

**SPECIAL MEETING
BOARD OF MAYOR AND ALDERMEN**

September 19, 2000

5:00 PM

In the absence of the Mayor, the Clerk called the meeting to order and requested Alderman Cashin to Chair the meeting pursuant to the rules.

Chairman Cashin called for the Pledge of Allegiance.

A moment of silent prayer was observed.

The Clerk called the roll.

Present: Aldermen Wihby (late), Gatsas, Levasseur, Sysyn, Clancy, Pinard, O'Neil, Lopez, Shea, Vaillancourt, Pariseau, Cashin, and Hirschmann

Absent: Alderman Thibault

Chairman Cashin addressed Item 4 of the agenda:

Communication from the Airport Director requesting authorization to execute a Hold Harmless Agreement with the United Parcel Service Company.

Mr. Dillon stated by the end of October, we would like to open the extension of Runway 24 that we have been working on for the past 18 months. Prior to opening the runway, however, we would like to position an aircraft at the end of the runway to do an engine run up to check the jet blast profile and the trajectory of the jet blast to make sure that there is not going to be any interference on Harvey Road, which passes behind the extended Runway 24. What we have gotten UPS to agree to do is position an aircraft out there at no charge, do the engine run up but they have asked that we sign-off on a Hold Harmless agreement to make sure that they are protected from any liability issues that would arise. What we anticipate doing is about 7:30 AM on a Sunday in early October we will position the aircraft out there. It will require momentary shut downs of Harvey Road for two to three minutes. We have coordinated with the Police Department to hold the traffic while we do the engine run and basically it is just to check the profile of the jet blast.

On motion of Alderman Pinard, duly seconded by Alderman O'Neil, it was voted to approve this request, subject to the review and approval of the City Solicitor.

Chairman Cashin addressed Item 5 of the agenda:

Review of proposed changes to the proposed zoning ordinance.

Mr. MacKenzie stated I did want to start by indicating as I showed in the letter there are actually three little packages of changes here. One was as requested by the Aldermen at a recent meeting. The second is as proposed by the Planning Board at a recent meeting and the staff, including the Planning Department, Building Department and Solicitor's Office have continued to review and approve the document so there is another package of changes in there. I did want to briefly run through those changes. Not all of them, but the key ones in there so you are familiar with them. In your packet, if you have this information, the one with my cover letter on it, the next two pages are the changes as we understood them to be requested by the Board. The first one is an amendment to create a new open space district. We have created new language there. Basically there are very limited uses allowed in it. It is a conservation zone so you are not going to have any major buildings or parking lots. That is the intent of a conservation zone. We have identified, based upon your discussions, at least two districts that we want to run over to see if there are any other districts within the City you would like to have included in that and if I could on the map I would like to identify those two. One and I know this is a little tougher to see and we did have an overhead but no overhead projector tonight but I will bring this board around if you would like to see where those are. The first and the color of the open space district or the OS district is the lighter green. The first one is the area, which will be conveyed to the Nature Conservancy when the agreement is carried out. Actually, various staff are working with the Nature Conservancy, the EPA, and the State DES to actually walk and feel the boundaries of the district because they want to be comfortable that they are getting the correct area. So, the district parcel is shown in green in the upper area here and that is taken out of the RP district, which is the corporate office district that was proposed previously and we understood the Board wanted to include all of that area. It is possible later, as part of the agreement, there was to be a good faith effort to purchase two other parcels if possible outside of this area and that included a piece of the Optima Health property and another individually owned property. If those are purchased by the City as part of the agreement, the Board could at a later time add those into the open space area. The second district included the Piscataquog open space and the Piscataquog River Park. South of the bridge on either side of the Piscataquog River, including all of the publicly owned land in that area. I know those were two areas specifically discussed by the Board. There are other options that the Board could consider and I would be happy to discuss those.

Alderman Hirschmann stated I specifically wanted it to be called conservation area or zone or district. Open space doesn't mean anything. Conservation is very specific.

Mr. MacKenzie replied we can change that. The first reaction was that if it was a conservation district it would be a C district and we already have a C district. We have two C districts, the civic institutional and the civic hospital so we would have to change the terminology, but if you wanted it conservation...

Alderman Hirschmann interjected I think myself that it is very important to show our intent so that 10 or 15 years down the road when we are all gone that no one will say well they would have called it conservation but you are calling it open space so that maybe it could get developed. The intent is never to develop that land so I want to change it to conservation. We asked for conservation and I want that in the zoning map ordinance. The referral that went to the Committee on Bills on Second Reading had not only those two areas, but it had Blodgett Park, Dorrs Pond, Massabesic Lake and four or five other areas. I don't know if you saw the referral, but it had five or six areas.

Mr. MacKenzie replied I am afraid that I did not see that referral.

Alderman Hirschmann asked when is Bills on Second Reading meeting.

Alderman Sysyn answered that is Alderman Wihby's committee.

Alderman Hirschmann stated well that is where the zoning piece went and it is supposed to be a conservation zone covering about eight different areas around the City.

Mr. MacKenzie replied that is fairly easy to change. Again, we try not to get confused with the other C districts. I think probably we would call it conservation district and on the map we would call it the CON.

Alderman Hirschmann stated like you have a Heritage overlay, make it a Conservation overlay.

Mr. MacKenzie stated regarding the other districts, we can get that. What were they again? The Blodgett Park area?

Alderman Hirschmann replied just going from memory, it was Blodgett Park at about 33 acres, Dorrs Pond and I thought there was something in Alderman Pariseau's ward like Precourt Park or Nutt's Pond, Massabesic Lake. I don't remember them all, but there was a list.

Alderman O'Neil asked where is Blodgett Park.

Alderman Hirschmann answered Maxwell Pond Park.

Alderman Vaillancourt asked so we have other individual tracts that will be added to this. You mentioned a couple, which are small tracts of land.

Mr. MacKenzie answered the Lake Massabesic I would presume we would want to do the Water Works property and that would be a very large parcel. That is probably on the order of 1,000 acres.

Alderman Vaillancourt stated but you mentioned small tracts of land as well.

Mr. MacKenzie replied the smallest that he mentioned would probably be Precourt Park. Precourt would be the smallest of the various parks mentioned. That is probably about 20 acres.

Alderman Vaillancourt stated I would like to add an additional item for your consideration and the consideration of this Board. We have discussed this at past meetings and, in fact, at a meeting of the Joint School Committee and Aldermanic Board earlier. This would be a tract of land at the corner of South Mammoth Road and Corning Road, which is very close to Crystal Lake and which is right now being considered for development of a monstrosity of 95 houses, which would flood our schools and also lead perhaps to the destruction of the watershed in that area. So this is something that I think needs to be considered and to be put on the agenda for study to be added to this listing.

Alderman Hirschmann stated all of the previously mentioned parcels actually belong to the taxpayers. The parcel that Alderman Vaillancourt is discussing is privately held, is it not?

Mr. MacKenzie replied yes it is.

Alderman Vaillancourt asked weren't you discussing other pieces when you were at the Board that would be bought. That was the purpose of my initial questioning.

Mr. MacKenzie answered would be bought by the City and once owned by the City could be zoned that way. The reason I hesitate about the other parcel is that it is privately owned. There is value to it. There are U.S. Supreme Court cases that deal with what a community can rezone and what they have to allow in terms of development opportunities and I would like to refer that to the Solicitor's Office because there is some very major court cases that deal with that. You cannot zone property so there is no

reasonable opportunity for development on that property. We would have to be careful about that and I think that would have to be reviewed by the Solicitor's Office.

Alderman Lopez asked can you give me a sample of limited development.

