

## COMMITTEE ON BILLS ON SECOND READING

May 5, 2009

*Immediately following the  
Lands & Buildings meeting*

Chairman Osborne called the meeting to order.

The Clerk called the roll.

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

Messrs: B. Stanley, T. Arnold

Chairman Osborne addressed item 3 of the agenda:

3. Ordinance Amendment:

“Amending Chapter 70 Motor Vehicles and Traffic of the Code of Ordinances of the City of Manchester by amending Section 70.36 Stopping, Standing and Parking by establishing a fine for the fraudulent use of walking disability placards or plates.”

Acting City Clerk Matt Normand stated Mr. Chairman, I believe there is an amendment to this Ordinance.

Ms. Brandy Stanley, Parking Manager, stated the amendment is just a change in terminology. The first sentence says that *any person using a walking disability placard or plate not issued to them, the qualified walking disabled person*, the governor’s Commission on Disabilities asked me to change that terminology to *the qualified person with a walking disability*. That is the only change. It doesn’t change anything other than terminology.

Alderman DeVries stated I just want it to be clear that with the policy that we are adopting this evening it is not changing the policy for Elm Street where a disabled person can park in a non disabled spot if they have the proper placard in place or license plate?

Ms. Stanley replied that is correct. It doesn't change any of the other ordinances. Just to be clear, I think there might have been some confusion at the last Board meeting, this is not increasing the existing fines from \$250 to \$500. It is actually an additional fine, a new fine that would only be assessed if we identified someone that was using a placard fraudulently.

On motion of Alderman M. Roy, duly seconded by Alderman Murphy, it was voted that the Ordinance Amendment ought to pass.

Chairman Osborne addressed item 4 of the agenda:

4. Ordinance Amendment:

“Amending Chapter 70: Motor Vehicles and Traffic of the Code of Ordinances of the City of Manchester by repealing section 70.81 Penalty For Other Violations and replacing in its entirety a new section 70.81 Penalty For Other Violations and Judicial Review.”

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

Alderman M. Roy asked Brandy, the need for judicial review, adding section (c), how often does this come up? Is this something that will help you make your collections job that much easier? What are you looking to accomplish?

Ms. Stanley replied this is only partially related to parking. It also relates to other ordinance violations that come out of the Ordinance Violations Bureau. Basically what is happening now is the judicial review is basically a court date to contest a ticket. All the parking tickets go through an internal review process because we don't want to send tickets to court unnecessarily. If it should be voided, we void it before it gets to the court process. Because we hold auto registrations until outstanding parking tickets are paid, what we found is that people will request a court date at the time that they want to register their car. If you request a court date, currently you are not required to put up a cash bond in the amount of the parking ticket. A lot of times what happens is they will request a court date and they are then cleared to register their car and they will probably never show up to court. In our view it is an abuse of the court system because it is using the court system as an extended payment plan.

On motion of Alderman M. Roy, duly seconded by Alderman Pinard, it was voted that the Ordinance Amendment ought to pass.

Chairman Osborne addressed item 5 of the agenda:

5. Ordinance Amendment:

“Amending Chapter 38: Code Enforcement of the Code of Ordinances of the City of Manchester by amending Section 38.05 Service of Citation to add an additional method of service for all citations.”

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

Alderman Murphy stated I actually have a question for counsel. I just want to make sure that this comports with whatever court rules there are that relate to service.

Mr. Thomas Arnold, Deputy City Solicitor, stated it is kind of a double pronged answer. The City can certainly set up a system for the service of citations. However, especially recently the court has started requiring in hand service so although our ordinance may say that service by, for instance, first class mail is allowed, it kind of comes a moot point if the District Court says we are not going to accept that.

Alderman Murphy stated I guess I am just concerned that we are setting ourselves up.

Mr. Arnold stated I think the methods of service especially any requirement for any in hand service, is something we are going to attempt to work with the court on so that we can try to streamline this process as much as possible from the City's perspective while protecting people's due process rights.

Alderman Murphy asked would we not want to wait and rewrite the ordinance to comport with the court rules?

