

## COMMITTEE ON BILLS ON SECOND READING

**November 8, 1999**

Chairman Wihby called the meeting to order.

The Clerk called the roll.

**Present:** Aldermen Wihby, Klock, Sysyn, Shea, Cashin

**Messrs:** M. Hobson, R. Davis, F. Thomas

Chairman Wihby addressed Item 3 of the agenda:

Petition to rezone two parcels located on Porter Street Extension and Interstate 293 known as Lot 757-2B and Lot 757-2A submitted by Nicholas Lazos on behalf of Manchester Executive Center Associates.

On motion of Alderman Cashin, duly seconded by Alderman Klock, it was voted to refer this item to a public hearing to be held on December 6 in the Aldermanic Chambers at 7 PM.

Chairman Wihby addressed Item 4 of the agenda:

Petition to rezone properties between the lights on Brown Avenue to the bridge submitted by property owners (Coughlin and Courtois) in the area.

On motion of Alderman Shea, duly seconded by Alderman Cashin, it was voted to refer this item to a public hearing to be held on December 6 in the Aldermanic Chambers at 7 PM.

Chairman Wihby addressed Item 5 of the agenda:

Ordinance:

“Amending Section 33.060 Standby Duty of the Code of Ordinances of the City of Manchester by deleting same and replacing it with a new Section 33.060 Standby Duty.”

Alderman Sysyn moved that the Ordinance amendment ought to pass. Alderman Cashin duly seconded the motion for discussion.

Mr. Hobson stated part of the Yarger Decker Study and the various things that happened with collective bargaining, we tried once again to standardize or create a standard method of pay for Standby Duty for all employees throughout the City. We tried to make it fair and equitable between those people who are in collective bargaining and those people who are not. The Human Resources Committee did review it. One other thing to note is that we did take Standby pay away for exempt employees, which was a mandate from the full Board as far as I understood.

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

Chairman Wihby addressed Item 6 of the agenda:

Ordinance relating to vacation leave credit:

“Amending Section 33.079 of Chapter 33 of the Code of Ordinances of the City of Manchester.”

On motion of Alderman Shea, duly seconded by Alderman Sysyn, it was voted that the Ordinance amendment ought to pass.

Chairman Wihby addressed Item 7 of the agenda:

Proposed Intown District Graphic Ordinance.

Chairman Wihby stated this was proposed by Alderman Reiniger. The Clerk is saying that we should consider sending this to a public hearing.

Mr. Davis stated we helped Alderman Reiniger craft this particular Ordinance and I will just make a few general comments and the I would be happy to answer any questions.

Chairman Wihby asked did you ask Alderman Reiniger to do this.

Mr. Davis answered this was proposed by Intown and basically submitted by Alderman Reiniger who is a member of our Board. The Ordinance that you see here is really quite fundamental. There is nothing really too fancy about this. As a matter of fact, this is based on a model Ordinance which is used by the American Planning Association and has been used by a number of cities, towns and counties throughout the country. We have simply taken it here and applied it specifically to our commercial downtown district. The current areas of special control that you know about, the Millyard corporation housing area and the Millyard itself, are controlled or actually they are reviewed by an advisory committee and that review

would continue. That would not change and this does not replace any review that currently happens for the Millyard special district. This Ordinance, as you can see from the little graphic that I have given you, can be explained briefly in its control of size and what I have done there is highlight in yellow on your illustration the signable area. Each building, each façade of a building that overlooks a street or highway or parking lot has what is called a signable area and that area is the area that is basically not covered by architectural details like windows. This shows in very general terms how that signable area is calculated and in most cases in the commercial district the sign would be allowed to cover 40% of that signable area. This Ordinance basically controls the size of signs rather than the quality of signs. Quality is not something that you can regulate. Quality is something that the City has approached through the building improvement program and I think has done a good job in encouraging. This Ordinance really helps to control the number of signs and the size of signs. Quality of signs is a qualitative issue and not something that we can really regulate.

