I don't have that confidence that perhaps you may share, at this point.

MR. CHAIRMAN: If there are no further . . . Mr. Miller.

MR. MILLER: Mr. Chairman, I'd like clarification on this question. As I read it, the passage of this bill would validate the purchase if the council enacted a by-law to authorize the purchase - to authorize the purchase. In other words, council can go back after this particular bill is passed and still reject the purchase, the very initial step.

MR. CHAIRMAN: Mr. Tallin.

MR. TALLIN: Do you mind if I give you a little bit of background on this, as to the present position that Brandon finds itself in.

They have evidently some options which they have exercised. Under those options, the vendors can enforce them by specific performance because the vendor generally is not required to look into the administrative background of the purchaser. The purchaser, however, the City of Brandon, is not in a position to enforce the option because they haven't any authority to purchase the land yet. So the intent of this is to put them back into the position of saying, the exercise of the option is validated as though it had been done properly back on December, whenever it was that they exercised it. Without this, then Brandon would have to wait for a period of six years to find out whether any of these purchasers would sue them for specific performance, and some of them I suspect might, because from what Alderman Cayer says, some of them had a pretty fair price but others might be glad to be relieved of the option.

MR. CAYER: There is no guarantee though in the Bill itself, you must admit, that city council, Brandon will be forced to go back and introduce a borrowing by-law. So if they decided to be arrogant and go back next week, put the money in the budget, then the people have lost any right of objection to it. And that's what I'm saying, that you're not giving us the chance, you're not giving, --(Interjection)-- yes but that's next year and the point is, sure we could throw them out, or the electors could throw me out as well, but the point is we've done the damage. And I'm saying that you should compel council in the bill to go to a borrowing by-law, because if you don't there's a very good chance that you'll see it in the 1976 budget. And I indicated to you earlier, we have not had any 1976 budget deliberations yet. I've asked for the program as of last Monday, with intent to clear this point up this afternoon. It's possible that somewhere the \$400,000 maybe sitting to be included in our 1976 budget.

MR. CHAIRMAN: If there are no further questions, I'd like to thank Alderman Cayer for his presentation and for providing important background for clarification. However, it is the feeling of some of the members here that they should have adhered more closely to the matter at hand, namely the consideration of the bill as presented to this committee. I'd like to thank you, Mr. Cayer, for your presentation and I'd like to call at this point on Mr. Mert Bosiak.

MR. BOSIAK: Mr. Chairman and gentlemen, I find myself in a very difficult position because nobody notified me that the petitions that were submitted to Mr. Pawley nor these cards that were mailed out by the Chamber of Commerce, were not going to be introduced today. We came prepared, and I have to confess that I stayed up until 3 o'clock last night to prepare this brief to present to you, only to find that you're not going to accept it because it's not what you expect to hear.

I find, also, myself looking at the stern faces around this table as if I am in a court room and that reminds me of the jury who recommended leniency to a young fellow because of his age and the jury went out of the room and came back and said, "We, the jury, find the young fellow who stole the car not guilty." I hope that you don't think that this has any reference to the city council because it does not. As far as my brief is concerned, I might as well throw the whole thing away with the exception of a few items that I have circled because, on behalf of the ratepayers association, which I would like to stress was formed for a very good reason, and I think, gentlemen, you can see the reason. There is also one thing that happened not too long ago when there was a bill introduced by the Government of Manitoba which allows for a complete change, or could result in a complete change in the administration of a municipality, and this is what you have got in Brandon this year with the exception of two people who have had previous municipal experience.

This, gentlemen, is really the problem. We were not notified that we were not going to be able to come in here and argue the pros and cons of the development of this Mall, however, I'm not going to take one hour or two hours like Alderman Cayer, I'm going to take four hours if you're not careful. Now if you won't interrupt me, I'll just read the ones that I've circled, and I promise you I'll be brief. The rest of them I'll present at a later date. By the looks of things, we'll have to do this over again in Brandon and unfortunately, we are not doing this in Brandon, I apologize for wasting your time but I also thank you and the government whoever had anything to do with the nice weather on the road, for arranging this nice trip. It was a nice trip, certainly a heck of a lot better than the last one we made.

