

**SPECIAL MEETING
BOARD OF MAYOR AND ALDERMEN
(PUBLIC HEARING)**

April 12, 1999

6:00 PM

Mayor Wieczorek called the meeting to order.

Mayor Wieczorek called for the Pledge of Allegiance, this function being led by Alderman Shea.

A moment of silent prayer was observed.

The Clerk called the roll.

Present: Aldermen Wihby (late), Klock, Reiniger, Sysyn, Clancy, Pinard, O'Neil, Girard, Shea, Rivard (late), Pariseau, Cashin, Thibault and Hirschmann

Messrs: L. Lafreniere, A. Kula

Mayor Wieczorek advised that the purpose of the public hearing is to hear those wishing to speak in favor of or in opposition to a proposed Ordinance; that the Clerk will present the proposed Ordinance for discussion at which time those wishing to speak in favor will be heard, followed by those wishing to speak in opposition; that anyone wishing to speak must first step to the nearest microphone when recognized and recite his/her name and address in a clear, loud voice for the record; that each person will be given only one opportunity to speak; and any questions must be directed to the Chair.

The Clerk presented the proposed Ordinance:

"Amending an Ordinance Establishing Minimum Regulations Governing the Design, Construction, Alteration, Enlargement, Repair, Demolition, Removal, Maintenance and Use of All Buildings and Structures; Providing for the Issuance of Permits, Collection of Fees, Making of Inspections; Providing Penalties for the Violation Thereof; Known as the Building Code; and Repealing the Existing Building Code of the City of Manchester, New Hampshire."

Mayor Wieczorek requested that Leon LaFreniere, Commissioner of Buildings, make a presentation.

Mr. Lafreniere stated I would like to thank you all for your time this evening. We are here this evening to present the first comprehensive of the building code in approximately 10 years. I would like to speak for about 10 minutes and describe some of the changes in an effort to highlight the significant areas of change that we are recommending this evening. These changes do represent some policy issues that this Board should act on and be aware of in your

deliberations. After I make this introduction, I would be happy to answer any questions that you might have. With me this evening is Matthew Sink to my right who is the City's Deputy Building Commissioner and Al Kula to my left who is the Chief of the Building Department's Housing Standards Division. Each of these gentlemen has contributed greatly to this effort and are here with me this evening to answer specific questions in areas that they have dealt with in greater depth than myself. As early as 1911, Manchester had its own building code and this was really developed in response to some of the major congregations and fires that the other cities across the nation were experiencing and as modern industrial cities developed this was becoming more and more typical for them to develop their own building codes in conjunction with the insurance agencies and this effort really was a local effort at the time and reflected the local environment and local economic conditions and the development patterns of the City. Over the years, as these influences on the codes have changed and they have become more regional and, in fact, national in scope and the national model code of standards has become the norm in the intervening time. Manchester began using national model codes in the 1960's. We utilized the 1960 BOCA Code and during this time, however, we as a City utilized significant local amendments. It was really tailored and customized to our local community. There were a lot of features and aspects to the code that were introduced that were unique to Manchester and those efforts, while distinguishing us from other communities in the close proximity in terms of our regional area, also distinguished us in so far as having a code that no other community had. So if you came in to work in Manchester, you really were experiencing a different environment, a different set of code of standards than other communities administered. In this current effort, we made a deliberate attempt to reduce the number of local amendments to as few as possible to try to model the national standards without compromising the integrity of the those standards. We have only modified them in so far as the fee structure and some areas where there were conflicts with the codes that are administered by the Fire Department. Also, we made some local amendments with regard to how we administer our housing standards program and the Certificate of Compliance program. I would like to identify some of these changes for you. The first significant change is the permit fee schedules. This proposed ordinance represents a significantly different approach to the way that we charge fees. The existing fee structure has not been revised in approximately nine years. The way our current fee structure is structured, it is really an itemized list. It is somewhat cumbersome, both from the standpoint of the people who have to utilize the fee schedule as well as from an administrative standpoint to administer the fee schedule and how it reflects on our revenue stream. By example, we currently charge for individual outlets in the electrical fees. We charge for individual devices, other individual devices, different types of fixtures and panels and what not. We have taken a different approach here and we are charging based on a permit or a cost valuation of the project at hand. We have tried to develop a rationale here that does not necessarily increase the fees generated, but rather overlays what we feel is a more equitable approach to the way that they are administered, as well as makes them a little bit easier to deal with both from the standpoint of our own administration and the people out there that have to use the schedules. In other words, you would be able to come in and readily calculate your fees and not have to go through quite so cumbersome a process to understand going into a project what your fee exposures are. The existing fee structure represents a significant inequitable situation with regard to the distribution

of those fees. We currently charge approximately 600% higher fees for renovation and restoration projects than we do for new construction. This effort levels that playing field and while the existing construction and renovation and restoration projects do represent some additional resources that we have to allocate to those projects, we felt it was important not to build in a disincentive, if you will, to those type of projects in our fee structure. So, we wanted to try to level that playing field and make it a more equitable environment, as well as not built any of these, as I mentioned, disincentives into the project when we are concentrating so many efforts on trying to revitalize the downtown and the Millyard. This proposal, as a result, significantly decreases the cost to take out a permit to renovate or rehab a building in the City. It also represents a not quite as significant increase in the fees to build new construction. We have undertaken an analysis whereby we feel that we are remaining competitive with our fees with regards to our standing with other communities in the State, but we are near the upper end and if we are to increase our fees beyond the scope that we have currently proposed, we are concerned that it might price us a little higher in the market place with regard to our competitive aspects with other communities. Certainly, you can argue that there is a rationale for doing so. I believe that as the largest City in the State we provide a more comprehensive service in terms of the building inspection efforts than most other communities that we have utilized for comparison purposes, but on the other hand I think from a purely marketing standpoint we don't necessarily want to be known as the community that charges the highest fees in the State. The next area I wanted to touch on is the update of the technical requirements in the code. Currently, we utilize the 1987 editions of the model codes as our base with, as I mentioned before, some fairly significant local amendments. These amendments run the gamut of areas dealing with numbers of exits required, where sprinkler systems are required to depth of foundations and footings and so on and so forth. What we have done in this analysis, as I mentioned, is try to eliminate as many of those localized amendments as possible and utilize the national standards. Certainly some we still have to introduce. We have to content with some things in this part of the country that communities in the southern climates do not so we have to have certain requirements that are localized to our regional area. What we have done here, and I will point out that the recommendation currently contains the 1996 editions of the property maintenance code, mechanical code, plumbing code, building code, electrical code and the 1993 edition of the National plumbing code. The reason for that disparity is because the State of NH currently administers, through their licensing program, the 1993 plumbing code and we are concerned that we would be creating an environment whereby we would be administering a different set of standards if you will then that the State of NH mandates that plumbers follow through their licensing efforts. The State is currently undertaking a review of their codes and we anticipate that we would follow with their efforts once they settle in on what code and what edition they were going to adopt. With the other editions of the code, you might ask why we are proposing the 1996 editions as opposed to some later edition. The code adoption process in the State of NH is a rather cumbersome one. It takes considerable time and effort, especially when you undertake the effort such as we have done which has really changed the way that you go about it. We have really taken a new and what we feel is a fresh look at the whole process and have done so in a way that we hope that it will be a lot easier to come back at again. During the time that we initiated this process, the later editions of the codes were not available. Some of them

