

COMMITTEE ON BILLS ON SECOND READING

August 21, 2006

Immediately Following Special BMA

Chairman Duval called the meeting to order.

The Clerk called the roll.

Present: Aldermen Duval, Gatsas, Garrity, Pinard

Absent: Alderman Lopez

Messrs.: Tom Clark, Leon LaFreniere, Robert MacKenzie

Chairman Duval addressed item 3 of the agenda:

3. Ordinance:

“Amending the Zoning Ordinance of the City of Manchester by establishing the Lake Massabesic Protection Overlay District (LMPOD) to protect the Lake Massabesic drinking water supply in the City of Manchester.”

Chairman Duval stated I would ask that given the ample consideration and input from the members of the public, professional staff...including Mr. Bowen who has done an exemplary job in putting this forth and Mr. MacKenzie...I think we should table this item so that the Board can accept and consider further information and also respond to some of the questions raised by residents this evening.

On motion of Alderman Pinard, duly seconded by Alderman Garrity, it was voted to table item 3.

Chairman Duval addressed item 4 of the agenda:

4. Ordinance:

“Amending the Zoning Ordinance of the City of Manchester by establishing the Manchester Landfill Groundwater Management Zone (ML-GMZ) Overlay district to monitor groundwater quality in the vicinity of Dunbarton Road and Front Street.”

Alderman Garrity stated Mr. Chairman, I think this one warrants to be tabled also. It seems like the residents on Stark Lane are concerned. They want to know what's flowing under their properties, they're concerned about their property values and if that's going to be taken into consideration so I think we need to do some follow-up with the Assessors and some other City staff to get those answers before we start addressing this.

On motion of Alderman Garrity, duly seconded by Alderman Pinard, it was voted to table item 4.

Chairman Duval addressed item 5 of the agenda:

5. Ordinance:

“Amending the Zoning Ordinance of the City of Manchester by revising the CV (Conservation) zoning district boundary along the Piscataquog River.”

Alderman Garrity moved to recommend that the ordinance amendment ought to pass. Alderman Pinard duly seconded the motion.

Alderman Gatsas stated there was areas, Mr. MacKenzie, that weren't...that didn't look like it was Parks owned and there were individual properties...we don't have maps here so it's difficult to speak on it but you had some parcels that were outside of the Parks that are owned by the City that were in that zone.

Mr. Robert MacKenzie, Director of Planning, stated the only parcels identified in the ordinance are those that are park land. There is parkland, which was not identified in that 2001 zoning district but we were trying to clarify that all of the parkland is conservation land. You'll probably see some land adjacent to the Raco Theodore Pool area that is actually parkland but was not shown as conservation before.

Alderman Gatsas stated I'm looking at particularly two pieces...there's a piece that's up here and I don't know why it's slivered out...why this little piece was slivered out and why that little piece was slivered out.

Mr. MacKenzie stated the red hatched areas were those that based upon older park mapping was shown as parklands. So, those would not be in the...the ones that are just red crossed hatched would not be in the conservation district...those are being removed because those are in effect private properties.

Alderman Gatsas stated there isn't a parkland that's not red.

Mr. MacKenzie stated yes that is in the park but was not shown in that 2001 zone change as parkland. So, that's being added but it is and always has been parkland.

Alderman Gatsas stated I guess my question is...so what you're saying is some of the stuff that's in red.

Mr. MacKenzie stated the red crossed hatch...all of the red crossed hatching is what was shown on the 2001 plan. The green is what is proposed now and the ones that stand out are those red crossed hatchings right behind it...those actually are the areas that are changing.

Alderman Gatsas stated coming out of it.

Mr. MacKenzie stated coming out of it correct.

Alderman Garrity stated it's because it's private land...is that the issue.

Mr. MacKenzie stated yes.

Chairman Duval asked Alderman Gatsas, are you all set?