Now the people who have formed the ratepayers association didn't do that because they wanted an association to hold social functions and have a lot of fun. They came in with long faces, we have discussed this matter pro and con, we've invited the Chamber of Commerce, we've invited the council to come, and let's talk this over, and if they would have agreed to come to us, we would not be here today. You would have passed the bill just like that and we would have been on our way. However, the Brandon Ratepayers Association, as of last night, wanted me to tell you this. It is our understanding that any land or property owned by a municipal corporation is not taxable, therefore the Brandon Ratepayers Association respectfully requests that Bill 26 be amended by adding, "that the said lands purchased or options purchased by the City of Brandon shall be sold to the developer at cost." In other words, they do not wish the taxpayers' money to be involved in the development of the Mall. Sell it to the developer at cost. You can see that it's a beautiful speech, it's unfortunate that I can't read it and maybe some other time. However, if what I have just mentioned will not be taken into consideration, the Brandon Ratepayers Association says this: We submit that if this bill be not amended, as I just stated, that the said land be sold to the developer at cost, if it doesn't happen, then we respectfully request, No. 1, that this bill be not given third reading and/or that an investigation of the City of Brandon's finances be made prior to the third reading; and/or that the City of Brandon be required to hold a referendum or a binding plebiscite.

I realize that I'm speaking as a layman; you are all learned and you are experienced in what you are doing, or you wouldn't be here. However, I spent 9½ years in the municipal offices as a municipal secretary-treasurer and the financial statement that I received and the council received always had a certificate attached to it stating that "the

(MR. BOSIAK cont'd) affairs of this municipality are conducted in accordance with the provisions of the Municipal Act and are covered by the required by-laws." I've examined two financial statements of the City of Brandon and I have not seen that certificate. The only certificate that I have seen is that "the finances of the City of Brandon are conducted according to proper accounting procedures." The Brandon Ratepayers Association would like someone, and they don't know whether this should be the city, whether they should hire someone other than they've got now, whether it should be someone appointed by the board, anybody, to look into the affairs of the City of Brandon, and if they gave the City of Brandon a clear bill of health, then what are we worrying about? We'd accept this bill, we would get together and work out a compromise. Unfortunately, because of the long-windedness of Mr. Cayer, that's the way he is, I have to terminate at this point.

MR. CHAIRMAN: Are there any questions the committee wish to ask? There being none, I would like to thank Mr. Mert Bosiak as the representative of the Brandon Ratepayers' Association for his presentation. I will now call on Mr. George Canart, private citizen.

I believe that although it is our usual time of adjournment, I think we should accommodate the two other members who are here for this presentation before we do it. I believe the committee would agree. Mr. George Canart.

MR. CANART: Thank you, Mr. Chairman. I'm a citizen of Brandon, 58 years old, I've been living within shopping distance of Brandon 40 years, and shopping in Brandon. I know Brandon very well, I've lived there for 15 years, been a ratepayer. I have a business there which I've had for 14 years. In 1965, my land taxes on my business, specifically land, was \$1,082.00. In 1975, the exact same land without any difference is \$5,841.00. During this period of time local improvements have taken place in the immediate area and over a 15-year period I will be paying \$47,000 to the City of Brandon to help sidewalks, that sort of thing, and on this I do not complain. But as a citizen, we have to stop some place. Spending money like if it is going out of style has got to stop somewhere. There is no unity in our council, everything goes seven to three, seven to three. If this one introduces a motion, seven against it. If the other one introduces a motion, the other power struggle is seven to three. I have gone to every meeting in the last five or six months, but one, and I attended the board, but there's got to be some place where we have to go when things go wrong at home and that is the only place here, is our provincial, which is the highest that we can go to, probably that's why we're here.

