COMMITTEE ON BILLS ON SECOND READING

JULY 20, 1999 **5:15 PM**

Chairman Wihby called the meeting to order.

The clerk called the roll. There were four aldermen present.

Present: Alderman Wihby, Sysyn, Shea, Cashin

Absent: Alderman Klock

Chairman Wihby addressed item 3 of the agenda:

> Communication from Alderman Girard submitting two proposed Amendments to the City Charter as follows:
> (1) to insure that School expenditures and revenues will always be separate from the rest of the general fund; and
> (2) to help keep spending from further exploding in light of the State's "Claremont Aid".

On motion of Alderman Shea it was voted to receive and file. There was no second motion.

Alderman Cashin stated that he has not had a chance to see it.

Alderman Sysyn stated that they sent this out…

Alderman Cashin moved for discussion, duly seconded by Alderman Sysyn.

Alderman Girard stated first of all this is here, when this first showed up on the agenda, the Board for referral here I asked the City Clerk why it was being sent here as opposed to the Committee that had to deal with it. The Clerk said it was being sent here to be forwarded to public hearing. That being the case I let it come here without raising any questions of the Board. What I put here is self-explanatory. We went through a budget process that was heavily determined by the new state aid as a result of Claremont. What I want to accomplish with this is make sure as a result of the state aid that's coming at least for the next budget year, the schools in the city don't forget the taxpayer in the process of determining their budgets. A lot of people are treating this as money that comes by divine right

that they're owed it. People forget ultimately wherever the money comes from, it always starts with the taxpayer. I did work with the Finance Department and the City Solicitors Office to develop this. Both of them in all fairness will tell you that they do not support the tax cap proposal that I have here. They have their reasons and I'm sure the Solicitor and the Finance Officer are here and I'm sure they'll speak to those. What I tried to do is build up a floating cap that would allow expenditures for schools to increase at the same rate that expenditures on the city side increase. It's not a fixed cap; it's a percentage of the municipal tax rate.

Chairman Wihby asked what is the percentage now.

Alderman Girard responded the percentage now with the budget that was passed is roughly 41%.

Chairman Wihby asked already there would be a decrease the following year.

Alderman Girard responded as a percentage of the municipal tax rate that assuming increased assessed values in property tax in the taxable base. If the property tax base expands then the amount of money that you're able to raise off of this tax cap increases as city spending itself increases because this is tied to the municipal rate. If you have a general increase in spending on the city side the amount that you can spend on schools increases. It doesn't automatically mean that there would be a cut per say in the general fund for schools next year that would all depend on what city spending on the assessed value.

Chairman Wihby stated if you go back to the last ten years don't you think that the increase has always been bigger on schools than on the municipal part.

Alderman Girard responded it has been and I'm worried that with the advent of this state aid that you're going to see that increase accelerate and to go with this is to keep it at a more manageable pace.

Chairman Wihby stated I know the headaches they've had in Nashua with the tax cap there and everything else.

Alderman Girard replied this tax cap here does have an "escape clause" it's not a hard and fast cap. The cap could be exceeded if two-thirds of the Board of Aldermen would vote to go over the cap.

Chairman Wihby asked don't we have a tax cap ourselves by having a re-election this year and see what people do to the aldermen who support it in. What would it do to the ones who didn't support it.

Alderman Girard stated that's one of the arguments that people will use. People have used that argument with things like determining the legislation on other items but given the turn over that's inherent in these offices this provision is designed to try to impose some discipline on the process so that you don't have the wild fluctuations and variations that we may see. This last process that we went through shows the liability that exists.

Alderman Cashin stated this could reduce funding to the schools over a period of time if the tax base stayed the same or went down this would go down proportionally. Secondly I think that something like this…we talked about cooperation between the Board of Aldermen and the School Board, I really think that this should be sent over to the School Board for their comments to come back here. These are the things that cause the problems between the Board and the School Board. It's going to have an adverse effect on school funding, that's my personal opinion, I'm sure of that but I wouldn't hesitate a minute and I wouldn't stop sending this to the School Department and let them comment on it and send it back to us.

Chairman Wihby stated we know if we send it to the School Department they're going to say they don't like this idea so there's no sense of sending it over there.