Mr. MacKenzie answered well you would want to allow certain things like signage for trail systems that might be on a property. You might have to do drainage work in there. The Highway Department might have to put an easement through for a sewer easement. There are usually these type of things that do not involve a building although even in some cases you might want to allow a public telephone. One of those small exchange buildings might have to go into those. There are reasonable limited uses that may have to go in some of these conservation areas.

Alderman Gatsas asked, Mr. MacKenzie, did you add the Water Works land to it or not or where are we at with that. I know that at various times they do sell portions that may not be important to the watershed.

Alderman Hirschmann stated Massabesic Watershed is what I named it.

Mr. MacKenzie replied there are parcels that I would like to pin down a little bit better. There is one on Karatsas Avenue for example that the Water Works has controlled for a long time and they have determined that surplus to their needs and it is not in the watershed. I presume we would not want to zone that because that affects the City's property values because the City actually owns the Water Works land even though they have jurisdiction. I was presuming that you were referring specifically to the watershed directly adjacent to the lake, but I might like to have some consensus or a vote from this Board to make sure that we are moving in the right direction to include that.

Alderman Gatsas asked can you check with the Water Works because I know they have done some sales to Auburn for a school and complex there.

Mr. MacKenzie answered we could not zone the land outside the corporate boundaries and they do own a lot of land in Auburn and Deerfield.

Alderman Gatsas stated this was Manchester land.

Mr. MacKenzie replied we can check with Water Works to make sure we are not...we want to make sure that when they put an addition on to the treatment facility that we are not infringing upon the City's and the Water Work's rights to do that so we can check with them. We are now going to move on to the next one and that is there was a lot of

discussion about the corporation housing area, which is the old Mill housing just over the hill here and whether we could allow additional mixed uses in there and I think generally we, as staff, feel that it is reasonable to have mixed uses. Many cities have these types of housing that have first floor offices or first floor small restaurants or bistros and that is what we have done with the second item, the second amendment which was to allow uses in the ACH, that is the Amoskeag Corporation Housing district and allow it as an overlay. We have listed it in the text, but in the editorial note we have gone through G-1 through the others so that you would be clear as to what the additional uses to be allowed in that district were. We would open that up for discussion to make sure that is consistent with what the Board talked about at the previous meeting.

Alderman O'Neil asked what is allowed presently with regards to not corporation houses but the Millyard with regards to mixed use.

Mr. MacKenzie answered the Amoskeag Millyard itself is perhaps the most mixed use of any district that we have. It does allow light industry, offices, retail, restaurants and even housing.

Alderman O'Neil asked it does allow housing.

Mr. MacKenzie answered it does allow housing. I think it is a conditional use, but in essence they just have to satisfy to the Planning Board that it is a reasonable use that is not going to be impacted by a...let's say there is already an industrial use in the building.

Alderman O'Neil asked so there is nothing that we can do that would make it more attractive down there to today's world, whether it is housing or business.

Mr. MacKenzie answered I think the people we have talked to felt it was a good idea to have at least a review to make sure that you don't have incompatible uses. I am not sure there is much else other than providing other types of financial incentives or parking opportunities to make housing happen there.

Alderman O'Neil stated my question then would be is there something that is allowed now that we may not want to allow in the future.

Mr. MacKenzie replied I guess the big question is do you allow heavy industry. The Millyard has always allowed heavy industry. The proposed ordinance still does allow heavy industry. In many cases you can work through design to make sure it is not going to impact on residences, but once in awhile it you get heavy machinery that vibrates an entire building that can have an impact on housing.

Alderman O'Neil asked do we have anything presently down there that would fall into that category.

Mr. MacKenzie answered there are some manufacturing uses. For example, in Ralph Sidore's building there are a couple of manufacturers left in that building that are still viable industry. EPE Corporation at 540 North Commercial is still a viable manufacturing company so there are a few left but they are not operations that I would consider objectionable to housing. Those were the two major changes. I know there were a lot of other questions and of course we are happy to continue to respond to any new ones, but those were the major changes that we saw that the Board wanted to make. The conservation zone and additional uses in the corporation housing area. The next section were changes proposed by the Planning Board. Again, I did not necessarily want to go through all of these changes. I was just going to go through and highlight some of the major ones. Several of them were connections. Item 3, though, was an interest by the Planning Board to switch some of the functions of the Building Department, which are zoning administration, over to the Planning and Community Development Department. Our staff has no real comment on that. That is not something that we feel it would be appropriate for us to comment on. The Planning Board seems to feel strongly.

Alderman Hirschmann asked who wants to comment.

Alderman Shea stated I would just like to comment that there is a grammatical error there. Where you have ordinances period and then accept not a sentence so if you just continue right along with that, that would make it grammatically correct.

Mr. MacKenzie replied yes we will do that. Other changes that were made that are fairly significant...

Alderman O'Neil interjected hold on a second. Can we get Leon up here and talk to him?

Mr. LaFreniere stated I would like to say that it is difficult to comment too much because neither the Planning staff nor the Planning Board has discussed this matter with us so I am not really prepared to respond, however, I would mention that Zoning Administration is something that has been an integral part of the Building Department functions since the Building Department was organized and it is part and parcel of how our process is currently administered with the issuance of building permits, the administration of the zoning ordinance with regard to response to complaints, the administration of the zoning ordinance with regard to support that we provide to the Zoning Board, as well as the

interpretation of the ordinance and how it interacts with all of the various regulatory functions of the department. We have currently in our department already a position that is titled Zoning Administrator and that person does operate in that function now but in addition to that we certainly have several other staff people who devote various portions of their time from significant to less significant to that very function. So, this does represent a significant policy shift if we go in this direction.

Chairman Cashin asked who is asking for this.

Mr. MacKenzie answered this is not from the Planning staff. This is from the Planning Board.

Chairman Cashin stated they don't run the City departments.

Alderman Hirschmann stated this is a zoning workshop and apparently they felt they had input in this matter but I would like to think that both of you are running your departments and when you deliver your budget messages every year that your departments stay intact and that your lack of a sales pitch to this Board tells me that you have no interest in pursuing this. Am I correct?

Alderman Pariseau stated Mr. MacKenzie I am a little confused to the reference of the Zoning Administrator. That is currently a position within the Building Department?

Mr. MacKenzie replied there is a Zoning Administrator position in the Building Department, but it is not as easy to just pick one person out because it is kind of an integrated function. There is a Zoning Administrator, but there are other people who deal with the zoning function within the Building Department.

Alderman Pariseau asked what would Kathy Payne be considered.

Mr. MacKenzie answered she is clerical support to the Zoning Board of Adjustment.

Alderman Pariseau asked and Glenn Gagne.

Mr. LaFreniere answered Glenn Gagne is the Zoning Administrator who works within our department.

Alderman Pariseau stated I thought he was the enforcement officer.

Mr. LaFreniere replied that is his function. His title is Zoning Administrator.

Alderman Pariseau asked so the Planning Board wants to transfer Glenn Gagne to the Planning Department. Is that what this says?

Mr. MacKenzie answered their intent, as I understand it, was to transfer the function over from the Building Department to the Planning Department. I am not sure if that would include that particular individual, but it would include the function.

Alderman Pariseau stated they want to eliminate the phrase “and the administrator of the ordinance” and then make reference to the Building Commissioner. Shouldn’t it stay with the Building Commissioner? I don’t know what they are doing here.

Chairman Cashin suggested that a motion be made that no changes can be done unless they go through the Board of Mayor and Aldermen.

Alderman Pariseau moved that no changes can be done unless they go through the Board of Mayor and Aldermen. Alderman O’Neil duly seconded the motion.