are now. Some of them are still not so we are anticipating that we will come back to this Board in less than a year's time, probably in the fall, with a new slate of codes. I think it will be an easier process to deal with and we certainly won't be dealing with the disparity that we experience now between the 1987 code versus the 1996 code in terms of the technical advances of the codes and I think that all in all it will be a relatively smooth process. We have tried to construct, within the parameters of the code, recognition that the State will be adopting their own standards for their licensed trades, i.e. the plumbers and electricians and have included verbiage in our standards that will permit us to enforce the provisions of the codes currently or then currently under the purview of the State. The State of NH, as I am aware, is going to be going under the requirements of the 1999 electrical code come July so that is one example where we will be trying to administer the more current standards as soon as they are available. The next area I really wanted to touch on is somewhat two-fold and that is the adoption of the BOCA National Property Maintenance code. What this proposal does is propose to retire the existing local housing code and replace it with the National Property Maintenance code. Currently, we have a proprietary code that was developed here in the City and certainly has served us well, however, it does not respond well to current demands in terms of technological advances in the field, as well as there are significant conflicts that are represented between the building code and the housing standard. What we are hoping to do here is to adopt a complimentary code that will address those conflicts and make it a little easier to administer and also make the transition between new construction and existing residential rental housing a smoother one. The existing housing code is approximately 20 years old and really doesn't reflect a lot of the changes that have taken place in the way that these codes are administered. The only major change that we have proposed to the property maintenance code is to include the technical requirements for a Certificate of Compliance program. This is a program that is unique to Manchester. We are one of the only municipalities in the Northeast and I believe likely in the country that administers a proactive housing standards program such as we do. We have a program whereby we issue the certificates of compliance, as most of you are aware, to existing residential rental housing and the area where we differ is that it is not complaint driven. We actually, as I mentioned, it is a proactive program. We schedule these inspections, we require the certificates to be in place and we go out and make these inspections on a cycle basis. The changes to the Certificate of Compliance program would be the second piece of that puzzle. The existing Certificate of Compliance program covers all residential rental properties regardless of the number of units contained therein. This draft contains a proposal to exempt owner occupied two-family structures regardless of when purchased, from the program scope. It is intended to recognize the benefits associated with owner occupancy of these types of structures and it also, in addition, reflects the different classification of occupancy that the building code grants to these types of buildings, these types of occupancies than multi-family structures which are defined as three or more units. Associated with this change is the proposal to eliminate the temporary exemption that was established in the original ordinance 20 years ago or 14 years ago that the Certificate of Compliance program came into effect. This exemption was extended to structures that had been the owner's principle residence continuously since 9/2/86 and contained no more than four dwelling units. Though, many of these properties that originally enjoyed this exemption are no longer exempt, those that remain have represented an administrative challenge to us and are

often the subject of tenant complaints and frankly are somewhat more of a challenge to deal with when they are transferred because if the first time that we enter one of these properties is at the time that it is being sold or transferred, then it represents a significant surprise in some cases to the owners to find that they are not in compliance at a time when it is difficult to address all issues in a timely fashion. The final change to the COC program is the term of the certificate. What we are hoping is that the existing three year term has adequately addressed many of the properties out there that would normally be held in a compliant fashion. These properties currently have been through the program at least twice so they have had two different certificates and have been inspected at least twice and this proposal recommends that we extend that to a four-year term. We think that the four-year term will afford us the ability to shift some of the resources that we would need to maintain the three-year cycle to the changes that we would need to or the resources that we would need to exercise on the properties that would then lose their exemption. I know that the building codes are rather technical in nature and don't represent terribly interesting bedtime reading and as a result I think it is difficult for me to make it exciting for purposes of this presentation but I would like to try to respond to any questions. I know that we are going to hear public comment tonight that we would like to try to respond to if possible and as I said we are here and we would like to listen to your comments.

Alderman Pariseau stated I have a few questions so that I can get it straight in my mind. What ordinance are we trying to amend.

Mr. Lafreniere replied we are trying to amend the ordinance that adopts the building code standards.

Alderman Pariseau asked which is number what. Do we have a building code ordinance. This says amending an ordinance.

Mr. Lafreniere answered I am unaware and perhaps the Clerk can assist in terms of how it is numbered. It is the 33 section of the Code of Ordinances. I guess maybe that is the way to respond. It is in Section 33. I didn't bring the code with me to tell you specifically what the number is but I can certainly find that out for you.

Alderman Pariseau stated we are here to amend the building code for example. That was stated in the public notice.

Mr. Lafreniere replied yes.

Alderman Pariseau asked should there not have been reference to the housing code as well. I still look at those two things as separate and I think if we had the housing code being amended, we would have a lot more people sitting out in that audience than we do this evening. I don't know if it really would be considered a legal meeting relative to the housing code section, but that is the City Solicitor's call. I don't think it mentioned it in the public notice.

Mr. Lafreniere answered with regard to the way that it was advertised, I guess I don't have an adequate response in terms of knowing how the City Clerk's Office actually posted the public notice. Perhaps that is something I should have followed more closely. In the documentation, however, it does mention the fact that all inconsistent ordinances we repealed as part of this adoption process and this is the way that we have always gone about this process. Now if there is some different way of doing it...every time that we have amended the code in the past...

Alderman Pariseau interjected it should have stated the building code, as well as the housing code. There was no reference in the public notice of the housing code being amended. That is my concern and I just question the legality of the legal notice or of this public gathering.

Mr. Lafreniere stated I think the legality is covered from the standpoint of the housing code is proposed to be adopted in the same fashion as the electrical, plumbing and mechanical codes and so forth. They are referenced standards of the building code and that is why emphasis is placed on the building code in terms of the way it is represented. I won't argue with you that there should have been more attention placed or more emphasis placed in the advertisement because I can't really respond to that. I haven't seen the advertisement, but I think we are covered from a legal standpoint to the best of my knowledge and we have talked to the Solicitor about that.

Alderman Pariseau stated so as I understand it we are here to amend the building code and that is the BOCA National Building Code, 13th Edition, 1996 and you have in Section 3 additions, insertions and changes to this BOCA Code, right. In effect, what you are saying is that the building code is the BOCA Code dated 1996 with the exception of this stuff that begins on Page 3. Is that what you are saying.

Mr. Lafreniere replied essentially the way that the building code is constructed is it is constructed with various chapters in the contained areas of responsibility within the parameters of the code. Included within those areas of responsibility and those chapters are references to the electrical code standards, the plumbing code standards, and the mechanical code standards and so forth including the property maintenance code and the housing standards under the existing structure section of the building code.

Alderman Pariseau asked on Page 2, Item 111.4, they get into the footings of all new buildings, etc. does that mean that if the Commissioner doesn't feel it necessary, it doesn't need to be surveyed. Is that what this means.

Mr. Lafreniere answered that is, in fact, the discretion that was granted to the Board when this requirement was placed into effect originally back in 1986 and it pertains only to additions and that discretion has been utilized to basically not require the survey where it can be demonstrated in other fashions that setbacks are maintained.

Alderman Pariseau asked why can't we be more assertive and say that this is the way it is going to be done, regardless.

Mr. Lafreniere answered we certainly can do that but what it does is places the potential of added cost burden on those individuals that utilize the process. Those individuals that take out a permit, for example, to put a small addition on the side of their house and have well in excess of the dimensional setback away from their property line, without that language we would have to require that they have a surveyor at some cost to document that they were far enough away from the property line. That is the only thing that this particular language refers to.

Alderman Pariseau stated why that caught my eye is as a member of the Zoning Board way back, we had to have a contractor move the house because it was in violation of the setback so I would say that regardless of who has it, it should be mandated that these footings or whatever be surveyed.

Mr. Lafreniere replied the reason that the house was moved was because there was a survey done. On all new construction, that is a requirement in any case. There is no such discretion in my mind in this section on new construction. It is only extended to additions and renovations. Certainly if the Board thinks it is appropriate to not extend that discretion than we can administer a more stringent standard. There has been no change proposed in this standard from the 1986 edition.

Alderman Pariseau asked Item 112.4, fees based upon the cost of work done, etc., you are leaving it up to the owner or the certified representative of the owner to tell you how much the project is supposed to cost. If I come in and am building a \$100,000 house and say \$80,000, I would only have to pay the permit for an \$80,000 house.