Now, I know it's very confusing to you this whole thing, it's very confusing to me, too, to sit at a council meeting and I hear nothing. Everything is referred to closed meetings behind the green door. Gotta have the password. Everything that's printed in the paper from an open meeting is correct. Everything that's printed in the paper from a closed meeting, the fellow printed it all wrong. You might wonder, and I think you know there's something wrong in Brandon. What you can do about it, I don't know. But if you don't do something about it, the people who pay is us, the civilians, and we pay dearly. However, we have had some petitions. What do the people want? We, the undersigned ratepayers of the City of Brandon hereby petition against the City of Brandon's involvement in the financing of the downtown shopping Mall. Further, we request an investigation of the finances of the City of Brandon. We're buying golf courses, we've got the winter games, we're forgetting about water plant - \$5 $\frac{1}{4}$ million. We could have got it for \$2 million a few years back. We're going to wait another year or two and it'll be \$6 $\frac{1}{2}$ -7 million. We're buying land to build what maybe a Mall, to a developer, there isn't even a letter that he ever has to turn and come back to Brandon ever in his lifetime, but we're buying the land and we're fighting among ourselves and we're taking all of your time. They say \$400,000. We have here 2,230 signatures in this petition. That is walk in in the nine locations, stores, and so on, we didn't go door to door on the situation. These have been sent in, part of them, to Mr. Pawley's office. Here are some additional ones which I would like also to be passed on to Mr. Pawley's office. We have here 13 separate slips where a person mails it in themselves, and I believe that Mr. Pawley has received approximately 125-150 of these.

"Honourable Howard Pawley, Minister of Municipal Affairs, Legislative Building, Winnipeg, Manitoba.

(MR. CANART cont'd)

Dear Sir:

In view of the recent controversy and irregularities surrounding a Brandon downtown redevelopment program, we urge you to seek an investigation of the entire project, make a specific motion for a referendum and/or broaden the power of the Municipal Board."

These people have taken the time, all but this group here because I wanted to get them in today, to mail at their own expense these things in to Mr. Pawley's office. Further than that, I would perhaps be better to quote from the Chamber of Commerce, the advertisement which came out from the Chamber of Commerce. To the citizens of Brandon, the Brandon Chamber of Commerce position is; in light of all the words and rumours, charges and countercharges, it is difficult to grasp the essential truth underlying the core development. It is this - Brandon's downtown is slowly dying and unless it is revived, the city's greatest single source of tax dollars will continue to decrease resulting in an increased taxation for all other areas of the city. The city proposes to spend up to \$600,000 gathering parcels of land, the additional tax revenues the development will produce are estimated at \$500,000 per year."

Well gentlemen, that to me is an insult to my intelligence. A once-in-a-lifetime \$600,000 investment that will return \$500,000 every year and increase at our present rate of inflation to probably a million dollars ten years from now, is just too good to be true. We'd be the richest city in Canada. I mean it's ridiculous. It's ridiculous and it's an insult to the intelligent people. I would also question how they produce these figures, gentlemen. This is an advertisement to sway the public but there's nothing here to substantiate the figures. Just pure guesswork. However, in a report to them, and in answer to them, citizens of Brandon, we put in our own "be wary." Be wary of the mailing cards distributed by the Brandon Chamber of Commerce. This group has in the past supported projects such as Keystone Centre, Western Manitoba Centennial Auditorium . . . etc., all have been or are in a deficit situation. Can you afford another tax increase? The facts on the core area plan are clouded. Make your position known by signing the petition and returning it by mail yourself. And we have 126 of these that have been returned of which I would like to leave . . .

MR. CHAIRMAN: Order please. May I suggest that we confine our remarks more to the matter at hand - consideration of the Bill.

MR. CANART: Mr. Chairman, I cannot speak on the bill too strongly as it is. I am better acquainted with the reasons for the bill. The bill itself, I could not say very much about, Mr. Chairman. I will try, however, to do that for you.

In the discussion that was being carried here, a lot of the discussions were whether or not this was willful or not. And in a statement of February 19th, 1976, "Mayor defends actions in Mall land purchases. Mayor Elwood Gorrie concedes there were inconsistencies in the city's purchase of \$487,000 worth of downtown property, but he says, they were a necessary part of getting the best deal possible for the city at hand on the land." Now maybe this explanation of the bill, of which came first, you know, whether or not there was intent, or whether there was rushing the bill through or something of that nature, I cannot say that there were, but I would strongly suggest that it should be closely looked at, and I would ask this committee - which is the only committee that we can go to, the only group of people that we could go to - to look into this matter very very closely, as close as they can, and I would hope that they could come up with a recommendation that a referendum be held, that the people's voice would be heard and clear up the whole matter. I think that would be very helpful to our city and to our council and I think we'd settle a lot of matters. I want to thank you very much, gentlemen. Are there any questions?

