

**SPECIAL MEETING OF THE
COMMITTEE ON ADMINISTRATION/INFORMATION SYSTEMS
(PUBLIC HEARING)**

March 16, 2010

4:30 PM

Chairman Lopez called the meeting to order.

The Clerk called the roll.

Present: Aldermen Lopez, O'Neil, Osborne, Corriveau

Messr.: M. Sink

Chairman Lopez advised the purpose of this public hearing is to hear those wishing to speak in favor or in opposition to a proposed Building Code Ordinance Amendment. The Clerk will present the proposed Ordinance change for discussion at which time those wishing to speak in favor will be heard, followed by those wishing to speak in opposition. Anyone wishing to speak must first step to the nearest microphone when recognized and state his/her name and address in a clear, loud voice for the record. Each person will be given only one opportunity to speak and any questions must be directed to the Chair.

Chairman Lopez addressed item 4 of the agenda:

4. The Clerk presented the proposed Building Code Ordinance change:

“Amending the Building Code of the City of Manchester as adopted in Chapter 151.01 of the City of Manchester Code of Ordinances, by adding the 2009 edition of the International Existing Building Code as an additional tool in regulating and governing the repair, alteration, change of occupancy, addition and relocation of existing buildings.”

Chairman Lopez addressed item 5 of the agenda:

5. Chairman Lopez requested Leon LaFreniere, Director of Planning and Community Development, to make a presentation.

Chairman Lopez stated Leon LaFreniere has taken ill, so Max Sink is going to make the presentation.

Mr. Max Sink, Deputy Director of Building Regulations, stated thank you, Mr. Chairman and members of the Committee. The language of the proposal says it all. We were asked by the Mayor to look into the possibility of adopting an existing building code or rehab code as it is called. We met with the State Fire Marshall and our local fire officials to explore what the ramifications of that might be. Those meetings were productive. The State Fire Marshall's Office was not opposed to the City adopting it. Any conflicts with the State Building Code could be worked out in an appeal process at the State, should there be any. We are looking at this code as another tool in the reuse of existing buildings. The straight building code, the International Building Code that the City is under, deals with every type of construction, beginning with new construction. Chapter 34 of that Code also deals with existing buildings. This International Building Code that exists pretty much mirrors the provisions in chapter 34. They are written by the same code agency so there is interaction between the two and conflicts have been addressed at the code copulation level. With that, we hope that the Committee sees fit to recommend its passing on to the full Board.

Chairman Lopez called for those wishing to speak in favor of the proposed Building Code Ordinance change.

City Clerk Matt Normand stated Mr. Chairman, we have two letters that we received from the public. If the Committee desires, I can read those into the record before you call the first speaker.

Chairman Lopez stated proceed.

City Clerk Normand stated the first is from the New Hampshire Preservation Alliance and it is submitted by the Executive Director, Jennifer Goodman and it reads, "Dear Alderman Lopez and Committee members: The New Hampshire Preservation Alliance urges your Committee to recommend the adoption of the International Building Code by the City of Manchester. The Preservation Alliance is the statewide non-profit historic preservation organization with 1,600 individual, business and organizational members across the state. The City of Manchester has been a leader in using preservation and cultural and heritage activities to enhance Manchester's community life and economy. A building code that supports life safety issues and addresses properties of existing buildings is good for our economy, environment and the character of the City's communities. Investment in labor intensive rehabilitation work creates more jobs and keeps more money circulating in local economies than new construction...We believe