Alderman Cashin replied they may but things like this come to the Board of Aldermen we act on it which effects the School Department and that's what upsets them. It's here, let's send it to them so that they know yes it's been given to us and we want you to at least be aware of it and let them comment.

Chairman Wihby stated if you don't have it in your own mind made up which way it should go that's not a bad idea, if you want to get some more input from someplace else.

Alderman Cashin replied but keeping them informed that it's here and we're not going to act on it without at least their being aware of it. I know how I'm going to vote when it gets back here.

Alderman Sysyn stated but won't they be in an uproar anyway once you send this over to them.

Alderman Cashin replied why should they be in an uproar. We've received it; we're giving it to them for…

Chairman Wihby asked isn't there a time factor on this.

Clerk responded if it were to be placed on the upcoming ballot, yes because you have to schedule your public hearing.

Alderman Girard stated Alderman Cashin is not incorrect when he says this could restrict school funding in the future. It's one of the things it's designed to do. Because it's not tied to the assessed valuation of the city and it's a percentage of the municipal tax rate, I think we've all been around here long enough to know that the municipal tax rate has never gone down with the exception of some of the left over money that came from Claremont. As the overall spending increases school spending is going to increase as part of this proposal. The reason why it's here according to the Clerk is to send this to public hearing to get the kind of input from the general public, School Board, School Administration through the mechanisms this Board has established for amending the Charter. That's why it is here tonight, I would ask that whatever people's opinions may be in this proposal that it be allowed to go to a public hearing.

Chairman Wihby stated this aldermanic Board has sent some stuff to public hearing and hasn't sent other things to public hearing. Just because somebody proposes something doesn't mean that it goes to public hearing.

Alderman Shea stated in terms of school expenditures, the School Department isn't like the Police Department or the Fire Department, they get "x" number of students in 1999, they get "x" number of students in 2001, we really don't know how their expenditures are going to be in terms of special needs, different types of materials for books…it's so flexible. To say that their expenses in the year 2002 should be the same as the department rises in terms of a department like the police or the fire to me I don't see how you can do that. You're dealing with human beings here, you're not dealing with some kind of a material like a car or something or other things the amount of fire or the amount of crooks running around. You're dealing with human beings that are coming into a school system that you have to provide for. Are you supposed to say well we don't have enough money so we're going to take the kids in 2 classrooms and put them together and have forty kids in a class. I can't see the logic of this myself.

Chairman Wihby replied I agree with you. I was on the other side of the issue on the school budget side. But I think something like this ties up your hands when you're trying to do something or something arises that you're really not prepared for and something comes up. They've had problems in Nashua with a cap, I know it's a little different but there's still a cap there and my feeling is that something like this is unnecessary that we get elected every two years and if someone wants to take us out of office for our vote they can easily do that.

Alderman Girard stated I don't disagree with what Alderman Shea has said. When you take a look at the Police Department and Fire Department or even Highway Department. Those by and large are more reactive than the School Department is. You can take a look at enrollment over a period of time and you can do projections on yes you're going to see increased enrollments. You can do that across the board. You can't predict when you're going to have an arsonist in the city or an escalation of drug crime; it's going to demand resources to push buttons. You can't predict what the Highway Department had trouble with in the last fiscal year, a sudden increase in the amount of trash that needs to be removed, that blows their budget by $200,000. Part of the reason for bringing this here is to try to create an environment where the School Board tries to make priority decisions within their operation and not constantly go back to increased taxes for their operations. There's a school district in the Hanover/Etna area that has kept its school budget flat for the last three years. We're not talking about the spending caps that they have in Nashua. The City of Nashua has spending caps; they don't have tax caps. And the spending caps in Nashua have by the Board of Aldermen down there with recommendation of the Mayor have been exceeded. There's a school district up in the Hanover/Etna area which for the last three years has had a flat school budget and somehow they're managing not only to get things done but they've made significant improvements in their school district while doing it. I will be happy to share that information with the committee at a later date I apologize for not bringing it tonight. If there's a structure that imposes some discipline, you might find better ways of addressing some issues at the schools and we might instead of everybody getting everything they want force some priorities that might change the way business is done. If we keep doing things the way we're doing them, we're going to keep having spending that increase is known well ahead of the city budget but well ahead of inflation and it will spiral out of control and people will say well we have state money to do it now and that state money may not always be there and even if it is it needs to be respected as money that comes from every taxpayer's pocket whether it's city tax money or state tax money.