Mr. Arnold replied I think you could probably pass the ordinance now because we could certainly use sections of it and if a modification becomes necessary we could come back with that.

Ms. Stanley stated I was not involved in this but my understanding is that there was actually a meeting prior to the drafting of this ordinance with the court and they had indicated during that meeting that at this point they would accept first class mail as a legal means of summoning, which is why we are bringing this ordinance forward.

Alderman Murphy asked do we have any kind of documentation from the courts that indicate that?

Ms. Stanley replied no.

Alderman M. Roy stated I hate when we do things like this. I can see Tom's point but I think Kelleigh's reservation is, are we just setting the City up for more headaches when someone gets served and it comes back.

Chairman Osborne asked how do you feel about that, Brandy?

Ms. Stanley replied my understanding is that this ordinance gives the City the option to use first class mail as a method of service. It doesn't take away any of the existing options. Again my understanding is that the court did indicate although they didn't give us anything in writing. It doesn't take away any of the existing options; it just adds one.

On motion of Alderman Murphy, duly seconded by Alderman Pinard, it was voted to table this item until notification from the court is received. Alderman DeVries voted in opposition.

Chairman Osborne addressed item 6 of the agenda:

6. Ordinance Amendment:

“Amending Chapter 70 Motor Vehicles and Traffic of the Code of Ordinances of the City of Manchester by amending section 70.78 Penalty and establishing a new increased penalty schedule.”

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

Alderman M. Roy asked the definition of commercial vehicle in our ordinances, what is it and does everyone know it?

Mr. Arnold replied I could not answer that one off the top of my head. I would have to research that. It may well fall within the state's definition of commercial vehicle which is based on weight.

Alderman M. Roy asked Brandy, maybe you can answer this. Who brought this ordinance forward?

Ms. Stanley replied it was a combination of Parking and Ordinance Violations. With regards to the commercial vehicle prohibited overnight parking, we are not changing that fine and we are not changing that violation. We just moved it from a different section of the ordinances so that it was all in the same place.

Alderman M. Roy stated so the bold is just an addition. It is being moved from elsewhere?

Ms. Stanley replied yes.

Alderman M. Roy stated then this is more housekeeping. One of my largest headaches over the last five years has been, is the plumber that takes home his pickup truck that has the company logo on the door a commercial vehicle even though it is his daily driver and it is the same size or smaller than some of the other vehicles that are driven in my ward? We have asked it. We have had people tell us they will get back to us. We have talked about gross vehicle weight. We have talked about my truck versus other people's pick up trucks, versus other people's work trucks. I am sharing some of the frustration of other Aldermen that ask for things and never get it settled. If this goes forward, can you promise us within 30 days, that will be brought forward in combination between yourself, Ordinance and the Police Department so that when my constituents call because their work van got a ticket and it is a \$50 ticket for parking in front of their house, we can have something to go on? I don't want to see tractor trailers all over our wards but on the same note, I know what the state definition is and it is not what people carry out here in the City. If you can promise me that will be done in 30 days I will help you move this.

Ms. Stanley replied yes I would be more than happy to.

Alderman DeVries asked Brandy, clarification on the assessments for penalties, the basic penalty in place for the first 30 days, is that an increase of the violation already in place today for the 30 day time period?

Ms. Stanley replied no, it is exactly the same as the initial violation is now. The difference is that now you only have seven days to pay it before it increases. This ordinance proposes to extend that timeframe to 30 days.

On motion of Alderman M. Roy, duly seconded by Alderman DeVries, it was voted that the Ordinance Amendment ought to pass.

Chairman Osborne addressed item 7 of the agenda:

7. Ordinance Amendment:

“Amending Chapter 71 Snow Emergency Regulations of the Code of Ordinances of the City of Manchester by amending Section 71.99 Penalty and establishing an increased penalty schedule.”

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

Alderman M. Roy asked Brandy, the schedule, how did you bring it about? I assume this is all yours.

