

AGENDA

SPECIAL COMMITTEE ON JOB CREATION/JOB RETENTION & ECONOMIC DEVELOPMENT

May 14, 2012
Aldermen Arnold, Ludwig,
Long, Corriveau, Katsiantonis

5:00 p.m.
Aldermanic Chambers
City Hall (3rd Floor)

1. Chairman Arnold calls the meeting to order.
2. The Clerk calls the roll.
3. Update from Jay Minkarah, Economic Development Director, on economic development projects.

TABLED ITEM

A motion is in order to remove this item from the table.

4. Communication from the Greater Manchester Chamber of Commerce Infrastructure Committee regarding Manchester business permit process conversations.
(Note: Tabled 4/16/12)
5. If there is no further business, a motion is in order to adjourn.



Memorandum

To: Special Committee on Job Creation, Job Retention and Economic Development
From: Greater Manchester Chamber of Commerce Infrastructure Committee
Date: April 2, 2012
Subject: City of Manchester Business Permit Process Conversations
CC: Mayor Ted Gatsas, GMCC Board of Directors Chairman Andy Crews

In the fall of 2011, members and staff of the Greater Manchester Chamber of Commerce began hearing increased frustration within the business community regarding the process to obtain the necessary permits from the City of Manchester to open businesses or complete projects.

Curious to know how widespread such sentiment might be, Vice President of Economic Development and Advocacy Will Stewart began meeting one-on-one with a number of Chamber members to determine if there are, in fact, unnecessary hurdles and roadblocks in the permitting process that hinder or otherwise discourage business creation and expansion in Manchester, and if so, the nature of said hurdles and roadblocks.

Over a three-month period Will Stewart met with more than a dozen Chamber members who, during the past several years, have opened or expanded businesses in the city, or assisted in a professional capacity therein. Those interviewed include the owners of retail and restaurant establishments, real estate and development attorneys, commercial real estate agents and real estate investors and developers.

These findings were presented in March, 2012, to the Chamber's Infrastructure Committee, members of which validated and reiterated the concerns. The committee suggested a number of remedial solutions that might be implemented to address the said concerns. Issues and potential solutions noted in both the one-on-one interviews and from the committee are below.

Summary

While the City of Manchester is better than most cities and towns when it comes to development, there remain a number of areas where the City can and should improve if it wishes to have a reputation as business-friendly city.

The challenges reported fall into the following general categories:

Communication

- It is reported that there is often a failure to effectively communicate, both between the departments that must sign-off on a project/business's various permits, as well as between department staff and business owners.
- Communication from the Planning Division is very slow as even trivial decisions take longer than they should.

Lack of departmental coordination

- No one "owns," or oversees the start-to-finish business/project permitting process.
- It is reported that there is a lack of coordination between the Fire Department and the Building Division due to interdepartmental issues. It is also reported there are conflicting Fire and Building Codes.

Lack of customer service

- It is felt by more than a few Chamber members that *some* City officials and inspectors do not see applicants as customers to be served.

Code interpretation/clarity/enforcement

- Despite its adoption by the BMA, the International Existing Building Code (IEBC) has not been implemented.
- It is said that inspectors will apply some regulations arbitrarily and sometimes demand requirements that are not even in the code.
- It is said there is a common misinterpretation of the change-of-use statutes for buildings/businesses that are simply changing ownership, not use.
- Code interpretation varies from staff person to staff person, it is said, even within the same department.

Lack of appeals process

- The Fire Code has no appeals process, while the appeals process for the Building Code only allows appeals challenging an inspector's incorrect interpretation of the code.

Issues

Quotes heard in business owner interviews and from members of the Infrastructure Committee are below. Quotes are presented anonymously as some interviewees fear retaliation on future projects/applications if they speak publicly. Bolded text was added for emphasis.

Interdepartmental communication and coordination

- “There is not good communication between the departments (Fire, Building, City Clerk’s Office). There seem to be **territorial issues.**”
- “There could be better communication between the departments that business owners have to work with/get permits from (Building, Fire, City Clerk, Health, etc.). Perhaps they could meet regularly to discuss issues, problems and better coordinate things.”

Business-Departmental communication

- **“First time business owners need someone to hold their hand and tell them what they need to do, step-by-step. Instead, they just get a piece of paper.”**
- “Final approvals from the Planning Division take much longer than they used to even though development in the city is down.”
- **“The Fire Department does not engage in plan review before construction begins.** Instead, it is reported, the department will hit owners after build out, when Certificate of Occupancy inspections are being conducted.”
- “I took my preliminary plans to Fire, Health and Building and asked them to tell me what needed to be changed. **I wanted to know up front about any changes so I didn’t have to have stops and starts during construction.** I am not someone who didn’t know what they were doing. I was doing my due diligence. They all said the plans were fine, and then the fun began.”
- The Fire Department was a little pain in the ass. If they could have told me upfront I would have needed different/additional fire pumps—which cost me \$50,000—at least I could have planned for it.”
- “We called the Building Department and **were told that once an inspector leaves for the day that they can’t be reached,** that they’re incommunicado. Can you believe that? In this age of cell phones even their office can’t get a hold of them? Please.”
- “Instructions and decisions from Planning staff are often contradicted by the Planning Director.”
- “Sometimes it’s hard to know....zoning laws change regularly.”
- On the plans I submitted to the Building Department I indicated I was going to use the existing hoods — hoods which had been approved a year before when

[the previous restaurant in the same space] opened. My plans were approved, but when the Fire Department came to do their inspection two days before I was scheduled to open they told me the hoods wouldn't work and I had to replace them."