Alderman Shea stated actually the School Department does not have any control over what happens when you have special needs pupils. They don't have any control over pupils who need a second language. Many of the expenditures that are involved in running the schools have been predicated upon those unforeseen difficulties. I'm not excusing certain expenditures and I'm not saying that they're judicious in every area of their departmental operation. There are things that come along unbeknown to them that they have to face and meet. It's unpredictable sometimes to do that.

Alderman Cashin stated it's okay to use another school district and say their budget has been stabilized. What's the census, did it go up or down. If it went down then…just throw that out. I'd like to see it go to the School Board but if we're going to act on it tonight I'm not going to support it simply because the School Board hasn't had an opportunity to look at it and I don't think that's reasonable.

On motion by Alderman Shea, duly seconded by Alderman Sysyn, it was voted to receive and file.

Alderman Cashin stated he is not opposing it, but you know how I feel.

Chairman Wihby addressed item 4 of the agenda:

> Communication from Concerned Taxpayers of Manchester presenting a motion that there is a need to redistrict the City's wards by establishing under the City Charter a total of 14 wards represented by 14 Aldermen and 14 School Board Members and eliminating the At-Large designations; and further that a non-binding referendum question be placed on the year 2000 ballot.

Chairman Wihby stated this was already talked at the Charter meeting, they talked about doing it this way or having the At-Large and those chose not to do it with the fourteen wards because we had fourteen wards at one time and chose to do it differently.

Alderman Shea stated by way of discussion, Leo answered my question in terms of when they would have redistrict…there's a disparity between the registered voters, not between the residents. It goes by residents.

Chairman Wihby stated I know they looked at this when they were doing the Charter. They looked at going this way and they looked at going the way they did and I was even against adding the two.

Alderman Cashin stated we're going to have to do some redistricting anyway because the numbers just aren't…let's see what happens with the numbers. Some have 2,200 some are 4,400…

Alderman Shea stated there are four wards that have 4,000 and there are four wards that have 2,000.

Alderman Cashin stated can we look at the redistricting and once we do that we can decide whether we want…

On motion by Alderman Sysyn duly seconded by Chairman Wihby it was voted to receive and file.

Chairman Wihby addressed item 5 of the agenda:

> Communication from the Director of Planning submitting a proposed Zoning Ordinance update.

On motion by Alderman Sysyn duly seconded by Alderman Shea it was voted to send this item to public hearing on August 23, 1999.

Chairman Wihby addressed item 6 of the agenda:

> Rezoning petition submitted by Attorney Casinghino on behalf of Howard Brodsky and Eileen Donovan for parcels of land located on South Willow Street in the area of Harvey Road.

On motion of Alderman Cashin duly seconded by Alderman Sysyn it was voted to send this item to public hearing on August 23, 1999 in the Aldermanic Chambers of City Hall.

Chairman Wihby addressed item 7 of the agenda:

> Communication from Yvonne Calimeri advising the Board of her support relative to a proposed new leash ordinance.
> (Note: No leash ordinance presently on record.)

Deputy Clerk Johnson advised that there was an ordinance presented to the Traffic and Public Safety Committee. The Solicitor's were to report at the next meeting of that committee.

Solicitor Clark stated we suggest a change of the Police Department's ordinance…

Chairman Wihby asked we can vote on it and send it to them as we voted on it.

Solicitor Clark replied under your rules it's going to have to come back here if it passes as an ordinance anyway. Solicitor Clark stated under the rules of the Board of Mayor and Aldermen anytime an ordinance is being amended it comes to Bills on Second Reading as a last resort to make sure that…

Chairman Wihby asked so why can't it come here and go back to the full Board.

Solicitor Clark responded because the full Board sent it here.

Deputy Clerk Johnson stated it was sent to both committees.

Chairman Wihby replied it hasn't been sent here why does it have to come back again.

Alderman Cashin asked how can you vote on an ordinance that hasn't been made.