Mr. Lafreniere answered well the disclaimer there is at the end of the sentence where it is approved by the Building Commissioner. We have various resources that we can use to document what that project should cost.

Alderman Pariseau asked do you have estimators in your office.

Mr. Lafreniere answered we don't have estimators, we use national evaluation standards as published by BOCA and occasionally we will consult with independent estimators as well as use the RS Means construction and valuation reports. We do have some resources available to us where we can document, to our satisfaction, that the values that are represented accurately reflect what is being constructed and that is something that we do currently. Again, there is no change proposed there.

Alderman Pariseau asked under 112.6B, for work, which is started or established without a permit there shall be a surcharge added to each permit in the amount of 100% of the permit fee. Does this include those incidences where a building or your records show that building has three

apartments and they have five. How do we get these people that do that. Is this a way to get them.

Mr. Lafreniere answered I don't know if it is the way to get them. It is one tool. Again, there is no change proposed in this section. We have had this in place since our 1991 fee modifications and we do apply this whenever it is appropriate. We also can cite people for doing construction without a permit. We send them to the Board of Adjustment if they cannot demonstrate that they could meet all of the ordinance standards. There are various tools that we can use and this is just one of them. I wouldn't propose to you that this is the answer to that problem, but it is one tool that we use.

Alderman Pariseau asked is there another tool outlined in this ordinance change.

Mr. Lafreniere answered if you go to the section that talks about permits required, I think there is a section regarding fees, penalties and appeals and it does speak to the fines that can be levied in cases where the code is not adhered to.

Alderman Pariseau asked on Page 6, Item 9, Plumbing, for each fixture installed or replaced...if I have a leaky faucet are you telling me that I need to get a permit.

Mr. Lafreniere answered we don't require that you get a permit to repair a leaky faucet, we would require that if the faucet was replaced that it be done in compliance with the State requirements. The State has recently changed their requirements to permit owners of single family homes to do work in their own homes. For many years, they didn't even permit that. You had to hire a licensed plumber to do things such as change a faucet or a fixture. You could obviously change a washer or something but this is for each fixture we would anticipate or the way we administer that section is if you added a sink, if you replaced a sink with all its attendant fixtures and drains then that would be what this is intended to refer to. Certainly if you hired someone for a service call to fix your leaky faucet, that is not something that we have ever or anticipate ever requiring a permit for.

Alderman Pariseau asked on Page 9, Item 113.2, Required Inspections, A) All footings once poured shall be certified...there again that has made reference to 111.4. It is up to your discretion whether they need it surveyed.

Mr. Lafreniere answered again, the only discretion is and certainly I have administered this requirement and has my predecessor administered this requirement and this discretion has only been extended to cases where additions have been placed on existing structures. Typically they are placed on existing structures that already have a survey in place and they demonstrate that they in fact meet all of the setback requirements. We are fairly judicious in our use of this in terms of extending that discretion, sometimes to the dismay of property owners because of the expense involved with hiring a surveyor but we do recognize that it is critical to make sure that

these dimensions are maintained. If there is any question at all, if somebody is demonstrating that they are a couple of feet away from their setback line, we won't grant such discretion.

Alderman Pariseau asked 121.11, Filing of Appeals, you make reference to the Chairman of the Board. Shouldn't we have something in the beginning of this document outlining what Board you are talking about. The Zoning Board of Adjustment, the Housing Code Board of Building Code Board.

Mr. Lafreniere answered I believe this is a section that is currently in the code and that is a reference to a modification to a change which is an attempt to bring this fee issue in line with our current codes and ordinances as administered by the Finance Department. I think if you go to 121 in the building code it does explain what the Board is. Section 121 is specifically the means of appeal. It talks to a Board of Appeals being established. It talks to the membership of the Board. It talks to how a Chairman is selected for this Board.

Alderman Pariseau asked what number is that in the BOCA Code.

Mr. Lafreniere answered 121.1 through 121.7. I can certainly provide you with copies of that.

Alderman Pariseau asked so this is just changes to that.

Mr. Lafreniere answered all this change is, is a means of changing the...

Alderman Pariseau interjected you are going to develop a Board of Appeals.

Mr. Lafreniere answered we currently have a Board of Appeals.

Alderman Pariseau asked appointed by whom.

Mr. Lafreniere answered it is appointed by the Mayor and has, in the past, been confirmed by the Board of Aldermen.

Alderman Pariseau asked with this Board, the Chairman decides when he is going to have a meeting.

Mr. Lafreniere answered the reason for that is the frequency with which this body meets. I have been employed with the City since August of 1983 and I served as Secretary to the Board of Appeals. Since the time that I have been employed here, that Board has met one time since 1985. There is no need, in other words, to have regular meetings unless there is a specific issue to be appealed in which case we must respond within the time limits.

Alderman Pariseau asked why even have a Board of Appeals.

Mr. Lafreniere answered there must be some avenue of appeal so that if someone takes umbrage with a decision that is made by myself they have a right to appeal that. They can appeal decisions regarding the zoning ordinance administration, for example, to the Zoning Board. This is the vehicle by which they can appeal decisions made relative to the building codes.

Alderman Pariseau asked Page 10, Section 1010.3, buildings with one exit, what is meant by "Use Groups H, I and R".

Mr. Lafreniere answered the H as Max is reminding me is the High Hazard use group and as a result single exit construction is not permitted in High Hazard use groups. I is Institutional use groups and R is Residential use groups. Residential use groups, there are some single exit provisions that we have discussed with the Fire Department and are included in the next paragraph but we have broken those out as a separate element because they really need to be considered separately.

Alderman Pariseau asked in these residential groups, are you saying that they shall have one exit per floor. I mean if I have a three tenement, there is only a front door.

Mr. Lafreniere answered what we are saying is that for you to make use of this exception to the requirement for two exits from every floor, you have got to meet the criteria set forth here and those criteria in a multi-family dwelling include the dwelling unit shall be located on the first floor with direct grade level access so that means it has to be a first floor apartment and the door has to go straight outside. It can't go through an interior corridor. The next requirement is that the exit access shall not pass through any intervening spaces. You can't have it go through a utility room or a laundry room to get there. Again, it has to go straight outside. The last section is the maximum travel distance within the dwelling unit shall be less than 30' and the reason for that is so that you don't have a configuration and an apartment that is so long and drawn out that it would be difficult to access the single exit within a reasonable length of time. You would have to meet all of those criteria in a multi-family in order to utilize the provisions of single exit construction.

Alderman Pariseau asked about Chapter 13, Energy Conservation. Do you have a State RSA number dealing with that energy code.

Mr. Lafreniere answered I am sure that we do.

Alderman Pariseau asked should it be referenced in this document.

Mr. Lafreniere answered I think that would be an appropriate addition quite frankly. I think the reason that it was not included is that it was a carry over from previous language. I can have that for you before we bring it to Bills on Second Reading if this Board feels it is appropriate.

Alderman Pariseau stated I did have a question about the plumbing and adopting the 1993 edition rather than the 1997 because it is more stringent.

Mr. Lafreniere replied yes. Currently because the State follows the provisions of the 1993 edition, we are faced with the dilemma of having to adopt a code that cannot be less stringent than the State provisions. What that means is that by statute we are empowered to adopt local regulations that are at least as stringent or more stringent than the State requirements. We cannot, by statute, adopt regulations that are less stringent. Were we to adopt the provisions of the 1996 edition without significant revision, which would essentially make it look like the 1993 code, we would be in conflict with the State requirements.

Alderman Pariseau asked on Page 16 dealing with the procedure for the Building Board of Appeals, is the applicant charged to make an appeal.

Mr. Lafreniere answered yes. Those are set forth in Section 121 of the fees.

Alderman Pariseau asked on Page 17, 3107.14.1, Notice of Approval to Applicants, I was wondering where the notice of denial was but that must be in another section.