Alderman Vaillancourt stated I would like to follow-up on Alderman Hirschmann’s question. Not that we would ever want to be in a position of putting people on the spot, but we are paying you a salary to look into these matters and to advise the Board so I would reissue the question and I would ask what your recommendation is on this matter.

Chairman Cashin replied you don’t have to answer that, Mr. MacKenzie.

Alderman Vaillancourt asked he doesn’t have to answer that.

Chairman Cashin answered that is right. Is that okay?

Alderman Vaillancourt replied no, it is not okay. We don’t have the right to ask questions now?

Chairman Cashin called for a vote on the motion. There being none opposed, the motion carried.

Mr. MacKenzie stated the next item I did want to point out to you was Item 6 on that page. That adds in the table of uses a new use called extended stay facility. It is reasonable to clarify in the ordinance. There was another definition related to extended stay and the Planning Board suggested that you put it in the table of uses so that you know where it is.

Alderman Hirschmann asked could you say all that again so I understand it.

Mr. MacKenzie answered sure. Right now, extended stay facilities, there is no definition in the current zoning ordinance. The Building Commissioner has interpreted that it is basically a multi-family dwelling structure so right now extended stay facilities could go into any of these multi-family zoning districts in the City. I know that there is one proposed in your particular ward. The proposed ordinance would make a new category for it. There didn't used to be one. It used to be under multi-family. We would make a new category and would allow it in more specific districts. It would not allow it in all districts. It would allow it in certain multi-family near highway interchanges. So, for the particular project that you might be concerned about, it has no effect on that particular one near Amoskeag Bridge, but it does limit it to areas like the center part of the city and the residential neighborhoods like Spruce Street that is currently R-3. Under the current interpretation, you could put an extended stay hotel in that area. Under the proposed changes, you would not be able to.

Alderman Hirschmann asked couldn't there be some language inserted that an extended stay facility is in fact a business enterprise and it should go in a business zone.

Mr. MacKenzie answered the Board could conclude that.

Alderman Hirschmann stated well that is the way I conclude it. If you go to an extended stay Ramada Inn for five days, it is a hotel but no one wants to call it a hotel. I would suggest that we put that language in there.

Alderman Levasseur asked, Mr. MacKenzie what do you consider the Cadillac Hotel. Is it an extended stay or is that motel or a hotel?

Mr. MacKenzie answered it is closer to a boarding house. The difference between a boarding house and an extended stay is that an extended stay has a unit and all of your cooking facilities. A boarding house does not have the cooking facilities.

Alderman Levasseur asked how long is an extended stay person allowed to stay before it becomes a hotel. Have we figured that out?

Mr. MacKenzie answered I think I will have Pamela read the definition. There is a definition in the ordinance. There is not a specific amount of time; there is a more generic description that separates it from a hotel.

Alderman Levasseur asked if you were to layer this, you would start somewhere where a hotel, then a motel then an extended stay and then a boarding house. Is that how you would do something like that and then there would be five difference rules or categories that you would have written for each one?

Mr. MacKenzie answered yes.

Alderman Levasseur asked how many extended stay facilities do we have in the City right now. Is this the first one that is being proposed?

Mr. MacKenzie stated there is one behind the Marriott on Huse Road. Again, the difference between a hotel room and an extended stay is the extended stay facility has a full kitchen – stove, sink and cooking facilities. A hotel does not have all of those.

Alderman Hirschmann moved that extended stay facilities only be allowed in a business zone. The problem that I have is an extended stay facility, which could be a hotel or a prison in fact, can go in a residential zone. There is a highway ramp right near Pepperidge Drive. One could end up over there.

Alderman Levasseur stated what I think would make it clearer is exactly what zone you would be able to put the extended stay facilities in and then we could decipher it from there and then each person from each ward would say no I don't think my constituents would want something in that section and then we could narrow it down. I agree and I understand the function of an extended stay facility and I don't have a problem with it but I know from what I saw at the Planning Board two weeks ago was wild about putting an extended stay in a certain area. They had 50 people show up and it was midnight before they even got heard and they didn't leave so I think if we narrowed it down we could probably get to the meat of it.

Mr. MacKenzie replied if you would look at the second page of the Planning Board pages, Item 6 starts on the first page but on the top of the second page it says "for extended stay facility" and it has about a half dozen districts it is allowed in. It says CU, which is a conditional use allowed in the R-3 multi-districts with an asterisk and that is the one, if you were going to pursue the motion as Alderman Hirschmann suggested, you would eliminate that reference. The other districts though are the B-2, that is general business, South Willow Street and other parts of the City. CBD, which is all of the downtown area. IND, which are all of the industrial districts like East Industrial Park and Brown Avenue Industrial Park. RDV which is a redevelopment district. That is a swath of old industrial land through the center part of the City like up Valley Street that is really

not industrial anymore. The last one is AMX. That is the Millyard. Those are the areas currently identified allowable for extended stays in this proposal.

Alderman Hirschmann moved to delete the R-3 multi-use category for extended stay facilities.

Alderman Wihby asked did you say we had one being considered now.

Mr. MacKenzie answered yes. The one that is in Alderman Hirschmann's ward.

Alderman Wihby asked so by doing this action it isn't going to eliminate that because they have already filed something right.

Mr. MacKenzie answered they have filed an application to the Planning Board under State law that grandfathers them so this change would not affect that specific application.

Alderman Wihby asked so if we are trying to do that, that doesn't solve the problem today.

Mr. MacKenzie answered well it makes a point, Alderman, that 50 people came out until 1 AM because they don't want one of these in their backyard and maybe I am going to protect some people in the future. Maybe I can't save these people. Maybe they can't put one near Alderman Gatsas' house next week.

Alderman Pariseau asked can I get a definition of an extended stay facility. Would this make reference to drug rehabilitation homes or halfway houses?

Mr. MacKenzie answered I don't believe so.

Ms. Goucher stated the definition that is proposed states, "extended stay facility is a hotel-like establishment offering lodging accommodations to the general public often available on a weekly or monthly basis and providing in-room cooking facilities."

Mr. MacKenzie stated I think that would preclude your institutionalized population.

Alderman Lopez stated I have a problem here on the changes proposed from the Planning Board. When this was submitted to Bob MacKenzie, there is information in there that maybe is very valuable as to why they are not here. Were they informed or did you coordinate anything with them or what? Are we just getting this with no comments from anybody? Am I missing something here?

Mr. MacKenzie replied the Planning Board did review the proposed Zoning Ordinance for about a year and they had a number of changes during that process. These other ones have come up since that review process and at their most recent meeting they did discuss these and asked to recommend to this Board that these additional changes come in.

Alderman Lopez asked and by submitting this to us now then are you saying you agree with this.

Mr. MacKenzie answered we were at the meeting where these were discussed. We did generally concur with some. We questioned certain other ones. I guess we were not prepared tonight to recommend for or against any specific ones, but they did take a specific action and we did want to at least present them to the Board to see if they thought they were reasonable.

Alderman Wihby asked when they brought these up, did you talk to them then about having some problems with it. Did they know you had problems with certain ones?

Mr. MacKenzie answered I believe the Board was aware at least on a couple that I had questions or concerns.

Alderman Wihby asked and they still voted to go ahead and send it to us.

Mr. MacKenzie answered yes.

Alderman Wihby asked do you have a problem with Alderman Hirschmann's motion.

Mr. MacKenzie answered no. I think it is within the Board's decision making to decide which uses go where.

Alderman Wihby duly seconded Alderman Hirschmann's motion to delete the R-3 multi-use category for extended stay facilities.