this code will add predictability to the development process for owners and investors of old buildings as well as local code officials and increase the viability of certain structures.” Then we have another letter submitted by the New Hampshire Division of Historical Resources and Linda Ray Wilson, the Deputy State Historic Preservation Officer and it reads, “Dear Alderman Lopez and members of the Committee on Administration: The New Hampshire Division of Historical Resources is pleased to know that your Committee is considering whether to recommend adoption of the International Existing Building Code by the City of Manchester. The Division of Historical Resources has testified in favor of the IEBC before the New Hampshire State Building Code Review Board and we strongly encourage New Hampshire municipalities to adopt it. As stated in the attached summary, there are perceptions that rehabilitation of older and historic buildings is made difficult by conflicting and inflexible code requirements intended primarily for new construction. The International Existing Building Code is a member of the International Code collection and a companion code to the International Building Code. The IEBC contains requirements intended to encourage the use and reuse of existing buildings. The scope covers repair, alteration, addition and change of occupancy for existing buildings, while achieving appropriate levels of safety by offering alternatives and options to new construction requirements. While the IBC has the ability to address existing buildings, its treatment of them is less comprehensive and systematic than the IEBC. The IEBC offers greater predictability for reuse of older buildings, not only for design professionals, investors and owners, but also for local officials and firefighters. Several New Hampshire communities have already adopted the IEBC. At the national level, 19 states, the District of Columbia and many individual municipalities have also adopted it and are using it successfully. As our state’s largest City and one with an extraordinary, world-renowned stock of historic buildings, Manchester’s adoption of the International Existing Building Code would be an exemplary and productive strategy for protecting history and public safety while revitalizing the City, saving energy and strengthening the tax base.”

Mr. Don St. Germain, 48 Winnepesaukee Drive, Wolfeboro, NH, stated:
While I am not a City resident, I come here as the Director of Commercial Lending for St. Mary’s Bank. I am able to relay a host of feedback from some of our membership, which does include small developers, property rehabilitation folks as well as property managers. The feedback is pretty consistent in that the current IBC is inconsistent on existing and historic buildings. For those who can see through their aggravation, they can see where it is coming from. City officials and code folks are just applying per the letter that they are currently instructed to do so. That is where the B in IBC comes in. It provides reasonable treatment for a lot of City assets in the historical buildings so it makes sense to keep that character and historical significance. I think the biggest thing that was alluded to was that it was no end wrong. It was adopted by a host of communities. In terms of fair treatment it can easily document and it provides for appropriate safety and strikes

some balance. Adoption of this would also be consistent with the City's own Master Plan that was updated in August 2009. It seeks to take a hard look at some of the City codes, particularly those that might encourage reuse of upper floors of older properties. Giving this a shot would be a great step in the right direction. It would provide City officials with some guidance when presented with some of these challenges and that currently is not the case. The City would show commitment to its own Master Plan. I think there is a fair chance that there would be increased revenues. There are a lot of properties on ice. As these properties are improved, so do evaluations so it would result in built up tax bills. With that, I thank you.

Mr. Richard Girard, 218 Reed Street, stated:

Chairman Lopez and members of the Committee, I thank you for the opportunity to speak at this hearing. There are a couple of points that I wanted to make. Why am I here? That is always a good point to start with. There are two reasons primarily. One happens to be the neighborhood that I live in. It is a neighborhood that I have lived in for almost 20 years now, which contains an awful lot of older multifamily dwellings. I've owned some of those multifamily dwellings and I have gone through the joys of renovating buildings that were built in 1910 to modern codes. It is not fun; it is expensive. Frankly, a lot of times when you look at doing a repair on some of these buildings, the question you ask your electrician, plumber or carpenter is how do I get around doing this so I don't trigger what the code says I have to do beyond the point it says that I can go? I think what happens in a lot of these neighborhoods, because cash flow on those neighborhoods is important, is that you get substandard work done by property owners who can't afford to bring things up to code, but have to do something, but can't do it within the original structure and integrity of the building. A code like this that allows the inspectors...sometimes the inspectors get knocked for not working with property owners, whether they are commercial or residential, and sometimes they earn that, but a lot of times they don't. A lot of times they are up against codes that are inflexible and don't give them an awful lot of options. You have neighborhoods all over the City that have buildings that were built in the 1800s or the 1900s that are still here that need to be renovated and upgraded, but financially, it is extraordinarily difficult. Even when it is possible, I'll spare you the details, but some of the goofy things that I had to do to the buildings that I renovated to bring them up to code doesn't make a whole lot of sense if you are just taking a look at it, but at least it was an option to do. Does that make sense? I think one of the things that you might be able to do to help some of the multifamily struggling Manchester neighborhoods is make it more economically possible for the people who own them to renovate them in such a way to bring them up to a better standard than they will bring them up to if they are forced into a position of doing minimal work to avoid code enforcement or bringing it up to code. Does that make sense? The other reason I am here is reputation. Whether we like it or not, the City of Manchester has earned the reputation it has as being unfriendly to developers