Chairman Wihby asked so it is basically just on signs.

Mr. Davis answered yes, basically just signs.

Chairman Wihby asked so right now they can do whatever they want and this is going to get everybody to conform.

Mr. Davis answered yes. This gets everybody into conformance. There is a three-year period under which current signs would continue to exist. You always have the issue of non-conforming signs and what happens to them. That is dealt with in this Ordinance and I would encourage you to review that. Basically, you have a three-year period in which those non-conforming signs could be phased out. There is a special provision for billboards so it allows billboards to remain on a building as long as the building remains under its current ownership there is absolutely no change. We are not talking about removing existing billboards. Those would remain until the property changes hands.

Alderman Shea asked have you consulted with the interested parties here and have they cooperated. Do you have any opposition?

Mr. Davis answered we haven't yet. We have presented this to the Planning Commission but have not received any review or any questions or challenges from them. The Planning Department has also reviewed this and as of right now I am standing here without their participation but I guess you would have to ask them if they have any additional issues that they would like to include.

Alderman Cashin asked would you mind, Mr. Davis, if this went to a public hearing.

Mr. Davis answered not at all. I think it should.

Chairman Wihby stated let's have it the same night as the other items and we will get input from Building and Planning on it also.

Alderman Klock asked why do you want it to go to public hearing.

Alderman Cashin answered it is a zoning change and we want to make sure that everybody is aware of it.

On motion of Alderman Cashin, duly seconded by Alderman Shea, it was voted to refer this item to a public hearing to be held on December 6 in the Aldermanic Chambers at 7 PM.

Chairman Wihby addressed Item 8 of the agenda:

Draft Ordinances submitted relating to the Highway Department organizational changes:

“Amending the Code of Ordinances by deleting section 30.06, Responsibility for Voting Machines Delegated.”

“Amending the Code of Ordinances of the City of Manchester by replacing Section 32.019 relating to the Department of Public Building Services, providing for transfer of responsibilities to the Highway Department Building Maintenance Division.”

“Amending the Code of Ordinances of the City of Manchester by replacing Section 32.083 relating to the Central Purchasing Division; establishing same in the Highway Department.”

“Amending the Code of Ordinances of the City of Manchester by replacing Sections 34.04(A) through (D) relating to the care and reporting of buildings owned by the City to the Committee on Community Improvement Program.”

“Amending Section 97.00(D) of the Code of Ordinances of the City of Manchester providing for the responsibilities of the Highway Department.”

Chairman Wihby asked, Mr. Thomas, what are we doing. Are we putting voting machines under you.

Mr. Thomas stated this was drafted by the Solicitor's Office for the most part and it includes cleaning up the Ordinance as it pertains to the consolidation of Public Building Services into the Highway Department. In the existing Ordinance, if there were referrals regarding the fleet or what not they were given to the Director of Public Building Services. Basically, this wording changes that now and puts it under my jurisdiction.

Alderman Cashin stated I would like to recommend in paragraph 4 where it says "refer to the Committee on Community Improvement" I would like to eliminate that and re-establish the Lands & Buildings Committee. I think we found in the last couple of years that we have had some problems because that Committee is so busy.

Chairman Wihby stated for those not familiar with this, we used to have different committees within CIP and what happened was the Mayor decided to make less Committees and put three or four things into CIP and it actually was a lot to do.

Alderman Cashin stated the only reason I am suggesting it is because of the workload in the CIP Committee. I think too much is being dumped in there.

Mr. Thomas stated I think it is a good recommendation. As you mentioned, Alderman, I have been around and that Committee has just been expanded to include a lot of the Committees that were part of the Board. With the amount of activity that has taken place in the City's facilities, I think it is probably a good idea to re-establish the Committee on Lands & Buildings. I might also suggest that the CIP Committee now, the way it is formed, also address fleet issues. You may want to combine that under a new Committee.