Mr. Lafreniere answered yes.

Alderman Pariseau stated it makes reference to a variance and I am always thinking a variance to the Zoning Ordinance.

Mr. Lafreniere replied I understand about the conflict in the verbiage but the intent is to send you back to the Building Board of Appeals section where all of those requirements are set forth.

Alderman Pariseau asked but there is a notice of denial.

Mr. Lafreniere answered yes. What this language is, is really set forth to us by the National Flood Insurance Program and I know that is a program that you are very familiar with. What we attempt to do here is to bring the BOCA code and how we administer it locally into conformance with the National Flood Insurance Program verbiage so as to not jeopardize our eligibility for that program.

Alderman Pariseau stated I suppose that could get to Page 19 and into the housing code. The question I have and I think you might have touched on it but I missed it, the new construction for a two-family, the inspections for those are done now every three years or is it right after.

Mr. Lafreniere replied if it is new construction, what happens is there is a provision in the Certificate of Compliance program that exempts such property for a three year period so it is currently a three year period based on the three year Certificate of Compliance program cycle and that would move to four. It exempts for the first cycle upon the issuance of a certificate of

occupancy. Now currently that would be required for any two-family structure that is built within the City. It would be subject to that requirement. This proposal, as structured, would exempt the two-families from that process. They would still have to meet all of our requirements and go through the certificate of occupancy program, but exempt them if they are owner occupied. Now if they are not owner occupied, that is a different animal and would be subject to the program. Even if it is a single family and it is not owner occupied, then it is subject to the Certificate of Compliance program but the owner occupied are the ones that we are specifically trying to exempt from the program here.

Alderman Pariseau asked on Page 20, PM112.6, Transfer Permit, "a transfer permit may be issued in lieu of a Certificate of Compliance when the code official deems a good cause exists", is this gobbledygook. Here again we get into a double standard.

Mr. Lafreniere answered again; this is one of those carryovers from the existing Certificate of Compliance program. This is the language in the code as it currently is adopted. The intent here is to afford Mr. Kula and ultimately myself that if his decision is appealed the ability to respond to a transfer situation. What happens frequently with properties that are sold is they run into a situation where they have to work through this set of requirements in a timely fashion to meet their closing dates and what this section has done in the past is afforded us some flexibility to work with the owners to insure that ultimately we get a compliant property even though it may not be fully compliant at the time of transfer. So this is only used, if I am not mistaken, on properties that are not deemed to be in compliance. If the property has a valid Certificate of Compliance, then you don't have to get one of these transfer permits. This is only for non-compliance properties.

Alderman Pariseau asked Page 21, 112.11, I don't understand why the Manchester Housing and Redevelopment Authority is exempted from these inspection fees. They don't pay their full share of taxes. They do pay some, but they don't pay the full amount and I don't see why they are exempt. Also, the inspections performed for student dormitories, homes for the elderly, fraternal, charity or other non-profit organization. So what if the State inspects them. The State does everything else too. Why should we exempt them.

Mr. Lafreniere answered I frankly do not bring this to you in the form of a recommendation but rather this section is verbatim with the existing language. I think this clearly represents a policy decision for the Board and I don't disagree with what you are saying and I would be happy to administer it, however, this is a reflection of our existing format.

Alderman Pariseau asked the item dealing with cross wiring on Page 23, if a tenant is accusing the landlord of cross wiring, why would he have to tell the landlord that he is calling in an inspector. Don't you think the landlord would be smart enough to go and change it before the five days it takes for you guys to get there.

Mr. Lafreniere answered to be honest with you that is an enforcement provision built into it to get the problem resolved.

Alderman Pariseau stated if the landlord is a crook, there is no reason we should be catering to him.

Mr. Lafreniere asked Mr. Kula to respond to this.

Mr. Kula answered there was a problem with cross-wiring in the City itself where tenants had problems with landlords who were usurping electricity from them and being charged for it so the City looked to adopt a cross-wiring ordinance. This is the way that the ordinance was actually written up. It was reviewed and passed that way. This goes back four or five years now. This allowed, in fairness, the owner to be notified that the tenant has a problem with it. The tenant is, in fact, inviting an outside source onto the property of the owner to investigate wiring practices. We felt at the time that it was only fair for the advance notification. A lot of the buildings or some of the buildings could be owner-occupied where the City did not have the legal authority to inspect the property but yet a tenant had the right to bring an outside contractor onto the property. It would be like if you looked at a three-family as an owner...

Alderman Pariseau interjected but you are talking five days. Can't you come down on that.

Mr. Kula replied that was the discretionary period that was selected at that time.

Alderman Wihby stated the Zoning Board of Adjustment gets a request for a fence and the fence is on City property anyway but they don't notice that. Is there anything in the new building code that stops that from happening or do they just give them a variance and don't care if it is on City property or not.

Mr. Lafreniere replied that, in my mind, would be more of a zoning ordinance issue. Certainly there is no provision in the building code or in the zoning ordinance for that matter that would empower anyone in the building department or on the zoning board to permit someone to put a fence on City property. That authority, obviously, rests solely with the Board of Mayor and Aldermen. In terms of enforcement, I believe that there are enforcement provisions built into the building code, as well as the zoning ordinance, but with regard to if the zoning board grants a variance for a location of a fence, there is no specific vehicle for us to go in say for requiring a survey to determine whether there is an encroachment on a property line. What we have done in the past is utilized the services of the Highway Department to go out and stake the street line. That is something we can do with minimal cost if we feel there is a question about the location encroaching on the right-of-way. It is a little more difficult when it encroaches on private property because then it becomes a civil matter between property owners, but when it is on City property we utilize the Highway Department.

Alderman Wihby stated in this one particular case they were both concerned whether or not they should give a variance. They didn't even care if it was City property or not and when I told them it was City property they went back and told them to go down and get a survey before they did anything, but they were ready to grant it on City property. There is nothing in the code that would give them an option.

Mr. Lafreniere replied I think in the zoning ordinance the way it is structured there should be...there is certainly specific language that says they can't put a fence anywhere but on their own property. It is a matter of communicating with the Board of Adjustment. It has been my experience of late that they have been pretty interested in insuring that the right-of-way lines and the property lines were maintained.

Alderman Wihby stated but they can go back and tell them go ahead and get a plot plan before we okay this.

Mr. Lafreniere answered they have been doing that frequently, but again that becomes a zoning ordinance issue.

Alderman Girard stated so that I am clear on a couple of points, the proposal before us now would take all owner occupied structures of three or four-family that are currently grandfathered under the Certificate of Compliance program and would bring them into the Certificate of Compliance program.

Mr. Lafreniere replied those properties that totally meet all of the requirements for the exemption...because there are a lot of those properties that would have that status but have not been occupied since a principle residence since prior to 1986 that are currently already under the exemption.

Alderman Girard responded my question wasn't that broad. My question is are owner occupied dwellings that currently enjoy an exemption from the Certificate of Compliance program, not considering the two-families, are not going to be brought into the Certificate of Compliance program even though they continue to be owner occupied dwellings.

Mr. Lafreniere replied that is the proposal, yes.

Alderman Girard stated with respect to that, you said that this proposal will exempt or will continue to exempt current owner occupied two-families and will extend the exemption to owner occupied two-families no matter when they were purchased and even if they are currently part of the Certificate of Compliance program. Is that correct.

Mr. Lafreniere replied that is correct.

Alderman Girard stated you said that the rationale for doing this was to recognize the benefits of owner occupancy. If the purpose of granting two-families and exemption from the code is to recognize the benefits of owner occupancy, why would we not extend that exemption to the triple-deckers since we probably have more of those in the City that are a problem. Why wouldn't we want to extend those exemptions to owner occupied triple-deckers as a way of making them more palatable as owner occupied structures.