Alderman Gatsas replied yes. So, any of these pieces that are in the conservation if of some reason the School District was looking at a piece to put a school on does that exempt them?

Mr. MacKenzie replied that would be up to the Board of Mayor and Aldermen. The Aldermen do have the ability to exempt themselves from the Zoning Ordinance and I'd probably check with Tom Clark on that but in the past they have the ability to exempt if they so wish.

Chairman Duval asked is that correct City Solicitor Clark?

City Solicitor Clark replied yes that is correct. Under the laws the City can exempt itself when it needs to.

Alderman Gatsas stated so basically all we're doing here is recorrecting something that was incorrect that included residential property from private owners that were in the parkland model but really aren't there.

Mr. MacKenzie stated correct.

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

Chairman Duval addressed each ordinance amendment under item 6 individually:

6. Ordinances:

“Amending the Zoning Ordinance of the City of Manchester by changing the expiration period of variances, special exceptions, and conditional use permits in Article 15.03 to be consistent with the expiration period in Article 14.02.”

On motion of Alderman Garrity, duly seconded by Alderman Pinard, it was voted to recommend that the ordinance amendment ought to pass.

“Amending the Zoning Ordinance of the City of Manchester by inserting additional language into Article 6.10 Special Lot sizes in the R-2 District for clarification and consistency with the original intent of the special lot sizes in this district.”

Alderman Garrity moved to recommend that the ordinance amendment ought to pass. Alderman Pinard duly seconded the motion.

Alderman Gatsas stated I guess I go back to the question that Alderman Roy brought up. If that piece has 500 feet of frontage and 100 foot side yards and comes to a point at 25 feet in the back what does that do?

Mr. Leon LaFreniere, Commissioner of Buildings, replied that question was actually related to a different item that was related to Definition of Terms. In this case it's dealing only with the Special Lot sizes that recognize some grandfathered rights to some 50 x 100 lots that exist in the R-2 District.

Alderman Gatsas stated so what this is saying is that any lot that has a 50 foot frontage today in an R-2 lot area with 5,000 square feet you can build a two-family.

Mr. LaFreniere stated you can build a two-family as long as the adjacent lot contains otherwise conforming structures and uses and what that means is that if the adjacent lot contains something other than a one or a two-family that requires a 10,000 square foot lot you can't peel off the 50 x 100 lot and that is consistent

with the way the old ordinance always treated it. But, if you have a 5,500 lot with a one or two-family on it and you have an adjacent 50 x 100 lot with a one or two-family lot you can sell it off and build another two-family and that's the way that section was designed.

Alderman Gatsas stated if you have two 50 x 100 lots without any buildings on it you can sell them as two separate lots.

Mr. LaFreniere stated that's correct. If they existed prior to the date, which is 1986, I think.

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

“Amending the Zoning Ordinance of the City of Manchester by adding language to Article 10.09B 2 regarding the use of front yard areas for parking in residential districts.”

Chairman Duval stated I have real issues with this one myself and to be honest with you on behalf of Alderman Shea and Alderman Osborne and some of the other more central city Aldermen I think there are some unanswered questions and I think there's a possibility for unintended consequences.

Alderman Garrity stated what would be helpful to me is to see some graphics of potential spaces and such. It would be much more helpful to me to make a decision on this.

On motion of Alderman Garrity, duly seconded by Alderman Pinard, it was voted to table ordinance amendment relative to Article 10.09B 2.

Chairman Duval stated so Leon if you wouldn't mind if we could sort of get some of that material and the next time we have a Committee meeting we'll take it up. Thank you.

“Amending the Zoning Ordinance of the City of Manchester by adding language to 5.11 Table of Accessory Uses regarding the storage of unregistered automobiles.”

On motion of Alderman Pinard, duly seconded by Alderman Garrity, it was voted to table ordinance amendment relative to Table of Accessory Uses.