Chairman Wihby stated I liked the way it used to be with all of the different Committees. You had specific topics.

Alderman Cashin replied you were responsible for one area and you knew that. Now it is too much. I don't think anybody has enough time to evaluate it.

Mr. Thomas stated at one time there was the Public Works Committee and maybe you could re-establish that now that facilities are under the Highway Department and fleet is under Highway Department. Maybe you could establish a Public Works Committee.

Alderman Cashin moved to amend the fourth Ordinance to read that it be “referred to Lands & Buildings” instead of “referred to the Committee on Community Improvement.” Alderman Shea duly seconded the motion. Chairman Wihby called for a vote on the motion. There being none opposed, the motion carried.

On motion of Alderman Cashin, duly seconded by Alderman Sysyn, it was voted that the Ordinance amendments ought to pass.

Chairman Wihby addressed Item 9 of the agenda:

Ordinances relating classification and compensation of positions:

“An Ordinance amending Section 33.024 Classification of Positions of the Code of Ordinances of the City of Manchester by establishing new classifications as listed.”

“An Ordinance amending Section 33.025 Compensation of Positions of the Code of Ordinances of the City of Manchester by establishing a new Compensation Schedule.”

“An Ordinance amending Section 33.026 Class Specifications of the Code of Ordinances of the City of Manchester by establishing new Class Specifications resulting from Yarger Decker Classification and Compensation Study.”

“Amending Section 33.025 (Compensation of Positions – Airport Director) of the Code of Ordinances of the City of Manchester.”

“Amending Section 33.024 and 33.026 of the Code of Ordinances of the City of Manchester relating to Public Works Maintenance Division Positions.”

“Amending Section 33.025 and 33.026 of the Code of Ordinances of the City of Manchester relating to Public Works Administration Positions.”

Deputy Clerk Johnson stated the Clerk has handouts for the Committee on this item.

Chairman Wihby asked are we ready for all of this.

Deputy Clerk Johnson answered yes and no. These Ordinances are being presented. The first three that are listed are actually the Yarger Decker Plan that is going into Ordinance format at this point. When the Ordinances were submitted, they weren't submitted with the exhibits and the exhibits have later been delivered to the Clerk's Office. It is four volumes thick and I didn't think that the Committee wanted individual copies. What I have done is photocopied a listing of the occupational titles that are included in the study. There are a couple of more clean-ups things that need to be done with the documents that are in my office, but I guess if the Committee wanted to act on those as an ought to pass subject to the Solicitor and Clerk and HR Director making sure that everything is in order before it goes to the Board, you could do that. Basically, what you need to do is adopt the basis of the Ordinance and then the other Ordinances that are appearing are some changes that basically have been approved already by HR and by the Board in various forms. Public Works, obviously, that was part and parcel of what went to Administration and HR. The Airport Director is something that the Board acted on on its own one evening. So those are amendments to your base basically so that is why we have included them together. Those three are fine, but we have to have the base with it.

Mr. Hobson stated I think what the Deputy Clerk is trying to do is it is around 2,000 pages of documents that we are trying to avoid sending to the entire full Board of Mayor and Aldermen. The second thing is that the Oversight Committee, which Mr. Thomas is Chairman of and members of the Board sit on, would see anything that we do with this and then it would go to the Solicitor's Office, correct?

Deputy Clerk Johnson answered no.

Mr. Hobson asked the Solicitor won't be reviewing the final documents.

Deputy Clerk Johnson answered the documents that are sitting downstairs that go with these Ordinances would be based on the actions of the Board and the Committee to date, which includes all of the things that went through the appeals process that went through and the Oversight Committee has already seen all of that. This does not include any changes that have not been addressed yet. Those would go through the normal process from this point forward.

Mr. Hobson stated exactly and the full Board would see those.

