

COMMITTEE ON BILLS ON SECOND READING

December 7, 2010

5:15 PM

Chairman DeVries called the meeting to order.

The Clerk called the roll.

Present: Aldermen DeVries, Lopez, Arnold, Corriveau, Shaw

Messrs: S. Manchester, T. Arnold

Chairman DeVries stated without objection I would like to take item 4 out of order to accommodate some scheduling issues.

Chairman DeVries 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 amending Section 70.54 Permit Parking in Lieu of Coin Deposit thereby removing a portion of Elm Street and removing Kidder and Hollis Streets in their entirety from District 26 and adding same to District 27.”

On motion of Alderman Shaw, duly seconded by Alderman Arnold, it was voted that the ordinance amendment ought to pass.

Chairman DeVries addressed item 3 of the agenda:

3. Ordinance Amendment:

“Authorizing the Mayor to dispose of certain tax deeded parcels of land located in the so-called Wellington Hill area.”

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

Chairman DeVries stated I note that we have counsel before us. There is need for at least one amendment, I have been told. Maybe we should have counsel come forward.

Ms. Susan Manchester, Attorney with Sheehan-Phinney, stated I represent Sterling Homes in this matter. We are very concerned about the one-year time limitation. Under the purchase and sale that you're going to approve, the buyer actually has the opportunity to have 18 months to do his permitting. What it calls for is a year and then he pays another \$25,000 deposit in another six months. The reason for this is because the property has significant wetlands, vernal pools. We certainly know we have to go up to New Hampshire Department of Environmental Services for at least a dredge and fill and maybe alteration of terrain; it's hard to tell. We may also trigger some EPA and Army Corps regulations because of the wetlands. That will take time to work through; it will make more sense to work through those issues first before coming to the Planning Board and/or the Zoning Board because it doesn't make sense to have a plan approved by a municipal body and then have DES say that we want changes. So the long and the short of it is, under State law the ordinance can be read to last indefinitely and that is what we want because of the length of time it will likely take to get it permitted. There are also going to be some title issues that we will need to work through with the City of Manchester. We've started doing that title work and there are some issues regarding the tax deeded properties; the title to them is questionable in some of the cases so that will take some time as well.

Chairman DeVries stated thank you, Attorney Manchester. So what I gather is in order for the ordinance to be consistent with the purchase and sale agreement, we need to move off the language that we have before us today and change the language so that it remain in effect indefinitely. There is still the time constraints called out within the purchase and sale, which is 18 months; it is just that State law doesn't allow us to stipulate 18 months, titled one year or indefinitely.

Ms. Manchester replied yes, that's my understanding from talking to the City Solicitor's office. The Purchase and Sale will not go on indefinitely; it's just that its term is more than a year.

Chairman DeVries asked Deputy Solicitor, are you agreeing that changing the language to indefinitely would meet the needs of the purchase and sale?

Mr. Thomas Arnold, Deputy City Solicitor, responded yes. What I would suggest is the last sentence of the ordinance, which state, "This ordinance shall remain in effect for one year," should say, "This ordinance shall remain in effect indefinitely."

Alderman Corriveau stated I have a question for Solicitor Arnold. What does the purchase and sale agreement read? Does it read indefinitely?

Mr. Arnold replied no, the purchase and sale does not. The purchase and sale, I believe, reads up to 18 months.

Alderman Corriveau stated then I guess I'll ask Attorney Manchester. Why is 18 months not sufficient?

Chairman DeVries asked isn't that a statutory requirement?

Ms. Manchester responded I'll let the City Solicitor address that question.

Mr. Arnold replied I was looking for the actual statute. I don't find it immediately, but my recollection is the statute says that it shall remain in effect for one year or upon insertion of the proper language in the ordinance it could remain in effect indefinitely. The way they read it is that you basically have a choice between one year or indefinitely.

Chairman DeVries stated Alderman Corriveau, what will dictate the timeline is going to be the purchase and sale agreement, which stipulates the 18-month timeline.

Alderman Corriveau stated thank you.

Alderman Lopez stated just to clear up my own mind, Tom, in the purchase and sale agreement it is 18-months, the indefinite ordinance. If they were to sell the property, for example, the ordinance would still be there.

Mr. Arnold replied the ordinance would still be there, yes, but obviously if the purchase and sale expires according to its terms, the ordinance wouldn't be of any use unless there were subsequent efforts to sell it to the same buyer because the ordinance specifies that it's to be sold to Sterling Homes, LLC.

Alderman Lopez asked all we're doing is complying with State law?

Mr. Arnold replied yes.

On motion of Alderman Lopez, duly seconded by Alderman Arnold, it was voted that the ordinance amendment ought to pass and the report move forward to the full Board this evening.

Chairman DeVries asked did the Clerk catch that we'd like to have that reported out for this evening?

City Clerk Normand replied I did hear that. We'll do our best to. I'll have to have a discussion with the Mayor on that as far as the agenda, but there is a provision on the agenda to allow the report to come in.

Chairman DeVries stated it was my understanding when we talked about this a couple of weeks ago and agreed that we wanted this meeting this evening before the meeting, it was to accommodate the full Board meeting this evening.

City Clerk Normand stated there is a provision on the agenda to allow that to come in.

Alderman Corriveau stated if I could just say one thing, Madam Chair. Regardless of the amendment and regardless of the technical review, I'm going to vote against this proposal. Wellington Hill area is opposed to this ordinance, and the ordinance could read I love puppies and kittens and I'd still vote against it, just to clarify that.

Chairman DeVries stated I understand, Alderman Corriveau.

Chairman DeVries called for a vote on the motion. The motion carried, with Alderman Corriveau voting in opposition.

Chairman DeVries addressed item 5 of the agenda:

5. Ordinance Amendment:

“Establishing a special purchase procedure relating to the pickup and management of yard waste and recyclables.”

Alderman Shaw moved that the ordinance amendment ought to pass. Alderman Arnold duly seconded the motion.

Alderman Arnold asked for clarification. Is this being reported out tonight or have we made preparations for this to be reported out tonight? This is directed to the Clerk.

City Clerk Normand replied, yes, again, there are provisions to allow for that and the contract that would correspond with this ordinance amendment has been posted to the public.

Attorney Arnold stated thank you very much.

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

There being no further business, on motion of Alderman Arnold, duly seconded by Alderman Shaw, it was voted to adjourn.

A True Record. Attest.

Clerk of Committee