Chairman Duval stated just as a direction to the Commissioner...members of the Committee what are we asking him to do or is it clear Leon what the question is?

Mr. LaFreniere replied I guess I'm not entirely clear. I did hear a comment that indicated that there was concern about the application of the term "unroadworthy". We have wrestled with that and felt that there it didn't represent anymore of a discretionary type term than other applications in the ordinance. But, we certainly can take a look at how we could frame that differently that might not raise the same concerns.

Chairman Duval asked could you do that and then report back to the Committee and if by chance you can't come up with another alternative then so be it but if you could take another look at it that would be great.

"Amending the Zoning Ordinance of the City of Manchester by
revising the definition of Lot Width in Article 3.03 Definition of
Terms.

Alderman Garrity moved to recommend that the ordinance amendment ought to pass. Alderman Pinard duly seconded the motion.

Alderman Gatsas asked does this address the 25-foot rear yard...500 feet of frontage, 100-foot side yards, 25-foot rear lot line?

Mr. LaFreniere replied this is the section that you're asking the question about but I'm not sure I understand the 25-foot rear lot line. Are you talking about how the setback from the...

Alderman Gatsas interjected the shortest horizontal distance between the side lot lines.

Mr. LaFreniere stated yes.

Alderman Gatsas stated if my two side lot lines are 100 long and my back rear yard is 25 feet with 500 feet of frontage, what does that do? Am I at 25 feet or 500?

Mr. LaFreniere replied the lot width...under the current ordinance that's the measure for 100 feet of depth so that would be a non-compliant lot under the current ordinance as well as under the proposed...that's not changed. The change as designed is to deal with a cul-de-sac. And, if you have a cul-de-sac with lot

lines that splay out there's a specific...under 6.02 in the ordinance it allows you to measure the setback at the setback line, which may be 25 feet back or something like that. But, the lot width has to be measured...is allowed to go down to 50 feet but it has to be measured at the front and what we're saying is you've got to measure it at the shortest distance. You can't measure it like this or like this and this is the way it's always applied is that shortest distance. But, that clarity in the definition isn't there to provide someone who is not familiar with the Zoning Ordinance to look at it and know that the way they have to measure up at the front of the lot is the shortest distance between the two lot lines to get their 50 feet at the street and then their actual building setback of whatever...it might be 25 feet or something is where the shortest distance between the splayed lot lines to get their 100 feet or their lot width depending on the zoning districts...if it's 75 feet in an R-1B or 100 feet if it's in an R-1A.

Alderman Gatsas stated that has nothing to do with a lot that has 500 feet of frontage on an un-cul-de-sac street and goes back 100 feet on each side.

Mr. LaFreniere stated that lot is non-compliant today and would be non-compliant if this change were passed.

Alderman Gatsas why is it non-compliant today?

Mr. LaFreniere replied because the ordinance requires that you have the lot width for 100 feet of depth. So, if you have a lot...now, we're talking about...forgive my crude drawings here...

Alderman Gatsas stated so you're saying that the 500 feet has to go all the way back.

Mr. LaFreniere stated if you have a lot with a street that's triangular shaped... you've got to get...whatever the lot width is you've got to get it for 100 feet of depth. If you only have a total of 100 feet deep of lot you don't have the lot width as the ordinance anticipates you have to have it. The ordinance is looking for basically a box into which you can insert a house with setbacks. It's difficult to construct an ordinance requirement that can address every kind of lot configuration but that's the way the current ordinance is applied and this change is not designed to have any effect on that.

Chairman Duval called for a vote on the motion to recommend the ordinance amendment ought to pass. There being none opposed, the motion carried.

“Amending the Zoning Ordinance of the City of Manchester by adding language to Article 9.07 to restrict the location of electronic message boards and flashing signs.”

Alderman Garrity stated there were two people who spoke about this ordinance talking about technology. I don't want Elm Street looking like the Vegas strip or something like that but I think with technology coming forward...I think one of the persons brought up the sign out at the Verizon Wireless Arena and it's not extremely bright and things like that.

