

## COMMITTEE ON LANDS & BUILDINGS

**July 25, 2000**

**5:00 PM**

Chairman Cashin called the meeting to order.

The Clerk called the roll.

**Present:** Aldermen Cashin, Gatsas, Levasseur, Shea, Thibault

**Messrs:** T. Arnold, B. MacKenzie, T. Nichols

Alderman Cashin addressed item 3 of the agenda:

Ratify and confirm poll conducted relative to the operation of a vending cart at City Hall Plaza on Elm Street.

Alderman Thibault stated I have a problem with that in view of the proposed Civic Center coming into play. I wonder if it is time to send this to some Committee to be reviewed so that we do not end up with one or two thousand of these carts in front of here to the Civic Center before this even opens. It is strictly a question on my part that I would like to see that the City has some control so that we do not end up like New York or Boston or Philadelphia as to in front of these game places. I am just wondering if it should go to some Committee other than this to establish some kind of criteria that the whole City will have to follow.

Alderman Cashin stated my understanding is that there was a phone poll taken and it was already voted on and now we are just going to reaffirm and my recommendation is to let it go this year and next year if you want to look at ordinances you could do that.

Alderman Shea stated Terry Casey has been operating for several years. It is simply a case of approving something. This poll in my judgement was taken at an earlier time. I am not sure exactly when it was taken but I think it was prior to Friday, May 5, 2000. Everyone voted and it was approved.

On motion of Alderman Shea, duly seconded by Alderman Thibault, it was voted to confirm the poll conducted.

Alderman Levasseur stated when this poll was taken on May 5, 2000 I received a phone call concerning this poll and there is a rule downtown or there was an ordinance passed by the Board at the time. In order for a vendor to come downtown they must get the permission of the abutter. The reason Mr. Casey used to be located in another section but the abutter said "no we do not want you in front of us anymore". The abutter to this is *Ahh-Some Gourmet Coffee*. Before anybody knew about this poll I got this letter and I went over to talk with this person and they wrote this letter saying they do not agree with them being there because they are the abutter to where this cart would go. The second reason he is coming to get it over in front of City Hall is because he does not have to get permission by anybody else if he was to go in front of *McQuade's* or any other business down here he must get permission in writing and then bring it to this Board. This is something that is not good. I do not think that government should be getting involved in who should be on its property or not. It shows favoritism to one person and maybe not to another person. Putting him right here at City Hall also is not a good idea because it shows favoritism and government should stay completely out of this. You also have a letter from a constituent who is the abutter that does not want that person there. By your own rules, which was passed two or three years ago because these vendors were coming down and three or four months of the year they are getting all the money by taking it from the people who pay the rent and taxes. The only time you get walk-in business around here is in the summertime. It is an unfair competitive advantage for these guys to come down and not have to pay much of a permit.

Alderman Cashin asked has the license already been issued.

City Clerk Bernier replied in the affirmative.

Alderman Cashin asked would we have to withdraw the license now if we go along with Alderman Levasseur.

City Clerk Bernier replied Mr. Casey has requested follows what the ordinance has required of him. He has to "vend within fifty feet of any building or store front housing a business on the same or similar food products". I am not sure if the products being sold at *Ahh-Some Gourmet Coffee* are the same products as what Mr. Casey is going to sell. He is within the ordinance. It is up to this Committee if they want to give this person permission to sell sausage and hot dogs on City property. He is within the guidelines of the ordinance the way it is drafted.

Alderman Cashin asked has he already got permission.

City Clerk Bernier replied in the affirmative.

Alderman Cashin asked we would have to withdraw the permission.

City Clerk Bernier stated you would have to deny him from sitting there.

Alderman Thibault stated I was trying to say before not so much as to take it away from him at this point. But I just believe that either this Committee or some other Committee should certainly start looking at what we will be faced with in the future. How long does that license last, Leo.

City Clerk Bernier replied until the end of the year.