Mr. Lafreniere replied I think you have hit upon the reason because frankly there are more of those that are a problem. I qualified my statement when I said that the rationale behind extending the exemption to the two-families was because of the benefits realized in the owner occupancy status, but I qualified it with a statement that the building code treats those structures, it recognizes that those structures are different types of occupancies. That a one and two-family structure is a completely different occupancy classification according to the building code and multi-family structures are considered differently. The nature of the beast if you will is that the multi-family structures report a much higher incidence of problems related to fires and non-compliances than one or two families.

Alderman Girard asked is your argument here, Commissioner, that owner occupied triple-deckers are a greater problem than non-owner occupied triple-deckers.

Mr. Lafreniere answered no; I am not saying that at all.

Alderman Girard asked is your argument that owner occupied triple-deckers are more of a problem than non-owner occupied two families.

Mr. Lafreniere answered no. What I am saying is that the owner occupied...

Alderman Girard interjected it seems to me that to be consistent, if the benefits of owner occupancy are recognized for one class of property, the two families and the single families, to be consistent those benefits should also be recognized in the triple deckers, shouldn't they.

Mr. Lafreniere replied I don't agree based on our experience in administering these codes. What we have experienced, time and time again, is that these properties have significantly more violations of our minimum code standards when they lose their exemption than these other types of properties and these minimum code standards that we are proposing before you this evening and as have had been administered by the City for some 14 years don't represent requirements other than those directly related to life safety issues, as well as issues related to the maintenance of the integrity of neighborhoods. What we are talking about here are standards that have direct bearing on the safety and integrity of the occupants of these buildings and as I said we have significant experience that these types of buildings have a lot of issues and I think that you have got some personal experience with this type of building which is an owner occupied building that lost its exemption. We found a lot of violations in that building and some unsafe standards.

Alderman Girard responded I would agree. Are you saying that these codes then are going to stop addressing things like flaking paint and are going to address real problems with the buildings.

Mr. Lafreniere replied I am saying that the nature of the standards is first and foremost related to life safety issues. Along with that, there are some issues that are probably less directly attributable to life safety but are more directly attributable to the integrity of the building and the neighborhoods in which they exist. Most of the issues dealing with flaking paint for example, although there are some aesthetic considerations associated therewith, deal with the fact that this flaking paint is most often lead paint. We don't want to get into the business of enforcing lead paint standards obviously nor do we want to get into the business of permitting hazardous conditions to exist so flaking paint is something that is addressed in this proposed code standards.

Alderman Girard stated just so the record is clear by the way, while the building that I currently live in went through the Certificate of Compliance program, I don't think that anyone can say that the violations that existed on that building when I bought it had anything to do with life safety. There was a lot of flaking paint stuff and if you want to go through my personal experiences with the inspections in my buildings, I would be more than happy to. I have one other question with regard to the code. As you know, both on the housing side and on the non-housing side, the commercial side, the City has several older properties, several historic properties and it has long been a problem when people go to renovate structures of either type that the codes are unrealistic for these types of structures and perhaps seek to do a little more than make them safe and try to bring them up to standards that 120 years after they were built are unrealistic to expect. Do these new codes respect the nature and age and character of the buildings or are they going to continue to force property owners to do things that are frankly costly and not cost effective without really attaining a greater standard of safety.

Mr. Lafreniere replied in my mind, one of the most significant benefits of this proposal with regard to the building code itself is that it affords us the opportunity to treat existing structures differently than we currently do. Prior to this proposal, we have continually adopted codes that did not contain very significant provisions for looking at existing structures, historic structures and this specific code affords us much greater ability and latitude to deal with those types of issues. Where we typically run into conflict with our existing code is when there are changes of occupancy and I can't tell you that there will not continue to be conflicts when you change a building that was not designed for a certain occupancy, has not been utilized for a certain occupancy and then is changed to a more hazardous occupancy. Those issues will always exist. If you are going to put a place of assembly in an old factory, there are issues that you are going to have to deal with. This code, as structured, affords much more flexibility concerning those types of change of uses as well as the more routine applications of the code as they pertain to existing structures. I think that this code comes a long way towards this effort and it is going to be a significant benefit to us as we put more initiatives into the revitalization efforts downtown and in the Millyard.

Mayor Wieczorek left to attend a Board of School Committee meeting.

Alderman Thibault stated, Leon, I was on the Board when this was instituted back in 1986 or 1987 and I guess what we were trying to protect at the time, the former Alderman from Ward 12 and myself and I believe Alderman Cashin, was to protect the people that already had these buildings, two and three story buildings, that were owner occupied and we wanted to be sure that they wouldn't fall in to having to comply with all of these things since they had this building all this time. I hope that with this new ordinance that we are not preempting that and that we are leaving that in place. I would like to know your wording on that and if that changes.

Mr. Lafreniere replied in fact this proposal does seek to eliminate those exemptions. That exemption as it was structured and I was here at the time although I wasn't part of that department, to my understanding was a temporary exemption that was intended to be in place for the existing owners of these properties and I think it was understood that the exemption would be something that would be phased out over time, that as the ownership changed that they would be treated in the same fashion as other like properties. It has been 14 years that this has been in place and we took a hard look at that and some of the challenges that we have realized as a result of that provision and administering it today in 1999 as opposed to 1986 when this program was really just getting off the ground. Many of these properties have since lost their exemption and are in the program so the numbers certainly don't represent anything in terms of the scale and scope that they did in 1986 but one of the things that we experience frequently when these properties change hands is that because they hadn't been inspected, because they hadn't been part of the program, the lending institutions require us to go in and make an inspection to get a certificate in place before they will allow the property to be transferred...

Alderman Thibault interjected I am not looking for some that have been sold. I can understand all of these things you are saying because I believe that is the way we had designed it or felt it should go. I am talking about the ones that are still there, still owner occupied from 20 years ago or 25 years ago.

Mr. Lafreniere replied that is the property to which I am referring now. If these properties, as they change hands, the owners are frequently elderly and they are getting hit with some big surprises and it is costing them some money and it is costing time at such a point in their lives when they can least afford it frequently. They are trying to transfer a property and we come in at the last minute and point out all of these areas where they are not in compliance and then they have to get them corrected because the new purchaser won't buy the property until the corrections are made. In addition to that, properties that aren't being sold but are staying in an owner occupied status we are getting more and more requests for inspections on those properties. Staying in an owner occupied status, we are getting more and more requests for inspections on those properties so that they can be issued certificates of compliance to market the properties or to meet insurance requirements. It has been a relatively recent phenomena in the last couple of years where we have seen more and more of these requests for properties that

are really exempt as far as our process is concerned but they are asking to be brought into this because of the fact that they want to market the property or some things might change and they want to be ready for it. This is one of those areas that I identified up front that I believe does represent a policy decision that this Board should make. We have tried to address it. We have tried to mitigate some of the effects of it by saying these properties have been exempt for a long time and the ones that are left we should be looking at but when we do we are going to extend the program cycle out four years so they don't have to have us in there every three years so we are adding 25% to the time that their certificates are valid for. Frankly, when we get complaints on these properties we are getting multiple complaints. What happens is we will get a complaint about a single item and then when the inspector comes in, of course the exemption doesn't have any impact on their requirement to adhere to the code. It only addresses their requirement to have a certificate. If we get a complaint from a tenant and we go into the property, sometimes we come up with these rather lengthy lists of issues that, again, become a surprise and that is one of the things we are trying to avoid here; the thought that this would afford us to phase something in, to be able to work with people and essentially get all of these properties into compliance within a reasonable time-frame and eliminate some of these issues and surprises that come up along the way.

Alderman Thibault stated you just brought up a good point that I hadn't thought of. If they don't comply with it now, when and if they do sell it they are going to have to comply so that is going to come off their selling price in. I think that is probably the selling point that we are going to have to use and maybe it could be phased in over a four or five year period or whatever. I understand what you are saying now.