Alderman Levasseur stated maybe you could clarify something for me here. The difference between the extended stay and a hotel or a motel seems to be that it is tougher to get a hotel or motel into a certain area then it would be for an extended stay. If that is not correct, I would like that straightened out for me now. I know, only because of Alderman Hirschmann's situation, that they are trying to get the extended stay in by adding the kitchenette in there because they would not be allowed to get the motel or hotel in there.

Mr. MacKenzie replied I think it is just a different market. Residence Inn down in Merrimack was one of the first in this region to go in and it caters to a certain business group that if a company is bringing in an executive for a month to help them set-up...

Alderman Levasseur interjected I understand that. I don't have a problem with extended stays. I just stayed in one as a matter of fact and like Alderman Gatsas was saying they are everywhere at the beach and they are good things in that situation, but is there a difference in how we get them through because of their...are they just easier to slip into a certain area than they would be or is it the same restrictions and the same rules and the same zoning ordinances that must be followed in order to get them in. I think that is the big question here.

Mr. MacKenzie stated there is a certain irony at the present time under the current ordinance in that I believe the Building Commissioner has interpreted this as a multi-family unit so presently they are not allowed in most business zones. So, there are problems with the current ordinance in dealing with these. Clearly, it is a commercial-like structure. It is not as high an impact as a traditional motel. It has high daily turnover. It has lower turnover, but it is still a transient population that is commercial in nature.

Alderman Levasseur replied what the difference is here and the important point that he is making is it seems that those are easier to slip in because people are not coming in and out with traffic problem. It is not creating as much of a traffic problem and I think you also need less parking spaces if you have an extended stay. Isn't that correct?

Mr. MacKenzie responded typically you will not have your function rooms, you don't have your conference centers, you don't have the restaurants. Those are relatively high impact commercial ventures associated with a hotel that you rarely have with an extended stay facility.

Alderman Gatsas stated maybe I missed this, but let's assume on South Willow Street I wanted to put an extended stay. The Building Department would consider that a multi-family and out of use?

Mr. MacKenzie replied I am going to defer to Leon, but I believe the answer to that is that under our current ordinance, which does not recognize these type of animals, I believe yes.

Alderman Gatsas responded well I am not concerned with the current because we are sitting here trying to change what has occurred to something new. Under yours or the proposed changes, would that be allowed?

Mr. MacKenzie replied yes.

Alderman Gatsas asked but it is also allowed in an R-3.

Mr. MacKenzie answered in this proposed one it would be allowed in certain R-3's within 1,000 feet of highway interchanges, recognizing that there are multi-family units near highway interchanges and these cater to the motoring public and that is why this provision allowed it within 1,000 feet of highway interchanges in the R-3 districts.

Alderman Gatsas asked so what you are saying is that if I am in within 1,000 feet of an interchange on an R-3 lot that I could put one of these without any problem.

Mr. MacKenzie answered it is a conditional use. There is a difference between a CU and a P. P is permitted by right. The Zoning Department could issue a permit if the Planning Board issued site plan approval. Conditional use is they would have to go to the Planning Board and demonstrate that it is a reasonable use for that site. So it is one step more difficult than permitted by right.

Alderman Gatsas asked what about the R-4 districts.

Mr. MacKenzie answered under this entire proposed ordinance there would no longer be any R-4 districts. R-4 and R-3 are merged into one urban multi-family zoning district.

Alderman Wihby asked so we would allow it under R-3 in the current proposal but would you allow a hotel there within 1,000 feet.

Mr. MacKenzie answered no.

Alderman Wihby asked so it is harder for a hotel than it would be for an extended stay facility.

Mr. MacKenzie answered yes.

Alderman Wihby asked and if they wanted to do that they could whereas if we go along with this amendment then you couldn't put a hotel or an extended stay facility.

Mr. MacKenzie answered correct.

Ms. Goucher stated I would like to make one point of clarification to the Board. If the conditional use in the R-3 is eliminated, essentially the hotels as we define them and the extended stay facilities would all be permitted in the same zones. As the Planning Board was looking at it, they were adding the conditional use for the R-3 zone so if the Board of Mayor and Aldermen chooses to eliminate that, then the districts where extended stay facilities would be permitted are the same as what we are proposing for hotels and motels in there. I think the clarification maybe that would help is that I don't think it is really a matter of making one more difficult or easier to go in a certain zone. What it does is help the Building Commissioner now have a definition for this animal that has shown up recently that we never heard of when this ordinance was put into effect and because he didn't and I am not trying to speak for him but we have had some conversations about this and because there hasn't been either a definition or a use category for extended stay facilities he has had to refer to a lot of the language in the building codes, which because of the kitchen facilities puts it much more in the category of a multi-family and I think that is how it has come to be perceived and interpreted. So, by allowing a definition and putting a category and determining where that is appropriate and from what the Board seems to be talking about they seem to feel that it is more appropriate in the business zones and I think that eliminates some of the confusion in some of the issues that have arisen by not having it in there until now.

Alderman Hirschmann stated there is no more R-4 so everything R-4 got merged into R-3 so you are actually making bigger areas to put these things if we leave this intact. Right when you get off the highway near Wellington Hill, is that R-3?

Mr. MacKenzie replied there is a portion of Wellington Hill that is R-3 that might fall under this category.

Alderman Hirschmann stated so someone could put a big extended stay facility up there if we don't make this amendment, right.

Mr. MacKenzie replied it is possible, yes.

Alderman Hirschmann stated I recommend that we make the amendment so that residential areas don't get impacted.

Alderman Clancy stated I have another spot. Arah Street. Part of that is zoned commercial for business. There is a beauty parlor and a dog kennel up there on Arah Street so they could put an extended stay facility there couldn't they?

Mr. MacKenzie replied that section of Arah Street is actually in Hooksett I believe.

Alderman Levasseur stated as far as the increase in the zoning that you are thinking about for the West Merrimack area, is that an R-3 area or is that zoned something else.

Mr. MacKenzie replied the underlying zone is an R-3.

Alderman Levasseur stated that is a spot where I think the R-3...I don't want to make this amendment because it is too broad of an amendment. I think we need to narrow the amount of R-3's because I agree with Alderman Hirschmann and his R-3 and maybe they wouldn't want something over there although I still think that wouldn't be a bad spot because there is some open space there but I would like to see...if there was going to be an extended stay down in this Millyard area, which is R-3 because with the civic center coming on I am hoping that some of these empty buildings will have some of these places like bed & breakfasts and that is where you will get an extended stay.

Alderman Hirschmann stated the Millyard is AMX.

Alderman Levasseur asked, Bob, you agree though that some of this area where we are going to try and increase its use is also an R-3 and I would not want all of the R-3 that Alderman Hirschmann is proposing at this time to be completely taken in. Maybe there are some R-3's that we could agree on and maybe if you went ward by ward, but in my ward I would want some extended stay facilities if possible.

Mr. MacKenzie answered that is, I believe, allowed under the provisions that we talked about before with the corporation housing district. That is an R-3 district and with the overlay for special uses, that would be allowed.

Alderman Levasseur asked so by putting in the extra language for the special uses it wouldn't affect us on this motion.

Mr. MacKenzie answered correct.

Alderman Vaillancourt stated I would like to get back to the definition. I believe you ran the word week or month or something by us, but I don't think there was any stipulation that it had to be a week. In other words, somebody could stay two or three days and even though it might be designed as a week, the wording would not preclude somebody from even staying one night. Is that correct?

Ms. Goucher replied that is correct. The wording doesn't differentiate and my understanding of extended stay facilities is that they do permit that. I believe the one on Huse Road does permit individuals to stay on a nightly basis if they so choose. I think what they try to do is make it cheaper to stay for a longer period of time, but it is my understanding that the one on Huse Road and extended stay facilities in general do permit staying one night.