Alderman Thibault stated I do not mind if we want to let this go through. I am saying that this Committee or some Committee should look at it in the future as we get into the Civic Center so that we can control what is going on.

City Clerk Bernier stated Alderman Gatsas; Chairman of the Committee on Administration has the City Clerk's Office looking into that. The way the ordinance is drafted currently you could just add Civic Center and it would address all of Alderman Thibault's issues. But at that time the Committee on Administration will determine that.

Alderman Gatsas asked he is not operating now and he has a license. Is he waiting for December. I would assume he would want to be in operation here during the good weather.

City Clerk Bernier replied Mr. Casey did call me two days ago and indicated that he has two other areas of business and he is not 100% sure that he is going to be here.

Alderman Gatsas asked we obviously have given him his license so on what grounds could we take it away from him.

City Clerk Bernier replied only this Committee could decide if you want him at that location because it is a public space.

Alderman Gatsas stated we have already voted that he could have it. What is our legal position if we have already issued a license do we have the ability to take it away.

Mr. Arnold replied he has to violate some provision of the sub-chapter that contains the licensing provisions for street vendors.

On motion of Alderman Shea, duly seconded by Alderman Thibault, it was voted to move the question with Alderman Levasseur being opposed.

On motion of Alderman Shea, duly seconded by Alderman Thibault, it was voted that the poll conducted pass with Alderman Levasseur being opposed.

Alderman Levasseur stated this piece of paper got to me at 2:00 in the afternoon on Friday. It said to call by 12:00. This is not how we are supposed to be running government. This bothers me.

Alderman Cashin stated I do not send out those notices.

Alderman Levasseur stated you just approved it because you said that it was already approved. We did not get these agendas until after 2:00 that day.

Alderman Cashin stated evidently Aldermen Shea, Thibault and Gatsas got it.

Alderman Levasseur stated they could not have gotten it before me because I am the first one to get the mail. If an abutter says they do not want it that is the rule.

Alderman Cashin stated it is passed and it is done.

Alderman Levasseur stated I do not like how things get done.

Alderman Cashin addressed item 4 of the agenda:

Proposed Senior Center Building Site Evaluation and Comparative Project  
Cost Estimates.

On motion of Alderman Shea, duly seconded by Alderman Thibault, it was voted to table the item.

Alderman Cashin stated this item is being tabled due to Alderman Lopez being out of town and I would like to give him the opportunity to talk about it.

Alderman Gatsas asked how did anybody know that we were going to table this.

Alderman Cashin replied nobody did.

Alderman Gatsas asked where are the people who would give us this presentation.

Alderman Cashin replied they are not here.

Alderman Gatsas asked if we were not going to table it there is nobody here. I am a little upset that we would have this on the agenda.

Alderman Cashin replied I do think that Tom Wallace is ready to make a presentation yet.

Alderman Shea stated his final report is due in another week because when he met with the Board last Tuesday the indication was that he still had to do additional work and his final report would be due at the August 1, 2000 meeting. There is still a little more time that he has to compile certain figures or do certain types of work.

Alderman Thibault stated as Alderman Shea who is the Chairman of that Committee we should follow his lead if he feels that the gentleman in charge of giving us this report is not completely ready I would certainly make a motion that we wait until Alderman Shea as Chairman of that Committee come up to us and say that they are ready to accept whatever this group does.

Alderman Gatsas stated I am not opposed to tabling this I am just a little upset that there are five of us sitting here and if Alderman Lopez was here and we were not looking to table something we have nobody here to give us a presentation. Where would we go.

Alderman Shea stated I do not know if the people like Tom Wallace were actually invited to this meeting. I am not sure whose responsibility that would be whether it is the City Clerk. I assume he has no knowledge of this being on our agenda. It was brought up Wednesday night.

Alderman Gatsas stated somebody needs to be notified to come in and get it off of square one. So maybe we should find out some procedure here.