MR. CHAIRMAN: Mr. Pawley.

MR. PAWLEY: I wonder if we could just have your comments, sir. In the event of a referendum being held and if the referendum defeated the proposal and we still were therefore contending with expenditures which had been undertaken contrary to proper procedure and suits were commenced as against the Mayor and members of council, what would be the situation then. You wouldn't propose that they would be left unprotected would you in such a situation?

MR. CANART: No. I think, these people were asked to run for office and they

(MR. CANART cont'd) did, and to think that they intended to act criminally, shall we say, I would say that this is not the case. Our council and our administration and our mayor did not act with this in mind. I might say that they perhaps did not use all the diligence and the care that they could have used. Now there's a differential there between acting or just not taking the diligence that's required to do things right, rather than a willingness to do things wrong, and I certainly would not want to see our council or our mayor be held legally responsible. But in return for this, I would also expect them to respect the people's opinion and be willing to themselves propose a referendum and show that the concern of the public is there. This is what I would ask. Unfortunately, it was turned down. At one of the later meetings we had a proposed motion for a referendum and it was turned down, well, you know the usual seven to three, and this is not a good situation.

So gentlemen, Mr. Pawley, no, I do not want to see anyone be in legal trouble, we don't want to do that, but I would like them to think about us the ratepayers a little closer. I think we've lost the sense of proportion. I think if we can regain this, and I think that maybe you could be instrumental in having this come about, that we can perhaps remedy this split in our city administration, council, etc.

MR. PAWLEY: Just one further question. I notice that you made reference to the Winter Games being located in Brandon. Would you provide me a return favour and persuade the Brandon City Council to forego the winter games and possibly recommend that they be located in Selkirk.

MR. CANART: We have a lot of expenditures coming, we do have a lot of expenditures in the future, and our mill rate is going to go up like mad, you know. Now I don't want to go . . . because you people did not want to hear about the Mall, I am keeping away from the intricacies of the situation, whether it's a healthy situation or not, because you have requested me, Mr. Chairman, to stay with the thing, so therefore I do not want to go into that particular thing.

MR. CHAIRMAN: On behalf of the committee members, I would like to thank you, Mr. Canart, for your presentation and your kind co-operation.

MR. CANART: Thank you very much.

MR. CHAIRMAN: I would like to call next on Mr. David Weiss. Mr. Weiss.

MR. WEISS: Well I didn't stay up all night to write a brief, because I generally never write a brief, but I think I'm sort of caught here too. That's why I kind of requested everybody else speak so I possibly don't repeat what they were saying.

I'm against this bill because I don't think it should be here. I think the city got caught with their hands in the cookie jar, because they were doing it for a long time and nobody really caught them at it. I think that this should be at the Minister of Municipal Affairs or the Attorney-General's office, to see whether a crime of some sort has been committed here, because under this Municipal Act - anybody ever see this? You try and find one. I went to the library, you can't find one. I wonder if city council has any, because I think if nothing else comes out of this here...I think you should give to the library three or four of this, this should be available to anybody that wants one. I went to two or three lawyers; finally one told me I could have it providing I left no blemish on it; but I think city council with possibly advice from the city solicitor left some blemishes on it, and I would say that it should be tried at the hearing of the board with the Attorney-General's office, and this will see if a crime has been committed. Under the Municipal Act, I think I've got it here somewhere. Section 124. I also want to point out that this one is 1970 and its amendments, but the one I was looking at a year and a half ago had things a little different than this one. And the only reason I was looking at the Municipal Act, I wanted to see what city council, why they were going after me at election time and how I could get even with them, and I found a lot of things in this Municipal Act. And one of the things in Section 124, any member - I guess you know this, but I'll read it anyway. It doesn't make sense to a thing when you get right down to why I should hire a lawyer to sue city council for the money. Because if I walked up to this man and hit him, what would happen? The police would be called and all the forces of the law would go in order. Isn't this a crime that they committed against the public, because if I hit him it's an offence against the public, but all the laws of justice going in. Now I don't see the Attorney-General going into action; I don't see the Minister of

(MR. WEISS cont'd) Municipal Affairs going into action. If you write to them, they tell you to get a lawyer. A lawyer for what? To protect a crime here?