Alderman Vaillancourt stated so the purpose is not necessarily for the duration of the stay but for the convenience of the type of room where somebody might want to stay. If I might be a traveler that doesn't like to go out to a restaurant, I might like to have a small kitchen in my room. So in other words there really is no difference between an extended stay and a hotel.

Mr. MacKenzie replied there is a major difference in the ancillary features and some of those are fairly high impact like the function rooms, the meeting rooms, conference centers and restaurants. Those are not included in the extended stay. The only other difference I see and it is not from a regulatory standpoint, but extended stay generally discourages short stays through their pricing and encourages longer stays through their pricing structure.

Alderman Vaillancourt stated I understand that this is conceptually true, but in the definition you gave us that is not...is there anything in the definition that would forbid, for example, a restaurant at an extended stay facility.

Mr. MacKenzie replied yes. You could not have a restaurant. You could not have function centers at an extended stay facility. You could in all of the other districts, but not in the R-3.

Alderman Levasseur stated I am wondering and I am actually worried because you see what Salisbury is like and you see what Hampton is like in the winter time when all of your rentals are gone as most of them rent by the week. If we allow this to go forward, are people going to start taking their buildings and throwing a kitchen in there and then there will be people staying for a month or two months and then they end up staying there for a really long time and we have these areas that really just don't look very good. Do you know what I am trying to say? I don't think Salisbury and Hampton and those areas look very nice and that is what they have. It is an extended stay kind of area.

Mr. MacKenzie replied I would say that extended stay blurs the line between hotel and a traditional apartment building. The rents are fairly high though.

Alderman Levasseur stated but we don't control the amount of rent that these people charge and then when we are in good economic times or times get bad we are in this situation where they just need some money coming in and the guy gets foreclosed on and then you have people buying them for \$25,000 or \$40,000 and the next thing you know, what do we have. I am just putting this out there for people to think about because it is going to be another Cadillac Motel.

Alderman Lopez asked, Leon, does this hurt people or businesses in the City of Manchester if we go along with Alderman Hirschmann's motion.

Mr. LaFreniere answered I don't know if I could characterize it quite in the fashion you have asked it. It definitely would restrict the areas where you could place this sort of enterprise, though the similarities between this enterprise and a conventional hotel are so significant that we have felt that characterizing them as such so that they are allowed in similar zoning districts was appropriate. Any time you restrict the areas where you can conduct certain uses, I suppose you are having an impact on how people conduct business but there certainly are a number of other opportunities within the other zoning districts for this type of use to take place.

Alderman Lopez asked for clarification of the motion.

Ms. Thibault stated the motion is to delete the R-3 multi-use category for extended stay facilities.

Alderman Levasseur asked did we get a recommendation from Bob. I know you guys have worked a long time on this.

Mr. MacKenzie answered for me it is a close call. This is one where we have to make sure that we protect our multi-family neighborhoods from what sometimes they perceive as commercial encroachment. These are animals that we haven't had a lot of experience with. The one on Huse Road is a fairly low impact project that has not had much of a traffic impact on the adjacent neighborhood. It is a close call and the Board can make that call.

Alderman Gatsas asked why are we trying to work around what somebody has called or given a name to something that walks like a duck, looks like a duck and quacks like a duck but we want to call it something else. It is a hotel. Just because it doesn't have a function room, it is still a hotel. Does that mean because a rooming house that puts in a sink with a stove on top and a refrigerator underneath it that it now constitutes itself as a hotel or an extended stay facility? We are trying to work avenues around something that

I think is...if somebody comes in and says this is what we are planning on doing, it is a hotel. I don't know how else you look at it.

Alderman Pariseau stated I think the situation is that everything is based on interpretation and to make things clearer, there is a difference in this ordinance now between hotel and an extended stay facility. I think that is the purpose of what this Committee that got together to come up with this zoning ordinance was. These developers take you to court and the judge rules according to his interpretation of a hotel definition, but if we have a clarification referring to extended stay, it is different and I think that is the whole purpose.

Alderman Wihby asked, Bob, before when you were going one way with the Building Department and they were going a different way and saying you couldn't have it in an R-3 or a business and all of that, that is when it really mattered. Now we are making it the same as a hotel basically. We are telling you that it is going to go in the same areas as a hotel would so do you even need another animal?

Mr. MacKenzie answered I think this is a major step forward because what we have right now is pretty crazy. What we are talking about right now with the R-3 is a fine-tuning of that and it is not as clear as it used to be but the Building Commissioner still has to make a decision and he has to classify these and the more discrete we have this terminology, the easier it is for Leon to make a decision as to whether this goes in the district or not.

Alderman Levasseur stated I would like to hear from Leon.

Alderman Wihby asked as far as whether he likes the motion or not.

Alderman Gatsas stated if we went out on Elm Street and asked 50 people who walked by what do you think an extended stay facility is, they would tell you that it has to be something for the elderly. I don't think anybody in their right mind is going to say to you it is a hotel. I think they are going to tell you that it sounds like a place where you would put seniors, similar to a nursing home.

Mr. LaFreniere stated there is another way to accomplish what I think the motion that was put forward is with regard to how the ordinance might be structured and that would be not to create a new use group category such as has been recommended by the Planning Board but to just add under the category for hotels and motels, extended stay facilities. At that point, they are all allowed in the same district and it is very clear that we are considering them as a municipality to be essentially the same animal. That, in conjunction with the fact that we now have a definition for extended stay facilities in our

definition section, should prevent further dispute as to what they are or what they are considered by the community. So, there are two ways to handle it essentially. If the R-3 reference is removed you can either add an entirely new use category as the Planning Board has proposed for extended stay facilities allowing them in the same districts that hotels and motels are allowed in or just add the verbiage after hotels and motels to include extended stay facilities.

Alderman Wihby asked which way do you want it. Does it matter?

Mr. LaFreniere answered as long as the definition is intact, which it is in the draft ordinance then I think that the simplest way might be to add it into the hotels and motels category. If the consideration is that they are essentially the same impact, that they are essentially the same creature as a hotel/motel, then categorizing them in the same use group category eliminates all confusion.

Alderman Hirschmann withdrew his motion.

Alderman Wihby asked is parking the same. If you leave the motion that is on the table now, is the parking the same at a hotel as at an extended stay?

Mr. MacKenzie answered that was corrected. Right now, you need two spaces per unit at an extended stay when that is really not required.

Alderman Wihby asked what is not required.

Mr. MacKenzie answered right now, since it is interpreted that an extended stay is...

Alderman Wihby interjected if he withdraws his motion and we just add it to the hotel and motel category, are we doing anything different with the parking.

Mr. MacKenzie replied now.

Alderman Wihby withdrew his second.

Alderman Hirschmann moved that extended stay facilities be added to the hotel/motel category. Alderman Wihby duly seconded the motion.

Alderman Levasseur asked so now you are saying that the extended stay facility doesn't need two parking spaces but only one like a hotel and motel or are we going to...

Mr. MacKenzie answered that is a separate discussion from the motion, but the proposed new ordinance does bring extended stay more consistent with a traditional hotel, which is one space per unit.

Alderman Vaillancourt stated earlier I understood you to say that there was more of an impact on a hotel than an extended stay. I found that counterintuitive so I am frankly more comfortable with what you are saying now because if I am at a hotel it is more likely that I am just going to take a cab there and not have the impact. If I am at an extended stay I am more likely to have a rental car and I might have some friends come in and enjoy my kitchen facility with me. So, I didn't understand what you were saying before and now you are saying that the impact would be similar?