Mr. Lafreniere replied that is what we are finding and unfortunately we hate to be the bearer of that particular bad news if you will because what happens is if we are brought into the process that late, they have a seller and they have an agreed purchase price and now all of the sudden we have come up with a list of items that is going to cost them a few thousand dollars in some cases to repair and the purchaser doesn't want to come up with an extra couple of thousand dollars so the seller ends up having to suffer the burden frequently.

Alderman Thibault asked is there a time frame that you are looking at in phasing this in. Could you give me some idea as to what we are looking at.

Mr. Lafreniere answered there would be a time frame that would be required just by virtue of the fact that administratively this isn't something you can do all at once. What we would propose to do is to develop a program by which we would notify these owners of their change in status and then we would try to schedule inspections and work with them to gain compliance. We realize that it is a different environment now than it was in 1986, but we want to address any immediate safety hazards and work with people to make sure that they can do things in a reasonable time.

Alderman Shea stated regarding fees, we charge fees for permits, we charge fees for variances, and we charge fees for special exceptions. Do we charge fees when the site plans are altered.

Mr. Lafreniere replied if there is a permit issued to affect the alteration of the site plan, yes, and that is typically the case. If you alter...there are many different things that could constitute altering a site plan but if it has to do with any construction inclusive of a site reconfiguration like paving or that sort of thing that would require a permit for which we would collect a fee.

Alderman Shea asked do you require a second permit once the site plans are altered or do you use that initial permit fee.

Mr. Lafreniere answered for example, if a permit was taken, a fee charged and the project completed and then two years later they came in and wanted to alter the site plan...

Alderman Shea interjected no I am talking about someone who goes before the Planning Board with a certain site plan and for whatever reason that site plan is not approved by the Planning Board. A month later, they come back with a different type of site plan, altering it, are they charged a fee.

Mr. Lafreniere replied they would be charged fees for the Zoning Board process or the Planning Board process as applicable because until such time as there is a final site plan approved that they actually want to construct to, we don't charge any fees. If there is an amendment to that plan that results in additional construction or additional work subsequent to the time of our issuing a permit, then yes we would charge fees but to change the plans as they work through the process there are fees charged but they are prior to the building permit fees.

Alderman Shea asked when somebody is in violation of a housing code we do charge them a penalty by issuing them some type of summons is that correct.

Mr. Lafreniere answered it depends on the nature of the violation, it depends on how we come by the violation. Typically, our response would be to determine if there is a violation in order and ask them to correct it within a given period of time. If it is corrected within that period of time then there would be no violation penalty assessed. If it was not corrected within that period of time, then we would start assessing penalties. If we have to go back and make multiple inspections to assess whether a violation had been corrected, we would charge for those additional inspections. There are fees that are built-in to address that situation but we don't charge immediately for a violation until we offer them an opportunity to have the violation corrected.

Chairman Wihby stated, Mr. MacKenzie, the question that Alderman Shea had was on a site plan and when you get the fees for a site plan and then it is changed or amended. Do you get extra fees and what do you do with that.

Mr. MacKenzie replied only if there is a significant change upward. Typically, the Planning Board has not waived any fees if a plan is downscaled they would not normally waive the fees.

Chairman Wihby asked so no matter how many times you send it back for review it is still that one initial fee.

Mr. MacKenzie answered yes.

Alderman Clancy asked if a person gets a Certificate of Compliance and they advertise that this house has a Certificate of Compliance and they sell it to another person, how many times can a house be sold within a period of time without them assessing a fee. Some of the property owners in the center city especially two years back was flip flopping properties and they still do it. You know that.

Mr. Lafreniere answered in fact we are seeing more of that now. I am going to let Mr. Kula respond to that.

Alderman Clancy asked it is good for three years now right, the Certificate of Compliance.

Mr. Lafreniere answered yes.

Mr. Kula answered we are talking about a building that has a valid Certificate of Compliance. That certificate is transferable as long as that certificate is valid. You can sell that property every day. The property would have to have a transfer of certificate to the new owner every time it is sold. There are a couple of other exemptions on that. We currently do a lot of condos as an example that are single unit condos that receive certificates of compliance. If they are sold to an owner occupant, that immediately drops them out of the control of the program so the certificate, in effect, would expire at the end of the three-year period. If it is a two-family or above, you can sell me a property today and I can transfer the certificate to my name and sell it the same day to someone else who would transfer it to their name. As long as the building itself has been established to meet the minimum standards, the transfer of documentation, the certificate, is within the ordinance itself.

Alderman Clancy stated but sometimes these people do cosmetic work to the apartment and stuff like that and nobody seems to pick it up.

Mr. Lafreniere replied we do currently charge fees for those transfers and because a property has a valid certificate does not make it immune in any way from continuing to be required to maintain the compliance with the code. What happens is these properties, if we get any notification at all that there is an issue that is out of compliance, we will go back and do a reinspection. We also have the ability to go out and determine...if we had a property that had changed hands many times then typically those properties may be in our target area if you will then we have an inspector whose responsibility is to just monitor the conditions of the housing in those areas and he can go out and try to make some more proactive inspections. It is not...the example of a property being transferred everyday I think is a little extreme and that is not

usually the way it happens. We do track it by virtue of the fact that we charge a fee for the transfer every time and we do require the individual owner to be made party to the certificate and as a result party to the requirements of the program, but we don't necessarily go back in until either a) the certificate expires, or b) we get some notification or inference some how that the building is out of compliance and then we are back and all bets are off.

Alderman Cashin asked could I suggest that we allow the public to speak and then if there are any more questions from the Board we can follow-up later.

Chairman Wihby called for those wishing to speak in favor.

John Gimás, 84 Dix Street, Manchester, NH stated I am a local electrical contractor and I just want to go on record as being in favor of the new codes, specifically the National Electrical Code. It is kind of difficult running a business and coming into the City of Manchester where I do a lot of work and working off one code which is approximately 12 years old and then going to every other town and every other city in the rest of the state and other states because I am licensed in other places, and going off the present 1996 and I just think it would be a good idea to move ahead towards these present codes. Not only for electrical, but for plumbing, mechanical and building just so we can bring everything up to present standards especially where the State, other than the plumbing which is still in 1993, enforces the present 1996 issues and also as a licensed electrician we have to practice based on the 1996 issue which changes every three years but it comes out in July and our license is based and our installations are based off the present edition of the 1996 code. I just want to go on record as saying that I think it would be a good idea to proceed forward and stay with the present codes as they come out for each change. Thank you.

Kevin Lefebvre, 16 Depot Street, Weare, NH stated I basically want to reiterate what John said. It is kind of hard for us to deal with a 1987 code here in Manchester when most of the code was around when we were all apprentices and before we were apprentices. I just think that the fee structure is a lot easier as far as electrical for us to figure out our fees versus the old code. The old code we had to sit there and figure out how many outlets and how many switches, how many this and that. As far as I am concerned, what they have proposed is good. I mean there are some things that I have exception with but I would rather take something than nothing. 1987 is just too far backward.

Alderman Cashin asked, Mr. Lefebvre, you are saying that you have no problem now with the mezzanines, balconies, cellars and basements being used in the calculations.

Mr. Lefebvre answered the way it was explained to me, I don't seem to have much of a problem with that. It is not going to affect us so much in the calculations. The only problem I did have was with the pricing on the up to two-families, which is \$150. I think that is a little excessive if it is a single family and the way I read that the single family will still be charged \$150. I would assume that it would be better off at \$100, but I will take what I can get off the rest of the plan.