City Clerk Bernier stated Deputy Clerk Paula L-Kang, is the one who placed the agenda and I need to ask her that question.

Alderman Gatsas stated it is a tabled item and I do not have a problem with that. In the future if something is going to be on an agenda then people should be here to address it.

Alderman Cashin addressed item 5 of the agenda:

Communication from Alderman Shea requesting the City Solicitor and Parks Department submit an ordinance that will prohibit hitting golf balls in public parks which will provide a fine for violations.

Alderman Levasseur asked is this a real problem in the City of Manchester that we have to add another law to the government.

Alderman Shea replied at Prout's Park it is a problem. People have been bouncing golf balls off people's property and kids have to dodge balls when they are riding in the park. It is a concern on the part of people residing in and around that area. I know that there are other parks...when I used to live across from St. Anthony's ballpark we used to get hit with a golf ball every now and then. I know that Alderman Vaillancourt did bring that up as well. Where you have city residences abutting parks it is a problem if people go in and decide to imitate Tiger Woods by hitting a ball in an area that should not be designated that way. I would like to know, Mr. Chairman, if the City Solicitor's Office has worked on this particular item.

Mr. Arnold stated I know we have looked at it but I am not sure if we have drafted an ordinance yet. We could certainly do that at this Committee's instruction. The only think I would want to know is if you want to ban all golf, for instance somewhere who is just out on putting practice or if you just want to ban people who are driving golf balls.

Alderman Shea stated I would say that you really have to ban all golf playing whether it be putting or driving. Just forbidding it in the parks is what it should be. You cannot have a golfing situation where you are hitting the golf ball as putting or driving it is the same.

Alderman Thibault stated I have had some of these problems back in my area also and I would have to agree with Alderman Shea. My biggest question would be who polices it. The Police Department, as it is, is stretched out to a point that they cannot take care of some of the things that they really have to take care of. My question would then be if we do this and I am in favor of it because I have had the same problem but maybe not as bad. How do we police it.

Alderman Shea replied if there is no sign there prohibiting golfing they really do not have any grounds to stand on. But if there is an indication that they cannot hit golf balls and a policeman or someone from the Parks and Recreation Department sees someone there then they have grounds to exclude them or issue a summons. What has happened, Alderman Thibault, is that people are hitting golf balls and somebody comes along and says you are not supposed to hit them and they make a big deal out of it. It becomes a back and forth kind of argument. If there is

designation that is plain and clear that you cannot hit golf balls in a City park then there is no reason for there to be any argumentation.

Alderman Thibault stated then we are saying we should in fact draft an ordinance pertaining to that and then assign all of the parks that we would want no golfing at.

Alderman Cashin stated you would have to post it.

Alderman Thibault stated I think it is a great idea because I have had the same problem.

Alderman Gatsas asked maybe the City Solicitor could help on this, there must be some ordinance that is already in play that talks about proper procedures in a park that all we would have to do is have the signage rather than writing a new ordinance.

Mr. Arnold replied I believe that the Directors of Parks and Recreation could make a regulation to that effect. I would have to look for the specific authority by ordinance. That is another way this Committee could approach it if they wish to do so.

Alderman Thibault asked could we have him look at that and come back to this Committee with a recommendation as to how we should handle this.

On motion of Alderman Thibault, duly seconded by Alderman Shea, it was voted to refer this item to the City Solicitor's Office to come back with a recommendation to this Committee at the next meeting with Alderman Levasseur being opposed.

Alderman Levasseur stated we do not want people hitting golf balls in our parks but it is okay to throw hot dog stands on City property. There are plenty of remedies out there. If somebody lands a golf ball on your head or on your property you could sue them for trespassing without having to go have another law and having the Police come in and having to tell people you cannot putt a ball or chip a ball. You cannot hit balls that really are not golf balls but those plastic balls and they look like golf balls. What is government all about. Are we going to be out there watching over our people like big brother all day and night. This is going overboard on the ordinances. I am not going to vote for that.