Chairman Wihby stated the main thing on this was in the paper they've talked about an eight-foot leash law. Chairman Wihby commented that the eight foot leash law was not his concern, noting when he called the police up about situations occurring the police said they would air their concerns, they had some recommendations they wanted to put in an ordinance. Chairman Wihby said he told them fine, go ahead and put it in; that these supposedly came from police in trying to tighten up the security on the letting of dogs loose. Chairman Wihby questioned the difference in the wording of the ordinance asking what is the difference between now and what police did.

Attorney Dan Muller of the Solicitor's office stated the only suggestions that we're going to make; their proposal amends two of the definitions; one is the at-large definition and it simply states now "a dog or other animal inside the City of Manchester off the premises of the owner and not under control by adequate leash" the only suggestion that we would have is to remove the portion that reads "or other animal inside the City of Manchester".

Chairman Wihby asked any dog not on a leash not on their property police could get where before they couldn't.

Attorney Muller replied it would be considered at-large and it goes on to define adequate leash as a leash.

Chairman Wihby stated that's all we were trying to do anyway. That will go to Public Safety and then they'll send it to us. We don't need to take anything up tonight.

On motion by Alderman Cashin duly seconded by Alderman Sysyn it was voted to table this item pending the report from the Traffic and Public Safety Committee.

Chairman Wihby addressed item 8 of the agenda:

> Communication from Deputy City Clerk regarding a proposed ordinance change to dog licensing ordinance.

Chairman Wihby stated the City Solicitor has ruled that something is not consistent with the state and advises us to change the ordinance.

Deputy City Clerk Johnson stated since this was not going to get an opportunity before the next meeting it hasn't been referred here. We've brought it to the committee's attention because my understanding with the City Solicitor's Office is they really want the Board to pass this at the next Board meeting because we are not consistent with the state law the way the city ordinance is reading.

Chairman Wihby asked we're not changing any fines or anything, it's just making it consistent with state law.

Attorney Muller replied that is correct. The fine system right now is defined by 38.06 calls for a $25.00 fine for the first offense, a $50.00 fine for the second offense and must appear for a subsequent offense after that. Under state law the penalty provision provides for a $25.00 civil forfeiture which you can pay that and that is the end of the matter, if you don't pay it then the matter is disclosed of in the District Court. It's more or less the same but it's just to make it consistent to…now it's a $25.00 civil forfeiture.

Attorney Clark stated the state changed their way of dealing with dogs a few years ago. They tried to make it consistent throughout the state and in doing so they messed it up with some of the larger cities which makes it tough for us but we have to change the ordinance.

Deputy Clerk Johnson stated that's why we submitted it here so that we could place it on the Board's agenda with the recommendation from this committee that it is inconsistent.

On motion by Alderman Cashin duly seconded by Alderman Shea it was voted to place it on the Board of Mayor and Aldermen agenda.

Alderman Shea asked under the state statute if they don't pay that $25.00 we can bring them to court.

Attorney Muller replied the standard procedure is you can either pay the $25.00 civil forfeiture at the Clerk's office, if you pay that within 15 days which is called for by statute that's the end of the matter. If you don't pay it by statute you have

to issue them a summons to appear in the District Court and it is handled there, disposed of there.

Alderman Cashin asked how is it now.

Attorney Muller replied right now my understanding the way it's currently being done is that they've been issuing summons under the system which gives the individual 7 days to pay on the summons, the fine either $25 or $50 for first or second offense that they then go pay it then they have to go to court. It's simpler to what's being done now or what has been done.

Attorney Clark stated the statute gives the person a little longer to pay the civil forfeiture and it keeps it out of court longer.

Mr. MacKenzie stated for your information the best data that's typically used for redistricting is the federal census. That will be happening on April 15 of next year. That's was used in congressional redistricting so if there is a question raised about why are we redistricting typically they use the federal census and that's happening in the spring.

Chairman Wihby asked so anytime we form a committee like we did last time there were three people on it to do redistricting we can do that anytime.

Attorney Clark replied you can yes. You can set up a committee to look at it and figure out where the districts are divided. Generally you do it with the federal census.

Alderman Cashin stated we can't do anything until we get the numbers.

On motion by Alderman Sysyn duly seconded by Alderman Shea it was voted to adjourn.

A True Record. Attest.

City Clerk