

COMMITTEE BILLS ON SECOND READING

April 21, 2008

5:00 PM

Chairman Osborne called the meeting to order.

The Clerk called the roll.

Present: Alderman Osborne, DeVries, M. Roy, Pinard, Domaingue

Messrs: T. Arnold, B. Stanley

Chairman Osborne addressed item 3 of the agenda:

3. Ordinance Amendment:

“Amending Sections 33.024 and 33.025 (Custodial Services Supervisor – Police; Equipment Maintenance Superintendent I – Police; Equipment Maintenance Superintendent II – Fire; and Equipment Mechanic II – Fire) of the Code of Ordinances of the City of Manchester.”

On motion of Alderman Pinard, duly seconded by Alderman M. Roy, it was voted to discuss this item.

Alderman Pinard stated the key thing is right now with the budget, how much is this going to cost?

City Clerk Carol Johnson stated Mr. Chairman maybe I can shed some light on it. I believe this is the ordinance that is actually tied to the negotiations and the contracts that were recently approved. There were two changes for each department that were required as a result of that and that is what was reflected in this as I understand it. It is what the Board had agreed to in negotiations.

Chairman Osborne asked was this unanimous Carol, you think?

City Clerk Johnson stated my recollection is that when it came out of committee it was yes. It has been through the HR Committee and referred to this Committee by the Board.

Alderman Domaingue stated in the future when we are looking at an ordinance that involves pay grade changes, is it possible to get the salaries for the grades with the copy of the ordinance?

City Clerk Johnson stated it's possible to do that. Typically you would have an HR Director here to respond to your questions, you don't have an HR Director right now and that's the information that also comes up in Committee. This has kind of been sitting around for a little while and we don't have an HR Director right now so that's probably why you don't have the information before you that you probably should have.

Alderman Domaingue moved to table the item.

City Clerk Johnson asked could we suggest that you move it on to the Board and then what we can do is provide the information to the Board? I can dig out the information that was provided to the HR Committee and submit that with the committee report.

Chairman Osborne stated what I can't understand is why didn't they do this in the first place, why bother coming here.

City Clerk Johnson stated when you have an ordinance that goes to the Board and gets referred here for technical review this Committee should be reviewing not the substance but the technicality of whether or not it has been prepared correctly. I can tell you that it has been prepared correctly it was submitted to us and gone through by both HR and the Clerks Office and the Solicitors office.

Chairman Osborne asked so it should have went from HR to the full Board, the full Board back to here? Is that what you are saying?

City Clerk Johnson stated that's the rules of the Board. The rules require that ordinances go to the Bills on Second Reading Committee for technical review and some of the HR ordinances no longer have to but the rules got changed in the middle of this one. This one typically probably wouldn't even be on here anymore except that it got caught in the middle of the rules being changed.

Alderman Domaingue changed her motion and moved to refer the ordinance to the full Board. Alderman Pinard duly seconded the motion. There being none opposed the motion carried.

Chairman Osborne addressed item 4 of the agenda:

4. Ordinance Amendment:
“Amending Section 33.064 Employees Injured in the Line of Duty to apply to all employees and to require the repayment of sick leave benefits upon determination of employee eligibility for workers compensation benefits.”

On motion of Alderman Pinard, duly seconded by Alderman DeVries, it was voted to discuss this item.

Alderman DeVries stated for lack of department heads here to explain it, would the City Clerk have any further explanation that might assist us?

City Clerk Johnson stated I believe that the City Solicitor can address it but it was an ordinance that was brought in by the Chief Negotiator and had quite a bit of discussion in the HR Committee and it was amended there and came out in this form. I am sure Tom could elaborate further.

Mr. Tom Arnold, Deputy City Solicitor, stated what this ordinance is intended to do as a result of the Sanckowitz decision is to require that an employee that collects sick leave and then subsequently collects workmen’s comp, repay the sick leave prior to their sick leave days being re-credited to their account. At the request of the Committee it was also modified to make that particular ordinance allowing for injured employees to be paid sick leave and then repay and then have their sick leave credits restored applied to all employees rather than Fire and Police Department employees to which it applies now.

Alderman DeVries asked can you tell me was that not the prior practice of at least Fire I am not sure about Police?

Mr. Arnold stated yes it was prior practice. It was a prior practice for both Fire and Police that the sick leave would be repaid prior to the credits being restored as I said as a result of the Sanckowitz decision. The Supreme Court interpreted the ordinance differently so this you are quite correct in a nutshell is to go back to the prior practice. I should say go back to the prior practice but also make the ordinance applicable to all employees not exclusively Police and Fire as it is now.