Alderman Garrity moved to receive and file ordinance amendment relative to Article 9.07. Alderman Pinard duly seconded the motion.

Alderman Gatsas stated I don't think...it's looking here to talk about restricting it to B-2 but I don't think it should just be restricted to B-2. I think it should also be available in industrial zones. I don't know why this would go...I think there needs to be some sort of...can somebody give us a quick version of the clarity.

Alderman Garrity stated Alderman Gatsas the reason why I moved to receive and file it...obviously, the Planning Director or the Building Department is going to bring in a new ordinance and just sticking it to the B-2 zone doesn't make sense to me and that is why I made a motion to receive and file it.

Alderman Gatsas stated we can amend these this evening or do they have to go back to a public hearing? We have the ability to amend them don't we?

Alderman Garrity stated I think if we amend it it has to go back to public hearing I believe because of the change in the wording.

Chairman Duval stated I think it's an all or nothing isn't it.

Alderman Gatsas stated then we should have received and filed the two that we tabled right?

Chairman Duval stated no I think the difference is we were waiting for additional information to decide on it in its present state. We're not saying we're going to change it or not we need more information.

Alderman Gatsas asked can I get a ruling from the Solicitor...can we amend this now or can't we?

City Solicitor Clark replied if you're going to amend it by adding new districts I would recommend you go back out to public hearing.

Alderman Gatsas stated then that's fine. What happens to the first two that we tabled...if we change those must they go back to public hearing?

City Solicitor Clark replied it depends on what the change is. In this particular one you'd be adding a whole new district or districts to the proposal. It depends on what the modifications are. You can make minor modifications and changes but you can't make wholesale changes.

Chairman Duval called for a vote on the motion to receive and file. The motion carried with Alderman Gatsas duly record in opposition.

“Amending the Zoning Ordinance of the City of Manchester by adding language to Article 10.06(C) regarding required loading spaces.”

Alderman Gatsas asked can I get a clarification of that or do you want to take the motion first and then go slower.

Chairman Duval stated no go ahead Alderman Gatsas.

Alderman Gatsas asked can I get a clarification of the loading zone? Is that a loading zone as we would know it in front of this building today or is that on...? Signs that are on Chestnut Street that may say loading zone.

Mr. MacKenzie replied those are loading zones that the Traffic Committee can determine and those are on public streets. These are loading zones on private property. So, for example, if you have a retail shopping center you'll have the loading zones in the back where the trucks can come in. But, we also require loading zones in certain other uses like those new townhouse units that may have to have a loading zone and in those cases we're recommending that more flexibility be granted because not every townhouse project needs loading zones. So, this is loading zones on private property.

Alderman Gatsas stated that is a good enough answer, thank you.

On motion of Alderman Garrity, duly seconded by Alderman Pinard, it was voted to recommend that the ordinance amendment relative to Article 10.06(C) ought to pass.

Chairman Duval addressed item 7 of the agenda:

7. Design Guidelines for the Arena Overlay District.

Alderman Garrity moved to recommend approval of the Design Guidelines for the Arena Overlay District. Alderman Pinard duly seconded the motion.

Alderman Gatsas in reference to the Overlay District asked does that change anything that we currently have?

Mr. MacKenzie replied since these are guidelines they do not change any of the regulations.

Alderman Gatsas stated so it talks about signage.

Mr. MacKenzie stated it talks about signage...in that case it gives more examples of what should go but again it's not regulations...there's a design review process, consultation with the Building Commissioner but there is a difference between the zoning regulations and these which are design guidelines.

Chairman Duval called for a vote on the motion to recommend approval. There being none opposed, the motion carried.