Artemis Paras, 1275 Hanover Street, Manchester, NH stated I represent myself and I hope that I represent the public interest. I want the Board to know that whatever comments I am making this evening have been based on study and research. I went to the Library Saturday afternoon after I saw the legal notice and I think that Leo Bernier recalls my calling about the legal notice and there wasn't a date on the legal notice and I would like to recommend that in the future all legal notices have dates on them so that people know in case anyone wants to appeal anything at least they know when the clock starts ticking. I was interested in the legal notice because as Alderman Pariseau said it mentioned amending an ordinance and I wrestled with that for a long time because I thought how can you amend an ordinance when you haven't enacted it yet by adopting it. I went to the Library because I wanted to get information on National BOCA Code. I read parts of the frontage and I was so interested and it is very brief and I would like to share it with all of you. The BOCA National Code, as you heard, is adopted every three years if you choose to do it but it comes out every three years. The adoption can be by state and local governments their jurisdiction adopting the code, you see there is that key word, you adopt the code and that you at the jurisdictional level may make additions, deletions and amendments in your adopting this document. So now I have to say to you I believe that the legal notice did not accurately reflect what you were supposed to do. After I read sections of the BOCA code, I asked if I could see the National Maintenance Property Code and I thought it might be part of the BOCA code and I was told oh no, that is a separate book and unfortunately it is no longer in the Library. Someone walked off with it so the Library had to order a new book. Consequently, all I can say to you is I believe that the Maintenance Property Code, because it has a separate book, is a separate code and you officially have to adopt a separate ordinance and that is my evidence to justify that the legal notice, I believe, was not sufficient. The BOCA National code is issued every three years. Building officials and code administrators, BOCA International, Inc., is a non-profit service organization dedicated to professionals, code administration and enforcement for the protection of public health, safety and welfare. Its primary activities are to preserve the public's need for sound and progressive construction, regulation through promulgation of the BOCA National code. It is a series of model regulatory construction codes. The BOCA National codes are all performance oriented model codes that are responsive to the latest advancement in construction and as you know they revise periodically. Each of you has the entire packet of materials. With your permission, I would like to very quickly go through it and I will be able to tell you why I am testifying this evening. On the subject of what this ordinance is because of the background I just gave you, I have put together model language, which I think is more specific to the issue, in question. Why are we having an ordinance to review. To enact an ordinance allowing the local government's jurisdiction, the Board of Mayor and Aldermen of the City of Manchester to adopt the 1996 edition of the BOCA National Building Code with its proposed additions, deletions and amendments thereto and repealing the 1987 edition of said code as amended by the City of Manchester. To me that tells you exactly what that ordinance would be doing. The next page where it says "an ordinance", you are not amending an ordinance. You have not adopted it yet. You are enacting an ordinance through the adoption thereof and the word adoption is in Section I so you can see that my evidence is convincing. The lines are not indicated, but under that Section I if you count down five lines

and just above it says, “hereby adopted as the building code” and then it says “for the control of buildings” that word means nothing to me. We are not controlling buildings. We are trying to have buildings and structures comply with applicable regulatory construction codes so I would suggest that you amend that word “control” because it does not fit the context of the BOCA code. Section III “to conform to the language in BOCA” I would delete the word insertions and add deletions. Take out the word “changes” and use “amendments.” I am taking the language right out of BOCA, the frontage pieces. I would like to suggest that if this hearing is going to be rescheduled and if this draft for discussion and questions is going to be reorganized that I would be curious to know, you see I went to the Library and I took all of these proposed amendments so I had them on my table and I had to go to the BOCA code to find the section for the item under each of the sections to find out what the BOCA code said and what we were changing, however, the Aldermen don’t have time to do this so I would suggest to make it fair to each Aldermen so that you know what the justification is or why we are making the change to adapt the change to Manchester’s needs that you request that whoever put this together present to you what exists and why you are deleting it so you can understand what the changes are all about. I made some copies from the BOCA code, for example, we have been hearing from Leon Lafreniere and I respect his expertise in this very esoteric subject, which many of us don’t have any knowledge about. For example, it says here Section 105.0, Duties and Powers of the Code Official. Leon is our code official so it goes 105.1 General and then it describes; 105.2 Applications and Permits and it goes on like that and for each chapter you have sections with theoretically subsections. Fascinating material to read. I talked about the format. 111.4 on Page 2. Our neighborhood just went through a horrendous process here with site plans and the Zoning Board of Adjustment. It was real live drama so what I would like to suggest here is where it says in accordance with approved site plan, well unfortunately sometimes not all site plans go to the Building Department to get a building permit and it is okay because you are allowed to do what you want to do in your special district. When you have an approved site plan at the zoning level and you have a plan that was submitted to the Building Department and you go to Planning and find that you have another site plan, the question is what is the site plan. I suggest that we qualify that word “approved” to address the different conditions under which it can’t be just an approved site plan but approved at what jurisdiction or level. On Page 3, 112.0 Fees, I thought the Board of Mayor and Aldermen would be interested in knowing that the Sections 112.6 through 112.8.1 are not in the 1996 edition at all so we are definitely creating new language under that section. Permit fees I am not qualified to speak on them because I don’t have the background as a trades person.

Chairman Wihby asked are we going to go through all of these pages.

Ms. Paras replied no I am going to go through them very quickly. I just have incidental quick things. D under 113.2, Final Inspection prior to occupancy, that ties in with the certificate of occupancy. A spelling error on page 10, 1010.3 Buildings with one exit “it’s” should be “its” as it is the contraction. We talked about the plumbing for 1993. On Page 18, BOCA National Property Maintenance Code, we are adopting this code, now we should have an ordinance for this code because it is separate as I suggested to you and I brought here this evening the

Manchester Housing Code Ordinance and what I found interesting about the Housing Code Ordinance is that there is reference to RSA 48:A, the statute at the State level and that is regarding housing standards so I would like to suggest that there be a review of this which I am sure Mr. Kula has done and make sure that we have covered everything based on the statute and the national code for property maintenance. I do want to mention under Scope because we are getting into limiting the Certificate of Compliance to structures and I am reminded of that woman who was cited for that broken down stone fence and we will get to the definition of Certificate of Compliance, I mean what is it limited to and what might it not include. We just want to make sure that people are not being cited for something for which they are not responsible and it is not legal. I just want to find the definitions, 21 Certificate of Compliance and this is under your property maintenance code, a document issued by the code official attesting that the designated dwelling, etc. was found to be in compliance with the property maintenance code. It just says dwelling; it doesn't say the premises. The property so we want to make sure that if this is the intent of the Building Commissioner and the Building Department so that someone is not cited unfairly for the premises too. Aside from that, I have finished and I would encourage the Board to understand that I believe, based on what I have told you about the two separate books, that we need a renotification and change the format and give fair consideration to what I consider to be some valid amendments. I thank you all for listening. If you want to have fun on a Saturday afternoon, just go to the Library and read BOCA. Also, I am in support of the update.

Denis Laurendeau, 1 Francis Street, Manchester, NH stated I am basically in favor of adopting a more current code, electrical code, than what we use now. We have been using 1987 and if many of you don't know, it comes out every three years so we have actually gone through 1990 and 1993 and we are looking to at least use 1996 and lo and behold they are coming out with 1999. The only thing I object to is some of the fee structuring. I have a question. Is the Building Department expected to be self-sustaining with its fee structures for permits.

Chairman Wihby answered no.

Mr. Laurendeau asked is it part of the budget that supports...

Chairman Wihby answered it is part of the general fund, but it is not self-supporting.

Mr. Laurendeau stated well then I am going to cite on Page 8, Section 11 A) for new residential dwellings up to two units, \$150. For somebody doing a two unit building, that is a pretty good permit price but why are we penalizing wiring a single-family dwelling. I have done some in my time and I can't recall many of my fees being \$150. I am doing one currently now and I think it came in at \$91. I would just like to cite that. Permit fees, I think, originally were designed to have a way of monitoring work done out there for public life and safety. It is a way for people to go into the office and they have to pull a permit so an inspector can inspect. I hope that with permit fees we are not trying to create a profit because that is not what the intention is for as far as I understand it. I would like at least this section looked at and I will extend that to

fees concerning the other inspections, housing code and such. I don't know why some of these are so high. It puts an added burden on the bottom line as every taxpayer. Lets face it, myself as an electrician, if I am forced to pay fees like this I am not going to pay it, it is going to end up at the bottom, you, me and consumer so I guess that is my comment.