- "You get mixed messages from different departments. **Resolving these mixed messages results in projects not moving forward due to the time and costs involved.**"
- "You can't have the Fire Department give you punch list one week before opening – **the 11th hour requirements need to stop.**"

Customer service

- "I have heard from people all over the city that inspectors don't show up and if they think you're giving them a hard time it will be one or two weeks before the show up....**They forget that they work for us, not us for them.**"
- "**The Building Department has got to be overhauled to be more customer service oriented.** Inspectors should be able to be contacted any time they're on the clock. And if they're going to be late, they should have to contact the customer and say so. **When they don't, it's costing us money.**"
- "**Some of the inspectors and some people at the departments need an attitude change. They need to see us as customers to help.**"
- The City could be more customer service oriented. Those seeking permits should be treated as customers."
- "The Fire inspectors don't appreciate construction realities."

Interpretation/enforcement/consistency

- "**Some inspectors, fearing liability, go beyond the code and demand things that aren't required.**"
- "**The codes aren't clear, and that uncertainty costs money. It all comes down to interpretation.**"
- "My next problem came when I was told that I would need to build a deck on the roof in case anyone had to get up there to do work on the HVAC vents as they would need a flat surface to do so. I pointed out to the inspector that they tenant next door opened in June, did similar work and didn't have to build a deck. I asked why I had to. The inspector told me 'well, I wasn't around when that place was inspected.' **It shouldn't matter what inspector you get – the codes should be applied the same for everyone.**"
- "When the Fire Department made the [another restaurant] paint their cast iron beams with fire rated paint, they asked why they had to do it, when I didn't. So the Fire Department made me do it too, a year and a half after the restaurant opened. That paint costs \$75 a gallon."

- **“A hood over a low temp dishwasher is the #1 issue with restaurants in Manchester.** Two years ago when I fought this fight I discovered that **Manchester is the ONLY community in New Hampshire that requires this.** I was able to discover 3 official memorandums for other states (CA, FL, CO) that recognized that by code it was mandatory but they were making exceptions for low temp dish machines unless there was a mold issue. I won my battle over the hood only to be blindsided with another randomly enforced code issue. I was required to install ERV units in 2 of my HVAC to the tune of \$20,000.”
- **“The codes are not enforced uniformly** by the inspectors and some inspectors will make **arbitrary demands that are not even in the code.**
- **“When I opened up [my first restaurant], I was told I needed a hood over the dishwasher, but I didn’t have to have one for [my second restaurant] and my other restaurants.”**
- **“No other [national fast food chain] has a hood over an electric convection oven (which is self contained and emits no fumes), but I was told we were going to have to get one here. This delayed our opening almost two weeks and cost my partner and I \$27,000. I wish they could have told me I would need a different hood at the beginning of the process.** It would have still cost me money I hadn’t budgeted, but at least we could have planned for it when doing the construction schedule.”
- **“The International Existing Building Code (IEBC) was adopted by the BMA, but it stopped there. It didn’t get pushed down to the departments.”**
- **“Staff opinions – even within the same department – are sometimes inconsistent.”**
- **“Uncertainty about how codes will be applied is depressing the asking price of my space.”**

Appeals

- **“There is no oversight or appeal. Whatever the inspector says goes. They hold your livelihood in their hands.”**
- I had a low-temp washer with no steam, but I was told I needed a hood anyway. There was no appeal.”

Process

- **“There’s a disconnect in the process that needs to be resolved sooner rather than later.** One of the inspectors told me that it’s **a classic case of the right hand not knowing what the left hand is doing,** that the guy who approves the plans at the start is not the guy who actually does the inspections.”
- **“The process isn’t nimble or flexible enough to keep up with economic realities.”**
- **“The process isn’t welcoming. Some staff and Planning Board and Zoning Board members seem happy to find problems, but then they don’t offer solutions.”**

- “The Planning Board plays ‘defense,’ not ‘offense.’ They need to be more fully understand the benefits of development.”
- **“We are losing small opportunities when smaller players are treated adversarially. Applicants – especially first time business owners – don’t know what to do and it’s difficult for them to navigate the system.”**
- “Planning staff follow the inclinations and opinions of the Planning Board.”
- “The reality of the development process does not match the political rhetoric (i.e. that Manchester is pro-economic development.”

Proposed Solutions

Communication

- **“Engage in plan review *before* construction takes place.”**
- “There should be an industry-specific info packet available for prospective business owners letting them know what they need to do to open.
- “There should be a How To Open a Business in Manchester guide that is industry specific.”
- “Perhaps you could create a flow chart for prospective businesses owners/developers showing them where to go, as well as a timeline.”
- “The BMA should be briefed on codes before adoption.”

Lack of coordination

- **“There should be a point person for everyone who wants to open a business in the city.** This person would help guide them through the process and let them know all of the (city and state) steps and requirements.”
- “Another problem is that you have to run all over the city to get your permit signoffs. **There should be one central location where you can get everything done. We need a one-stop shop.**”
- Improve the relationship between the Fire and Building Departments by moving Fire Inspector Peter Lennon’s office into the Building Department in City Hall.
- **“Applicants should be able to have a meeting with representatives of all relevant departments at the same time for a plan review session so that everyone is on the same page.”**

Appeals

- **“Strengthen the Building Code Board of Appeals...** Revise the rules of engagement and let people know they have recourse if they disagree with a building code interpretation.

- “Get more knowledgeable people on the Building Code Board of Appeals and/or better train the board’s current members.”

Process

- “If the approved plans are built as drawn, that should be no further opportunity to make additional demands.”
- “Cross train Fire staff to be able to read building plans.”
- “Have the Fire Department hire an inspector who specializes engineering, construction, etc.”
- “Do the Fire inspection during the rough electrical walk-through (when all sprinkler heads, panels, etc. are already in place). That should be their final opportunity to make demands.”
- “Hire a part-time employee at the Building Department to review plans. Pay for this via developers’ impact fees.”