Mr. MacKenzie responded I would like to clarify that it is one and a quarter space per unit for either a hotel room or an extended stay. For the other special facilities, if they do have major conference rooms or restaurants, they have to provide additional parking. So, extended stay does not have those and they do not have to have the additional parking that a hotel might if they had a conference center.

Chairman Cashin called for a vote on the motion. There being none opposed, the motion carried.

Mr. MacKenzie stated if I can forge ahead I can fairly rapidly wrap up the issues on the Planning Board changes. The next one I wanted to comment on was Item 8, which adds a setback for buildings and structures from a wetland of 25 feet. Currently, there is not setback. You can build right up to the wetland. The Planning Board recommendation here is modify that slightly to provide some options for waiving that in certain instances and if the State allows somebody to fill in a wetland, then this clarifies that you don't need the setback if there is no more wetland that has been approved by the Wetlands Board. So, this does modify that a little bit and provide opportunities to waive that in certain instances. I am just going to forge ahead. The next comment I have is on the next page, Item 12. This is one that clarifies the current ordinance dealing with impact fees which says that in order to qualify for exemption that you had to have a facility that was 62 and older pursuant to Federal law. There are some projects where you can have units that are 55 and older where the units are covenant and have no children. This clarifies that if you can legally have 55 and older and legally covenant that there are no children, that you would not have to pay the impact fee. This is a provision that provides some fairness and consistency with the Federal laws. The final one on the Planning Board changes is actually a map change and it is fairly small so it is probably impossible to see on this particular map. The Planning Board was familiar with a specific site in the north

end on Webster Street at the corner of Beech and Webster and was recommending that the proposed B-1 for that strip be extended back 275' from Webster Street.

Alderman Pariseau asked what do you mean back. Westerly?

Mr. MacKenzie answered northerly.

Alderman Wihby asked what is it now.

Mr. MacKenzie answered the line is roughly 100 feet as proposed.

Alderman Wihby asked so instead of 100 they want to go 275 feet.

Mr. MacKenzie answered yes.

Alderman Wihby asked whose idea was that.

Mr. MacKenzie answered that was the Planning Board's recommendation.

Alderman Wihby asked why.

Mr. MacKenzie answered I think they were looking to see what would be reasonable uses for that site and if you do limit it to 100, you are limited to fairly small neighborhood uses.

Alderman O'Neil moved that it go back to what was originally recommended by the staff.

Alderman Wihby duly seconded the motion.

Alderman Shea asked is that the area where they had the dispute about putting in a drug store.

Mr. MacKenzie answered yes.

Alderman Shea asked so it is currently zoned what.

Mr. MacKenzie answered right now it is zoned residential. The proposed ordinance shows that Webster Street, along a fairly narrow frontage, would be neighborhood commercial but only going back roughly 100 feet. It does limit it to very small neighborhood commercial uses.

Alderman Wihby asked are we talking about leaving it the way it is residential or leaving it the way it is that it is business for 100 feet.

Alderman O'Neil answered my understanding is the recommendation that has been laid on the table in the original draft ordinance said neighborhood business because everything up on Webster Street is on variance. That allowed that zone from roughly Webster northerly 150 feet. All I am saying is go along with the original recommendation.

Alderman Wihby asked which was to change the zoning, but not any bigger.

Alderman O'Neil answered yes.

Chairman Cashin called for a vote on the motion. There being none opposed, the motion carried.

Alderman Levasseur stated concerning the impact fees and this new language you have here, it says "covenanted to not allow children under the age of 18 in accordance with Federal law." I am a little worried about that. On the 55 and 18, is this an exemption from impact fees for these types of buildings?

Mr. MacKenzie replied that is what is proposed, yes.

Alderman Levasseur asked so you are saying that if people over 55 live there and their children come to live with them, that doesn't impact or is that not a big problem. I don't see why we are giving this exemption is I guess where I am going. Is the impact fee only because it impacts our schools or does it impact everything around us?

Mr. MacKenzie answered the impact fee here is a school construction impact fee.

Alderman Levasseur asked and that is all the impact fee has ever been related to.

Mr. MacKenzie answered there is a second one that relates to fire stations, but this would not waive it for the fire station one.

Alderman Hirschmann asked isn't it a fact that there is a sewer impact because up in my corridor they are building these 55 and older buildings on every corner. Aren't they put on the sewer grid and charged impact fees?

Mr. MacKenzie answered yes but it is actually not considered under State law an impact fee. There is a separate ordinance for special assessments for sewers.

Alderman Hirschmann asked that will remain, correct.

Mr. MacKenzie answered that will remain and this would not impact on that one.

Alderman Pariseau stated so they just want to eliminate the school impact fees.

Alderman Vaillancourt stated so I understood you to say that this was to come into compliance with Federal law or regulations of some sort and it says so right there.

Mr. MacKenzie replied I don't want to imply compliance with Federal law. This would at least be consistent with Federal law.

Alderman Vaillancourt stated so at the time when people are living longer and longer and we are considering raising the age for retirement and Social Security, we are lowering the age that they are considered old here. It seems counterintuitive, but if that is what the Feds want.

Alderman Levasseur stated I have a hard time believing that any time we build a large complex of some of the...and I know there is one proposed up over on Candia Road somewhere for 55 and older, that it doesn't impact us somehow in our schools whether it is the traffic or the more signs that we have to put up. I don't see why these buildings shouldn't help pay for some of the schools or put some money towards the schools when we are allowing these people to build these 200 or 150 unit buildings and not having to pay. I will give you guys a perfect example. I don't have a school in my ward. I put an apartment on top of a building that has been downtown that hasn't been built. Just put an apartment in a building that has always been there and had three floors and they charged me an impact fee. I have to pay an impact fee because some day I am going to bring my kids downtown to live in a third floor apartment? I don't think that is going to happen, but I will pay it because it is there and I think that if a downtown guy has to pay it because he puts an apartment in a building because there wasn't an apartment there before that these people building these 55 and older should have to pay this impact fee also so I would rather we didn't make this exemption. I think we should try to get as much money as we can. If we are going to allow these people to build these buildings, why don't we get some more money for our schools this way? I don't see why we would have a problem with that. I can't imagine that it doesn't impact the schools somehow. I don't think we should have an exemption. I think they should pay the impact fee.

Alderman Levasseur moved that no exemption be allowed for school impact fees.

Alderman Vaillancourt duly seconded the motion.

Alderman Gatsas asked how much is the impact fee that we are talking about.

Alderman Pariseau answered this isn't on the residents. It is on the developer.

Alderman Gatsas asked how much is it.

Mr. MacKenzie answered it ranges from, for a single-family house, which this would not apply to a single-family house, is \$1,652 and it varies depending on the type of unit. An apartment building I think is \$854 per unit. Duplexes are slightly different. It was analyzed how many kids typically came from different types of units and the impact fee was based upon that.

Alderman Wihby stated we are eliminating the fee, which means what. Does it mean that these developers who aren't expecting to have any children are still going to pay the impact fee?

Mr. MacKenzie replied they are not going to pay an impact fee. If you went with this amendment as proposed, they would not pay an impact fee.

Alderman Wihby stated there is a motion on the floor, which would mean that they would pay the impact fee.

Mr. MacKenzie replied if you voted with the motion on the floor, then they would pay an impact fee.

Alderman Wihby asked and aren't impact fees based on some sort of reason on why we have them or we don't care anymore. I thought initially when we first came up with them we were allowed to do that because of the fact that it was an impact on schools for instance. Is that all out the window now and everybody just charges impact fees for anything?

Mr. MacKenzie answered we tried to design the original impact fee to be as consistent with the proposed impacts of the project as possible.

Alderman Wihby asked are we allowed by law to charge an impact fee to developer when it is not going to affect a school.