Chairman Osborne asked I just have a question, me being the first time on this particular committee, a few terms, way back I was on this Committee, a lot of these ordinances and so on do you feel they are necessary to come here and then, is this in the red book? Is this something that has to be done this way until it’s changed?

Mr. Arnold stated it is past practice and there are rules and I believe it's a rule not an ordinance, but I could be incorrect, that requires ordinances to come to this Committee for technical review. Now that does have some benefits sometimes, Alderman, particularly in discussion before various committees and ordinance will be sent here with the understanding that there will be amendments presented before this Committee to bring the ordinance, whatever ordinance might be, in line with the desires of the reviewing Committees or the sponsor. So although it does come here for technical review, certainly on occasion and probably not infrequent occasion it is used as an opportunity to amend a proposed ordinance to reflect what people actually desire.

Chairman Osborne asked so coming from the full Board a unanimous vote, according like this last one right here was unanimous from the full Board, so it gives it time to review again and get any amendments that might come forward by the time it leaves the full Board to this Committee, is that what you are saying?

Mr. Arnold stated in a sense yes. Certainly in discussions we may pick up upon errors or inadvertent omissions that there should be changes to an ordinance to reflect intent, that type of thing and that's why it comes here for technical review, Alderman, sometimes we do pick up on technicalities that need to be changed and this would be the appropriate place to do that.

Alderman M. Roy asked accounts is always receiving notice of employees who haven't repaid the system, and I guess my question would be are we going to have more of that? What happens if an employee gets paid their regular salary gets paid the workers comp and then leaves the City's employ, without ever coming back, what means of repayment does the City have?

Mr. Arnold stated unfortunately this ordinance can't address that, so that is going to continue to be a problem based on the fact that we cannot withhold any overpayments excess or un-repaid sick leave credits out of an employees pay. So that will continue to be a problem which we will continue to work on but this ordinance cant address that because that provision is state law.

Alderman M. Roy asked so Tom if someone gets injured, which we hope doesn't happen but it does, they receive their pay, they end up getting workers compensation if they terminate their employment there is no balancing of the books, their paid all of there sick leave and then it's just a debt they owe the City?

Mr. Arnold stated well they are paid whatever wages they are due. At that point its not usually sick leave it's their regular pay. My point being that pursuant to state statute, we cannot withhold from their pay any sums that aren't specifically

listed in the statute or which this is not specifically listed so you can't withhold it. We are left in the position that we are left in now in that we attempt to collect that money through other means, whether it be court action or agreements to repay, that type of thing.

Chairman Osborne asked Mr. Arnold that a state law isn't it?

Mr. Arnold stated yes that's correct it's a state statute.

Alderman DeVries asked additional questions of attorney Arnold, your comment that is in reference that you cannot withhold un-repaid sick leave balances, I guess that is not clear to me because the point of this ordinance is that they will not be returned to their full sick leave credit until they repay any amount that they have been double paid for by workmen's comp as well as a sick leave day so I guess I'm just not quite understanding that payment, un-repaid sick leave balances cannot be, because if they haven't repaid the amount obviously they are not going to vest out the same number of sick days because they are not going to receive the credit for it.

Mr. Arnold stated that is entirely correct. Under this ordinance they would not be re-credited with their sick time until they have repaid the amounts that we are paying from sick leave. The situation which Alderman M. Rou was referring to is where they have been paid both workmen's compensation and their sick leave and then leave the City. Your situation would make a difference where an employee, if I remember correctly has 50 years of service with the City so that they are entitled to collect unused sick time up to a maximum of I believe its 80 or 90 days upon leaving. They would certainly not get paid that amount because they would not have been restored their full sick leave credits or you could be in a situation where they haven't repaid and they have a maximum number of sick leave days anyway by the time they retire. The actual payments of course are very fact driven, given a particular employee. You make a point that certain circumstances they would not be re-credited with their sick time and hence would not be paid that sick time up to the ordinance maximum upon retirement.

Alderman DeVries moved to pass the ordinance. Alderman M. Roy duly seconded the motion. There being none opposed the motion carried.

Chairman Osborne asked just for my own curiosity, when you are going back to their pay, once you get on workmen's comp, they are not collecting and regular pay at all, the sick leave time and so on and the workmen's comp? You don't draw out full pay either do you?

Mr. Arnold stated they would not be drawing their regular pay since they are not working.

Chairman Osborne asked so they are taking it over from a sick, is that it?