Ms. Stanley replied yes, once again we are not changing the initial find for each one of these violations. Nor are we changing the secondary fine. After the initial fine you get from seven until thirty days to pay it and then it adds the second tier of late fees. The reason this is proposed in a different section of the ordinance is because it has to do with snow emergency and those fines and penalties are not included in the previous ordinance. It is basically the same thing. We are just addressing the winter parking related fines.

Alderman M. Roy stated with no one from Finance here and one of my concerns is... I am trying not to look at these as revenue sources but in these tough economic times we are taking a lot of things that could be paid in seven days and stretching them out to sixty in the last ordinance and this one. I am wondering if as these things creep up if there is going to be a fiscal impact. I know if we keep a week's payroll in the bank it is almost \$30,000 or \$40,000. I am starting to get concerned as we delay receiving money that we may end up hurting ourselves unintentionally.

Ms. Stanley stated we looked at that because that is a concern that we had. What we found when you looked at our payment patterns was that 70% of violations are paid within seven days. If they don't make the seven day window, then the vast majority after that age well past 30, 60, or 90 days. Typically we have to send out notices or we have to hold the registrations. While we do expect a slight revenue loss, we also have put unpaid parking tickets into collection agencies and they are currently on track to collect an additional \$600,000 within the first twelve months. Any revenue loss we are getting by extending it from seven to thirty days is going to be covered by that as well as the addition of the second tier of penalties after 60 days. We looked at it and we honestly don't think that there is going to be negative revenue impact.

Alderman M. Roy stated Brandy, again not to beat this, but you mentioned that you have 70% of the people pay within seven days. To me that kind of says 70% of the people know they are guilty and they pay up quickly, get it off their shoulders and they are done with it. By delaying this out 30 days do you think there is going to be an impact where you are now letting it sit or forgetting about it? I would hate to see that 70% number drop and have more end up in collections.

Ms. Stanley replied there is no way to tell for sure but because we looked at the payment patterns, you get the initial 70%. Once the late fee is added there is no additional incentive to pay it quicker. Sometimes, if you have a holiday weekend and you get a ticket on Thursday and you don't get paid until the next Friday, it is impossible to get it within seven days. If we give them the additional leeway of the extra 30 days, at least in my opinion, that 70% before the first late fee goes up is going to increase.

Alderman M. Roy asked has anyone ever looked at like we do with our taxes and waste water fees with interest? We have a low interest number that follows any unpaid property taxes or waste water delinquencies. Has anyone looked at that for some of your fees? A couple of these penalties are much higher than people's waste water bills or water bills per year. We could be talking apples to apples when it come to \$360 handicap space access isle fine that is not paid after 60 days is larger than most people's water bill for the year. At those numbers should we be looking at something that gives people incentive after the 60 days to get it paid?

Ms. Stanley replied we could but what we have been finding with the collections company is that getting a letter from a collection agency immediately gets your attention. They have been able to collect a lot of debt that we have sent out numerous notices on and gotten no response on. From the way things are going, I would imagine that getting a letter from a collections company would serve the same purpose as doing something as technologically difficult as adding finance charges.

Alderman M. Roy asked when do the dollars start coming in from the collection agency?

Ms. Stanley replied the first payment we received from them was on April 7th for \$40. The next payment was the day after for \$1,220. They have been averaging \$1,620 a day every day since then.

Alderman DeVries asked Brandy, is it possible for you to keep your eye on this and if the situation that Alderman Roy has brought to our attention of individuals waiting 30 days where 70% were paying in a more timely fashion previously, maybe for you to report back after you have good history on this? Then let us know if you think it would be advised that we look at an early payment discount if we are trying to encourage that first

seven days of payment. I realize it is a very delicate balance between what individuals can afford to pay especially in these tough times and what the City can afford to forgive and or wait for payment on. I don't know that we are going to have the answers tonight to some of the questions that have come up but certainly with some tracking and that eye to detail, you can help advise us as to how this policy should look going forward. Certainly we don't want to send things to collection if we don't need to. It is a hardship that doesn't serve any of us well. Thank you.