Mr. MacKenzie answered one of these has already been tested in court and I might defer that question to the City Solicitor.

Alderman Levasseur stated the impact fees go towards the building of schools not to salaries and stuff. It is for projects. I will be honest with you guys. You think about the apartments that are going to be built downtown. Hopefully all of these buildings up top will fill and we will be collecting impact fees from them but it is very rare that you are going to see people with children living downtown. I hate to say it but I had to pay it and I didn't like it but now that I see the situation with how much money we have to spend on schools, every dollar is going to help and this is what we are going to be telling everybody from now on. If you want to come and live here or build some projects, then you are going to help our community out.

Mr. Muller stated the only case that I am aware of with the impact fee and this was a school impact fee, was appealed. It involved the property that was proposed to be the 55+ in accordance with the Federal law, however, that case never reached the merits. Just before trial, the developer withdrew their appeal and, therefore, it never reached the Superior Court. As a general legal issue, the State statute provides that the Ordinance may provide for a waiver process but given the may language it is not necessary.

Alderman Wihby asked so we are not doing anything illegal by making them pay.

Mr. Muller answered as far as I can see, as I said the waiver process is discretionary under the State statute. It is not mandatory.

Chairman Cashin called for a vote on the motion to eliminate exemptions for school impact fees. The motion carried with Alderman O'Neil being duly recorded in opposition.

Alderman O'Neil stated I would like to go back to Item 8, the wetlands setback. Does that affect at all and I know the project hasn't gone far but the new fire station out on East Industrial Park Drive? I know there were some wetland concerns out there and where the building would actually be placed.

Mr. MacKenzie replied that particular lot is free and clear of wetlands. If I could, Mr. Chairman, I would move along to the final of the three sections, which are changes proposed by staff and this is actually a combination of changes that I had, that our staff had, the Building Commissioner, and the City Solicitor's Office reviewed particularly the sign ordinance. I also met with some of the public including Artemis Paras and there are certain comments and corrections in there from her as well. That is where this particular

group of comments came from. I would just start by...I am not going to review every single one of these changes, but I do want to highlight some of them. The first few sections deal with putting back in a reference to planned developed in Items 1 and 5. Planned development is currently in the ordinance. That is whenever you have more than one principal structure on a lot. In the draft, that was eliminated and in retrospect some of the staff, including the Building Department, felt that was an animal that perhaps should remain in the ordinance because you can have four or five principal structures on any one lot and that may need specific review in order to protect the public interest. So, there are a couple of sections that you will find in this that relate to planned developments. There have been a number of clarifications to definitions. For example, there is a new definition for self-storage facility because that is a slightly different animal than your typical warehouse development or major storage in that you do have retail...it is almost a retail storage as people do come in and use these. Again, Item 6 is basically just technical in nature. Item 7 is the one that deals specifically with putting back in the planned development section. Item 8 is a correction. There is also interest in working and we have to provide additional work on planning for the civic center area and that may have zoning changes, which will come in later. There was one correction here, not a correction but a suggestion that surface parking lots not be permitted within 1,000 feet of the civic center and if I could just kind of go over the rationale for that, we do expect that the largest economic benefit from the civic center will occur in those blocks immediately adjacent to it and if you start allowing the demolition of structures to put up quick parking lots, you will not reach the economic or the property assessed valuation impact that you would have if you encourage building development immediately adjacent to the civic center. That was a new one suggested in Item 11.

Alderman Wihby stated we had some communication from some people about signs and stuff. Did you listen to them and sit down with them and take care of their needs?

Mr. MacKenzie replied I believe Dan from the Solicitor's Office went over that in some detail. I know there has been a question about the new type of electronic signs. We actually have an application for a fairly nice and interesting sign in the Millyard related to Autodesk and that is a new type of sign that has not been regulated before. That is a sign that can change over...you know the sign may be different a week later because of the LED display. I think it is perhaps the intent to allow those. I am not sure if the current definitions in here actually allow those and we have to go back and take a look at some of those. At the present time, we do not allow flashing signs because they can be distracting, particularly along major roadways.

Alderman Wihby asked have you sat down with Mr. Smile regarding the communication that they sent to see what we could work out to make them happy.

Mr. MacKenzie answered I apologize but I have not seen that. I would be happy to sit down with anybody to review it, but I have not seen that communication.

Alderman Wihby asked do we still have time to change this.

Mr. MacKenzie answered you will actually have other opportunities. At some point the Board will have to set a public hearing date. The Board could actually make suggested changes that night at the public hearing. Following that it will go to the Committee on Bills on Second Reading where the Committee can make changes and of course their recommendation comes back to the full Board and the full Board can make changes. There will likely be three more opportunities to make changes.

Alderman Wihby stated just to follow-up on Alderman Wihby's comments, I have on a couple of occasions met with Mr. Smile and I don't have a problem with what he presents. I think it brings some life to the City. I don't necessarily agree with the hazards. The State uses these on the highway pretty regularly with cars doing 85 MPH or 90 MPH and I know that is a specific...it is not...I don't want to generalize the whole issue but I would encourage staff to sit down with him and see what agreement can be reached.

Mr. MacKenzie replied we would be happy to do that if you would like us to and I would like to get a copy of the materials for us to consider.

Alderman Hirschmann stated, Bob, that new sign that you were talking about should be...a marquee is what it is. Don't you agree that it is a marquee, a changing sign?

Mr. MacKenzie replied it is a sign composed of little LED's almost like a television screen but it changes slowly over time. It doesn't flash and it is not animated but it changes their message. They may have a new product a week from now and it slowly evolves. It is not one that you can really see in animation. It is a unique sign and it is a very expensive sign.

Alderman Vaillancourt stated this is very interesting. Is it the contention that a sign that flashes is dangerous and a sign that has words that change is not dangerous? If so, I am not sure I understand the contention. I would think, for example that it might be more distracting and I am not saying that I am against this because in the true Libertarian sense people ought to be able to make signs, but are you contending that it is less dangerous for somebody to read a sign that has a lot of words moving across than it is for an image to be flashing?

Mr. MacKenzie replied generally throughout the country the flashing, the bright flashing signs, particularly these new blip signs that they have can be distracting.

Alderman Vaillancourt asked could you provide us evidence of that.

Mr. MacKenzie answered there is a long history of regulation of signs and we could provide some information, sure.

Alderman Lopez asked did everybody get this packet and has Planning received this. I read it. I just don't understand...Mr. MacKenzie is this the first time you have see this packet?

Mr. MacKenzie answered yes. I have not seen this before.

Alderman Lopez stated I think that signs are great myself. We should pass this tonight.

Alderman Levasseur stated I am wondering how this ordinance...I know the sign ordinance was tabled but is this the same package that was tabled or is this difference.

Mr. MacKenzie replied that was from Intown Manchester and that has not proceeded to my knowledge. That was separate.

Alderman Levasseur asked so you are not looking to try and make every single sign in downtown Manchester 2' x 2' made of wood with gold lettering, right.

Mr. MacKenzie answered no.

Alderman Levasseur stated I do like the idea of getting some qualify signs downtown and some with lights to light up the area.

Mr. MacKenzie stated my staff would be happy to meet with you again if you want before the public hearing. Signage is always one of the most difficult parts, but again we would be happy to meet with the NH Sign Association.

Alderman O'Neil stated it sounds like the Planning staff is going to meet with Mr. Smile and try to work this out but can I go to Item 21. It sounded like Mr. MacKenzie had completed the staff recommendations. Is that right?