Deputy Clerk Johnson replied the only thing that I would do is make sure that the Clerk's Office and the Solicitor's Office agree that it is in proper legal format before the Board acts on the final adoption of the Ordinances. From here, that is what needs to occur.

Chairman Wihby asked what should we do to move on this.

Deputy Clerk Johnson answered if you wanted to move on this, you can move it subject to the Solicitor, Clerk and HR Director finishing the paperwork to be submitted to the Board.

Chairman Wihby asked and everybody has looked at that and has no problem. The Committee has looked at it?

Deputy Clerk Johnson stated the conversation I had with the Solicitor is the reason why parts of this are before you now. I have spoken with Tom Clark about what we needed to do. We have a 2,000-page document downstairs. If you want me to provide that to you, I will be happy to. I know that some of the salary schedule stuff is not correct and I have to have that corrected by HR first. I guess what I am saying is we have a couple of corrections in the documents that I have downstairs based on actions of the Board and of the HR Committee. So you can hold it here and table it until the next meeting when I can say to you that everything is in order and we can send it on or you can send it on subject to the Clerk and the Solicitor making sure that the documents are correct before the Board acts on it. Either way you want to do it is fine. We need to get this adopted soon or processed soon because in essence it is tied to the payroll that has been being paid since January. It is the law that goes with it.

Alderman Cashin stated it is my understanding that we are doing a lot of this now anyway, right.

Deputy Clerk Johnson replied yes, you are.

Alderman Cashin asked but you don't have a complete package now.

Deputy Clerk Johnson answered we are missing a few pieces in the package.

Alderman Cashin moved to table the item.

Deputy Clerk Johnson suggested that the Public Works Maintenance positions, which are tied into the Ordinance fall into the same category as everyone else's and that those proceed to go to the Board and get paid somehow. My understanding is that these would change some of the grades at Public Works and those haven't, I think, been in the payroll process yet. Am I correct, Mark?

Mr. Hobson replied yes.

Deputy Clerk Johnson stated the Ordinances weren't in place even though it was said to be in October.

Mr. Hobson stated no Ordinance will go to you in its final form until the Solicitor tells the Human Resource Department that it is fine to do. My concern is, and I am happy to live with whatever you want to do but my concern is that if we table it I just don't want to hinder any of the things that are already happening in public buildings, which the Board has already seen, anything that is happening in contracts, which again the whole Board has already seen. I am just concerned that...I don't want to legally bind anything up. If I understand an ought to pass, it means that we can act on these things from a payroll perspective?

Deputy Clerk Johnson replied no. My suggestion is that they table these Ordinances in Committee and come out with another Committee report that authorizes the HR Director to proceed with the Public Works positions as outlined in the Ordinances.

Chairman Wihby asked are we expecting something back from the Solicitor before the next meeting.

Deputy Clerk Johnson answered the next Board meeting. I think we can get the package together by then if Welfare can get us a couple of things.

Chairman Wihby asked do you think the Solicitor can review everything by the next meeting.

Deputy Clerk Johnson answered I think so. It is not a complex thing for him to review.

Chairman Wihby stated if we are just waiting for the Solicitor to look at it and give us the okay, would it be acceptable if we passed it today and sent it to the full Board and if he didn't look at it we could pull it off and send it back to this Committee.

Deputy Clerk Johnson replied you could do that.

Chairman Wihby asked is that okay, Mr. Thomas.

Mr. Thomas answered that is fine. I would just go with what the Deputy Clerk said and ask that we be allowed to go ahead with the changes in Public Works and Public Building Services.

Chairman Wihby asked is it the last three you are talking about.

Deputy Clerk Johnson answered it would be the last two. The Airport Director, I believe, is already being paid at that rate.

Chairman Wihby stated so there is nothing wrong with the last three and we could move those today with no contingency.

Alderman Shea moved that the last three Ordinances amendments ought to pass. Alderman Cashin duly seconded the motion.

Alderman Cashin stated my only problem is that we are doing it with some and not doing it with others. I am not sure who is being approved and who hasn't been approved and I don't think anybody else does.