and businesses. It really has. In some cases in this City I think we have gone out of our way to make it an Olympic sport. As the economy struggles, and communities around us are adopting codes that will allow them to more flexibly work with the people who want to work to bring businesses and jobs to their community or more businesses are generated in the community by existing companies that want to expand...If we can work with the existing companies and property owners in this City to renovate buildings to expand in a more economical feasible manner, then I think we take a concrete step to repair the reputation that Manchester has created as a place that is difficult to do business because the codes that we impose upon businesses for buildings built in the late 1800s are onerous. Frankly, a lot of the stuff built downtown 100 years ago or more is probably of better quality than a lot of the stuff that we built today to modern code. No, it doesn't have sprinklers and things like that and I understand that, but talk to some of the major property owners, some of whom I see behind me. Ask them what they could have done to bring their buildings up to a reasonable level of safety. What could they have done to invest in their building, to invest in the City's economy and expand businesses that they own if they weren't hamstrung by codes? I heard from people over the years again and again about the imposition of codes and how difficult it makes it to do business in Manchester. This is a step in the right direction and I'm sure that Commissioner LaFreniere and Commissioner Sink would agree that a set of codes that would allow them to work with the property owners in a manner that they now may not be able to do by law is also going to help our reputation as someone who is unfriendly in the codes we enforce, but in how those codes are enforced. This is a necessary step to allow them to do what I think is needed. I really think this is an opportunity for you to assist property owners renovate multifamily buildings in critical neighborhoods and I think it is a great tool to help the downtown core and other areas in our City with historic buildings to be brought up to snuff in a reasonable manner. Thank you for your time.

Ms. Linda Connell, 1142 Chestnut Street, stated:

I'm a resident of Manchester and also an attorney with the McLane Law Firm and Chair of the Real Estate Land Use Group, but I am here today in my capacity as Chairman of the Greater Manchester Downtown Committee. In the Chamber of Commerce in the Downtown Committee our focus is on increasing the vibrancy, both economically, culturally, and residentially of downtown Manchester. We have been an advocate of having a rehab of the Existing Building Code. We do think that it gives an important tool to the City and sends a message that we really do respect our old buildings and want to have the necessary tools to encourage their development. Over the past decades we have witnessed that Manchester has experienced the same national trends that other places have where businesses and stores move away from the downtown. We have been successful in turning that trend around to a large extent, particularly for those of us who have memories of downtown Manchester, especially Elm Street. A lot of those first floor gaps that used to exist on Elm Street have been filled in. We have had success at a lot of

street level locations, but if you look up and down Elm Street you will notice that there is under utilized space in the upper floors and the rehab of old buildings is not 100%. We have been forward thinking in the City and the Millyard has made great strides as a result of mixed use zoning, but there is more space in the Millyard and the core central district that could be rehabbed and used more effectively to increase our tax base and also continue this upward trend that we have experienced in the downtown where the downtown is once again becoming a vibrant center for the City of Manchester and the entire state and in northern New England. I am pleased when we have visitors who come here and are pleasantly surprised. I see this as one more tool that we can use to encourage economic activity in what is otherwise a very difficult and challenging time with many uncertainties and this is an opportunity to flush out that building code, give more tools with more options where people can have greater certainty in looking at what different approaches they could take to improve their buildings, both in full and on a more limited basis that may be dictated on a level of new tenants that a building is able to attract. Again, I understand that one of the important parts of this is looking at a building by pieces sometimes to encourage the partial renovation to modernize to match the new use rather than in its entirety. Again, when I look around Manchester I see that we are very fortunate to have the number of historic buildings that we still do have, and this really is an opportunity to encourage the reuse of these buildings. As you can see from the letter from the Historic Preservation speakers of New Hampshire, many of the people in the state recognize the assets that we have here. This will give us more tools to encourage their economic development and their reuse so they don't just deteriorate and go away. Again, I would like to very much encourage the enactment of the International Existing Building Code. I thank the City and this Committee for considering it.