Alderman Gatsas stated by the time he gets back to us at the next meeting snowflakes are going to be flying and we are not going to address it this year. I do not know if Alderman Shea has a concern for getting this into place this year or

next year. If there is an ordinance in place does it have to come back to a Committee for signage.

Alderman Cashin stated if you amend an ordinance, it has to be approved.

Alderman Gatsas stated they must have an ordinance that says there are factors of what you cannot do in a park.

Alderman Shea stated apparently from what I can gather there is not because there have been problems and that is the reason for the suggested ordinance. If the City Solicitor could remedy the problem I would be very happy because I do not appreciate getting calls repeatedly from people who have problems with golf balls being hit.

Alderman Cashin stated as far as expediting it as soon as they get the ordinance or whatever they need, ready I would call a meeting.

Alderman Cashin addressed item 6 of the agenda:

Communication from Michael Blake, Senior Planner of the NH Council on Resources and Development advising that the NH Department of Transportation's Bureau of Rail and Transit wishes to transfer the State-owned portion of the Portsmouth Branch Railroad Line between Union Street to Page Street in Manchester to the City of Manchester.

On motion of Alderman Thibault, duly seconded by Alderman Gatsas, it was voted for discussion.

Mr. MacKenzie stated I have followed this for the last couple of years. The State has indicated in the past its willingness if the City was willing to accept it. I wanted to give you an overview of where it is actually located and how this piece ties into other trail systems. Here is the Merrimack River and right now there is being developed a Heritage Trail that ultimately will run from the State of Massachusetts to the Canadian Border. It is for hiking, roller blading and bicycling. A piece of that will ultimately be tied into the Riverwalk. Of course we have recently received a Federal State Grant for \$600,000 towards making the old trestle bridge a connector to the West Side which would connect into the Piscataquog Trail going out through Goffstown. To the East, there is currently a trail that runs all the way from Lake Massabesic all the way out through Raymond and Epping through to the seacoast. That is the Rockingham Trail that is operated and maintained by the State for a variety of uses. The trail actually extends even though there is a physical obstruction here at Peabody Avenue the trail extends to

Page Street. The piece that is before you tonight actually would extend from Page Street down and connect close to the downtown area. So you can see the long-term potential is a bike trail system that would connect north and south and across the river and tie-in many of the City's neighborhoods all the way from the seacoast down to Massachusetts and to the Canadian Border. It has been the hope to put all of this together. It is going to take a few years to do it. Our recommendation is that the City would accept this property.

Alderman Gatsas asked is there any piece of that trail that you were talking about that is not owned currently by an individual. Is it an uninterrupted trail.

Mr. MacKenzie replied it is interrupted. There are a lot of people interested in pieces of this line. I know of two interests now that I think the City would have to look at. The *Elliot Hospital* did buy the portion that ran from roughly Tarrytown Road out to Massabesic Street. We did negotiate or suggest to the State that at least a right-of-way be retained over that area. There is an agreement with the *Elliot Hospital* if this trail ever connects that a right-of-way would be granted across that piece. I know there are a couple of pieces that were sold by the State but not in critical areas. By that, I mean down by Willow Street and it was not the intent that the trail system would connect down through that industrial area. There are a couple of pieces that are interrupted in this but it is not to the point...

Alderman Gatsas stated I am talking from Union Street up.

Mr. MacKenzie stated from Union Street up is what I am talking about out to Page Street there are those. The *Elliot Hospital* is the largest interruption but there is still an easement there is still an agreement that the City could get across it.

Alderman Gatsas asked do you know of any others.

Mr. MacKenzie replied the one at that the State sold a piece down at *City Fuel*. But again that is not a piece that we had ever envisioned would be part of this trail system.

Alderman Gatsas stated there is another one just before the *Elliot Hospital* that was sold to Alltech. That would be right in the middle of your bike path.

Mr. MacKenzie stated I know where that is but I am not aware myself that the State sold that one.