Deputy Clerk Johnson replied the last two Ordinances before you, for whatever reason, it has been ruled that those positions in Public Works would not be treated the same as everybody else's. They are waiting for those Ordinances to go through and you can't send those out without sending the others because they are amending something that hasn't been adopted yet. That is the problem. That is why I lumped it together. It is really a package. I am saying to you if you want to table it here until we have a chance to get the Solicitor and the Clerk's Office to finish it off, that is fine or you can send it on to the Board and we can make sure it is in place. My feeling is that you have people in the Public Works Department in the Maintenance Division that are being recommended here as part of that whole reorganization structure to get different pay grades and job descriptions and that is going to get waylaid because of this Ordinance unless this Committee makes a recommendation that this Board direct that those positions proceed while waiting for the rest of the technical documents to follow because everybody else is.

Alderman Cashin responded I have no problem with that.

Deputy Clerk Johnson stated that is my suggestion. If you want to table it here, fine, but I would suggest that a report come out recommending the other.

Chairman Wihby asked are the first three and the last three different.

Deputy Clerk Johnson answered the last three amend the first three. That is the problem so the first three have to go through before the last three.

Chairman Wihby asked if we were to pass all six subject to the Solicitor's approval and if we don't have it by the next meeting we pull it back and send it back to the Committee. What is wrong with that?

Deputy Clerk Johnson answered so long as you would then still direct the Board to proceed with the Public Works positions because you are holding them back.

Chairman Wihby replied right. We can have that discussion at the Board level and you could give us your suggestion before we table the whole thing. If you have them all, we don't have to worry about them.

Mr. Thomas stated that sounds fine. As Mark mentioned, I don't think the Solicitor's review is going to be that involved. This is the whole study that has been on the table and approved by the Board on numerous occasions either in total or in part as it has been presented.

Alderman Shea asked, Mr. Hobson, is this going to assume that we are in favor of this point system. In other words, because of me voting in favor of this, does that mean that the City Solicitor is going to be paid more than the Airport Director.

Mr. Hobson answered you will see that document back up at the Human Resources Committee so no, you are not approving that. Just to give some comfort level to some of you, before this was adopted by the Board in November of 1998, the City Solicitor went through the entire package. What he needs to do is look at the amendment of those things that we are still dealing with. He has seen the entire Decker Study, which is four volumes now.

Alderman Cashin moved that the Ordinances ought to pass subject to review by the City Solicitor. Alderman Sysyn duly seconded the motion. Chairman Wihby called for a vote. The motion carried with Alderman Shea being duly recorded in opposition.

Alderman Cashin stated I have a question on Item 8. I was just reading the letter. Why did we exempt the Police Station and the Fire Station in that Ordinance.

Mr. Thomas replied that is the existing wording in the Ordinance. That is the way it was. Part B, the only changes to that were the titles of the two Public Works directors. That could be an area that we can look at for a future Ordinance change. I understand what you are saying. If the Public Works Director is responsible for all facilities, why is it saying that the CIP Program is responsible for Police and Fire.

Alderman Cashin stated you are going to have your own engineer eventually, right.

Mr. Thomas replied we are bringing on a facilities engineer to focus in on the City's facilities as far as dealing with contract change orders. The way we initially envisioned working for other departments like the Police Department and whatnot would be on a consultant basis so CIP would fund the project and the bond or whatever would be turned over to the control of the Police Department or Fire Department and we would provide consulting services with this facility engineer and potentially charge our time to it. We would then advise the Police Chief or the Fire Chief that these change orders make sense from an engineering point of view. We would provide the professional expertise to these other departments. I think that is the way it is set-up right now. With other projects, the funding would be turned over to either our authority or the School Board and we would work with them.

Alderman Cashin stated the reason I bring it up is to me it sounds confusing because when it comes to the Police Station you can make all of the recommendations you want, but if the Police Department or the Commission decides okay, fine you have some good ideas but we are not interested, they can go and do whatever they want.