Ms. Artemis Paras, Hanover Street, stated:

Good afternoon, Chairman Lopez. I honored your request and put something in writing specifically for you for posterity. I have my Alderman on this Committee and it is good to see you serving the City of Manchester and our Ward. Alderman O'Neil was involved with me. Richard Girard gave me my first speaking comment. He said why am I here? I guess I'm here because I have my own archives of multiple involvement with all kinds of codes in the City of Manchester and as I told Matt Normand, I'm not opposed. I don't want people to think that I am opposed to this presentation of adopting this code; however after being involved and doing my own research and rereading minutes it triggered some thoughts that I am going to present to you this afternoon. What I did for you that I thought you would find interesting...you have been given for this presentation the Ordinance format and I mounted it on the Amended Building Code. That was not the current one, but as I told Alderman Lopez on many occasions, when we are looking at changes, amendments, it helps to look at the existing and what we are proposing and what is happening in between. It is rather simple what I put

together. The thought was simple, but I must confess to you that it was hard to put together all on one page. So, here we go. The first paragraph at the top is just formality and who I am. My name is Artemis S. Paras. I'm a resident of the City. I have been involved in many land use issues. It is up to you to decide what input I have had. I'm asking you to focus here on the addition of this code. It is the 2009. Can you all see it? It is on the first page that I gave you. The International Existing Building Code is going to be added to the City's Building Code. It is usually just referred to as Building Code of Manchester. However, it is the International Building Code and it was adopted. I would urge all the Aldermen to read Chapter 151.01. It is in the City Code of Ordinances. This Ordinance was passed. I didn't realize it was that long ago, 2001. Alderman At-Large O'Neil was a State Senator at that time that I became involved. He asked me to do a short assignment. At the State level they were going to adopt the State Building Code and he asked me to put everything on one page for him to show what is happening at the state level and what is going to happen here. Do you remember, Alderman O'Neil? I made copies for you and I mounted it to show that the Ordinance that goes back to indicating the additions of all the codes that were adopted at that time. That follows that paragraph. The Aldermen who served at that time were a part of that adoption. I'll tell you where you can find it. Chapter 151, which is Building Regulations, and the following paragraph is section 151.01, Adoption of the International Building Code. You will note that the purpose at the time was to repeal the 1987 Boca National Building Code as it was adopted in that section that I just mentioned and adopting the 2000 additions of the International Building Code, 2000 International Mechanical Code and International Fuel Gas Code as well as the 1999 addition of the National Electrical Codes. Now we have another addition. Keep in mind that the code we are talking about today is the addition of 2009. There is a big time span between the adoption of these two different codes and the addition of the 1993 Boca Plumbing Code. The City did not want to wait to see what was going to happen at the state level. According to some minutes that I read, it was onerous at the state level. They stayed with the 1993 at that time. You notice the controlling language establishing minimum regulations governing buildings and structures and establishing fees for the issuance of permits and certificates for the construction and occupancy of buildings and structures. Back when this code was adopted the Fire Code was also adopted. From what I read, Fire Code truly concerns itself with the occupancy of buildings. When we have mixed occupancy in buildings that are existing, I want you people to think what might happen when you have mixed occupancy. I remember Chief Clancy, who was the Fire Protection Chief, always said that we had to follow the most restrictive code when we mix occupancies. That can be a problem. If understanding the implications of adopting this language all the time...I pose a few questions. Like I said, I'm not opposed, but it is worthy of your consideration because if this proposed bill is put on the fast track after you end this meeting and move on to the Aldermanic meeting, I would hope that you would consider some of these comments. It is not to make me happy; it is for general public safety and