Mr. MacKenzie replied if I can just run through and make sure that I hit all of the major topics. There were some sections that frankly we had not fully developed. For example,

fences, and again the fence section is similar to our existing ordinances. That, again, has a long history so we have added the accessory structures. We have added the fence section. We have also proposed a map change. Again, this would be a map change and I would like to specify to the Board where that is. There was a property owner that asked that we bring forward one for consideration. This is a piece of property on the west side of Manchester. The west side of the Piscataquog River north of the Biron Bridge. This is a piece of property where Kelley Street runs out, across the Kelley Street Bridge, it is a property that is currently vacant and there is a sandpit just north of the bridge opposite Biron Street. This is a property where the applicants looked at it for single family development before. It is awkwardly shaped and they would like to see RSM, which would allow townhouses or potentially an elderly project that they would be interested in. We are presenting that for consideration by the Board. We have looked at the site before and it is not well suited to single family. It could be better suited to RSM so we do not have a problem if it goes ahead with the rest of the public hearing items to be considered at the public hearing and have the Board look at that one.

Alderman Pariseau moved to make that area RSM. Alderman O'Neil duly seconded the motion.

Alderman Hirschmann asked you are changing it from single family to multi. That would add more impact to the schools.

Chairman Cashin called for a vote on the motion. The motion carried with Alderman Gatsas abstaining.

Alderman O'Neil stated I think this question might be more for Leon, but on Item 21 with regard to outside storage of vehicles and equipment and materials and the fencing and the need for...I think there is where this is, the slotted pieces into the fences there seems to be a real inconsistency in the City on this. Businesses that were not required to do it back when they built their facilities now go to put a small addition on to their fenced in area and they are now required to do the whole property. It is quite expensive and I think we should take a look at that as well as the inconsistency in what is being required and what isn't. I just ask that that be reviewed and we come up with and I hate to keep using the word consistency, but that seems to be what is lacking. I am talking specifically out in the East Industrial Park area. I do think it is very unfair to existing businesses that they go to expand a little bit and now they are required to do their entire fencing.

Mr. LaFreniere replied I hadn't heard anything about that.

Alderman O'Neil stated it is happening. One other thing that has nothing to do with fences, what did we end up doing on Brown Avenue by the industrial park and southerly.

Mr. MacKenzie replied the Airport Authority...there is still a petition pending but the hope was that the FAA would allow the Airport to purchase those properties that are most severely impacted. If that were the case, the question of zoning then becomes mute. It becomes Airport property and it could be used for various things, including widening the roadway. Clearly the intent of the neighborhood was that they wanted to get from under the traffic issues and their thought was that if it was rezoned commercial then they could sell their properties. Of course, the problem is that if you rezoned it commercial in a very busy area, you add traffic and kind of compound the problem. I believe that the Airport is coming close to resolving that issue. I don't know if they brought it to the Board, but they will be sometime in the future. At this point, we are prepared to...we do have a few things that we clearly have to work on and we will go back and work with the NH Sign Association. We would also be happy to come back to the Board for another work session, but I think at the last meeting the Board was anxious to set a public hearing date and we could also do that or your could do that at the appropriate time.

Alderman Pariseau asked what dates are available or what dates are you looking for.

Mr. MacKenzie answered I would defer to the City Clerk's Office.

Ms. Thibault stated the Clerk has recommended that the public hearing be set for Tuesday, November 14, 2000 at 7 PM.

On motion of Alderman Pariseau, duly seconded by Alderman Wihby, it was voted to set the public hearing for the zoning ordinance for Tuesday, November 14, 2000 at 7 PM.

Alderman Wihby asked can we make sure that we advertise this enough so that people know we are changing the zoning and it is not just a regular little notice in the paper.

Alderman Lopez asked, Bob, does this document have to be certified that all of this complies with State law or is it just the people who put this together and that is it.

Mr. MacKenzie answered there is no requirement for certification. Really, the only requirement is that it is generally consistent with the Master Plan and I believe that most of this is consistent with the Master Plan. There are certain provisions we may have to go back...the Planning Board actually adopts the Master Plan in communities. There are certain provisions that we may have to go back and review with the Planning Board to

look at an amendment, such as changing some of the zoning like in the Crystal Lake and Youngsville area. Other than that, there is no requirement for certification.

Alderman Lopez stated I know that we had a problem regarding political signs. So is that okay? Then can put up...if we are saying no in here I don't know if the City Solicitor can answer that.

Mr. MacKenzie replied there was a report, an opinion, by the City Solicitor's Office. We have to make sure that the sign ordinance is constitutional, including political signs. I know the Solicitor's Office has put quite a bit of work into both that opinion as to political signs and changes to the ordinance to make sure that this is constitutional.

Alderman Hirschmann asked once we adopt this new zoning map, is there a loophole in fact. Can we close the loophole by people that want to change the zone after we adopt this? Can we charge them a fee? Is there a fee now?

Mr. MacKenzie answered there is something before the Committee on Bills on Second Reading to set a fee.

Alderman Wihby asked after we pass this, is that when nothing can come in after that. Isn't today actually the vote or is it after the public hearing?

Mr. MacKenzie answered the trigger is actually when the notice goes in the newspaper. Just to be clear, once the newspaper notice is published, anybody wanting to develop in the City is somewhat caught between a rock and a hard place. They have to conform to the stricter of either the current ordinance or the proposed ordinance. I just want to make that clear. That will put some additional burden on the Building Department, but once that is published you will have the opportunity to make sure that everything is right.

Mr. Smile stated I am here representing the NH Sign Association. I just want to clarify what the Planning Director just brought up. What that means in simple mans terms is that the proposed ordinance in front of you will become law as soon as it hits the newspaper and the public hearing so in essence the sign ordinance that is proposed by the Planning Department will be in effect until the public hearing. So, we may have discussions on it a week from now, but it will be in effect until the public hearing. That is the reason why I am here tonight. I did submit on June 19 full packages to the full Board and to Leon and I thought he was going to deliver it to the Planning Department but I guess that didn't take place and that is probably my mistake, a full package outlining the proposed changes and what we were against. It was a pretty informative piece of literature. It documented the government studies, the case studies, the Supreme

Court studies, etc. I guess what I am saying is that when the meeting is closed tonight the proposed sign ordinance that is before you will be in effect unless otherwise taken out.

Am I correct?

Mr. MacKenzie stated I would like to suggest, since I have not had an opportunity to look at the package...what I would like to do is meet with Mr. Smile, review the package and if the suggestions are reasonable we will make some changes and send those out to you prior to publishing the notice. If the Board is comfortable with that, we will send you the package and at that point we may not be caught in that Catch-22. If you would like to, you could perhaps allow us some flexibility to sit down with Mr. Smile and go through and see if we can reach a reasonable compromise on it and then we will send the changes out to you before we publish the newspaper notice.

Alderman Lopez asked have all of the Aldermen really looked at this package that they received. Is there a general opinion...I think he has all of the documentation needed. He went through a lot of work here and I am surprised that Mr. MacKenzie didn't get a copy of it.

Alderman Wihby stated this has to be approved by the full Board anyway. It is going to come to our next meeting and that is before 11/14 so if we have to pull something and cancel the public hearing then...we are setting the public hearing at the full Board.

Mr. MacKenzie stated the public hearing is November 14. We can hold on the public notice until the next Board meeting and bring to you at the next Board meeting revisions and see if you are comfortable with those and then we could and publish the notice.

Mr. Smile asked would there be an opportunity to make a presentation for about 20 minutes at the Board meeting.

Chairman Cashin answered you can contact the City Clerk's Office.

Mr. Smile asked the Board to look over the package that he sent out.

This being a special meeting of the Board, no further business can be presented, and on motion of Alderman Pariseau, duly seconded by Alderman Pinard, it was voted to adjourn.

A True Record.

City Clerk