We're talking about the Municipal Act. There is a passage here, I think it's on.. Section 83, Page 80, - and this . . . that the city council got caught with their hands in the cookie jar. There is a passage here that says what comes in by referendum should go out by referendum or hearing of the board. Our city manager came in by referendum. You know how it went out? Resolution or by-law by city council. There was no hearing at the board. To me, that's another getting caught in the cookie jar. If they got away with that, then possibly, I'm not going to go into it, I'm quite sure you don't want to go into it, there's a lot in sort of . . . treading the thing on the Keystone Centre. I bet you'll see the same thing, money given without by-laws and things like that. So they got away with the cookie jar. Here they got caught with the cookie jar, and I think something should be done. I don't think this should go any farther in here, I don't think it had any right coming this far anyway. I think it should be brought under hearing to see whether a crime has been committed, by the administration board, by city council, with or without the help of the city solicitor, because there's a lot of this in here that you're not letting them bring out. There's land that's owned by the city solicitor and company that's in this thing too and there's a lot of things in this thing that you are not allowing them to bring up. So I don't think this bill should go through, I think there should be a hearing to see whether a crime has been committed against the people of Manitoba or the municipality of Brandon, that's what I'd like to see. That did they really get caught with their hand in the cookie jar, or is it just one of the things that you can get by with it. That's why I didn't want to speak before because I knew I was going to attack it through a different . . . yes, well this correspondence that Meighen and Haddad's land are involved in here and that possibly not bought by the city but that was going to come by the . . . anyway, to get back, to come into your guidelines, this bill shouldn't go through because there's so many half truths in here that I think would make a saint into a heathen and a heathen into a saint, there's so many half truths here and you're not allowing these things to come out on that.

Now land. I don't know whether I can really . . . if I can't go to this, you can stop me on this I guess, Mr. Chairman. I went to city council a year ago, over a year ago, and said if one dime, and a thin dime of public money is to be spent on urban renewal, we should have hearings to see whether this is the proper place of the urban renewal or not, whether we could get some help from the government to do that. The mayor, he's sitting right there, and he said yes, and even at a meeting in September they were going to have hearings; they had no intention of having hearings because of events that happened, they had no intention to do that. So on the basis until we see whether they had a right into that cookie jar or not, I don't think that this bill should go any farther, it should die right here until we have the same hearing with them and anybody else that appears. I don't say you did, I'll use the attorney's words, that's skirting libel, it appears that they may have been caught for the third or fourth time with their hands in the cookie jar and should they be punished for that or not in order to make sure that this doesn't go on and on. Because this is what's been happening here. It's been going on and on and nobody says anything.

The Minister of Municipal Affairs must not be watching these things that go on because he sees copies of these by-laws and nothing is said or nothing is done. I imagine somebody has to be the watch-dog, shouldn't be me with a lawyer, a lawyer is so damn expensive you know. So on that basis, I say it should be stopped right here until we have that hearing that the taxpayer - everybody's a taxpayer, not the guy that just pays property tax, the guy that pays rent is also a taxpayer, there's no such a thing that there isn't a taxpayer, everybody pays taxes. So if it's a crime against one taxpayer, it's a crime against others, so I think it should die right here until we have those hearings to perpetuate the board hearings - to take the board hearings and put it on. They stopped it as soon as the lawyer who was handling the case for the taxpayer brought out there was a misdemeanor in the Municipal Act and then they . . . and Meighen was so mad, but he came back the next day like a little lamb. So there has to be something, somewhere, something too, that they got caught really in earnest in the cookie jar.

So I would say again, gentlemen, Mr. Chairman, Mr. Pawley, I don't know

(MR. WEISS cont'd) everybody's name here, Mr. Evans, that this bill shouldn't go any farther. If it does, then I think the Municipal Act is worthless.

MR. CHAIRMAN: Are there any questions? Mr. Pawley.