Mr. Thomas replied that is correct with the way it is set-up right now. Again, this was existing wording in the Ordinance.

Alderman Cashin asked Mr. Thomas to look into it. He stated if I am going to give you the responsibility, I want to give you the authority. In these two cases, you are not going to have it. We are going to hold you responsible, but you are not going to have the authority to get it done right.

Mr. Thomas answered again, we would be offering professional advice to the Police Department, Fire Department or whoever and also reporting to the CIP Committee, which has the ultimate responsibility for the funding. I will be glad to sit down and review the Ordinance language with Bob MacKenzie and Solicitor Clark.

Chairman Wihby addressed Item 10 of the agenda:

Ordinance:

“An Ordinance amending Chapter 118, Vehicles for Hire, of the Code of Ordinances of the City of Manchester, Sections 118.01, 118.15, 118.16, 118.33, 118.34, 118.37, 118.39 and 118.99 relative to taxicab definitions, regulations, fares, and penalties.”

Deputy Clerk Johnson stated this Ordinance was submitted per the Administration Committee to the Board and referred here. After its referral process, in reading through I discovered that there are some definitions that need to be inserted and there is a reference to a medallion and in another section it is called a license and then a license is called something else in another section. There needs to be a little more work done on that. In speaking with Leo, there was also a change in the size of the license plate that was recommended and the license plate that is recommending for the taxicabs in here is 6” x 12” and Leo’s thoughts were that it should be perhaps half that size which would still be bigger than what we have on them now. We would want to do that, obviously, when the renewals came up. We would have the capacity to do it right away, internally, in the office.

Chairman Wihby asked do you want us to table this.

Deputy Clerk Johnson stated Matthew is out right now and he had a couple of things in there too so I am thinking that maybe you should table this so that we can put a better package together.

On motion of Alderman Shea, duly seconded by Alderman Cashin, it was voted to table the Ordinance amendments.

Chairman Wihby addressed Item 11 of the agenda:

Proposed amendments to the City’s Litter Ordinances.

Chairman Wihby stated it appears that this is just an amendment to increase the fines, right.

Deputy Clerk Johnson replied it would appear that it is a suggestion to raise the fines. It is not in Ordinance format, but we can certainly work with the Solicitor to do that.

On motion of Alderman Shea, duly seconded by Alderman Klock, it was voted that the Ordinance amendments ought to pass.

Chairman Wihby addressed Item 12 of the agenda:

Communication from Lloyd Basinow for the NH Pure Water Coalition requesting that the Board order the placement of the attached question on the next legal election ballot.

Alderman Shea moved to receive and file. Alderman Cashin duly seconded the motion. Chairman Wihby called for a vote on the motion. The motion carried with Alderman Klock being duly recorded in opposition.

Alderman Shea stated I went with a group of people today to a lot, which is a single residence that was vacated for about six years. Nobody lives there and you can't get inside because there is a covenant or some kind of law that says that it is land own domain or something like that. I was told that there is a difference between an apartment with two families or three families versus just a single residence so you can't get inside. For my own general purposes, can we change an Ordinance that would allow someone to go into a place that is vacated.

Chairman Wihby replied we can change an Ordinance if you want to put something together and work with the Police Department to see if they have a problem.

Deputy Clerk Johnson stated you can work with the Police Department and Solicitor's Office because there may be State law that prohibits it.

Alderman Shea stated there are a lot of residences that are abandoned and nobody lives in, but you can't get in.

Deputy Clerk Johnson replied it could be a tap off on a State law and I am sure that Solicitor Clark can help you with that.

### **TABLED ITEMS**

13. Proposed leash ordinance.  
(Tabled 7/20 pending report from Traffic & Public Safety Committee.)

This item remained on the table.

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

A True Record. Attest.

Clerk of Committee