Mr. Arnold stated what they do draw is up until they are found to be eligible for workmen's comp they will draw their sick pay which is equivalent to their full pay. Once they qualify for workmen's comp in accordance with state statute and city ordinance which would range between, I think 87% of their pay.

Chairman Osborne addressed item 5 of the agenda:

5. Ordinance Amendment:

“Amending Chapter 70: Motor Vehicles And Traffic of the Code of Ordinances of the City of Manchester by amending Section 70.82 Immobilization of Motor Vehicles for Non-Payment of Parking Fines increasing the fee for immobilization and inserting reference to the Parking Division.”

Alderman DeVries moved that the ordinance ought to pass. Alderman M. Roy seconded.

Alderman M. Roy moved for discussion, Alderman Domaingue duly seconded.

Alderman M. Roy stated the Section A, where it adds the bulk of the language in this ordinance, what rights does that give the Parking Division?

Ms. Stanley, Parking Manager stated what it gives us is the ability to immobilize a vehicle who has unpaid parking fines in any of our garages or parking lots, as opposed to a court summons which is what we had before.

Alderman M. Roy stated the way I am reading this and I do support what you are trying to do, so I will lead you down that road to start with, looking at a City like Boston that has their own tow trucks, that has their own impound yard, does this give you that potential flexibility where the Parking Division now has the ability to immobilize of tow, subject to towing and storage or immobilization?

Ms. Stanley stated yes it does give us that ability. Obviously we don't have our own tow trucks but we use the Police list, the Police use a list with rotating tow companies and we participate in that.

Alderman M. Roy stated my feeling of the lead up to this is been, you just want a correction in language where it has always been Police Department summons during these tough financial times, looking at you as an enterprise and looking at you as a potential revenue source, I personally feel that there are a lot of people in the City that deserve to get their cars booted or towed and stored and or kept so out of fairness I think there are certain people abusing the system and you have how many people on the boot list now?

Ms. Stanley stated last time I checked it was about 1,750.

Alderman M. Roy stated so looking at this I am very interested in what further it allows you to do not just a correction of language or the technical review. We are here for the technical review, I support it, I think you will be going forward but the full Board I think should be looking at how can we make this a more efficient system, one so that our parking revenues go up for people being able to use spaces that are not being occupied by people who don't pay their fines. Two it will help our businesses that have spots in front of their businesses because it won't be habitual offenders, it will be actual people coming down and using parking for the right reasons so I like where this is going and I will support it but I think you should be looking at that next step of possibility.

Alderman DeVries stated I would just add that I know Brandy Stanley had asked me to introduce some legislation this year which would have dramatically streamlined the identification in booting of vehicles as I recall that is about \$1.8 million on that list?

Ms. Stanley stated it's over \$1.9 million now.

Alderman DeVries stated \$1.9 million so almost \$2 million dollars and couldn't we have used that. Unfortunately we hit larger heads in the legislature with those who were concerned that was an infringement on privacy and such and weren't able to get that out of Committee. Alderman Mark Roy I couldn't agree with you more that there needs to be a way that we can streamline that process and we can do that without individuals feel like we are trespassing on their rights and I'll continue to look at that process and hopefully by this time in a couple years from now we will have something that doesn't require your individual patrol people trying to memorize lists of 2,000 names in order to identify who should be booted.

Alderman Pinard asked how much is owed the City in parking fines that haven't been paid? Any idea how much money is involved in this?

Ms. Stanley stated it's approximately \$1.9 million.

Chairman Osborne asked how are we doing or are not doing with another's PCO, in other words, one doing booting, one doing the time zones and so on and so for the. Do you think that's a real need? This is going to help with the booting as well, isn't it? I have been after this for 20 years. I don't know why we don't go forward with this. I really don't. It pays for the officer, it pays for the vehicle. We clean up the streets. It's that simple. I don't know what the hold up is? I thought I would push it in there anyway.

Ms. Stanley stated we were hoping we would be able to get the legislation that Alderman DeVries was talking about pushed through the Senate, in which case we would not necessarily need another PCO however now that that has not gone forward, we are going to be sitting back and looking at ways we can identify a booted vehicle better. We did put a request in the budget for another PCO vehicle and if we do get another PCO vehicle, after we complete the analysis I would be more than happy to come back to the Aldermen and ask for another mobile PCO.

Chairman Osborne stated I kind of disagree with you on that one because I have been on this for so long and I have so many different avenues that I look at out there. There is no way that one person can handle the whole city with time zones. There is just no way you can do that. So that is not going where it should. They are just worried about the booting. Well that is another story, I am talking about 15 minute parking, 2 hour parking, how many of those are out there? How many can you police? This is what I am talking about. Adding another PCO, there is nothing wrong with that no matter how much more you get with it.