On motion of Alderman M. Roy, duly seconded by Alderman DeVries, it was voted that the Ordinance Amendment ought to pass.

Chairman Osborne addressed item 8 of the agenda:

8. Ordinance Amendment:

“Amending Section 97.34 Encumbrances Prohibited of the Code of Ordinances of the City of Manchester by extending the dates of operation for downtown sidewalk encumbrances and allowing the City Clerk to permit portable signage placed within the public right-of-way.”

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

Alderman DeVries asked how has the policy been working to date as far as the encumbrances on the sidewalks?

Acting City Clerk Normand replied currently our office permits and enforces the encumbrance in the downtown Central Business District. The Board passed a policy some time ago for the remainder of the city. That was to be permitted and enforced by the Highway Department. What came up in Committee during discussions about this item was that Highway didn't have the manpower to enforce this and really the administrative aspect of this was a burden to them as well so because we already have the mechanism in place we met with staff and offered to take that on. That is essentially the bulk of this Ordinance Amendment that is in front of you tonight. The other component of this was as Alderman Sullivan amended under suspension of the rules, for this year, was the April 1<sup>st</sup> start date of the sidewalk encumbrances downtown. Currently it is May 1<sup>st</sup> and as you know the weather has often permitted businesses to start prior to May 1<sup>st</sup>. The Board did approve this year businesses to start prior to May 15<sup>th</sup> and this amendment would allow businesses moving forward under the discretion of the City Clerk's Office to do that. That takes care of this going forward.

Alderman DeVries stated I understand you are working with the provisions of the licensing mechanism but I guess my concern is that if citizens felt that the encumbrance on the sidewalk was, say, an issue for handicapped individuals restricting the right of way, who would be receiving that complaint? I am not sure anybody would automatically think of going to the City Clerk. That is the kind of feedback that I am looking for.

Acting City Clerk Normand stated the way the process is outlined in this attachment, the process requires a sign off from Highway and Building Departments. What would happen would be a business on any street in the City, we will say Cedar Street, they would ask for permission via application to place a sandwich board out in front of their business for instance. We would then collect their application and forward it on to Highway and the Building Department for their approvals. Provided it meets their approvals, we would grant that permit. To answer your question, if a neighbor had specific concern regarding that particular sign, ultimately the complaint would have to come to us. If someone were to call Highway, I am assuming they would forward that on to us and we could make sure that that happens.

Alderman DeVries stated certainly I am not aware of any complaints that have been made and I assume your office is not as well.

Acting City Clerk Normand stated that is what initiated this when Alderman Duval was still here. He had received a couple complaints from his constituents, which is what initiated this policy. Nothing has been done yet and obviously this needs to be approved by the Board first. As far as the downtown area we receive complaints all the time and we work with the business owners. A lot of times it is encroaching on that access isle. In the downtown district businesses are allowed to encumber, by permit, up to half of the sidewalk. We field complaints constantly when they encroach onto that other half that would restrict pedestrian flow.

Chairman Osborne asked Mr. Arnold, as far as the liability with something like this, if somebody was to get hurt, whether they be handicapped or otherwise, where does the liability fall? On the merchant? I know the City is not held responsible especially if a business is putting a sign themselves out there because we didn't put it there. How does that work?

Mr. Arnold replied it is hard to say because of course liability is highly fact specific. There are various state statutes which protect the City from liability. The business that places the sign out may well face liability in any given particular situation.

On motion of Alderman DeVries, duly seconded by Alderman M. Roy, it was voted that the Ordinance Amendment ought to pass. Alderman Murphy abstained.

## **TABLED ITEM**

9. Ordinance Amendment:

“Amending Chapter 33: Human Resources of the Code of Ordinances of the City of Manchester by adding a new Section 33.100 Residency Requirements thereby establishing a requirement of residency within the city of Manchester for City Officers and Department Heads.”

*(Note: The Committee has requested additional information to come from the City Solicitor’s office. Tabled 12/01/08)*

This item remained on the table.

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

A True Record. Attest.

Clerk of Committee