MR. PAWLEY: Mr. Chairman, I would like to ask Mr. Weiss, he's indicated hands are in the cookie jar and also he inferred that I, as Attorney-General, I gather was preventing certain things from coming out.

MR. WEISS: No I didn't say that. I said their hands were in the cookie jar but I say the Attorney-General appears to pay no attention to it. "Did," that's different than preventing, because good help is hard to get these days. Maybe you haven't got good help in your office.

MR. PAWLEY: Well, Mr. Weiss, as you know, if you have such evidence, you should be submitting that in our system of criminal investigation. I suspect you're referring to civil wrongs rather than criminal wrongs in your brief?

MR. WEISS: Well what is it? Is it a civil wrong or is it a criminal wrong, because here it said, that if you're found guilty that you can get six months, or \$500 fine or \$600 fine, or six months in jail. Is that criminal or is it civil? I'm just saying that it appears that they got caught in the cookie jar.

And talking about your office, sir, I did write you a letter, I think about a year ago about the management and you turned it over to a man by the name of Forest. He says he got in touch with authorities. They're just like talking to the guy that committed a crime. I didn't do anything. And he says you want anything, go get a lawyer. Why should I get a lawyer? I got the letter, sir. I think it's the job, whether it's the Minister of Municipal Affairs or the Attorney-General if this is a part of the Manitoba Statutes, they've got to be protected by somebody, and it is part of the Manitoba Statutes, although you can't find it if you want it, by itself.

MR. PAWLEY: You're aware, Mr. Weiss, that there is procedures spelled out in the Municipal Act by which ratepayers in the event of desire to remove somebody from municipal office, that there is a procedure by which they petition to the court for removal of that member of council.

MR. WEISS: I wasn't concerned with removing a member of council. This concerns possibly all members, one member of council said that some of the things that they were concerned about that they would read. Well I hope they weren't illiterate because I was on the council a couple of months and we got into a jackpot over the store hours, and you found the answer right in here, and I hope they can read and surely - and oh, if you'll allow me to elaborate on this - I think that the government should send the index in a small booklet form to every member of council in every municipality so they can see in there that they have places to refer to. They say somebody didn't give it enough judgment, but if they look through here, they could find it in here. I think this is one of the faults possibly of the municipal affairs office that you're not making these available, at least you should make the index available because it's a lot lighter than this.

MR. PAWLEY: The index without the material isn't very helpful.

MR. WEISS: Yes it is, because the index tells you where you can find it in there and you should free of charge send at least half a dozen books to our municipality or to municipalities . . . so they're available. Even when I was an alderman, I couldn't find one there. I went and got one from a real estate agent. So that's an unfair situation to aldermen, although they have their procedure thing which is also big pages like this and if they put it in a smaller form they may be able to comprehend some of this and it's not that hard, in spite of the fact that Mr. Forest says that you should get a lawyer.

MR. CHAIRMAN: There being no further questions, I would like to thank you Mr. Weiss and apologize for the mispronunciation of your name. You see, I went by the E I and the I E sounds . . .

MR. WEISS: No. E I is Weese, I E is Weíss, that's the German pronunciation.

MR. CHAIRMAN: The time being about six o'clock, I would like to secure the will of the committee as to what we should do now, whether we should proceed with consideration of the bill. Oh, we have . . . I think we've finished the list.

MR. PAWLEY: Mr. Chairman, I should question Mayor Gorrie about the Winter Games.

MR. CHAIRMAN: Yes, Mr. Cayer.

MR. CAYER: There were a number of points that led up to the Bill being before you and I was wondering if I could deal briefly . . . I never had the opportunity to do it before . . .

MR. CHAIRMAN: Is it the will of the committee that . . . it is? (Agreed.)

MR. CAYER: Mr. Weiss mentioned previously and I mentioned as well that there were irregularities, there were funds that were expended without authorization and this is the area he's referring to. We have documentation and we've been told that it's an interpretative matter, but there were funds that were expended conclusively without authorization.