Alderman O'Neil asked you believe that the \$150 is fair for a two unit, but you think it should be somewhat less for a single family.

Mr. Laurendeau answered.

Alderman O'Neil asked what would be...if you had to recommend a dollar figure.

Mr. Laurendeau answered well they have a breakdown here of \$75 for each additional. I would think, like I just mentioned I had a price of \$91. I recall having some for over \$100 so perhaps in the \$100 range would be fair.

Alderman Girard stated I believe the fees collected by the Building Department, all of their fees, I believe at least equals the expenditures that we make.

Chairman Wihby replied the question he asked was is it supposed to be self-supporting and the answer is no. The money goes into the general fund. It might equal what their budget is, but it is not necessarily there to be self-supporting.

Alderman Girard responded well it is designed to cover the cost of the operation.

Chairman Wihby stated well no. We have made it designed to cover the cost of the operation but nowhere in there does it say that the Building Department has to be...the fees have to be used for the Building Department. We can lower them or raise them, as we want to. The money goes into the general fund.

Alderman Girard replied right but right now they are designed to cover the cost of the operation.

Chairman Wihby responded I don't think it is designed that way. I think they made the fees and in the past we have looked at them and told them to go over and review them and where they fall they fall. They don't sit there and say my budget is \$200,000 and I have to come up with \$200,000 in fees. That would be designating the money towards that.

Alderman Thibault stated it seems to me a few years back and I don't know if it is still working the same way as it did but the City used to try to recover roughly 80% of what the actual cost of what it was go give a permit. In other words, if we gave a permit that cost \$100, the City tried to recover \$80. That is the way it was structured years back. Now I am not sure if that has changed, Leon, and you may talk to that if you would but I know that is the way we used to structure it way back.

Chairman Wihby called for those wishing to speak in opposition.

There were none.

Alderman O'Neil stated Alderman Pariseau and Ms. Paras brought this up, Leon, are you sure that we are all right on the wording "amending" and "adopting".

Mr. Lafreniere replied the language referencing amending, adopting, insertions and deletions all comes directly out of the National code.

Alderman O'Neil asked so you are comfortable.

Mr. Lafreniere answered yes and we have talked to the Solicitor about it. As I said, I am less comfortable in addressing Alderman Pariseau's, the full scope of this question regarding the notification and the advertising, but I am quite comfortable that as structured each code is adopted by reference through the building code. It is specifically referenced in more than one location that these are the considered reference standards and therefore part of the code.

Chairman Wihby stated we will make sure at Bills on Second Reading that the City Solicitor is there.

Alderman O'Neil stated I want to commend the department on updating the building section. I think that for trades people it makes things easier. I also want to commend them for revising the Certificate of Compliance and making it more reasonable. I would just like to note that the Building Commissioner is in a double breasted suit tonight because he wasn't sure if he would be buried tonight so he said he wanted to be ready.

Alderman Cashin stated I would like to take a moment to thank Mrs. Paras. She worked all day Saturday at the Library looking this up and I am concerned with some of the wording in here, Leon. It just doesn't get to the point. I am not sure how you handle that. What I would like to suggest and it is only a suggestion, that you as the Building Commissioner, Tom Clark who is the City Solicitor and Mrs. Paras at her convenience sit down and discuss this. I don't think that is too much to ask. This woman has put a lot of time in. I would like to listen to her opinion.

Chairman Wihby asked you don't have a problem with that do you, Leon. Where it is going from here is Bills on Second Reading and Alderman Cashin is on the Committee so you are probably going to have to do it sooner or later anyway so you might as well do it before you come to Bills on Second Reading.

Mr. Lafreniere answered I certainly think it would be appropriate to go over those questions regarding the various issues brought up and I will be discussing the matter with the Solicitor's Office and if he thinks it is appropriate to get additional input, I have no objection.

Alderman Cashin asked with Mrs. Paras, right.

Mr. Lafreniere answered if that be the wishes of the Board, yes.

Alderman Cashin stated well that is what I asked and that is what I would like.

Alderman Clancy stated, Leon, the only concern I have is that I heard a few gentlemen tonight say that the electrical code is back to 1987. We are almost in the Year 2000. I think they have a new one every three years, right. 1990, 1993, 1996, 1999, what is the hold up really.

Mr. Lafreniere replied it is in large measure a result of the process being somewhat cumbersome and also because as the codes are amended, not every year do the codes reflect significant changes so, therefore, I guess there has not been a perceived need from the standpoint of the previous Commissioner to change every three years. Our current proposal wants to take us from 1987 until 1996. I would like to be in here before the end of the year with 1999 and that would then get us current. This gets us current if I bring in the 1999's and the 2000 edition of these codes somewhere near the end of this calendar year then we would be sitting in good shape for the next three year cycle.

Alderman Girard stated with respect to the input from this public hearing being sent to Bills on Second Hearing, I believe that other than sending this to public hearing, the Committee on Administration which is the Committee it was originally sent to has not taken any action on it and I wonder whether or not the comments from the public hearing should be sent to Administration so they can make recommendations before it goes to Bills on Second Reading because Administration has not acted on this at all other than to order this public hearing.

Clerk Bernier replied the Committee on Administration should receive it after this. We have it going to Bills on Second Reading, but that is for ordinance form. It will go to Administration first.

Alderman Shea asked can we vote on Alderman Cashin's motion.

Chairman Wihby answered we are going to do it. This is a public hearing.

Alderman Hirschmann stated I have a question with Section 11, Electrical Wiring. With respect to...there is a statement in there about low voltage wiring. It says anything up to \$25,000 is a \$75 flat fee.

Mr. Lafreniere replied yes. This was a change that we brought in at the time that it came to the Committee on Accounts, Enrollment and Revenue Administration and the reason for this is because it is an attempt to recognize the fact that what we are looking for as a regulatory agency on low voltage is much reduced in scope on low voltage work than what it is on line voltage

work so we didn't feel it was appropriate to charge on a same pro-rata basis for inspections for that kind of work. We are basically going in to make sure that the cable is appropriate and it doesn't represent a hazard to the building. Therefore, this covers the fees that we feel are appropriate to get an inspector out there a couple of times during the course of the job.

Alderman Hirschmann stated the only thing I had a question in my mind on was does that include the application fee. It doesn't specify whether that is in addition to the application fee.

Mr. Lafreniere replied right in front of the fee schedule there is an attempt to indicate that the application fee is intended to be the base fee in addition to all the other identified fees. The way it is designed currently, that would be in addition to.

Alderman Hirschmann asked in addition to the application fee.

Mr. Lafreniere answered correct.

Alderman Hirschmann asked so a guy who wants to put in a phone system puts in 10 phones and he pays a \$25 application fee and \$75 for the up to \$25,000 of low voltage work then six months later he wants to add two phones, does he have to pay another \$75.

Mr. Lafreniere answered in a case like that we wouldn't require him to have a permit because he is not adding additional wiring per se. If he is just adding a couple of phones we don't typically require permits.

Alderman Hirschmann asked so additions you are not going to be that strict on.

Mr. Lafreniere answered certainly we never have been historically, so strict as to require permits for additional phones and that sort of thing.

Chairman Wihby advised that all wishing to speak having been heard, the testimony presented will be referred to the Committee on Bills on Second Reading to be taken under advisement with reports to be made to the Board of Mayor and Aldermen at a later date.

There being no further business to come before the public hearing, on motion of Alderman Thibault, duly seconded by Alderman Shea, it was voted to adjourn.

A True Record. Attest.

City Clerk