A vote was taken on the motion to pass. There being none opposed the motion carried.

Chairman Osborne addressed item 6 of the agenda:

6. Ordinance Amendment referred back to Committee by BMA:

“Amending Section 70.45 of the Code of Ordinances to clarify responsibilities of the Parking Division.”
(Note: the BMA is seeking further clarification of the scope and duties of the Parking Manager-memo and additional information provided by the City Clerk.)

Alderman Domaingue moved for discussion. Alderman M. Roy seconded. There being none opposed the motion carried.

Alderman Domaingue stated Brandy when this came before the full Board, it is my understanding that what you were seeking to do, was to take all on street parking spaces out of sort of the auspice of the Parking Division and rather just focus on the metered spaces and those spaces adjacent to them in downtown Manchester. Is that correct?

Ms. Stanley stated that is correct.

Alderman Domaingue asked, you had stated during that same meeting, I guess I am just trying to clarify, what you had said is what the ordinance would allow pursuant to the later sections of it, anything outside of that defined scope so the metered parking spaces in the downtown area and those parking spaces adjacent to them, those would be dealt with by the Parking Division upon request of the Board of Mayor and Aldermen. So then the duty would fall upon us to make a request that parking in those spaces be enforced?

Ms. Stanley replied, I will defer it to Attorney Arnold, the way this changes is that my scope of operations is now just downtown but our Parking Control Officers do enforce outside of the downtown area. If you look at Item F, it says perform all other such duties or tasks as may be assigned by the Board of Mayor and Aldermen. I would imagine it would probably require a request from the Board of Mayor and Aldermen to enforce us to use our PCO resources outside of the downtown area.

Alderman Domaingue stated I guess it seems to me like this would be going backwards.

Ms. Stanley stated the reason we purposed this and we got together with the Traffic Division and with the Highway Department as well as Attorney Arnold to discuss what was happening basically right after the Parking Division was formed. The Parking Division was getting requests that probably were for neighborhood disputes on the West Side or neighborhood disputes in other parts of the City that can be quite time consuming and probably weren't the best use of the Parking Divisions as a resource so what we were seeking to do is to clarify that certain things needed to go to the Traffic Department who had historically taken care of all that and to make sure that we were for the most part kept within the auspices of downtown which is why the Parking enterprise was formed.

Alderman Domaingue asked wouldn't it make more sense to refer these neighborhood disputes to Traffic or the Police Departments without necessarily changing the ordinance?

Ms. Stanley stated I think it would but that was not what was happening so that's why we came together and decided to come to the Board with this.

Alderman DeVries stated I guess I just wanted to clarify first Brandy because it wouldn't be the Traffic Department per say but maybe the Police Department Traffic Division that would be useful when there are on street parking issues outside of your downtown jurisdiction. Would that be correct?

Ms. Stanley stated if you are talking about enforcement it would probably go to us because we actually do the enforcement. If you are talking about changing street signage and changing ordinances and doing striking and doing all of that stuff, that probably wouldn't go to the Police Department. The problem was it was coming to us and it probably should have gone to the Traffic Division because that's really what they do.

Alderman DeVries asked did you have any feedback from the Police Department. There is some shifting of personnel that followed when you created the new enterprise the Parking Enterprise. Have they ever demonstrated that they have any issues maintaining the on street enforcement outside of the downtown?

Ms. Stanley stated the Parking Control Officers have never demonstrated that there is any issue and the Police Department, I don't want to speak for them but we have had several conversations over the last year and in all of the conversations indicated to me that they were happy with the change.

Alderman Lopez stated I raise a couple questions. First of all I disagree with you indicated that the Parking Division Enterprise system was just strictly for downtown. I was part of that system. Parking all over the City is a major issue whether it be odd and even, whether it be permit whatever the case may be. In saying that if you were to give an authority by the Board of Mayor and Aldermen the Board of Mayor and Aldermen most likely are not just going to say do it. Unless you have the resources in order to comply with the wishes of the Aldermen. In saying that you are looking at downtown and a section of downtown, Central Business District, as your main target. If you were to be given the authority for the entire City, have you thought about what you would need in order to do that?

Ms. Stanley stated first of all I will say that for the most part I am not qualified to manager the parking for the rest of downtown because there is a lot to do with ordinances, there is a lot to do with signage, basically if that was given to me, we would be taking over half of the duties of the Traffic Division. That's pretty much about half of what they do. The other half is to deal with the signals and things like that. I don't have the personnel to do that. I don't have the know how, in

terms of a lot of the things they do. Which doesn't mean I couldn't learn but its not something I could take over immediately with the existing staff of very easily.