Some of the questions I wanted to put before you. There's been a lot of irregularities that have come up regarding the downtown core project and the opposition that resulted in those irregularities and questions is the reason that you have the bill before you, and the question I wanted to put before the committee is why the City of Brandon did not use its own real estate department to acquire the properties in question. The city illegally retained a private real estate agent and paid the agent \$10,300 without authorization from council. The agent in question was hired by the developer. That's the question I'd like to put to the committee. Why did Mayor Gorrie dissolve council's representation on the downtown core committee? Council and the Chamber of Commerce had a liaison committee to work together on the downtown core project and because of lack of communication opposition mounted and the Mayor withdrew representation on that committee.

When the purchasing bill was introduced January 1976 that was the time that I introduced the information prior to the purchasing by-law being read, I asked the City Clerk what had been resolved as to the extra costs regarding purchasing. This is in relation to agent's fees, legal costs, forgiven taxes. The Mayor and the City Clerk and solicitor I believe had undertaken upon themselves to forgive taxes which is in itself a contravention of the Municipal Act to forgive taxes on the property purchased. They had undertaken to have the city absorb legal costs. They had undertaken to pay the agent fees and there was no authorization for the expenditure of those funds. And when I brought this up on the first reading of the Purchasing By-law, Alderman Brooking tabled the further reading of that by-law. And a week later council came back without so much as one question as to what allegations were and reintroduced the Purchasing By-law. I would ask you to come to your own conclusions why this happened. Without one question, one week they tabled the Purchasing By-law, came back a week later and passed it, without one question. What happened during the interim?

One property in question that was purchased, and this is perhaps why the bill is before you because of the opposition. The public is outraged. The Beacon Lunch Bojarski property was discussed in a memo in October as being the purchase price of \$85,000. I've got the memo to indicate that. There is another memo indicating that the Beacon Lunch Bojarski property was completed at \$125,000 in November, and the memo says "Options completed, Beacon Lunch property or Bojarski property \$125,000." And then December 19th that property was purchased for \$140,000. This is why the Bill's before you, this is what resulted in the 2,400 name petition. This is why it's before you. Why was it increased \$15,000? And I ask you as well, why haven't I been able to get hold of that option. I've asked six times for it and I still can't get it. So there is irregularity certainly.

What happens if Damas-Smith defaults on the property tax payment? I've asked for the administration board minutes with their meetings relating to the downtown core. I can't get them. Are they trying to cover something up? Why can't we have the minutes of the administration board?

September 2nd, the City Treasurer indicated, and this is in the minutes, "That the city could not afford land assembly because of current debt load." Five days prior to that council passed in principle \$5 million in Debenture debt. The current debenture debt is eleven and a half million. In five years we're going to pass another \$5 million.

The engineer, as well, went on record in the minutes saying the city could not afford land assembly, and that's the bill before you, that you're asked to approve. I've just got a few more here.

(MR. CAYER cont'd)

The Mayor has misrepresented the issue. The Mayor has gone publicly in the paper, and I have the clipping in my files, he said the taxpayer, he said it will cost you a pack of cigarettes. I think he said a month. The cost to the taxpayer for the project the Mayor said will be \$3.90 per \$6,000 assessment. He said, it will cost the taxpayer \$3.90 per \$6,000 assessment. Well that's not really the true cost. The issue is being misrepresented. This is what you're being asked to pass.

MR. MILLER: On a point of order, Mr. Chairman.

MR. CHAIRMAN: Mr. Miller.

MR. MILLER: Mr. Chairman, I think that Alderman Cayer is going beyond this bill. Obviously he has problems with his fellow councillors and that's something that should be determined within council itself.

As I indicated to him when he was up the first time, what this bill would do was validate the payments if - and it's a big "if" in the light of everything I've heard - if the council enact a by-law to authorize the purchase. In other words, the City of Brandon is going to have to go back to council --(Interjection)-- the Member for Sturgeon Creek pointed out they're going to have to back up and take another run at it. They're going to have to pass a by-law to authorize a purchase. Now in the light of all that's been said, if the majority of council still desires to pass that by-law, then the majority will prevail. If on the other hand, if they all see the light as Alderman Cayer seems to have, then obviously they will not pass such a by-law, in which case the payments will not be made and the purchases will not go through. That's all I think that we're seized of here, really, Mr. Chairman.

MR. CHAIRMAN: Your comments are well taken, Mr. Miller. I think prior to that his remarks did have something to do with costs mentioned in the last paragraph but not . . .