for the general welfare of all of the citizens of the City of Manchester. I pose this question for you, giving you this background as a summary, how will a stand alone addition to the family of codes interface with the existing additions in section 151.01 of the City's Code? In other words, we are talking about a code that is in the family of codes and how it is going to interface. In other words, when you have additions that I have shown you and documented, unless someone can tell me that changes have taken place with the additions and perhaps, Alderman Lopez, you might ask Matt Sink. I did speak with Matt and he did say that they hadn't done any upgrading of the additions and that is what brought me to raise this particular issue. At a special Board of Mayor and Aldermen meeting on April 23, 2001, the same year that the former Ordinance changes were made, on page four of the minutes, the International Building Code, that is the code that we are on now...this is very important...provides alternatives for compliance when existing structures are renovated or have changes in occupancy. There is that word occupancy. The occupant load, how many people can be in a building safely with points of egress. I would dare say that we have some buildings in Manchester that don't have two points of egress. I'm just about finished here. The 2001 Ordinance adopting the 2000 addition of the International Building Code, page two...I called my Alderman on this because it ties in with me being the only resident in the entire City who came to both meetings of the Board's Special Committee meeting and that was regarding integrating the merger and consolidation. Do we really know what we did with the two key departments? I called Matt because he knows I like to look back at history because history provides us with insight. If we don't look back we don't know where we are going and we can't achieve a destination. I think you will be as surprised as I was. This is the Ordinance. I have it all here, even the newspaper clipping indicating when the hearing was going to take place and also what was approved. You are welcome to look at any of this if you so choose. What happened was my eyes just looked at one of the first pages and I didn't know what I was reading. Those of you who heard me on the combining of the departments remember well what my position was. I'll give you the sections: 103.1, Enforcement Agency, the Building Department is the enforcement agency for this code and the official in charge shall be known as the Building Official. What happened? We must look back at this and see how it fits in with what actually happened through that move to combine the two departments. The second comment was that another section, 103.02, Appointment, the Building Commissioner, from here on known as the Building Official shall be appointed and should be provided for in the Charter of the City of Manchester. Now the question I had was, did the City violate the terms of the Charter and who is the Building Official? I am bringing this to your attention. I thought that was very interesting. It was accidental, serendipity I call it. It happened because I was paying attention. Aldermen, I thank you for your patience in listening to me, but when you get involved to the extent that I have been over a period of many years, starting in 1985, it was my neighborhood that I was fighting for and I will continue to fight for what I think is right and that is why I am here. I have to answer

Richard Girard's question why am I here. Sometime we don't know, but thank you for the opportunity. If anyone has any questions to ask of me, I have the paperwork here and I have given you a piece of paper with all of the documentation, references, citations, even the pages of what was said.

Chairman Lopez stated just to answer one of your questions, this is a public hearing so we aren't going to take any action this evening.

Ms. Paras stated that I understand, but do you think you are going to make a recommendation at the general Aldermanic meeting this evening?

City Clerk Normand stated I don't believe so. At the end of this Committee meeting we will be taking an action to refer this on to the Committee on Bills on Second Reading.

Chairman Lopez stated I think some of the comments you made the City Solicitor and the Building Department will take a look at and guide us.

Ms. Paras stated that is what I am hoping, that you consider them to be worthy of consideration.

Alderman Corriveau stated just so my constituent knows, I happen to be on that Committee too, so I will work with the City Solicitor to make sure your concerns are addressed.

Ms. Paras asked what are you involved with right now? Once it is on the books it is very hard to amend. The word amend can be a very dangerous word because it can mean repeal or supplement. Alderman Lopez, I saw some minutes from when you were first elected and I was so impressed with your comments. I'll have to tell you at what meeting it was. You were just a beginning Alderman.

Chairman Lopez stated thank you.

Ms. Paras stated well I'm glad that you thought that this was worthy of consideration.

Chairman Lopez stated a technical review will be done by the appropriate Committee before it comes to the full Board.