Chairman Duval addressed each ordinance amendment under item 8 individually:

8. Ordinances:

“Amending the Building Code of the City of Manchester as adopted in Section 151.01 of the City of Manchester Code of Ordinances by repealing the 1999 National Electrical Code and adopting the 2005 edition of the National Electrical Code; by repealing the 1993 BOCA National Plumbing Code and adopting the 2000 edition of the International Plumbing Code as amended by the State of NH Board of Licensing and Regulation of Plumbers and with further amendments contained herein; and by adopting new permit fees.”

Alderman Gatsas asked are the permit fees loaded into this at the same time? Can we separate the two questions?

Mr. LaFreniere replied this particular aspect does include the permit fees associated only with plumbing permits, I believe. But, I think that it would be something you would separate out.

Alderman Gatsas stated there's three separate questions here aren't there?

Chairman Duval stated so take them as one.

Alderman Gatsas stated I would rather take them individually.

Chairman Duval stated so item #1 is on the table.

Alderman Gatsas moved to accept the first item relative to the National Electrical Code.

Alderman Garrity stated number one also increases the plumbing permit fees in item #1 is that correct.

Mr. LaFreniere stated however the Committee wishes to take it up it certainly could be separated out.

Deputy Clerk Normand asked Alderman Gatsas are you trying to adopt the National Electrical Code to start.

Alderman Gatsas replied yes without an increase in fees.

Alderman Garrity stated Alderman Gatsas is that your motion the code without increasing the plumbing fees.

Alderman Gatsas replied yes.

Alderman Garrity duly seconded the motion to accept the first item relative to the National Electrical Code.

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

Deputy Clerk Normand asked Alderman Gatsas are you looking to address the Plumbing Code?

Alderman Gatsas stated I guess my question is and we have something before us that talks about building codes for disabled. Did you get an e-mail today something about cost for permits for the disabled?

Mr. LaFreniere replied yes I had received the same e-mail that you received and I responded to Eric Sawyer and actually talked with him again this afternoon. I think I have addressed...I don't want to speak for him obviously but I think I have addressed his concern relative to how the fees might specifically to accessibility improvements. There were some additional issues that we talked about in terms of the basis of fees...not really part of this proposal. But, I am going to have continued discussions with him on that.

Chairman Duval asked Alderman Gatsas are you all set?

Alderman Gatsas replied I'm all set.

Alderman Pinard moved to accept the increased plumbing fees.

Chairman Duval noted there was no second to the motion.

Alderman Garrity moved to receive and file the increased plumbing fees.

Chairman Duval stated a question for the Commissioner. Where is this going to leave you if we don't adopt the increase in fees?

Mr. LaFreniere replied it will leave...are you talking specifically about the plumbing fees now. The plumbing fees would probably represent a loss in revenue in the order of maybe five to six thousand dollars worth of calendar year revenue.

Chairman Duval stated refresh my memory, Commissioner. The increase in fees for both items they were factored into your budget.

Mr. LaFreniere replied yes that is correct...for all of these items.

Deputy Clerk Normand asked Mr. Chairman, is it the intent of the Committee to adopt the 2000 edition of the International Plumbing Code but not increase the fees.

Chairman Duval replied I believe that was the motion yes.

Chairman Duval stated there was a motion on the floor to receive and file. There was no second.

Alderman Gatsas moved to table. Alderman Garrity duly seconded the motion. The motion carried with Alderman Pinard duly recorded in opposition.

“Amending Chapter 1 Administration of the Building Code of the City of Manchester providing for increased fees.”

Alderman Garrity moved to table. Alderman Gatsas duly seconded the motion. The motion carried with Alderman Pinard duly recorded in opposition.

“Amending Chapter 150 Housing Code, Subsection 150.114 and Chapter 155 Zoning Code, Subsection 155.02 of the Code of Ordinances of the City of Manchester providing for increased fees.”

Alderman Gatsas moved to table. Alderman Garrity duly seconded the motion. There being none opposed, the motion carried.

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

A True Record. Attest.

Clerk of Committee