MR. CAYER: The point is, Mr. Chairman, that the issue has been misrepresented, it has been in Brandon, I don't think it's a local problem. I think the people have been disenfranchised. They're being told information and I've been disenfranchised, and if I can't relate to you why this bill's before you, it's because of the opposition. And why has there been opposition? It's because of things like this. There's been things that have been hidden. And how can you base - you can't base solely - this is a point Mr. Weiss tried to make, you can't base solely your decisions to pass the bill on those definite restrictive terms.

MR. F. JOHNSON: A point of order. I would ask Mr. Cayer then. In what you are saying - now if you want to put it on the table then let's have it straight - do you believe the council passed this knowingly doing the wrong thing. When they got to the Municipal Board were they there knowing that they did the wrong thing?

MR. CAYER: I can't speak for them.

MR. F. JOHNSON: Well, that's what we're here for. You came at the beginning, Mr. Chairman, to decide whether a technicality was right or wrong, and this is what we are here for. If you are accusing the rest of council of knowingly doing something that was wrong, say it.

MR. CAYER: I think I made those points earlier, Mr. Johnston.

MR. F. JOHNSON: I haven't heard any evidence that when they got in front of the Municipal Board that it was nothing more than a technicality that has come up which this Legislature has been asked to solve, which is what we want to do. Your problems in Brandon obviously, from what you say are a lot, Mr. Chairman, but we can't solve those here. We can get this problem solved, and that's really all we can do.

MR. CHAIRMAN: Your comments are well taken, Mr. Johnston. I believe we have permitted a good deal of leeway. We should deal with the meat of the matter presented before us and that is . . . (coughing - inaudible) discussion - validation of Bill 26, and we have wandered a good deal afield this afternoon. However, if it has provided some background for the members here that might help them to arrive at a decision, I don't see too much harm in it.

MR. CAYER: Mr. Chairman, I'll retire that. I'm simply trying to point out the background and relate to the committee members how they expressed ignorance at the beginning of the whole issue and the purpose was to show them the complexity and

(MR. CAYER cont'd) misrepresentation of things that are taking place and I can appreciate their tolerance in this. But I think I made my points earlier when I tabled the various letters with the continued reference to the money by-law and what you decide is avid.

In conclusion, I just really can't see how you can pass this bill in its present form because in essence it does not give the general public the right to express their opinion. And they had that right once. They had that right once and the board hearing was there, and in this committee recommending passage of this bill what you're doing is depriving the general public of that right. Where the public has the right to determine whether or not this project should go ahead, lies in your hands, not in Council's hands. I know what Council's going to do right now, and so do you, I would suspect. Thank you very much.

MR. CHAIRMAN: Thank you Alderman Cayer for your supplementary remarks. And now what is the will of the committee? Does Mr. Pawley wish to call Mayor Gorrie?

MR. PAWLEY: It was understood Mr. Gorrie would return if there were further questions.

MR. GORRIE: Gentlemen, I'm happy to stand here if there are questions. I presume I can get a transcript of all this nonsense to reply in my own way to some of the various allegations. But I'm here to answer questions if you have any further questions.

MR. WEISS: I object to Mr. Gorrie, Mayor Gorrie . . .

MR. CHAIRMAN: Order please. Order. Order. Order. Order. Mr. Pawley.

MR. PAWLEY: I think we should request Mayor Gorrie if he would like to comment in connection with the claim that was made by Alderman Cayer that in fact the Council and the Mayor were aware that a Purchase By-law was required, separate and apart from a Borrowing By-law, that in effect there was specific knowledge on the part of the Mayor and Councillors that a Purchase By-law was required.

MR. GORRIE: Well I can say for myself and of course I will not speak individually for the councillors, but certainly this came as much of a surprise to me as I think it apparently came to Mr. Meighen that there had been, and no one is arguing now that it was not a procedural error, but certainly I didn't. I was not aware of it and I'm quite sure that they were not.

MR. CHAIRMAN: Thank you. Does anyone else have a question? Thank you, Mayor Gorrie.

MR. GORRIE: Thank you very much.

MR. CHAIRMAN: Now what is the will of the committee. Committee rise? Agreed? Committee rise.