Alderman Lopez stated in a long range program in reference to Traffic whether it be signage or anything else, I think in the long range plan, it might not be a bad idea for the enterprise system to do it and take it out of the general fund. If you would look at it in that vain as far as the enterprise concern. Because right now in the general fund we cant find the necessary revenue to do all these things anyways and that's why the enterprise system was created. Maybe on a long range program, I surely would take a look at that. There might be some benefits to the City if that was to happen other than the way it is now. I was concerned only that as to whether or not we were given some authority away in passing this. So there was confusion from my part and a couple others that's why we sent it back. So just to clarify, maybe something should be taken out of here. I don't know. I leave that up to the Committee.

Alderman M. Roy stated, Brandy don't see yourself short, I am sure you can learn the uniform code very quickly of signage in the City because there are 14 bosses' that sit around and do it every month at a Public Safety meeting. That being said, this clarification should pull you out of the neighborhoods and out of the complaints that most out of Ward three Aldermen get regarding on street parking. I look at this as something prior to your department of your hiring even, ever being created. So it does clean up and discusses metered which is where I think the enterprise should focus and as Alderman Lopez is going in the direction of revenues, I think if you focus there we will see some great rewards. Thank you for that so don't sell yourself on your knowledge.

Alderman M. Roy moved to pass. Alderman DeVries seconded.

Chairman Osborne asked Brandy, lets get this together here. You don't want to get up or do you feel you want to go outside of the City here you know what about all these here to corners, fire hydrants, time parking, who do you feel should be taking care of that? The Police Department?

Ms. Stanley stated if you are talking about enforcement then we obviously have the best resources to do that. If you are talking about installing signs fixing them when they are broken. Then no I don't.

Chairman Osborne stated I am not talking about Traffic Department duties I am talking about your duties. That's all you should be doing is ticketing right?

Ms. Stanley stated oh, well that's only a portion of what we do but I agree that ticketing, especially in the outskirts of the City that's what we do so we should be doing it.

Chairman Osborne asked we will still be doing this right?

Ms. Stanley stated yes.

Chairman Osborne stated so you definitely need another PCO. Right?

A vote was taken on passing the ordinance. Alderman Domaingue was recorded in opposition. The motion carried.

TABLED ITEMS

Chairman Osborne addresses Item 7, this has already moved over to the Highway Department. Its just reclassification.

7. Ordinance Amendment:

“Amending Sections 33.024, 33.025, & 33.026 (Purchasing Assistant) of the Code of Ordinances of the City of Manchester.”
(Tabled 2/5/08)

Alderman Pinard moved to remove Item 7 from the table. Alderman M. Roy seconded the motion. There being none opposed the motion carried.

City Clerk Johnson stated we did receive an email today from the Highway department requesting that this item come off the table and that it be passed as an ought to pass and that also initiated from the employee involved. The position was one that was actually formally, the person in the position was formally in the Clerks office, was transferred in the budget process over the Highway. He is performing the functions that are described within what's before you this evening and those duties were determined by the HR Director. It is basically reclassifying a position in the Highway Department and it's a downgrading of the position.

Alderman DeVries stated I was just going to ask for that final clarification. Recollection is that this saves the City money.

Alderman Pinard moved to pass this ordinance. Alderman DeVries duly seconded. Alderman M. Roy being recorded as opposed. The motion carried.

8. Ordinance Amendment:

“Amending Chapter 70: Motor Vehicles and Traffic of the Code of Ordinances of the City of Manchester by expanding the Residential Parking Permit Zone #6 in Section 70.55(D) (6) to include Mechanic Street, north side, between Elm Street and Canal Street.”
(Tabled 11/26/07; Remained tabled 2/5/08)

Alderman M. Roy moved to remove Item 8 from the table. Alderman Pinard duly seconded. There being none opposed the motion carried.

Ms. Stanley stated this ordinance amendment was tabled in February, pending approval by Alderman Sullivan. This ordinance amendment expands the residential parking permit program within his Ward. Since it has been tabled, I did have a discussion with him and he indicated to me that he was ok with this ordinance amendment.

Alderman DeVries moved to pass. Alderman M. Roy seconded. There being none opposed the motion carried.

There being no further business, on motion of Alderman Pinard, duly seconded by Alderman M. Roy, it was voted to adjourn.

A True Record. Attest.

Clerk of Committee