Ms. Paras stated I thank you for the opportunity.

Mr. Ralph Sidore, 150 Dow Street, stated:

I am actually a resident of Bedford, but I am a property manager for three properties: 150 Dow Street, which is one of the large buildings in the Millyard; 775 Canal Street, which is the former Dunn Furniture Building; and 89 Dow Street, which is Gold's Gym at 881 Canal Street and the stores attached behind it which includes Nadeau's, the INS and a couple of others. I am very interested in seeing this adopted because my understanding is that there are no negatives from my point of view as a building owner and redeveloper. We have put millions of dollars into our buildings in the 18 years that I have been managing these buildings. Anything that helps us to get that done more economically in pieces to improve our cash flow is a plus. It is my understanding that this gives flexibility to the Building Department to create that circumstance. I would encourage this Committee going forward to not only adopt this, but to also look at ways to integrate more closely the work of the Fire Department in pursuing its approach to building projects and the Building Department so that a developer or an owner coming forward gets one set of instructions that don't change. This has been an issue. This is not a criticism because the guys from both departments are working very hard and trying to do the right job and sometimes what they see is different than what they understood. Anything we can do to speed up that process and to clarify it so that there is just one approach makes it so much better for everyone involved, including the Code Enforcement and Fire Enforcement Officials. I'm in favor of this and I hope that you look at other ways to improve the way this whole system works. Thank you very much.

Mr. Paul Mansbeck, 832 Elm Street, stated:

I am here in favor of the adoption of the IEBC. I own the building at 832, 834 and 836 Elm Street, but I live in Bedford. I practice design and general contracting in Manchester and have taken many buildings from ruin to financial success. Any tool that allows us to discuss with the Building Department and the Fire Prevention Department first life safety and the economics of redevelopment would be of great value to all of us, owners, developers, designers, and life protectors. The adoption of this code as I have read it and had discussions with other people including Matt, other contractors and designers would find it very beneficial as a discussion piece to give flexibility to rebuilding our City. Thank you.

Mr. John Cronin, 395 Kearney Circle, stated:

I have an interest in several older buildings throughout the City. Looking at this generally, I think anything we can do to protect the long standing buildings in the community and make improvements to those buildings easier is a good thing. My caution relates to the cross references in this Code and many other Codes. My experience with the Life Safety Code, which was adopted and has caused a lot of problems both to property owners and to enforcement officials... Those Codes have waiver provisions in them for preexisting buildings and unfortunately the

people who are charged to enforce it have some reluctance to use those waiver provisions. We have seen situations in the City where the local authorities point to the State and the State points back to the local community. As a result, nothing gets done. Buildings that would have been profitable are reduced on the tax base and that makes things very difficult. For example, there is one life safety provision that may require a six foot wide staircase. If an owner has it at five feet in a building that was built in the 1800s they may not be able to comply. I think you all know about the situation with the armory, a building that has been used for years for functions has been deemed not to be able to be used. In adopting this, if that is your pleasure, I would ask you to make some comment or caution that the waiver conditions that are in this Code for preexisting buildings be construed liberally by the enforcing authorities. Thank you.

Mr. Mike McCluskey, 241 Tennyson Drive, stated:

I am in support of adopting the modification or the International Code. This is something that I have monitored for a number of years and I really feel that this is something that is advantageous to industrial cities like Manchester. Because of the impact that it has where it allows people to renovate buildings more economically than to leave them unrenovated and therefore unoccupied I think that by adopting these Codes it would benefit Manchester from an employment perspective as well as something that could improve the tax base by converting buildings to office space and creating more jobs. I would ask you to encourage your support for that position.

Chairman Lopez called for those wishing to speak in opposition of the proposed Building Code Ordinance change.

There were none wishing to speak in opposition.

Chairman Lopez advised that all those wishing to speak have 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.

There being no further business, on motion of Alderman Osborne, duly seconded by Alderman Corriveau, it was voted to adjourn.

A True Record. Attest.

Clerk of Committee