Alderman Gatsas asked I certainly think that the City should take it and it should not be considered a bike path. It should be sold off to the abutters and let the abutters put it on the tax roll and let them pay for it because I do not know who is

going to maintain a bike course and that could be long before bicycles are still around. There will probably be a new invention to get us from one space to another. Maybe the City should consider taking it but we should get the land on the tax rolls.

Mr. MacKenzie asked would you like me to verify which links are missing out of that and make sure the Committee is aware of that.

Alderman Cashin stated before we do anything we have to accept it.

On motion of Alderman Levasseur, duly seconded by Alderman Gatsas, it was voted to approve transfer of the State-owned portion of the Portsmouth Branch Railroad Line between Union Street to Page Street in Manchester to the City of Manchester.

Alderman Thibault asked there are also a couple of sections on the West Side of this bike trail that is also encumbered how does the City propose to get through that because I have been approached by some of the principals of the area who own this property as to how we are going to be able to finish this or do it. Is it going to be taken over by eminent domain.

Mr. MacKenzie replied my reaction is not normally to use eminent domain. I am fairly conservative about that. There is a piece particularly at *Tires Inc.* that is not very long but there is a section on the West Side that was sold by the railroad several years ago. Even though the City had informed the railroad of their interest they did sell that parcel. There is a plan to go around that and perhaps use the MHRA property behind it that has some potential access back to the rail line. I know that Parks and Recreation has looked and found a route to get around that to avoid that particular section.

Alderman Thibault stated that is where I was concerned, thank you.

Alderman Cashin addressed item 7 of the agenda:

Request from Mr. Norman Parisey to purchase property located at Sixth Avenue, known as Map 284/Lot 20.

On motion of Alderman Levasseur, duly seconded by Alderman Shea, it was voted for discussion.

Alderman Thibault asked I would just like to know where it is.

Mr. MacKenzie replied I am vaguely familiar with this but I have not looked at this in the last couple of years. I know generally where it is but I am not familiar with this particular request.

Mr. Nichols stated the property in question is off of River Road and off of Ward Street. It is a paper street.

Alderman Cashin asked does it have to go the Highway to be discontinued.

Mr. Arnold replied I would certainly recommend that without having some definite information of the status of this paper street. I would want to make sure that is properly taken care of before any vote is made the transfer.

Alderman Cashin asked would the motion be to refer this to a road hearing.

Mr. Arnold replied it might not if this is a paper street that has been there for in excess of twenty years. All you might have to do is acknowledge that the City has no interest. I would need further information before I could give you good guidance on whether a road hearing or merely a vote to acknowledge there is no statuses is required.

Alderman Thibault stated if memory serves me right this has come before this Board maybe fifteen or twenty years ago before this. I cannot remember why it was denied at the time but I can remember this coming before this Board twenty years ago maybe and it was denied then and I do not know why. Maybe the Highway Department should look into the reasons or the possibilities of why it was denied at the time. The last time that I was on the Board this has come before us before and I just cannot recollect why it was denied but there was a reason.

On motion of Alderman Thibault, duly seconded by Alderman Levasseur, it was voted that the Highway Department reviews this item and report back to this Committee.

Alderman Cashin addressed item 8 of the agenda:

Request from M. Jeanne Trott, Esquire to purchase two (2) parcels of land located at the corner of North Bay and Bennington Streets.

City Clerk Bernier stated there are two letters.

Alderman Levasseur asked this is the one across the street from Webster School.

Alderman Cashin replied in the affirmative.

Alderman Levasseur stated now we are going to have to do some more in dept surveying because we have some people against this. Is that property going to be used for a parking lot for the teachers at Webster School. Did the vote go through CIP Committee last time. That was one of the additional items we requested for Alderman Wihby.

Mr. MacKenzie replied I am not specifically aware of that. I know Alderman Wihby perhaps had concerns that might be turned into a parking lot because the abutters were concerned about that. They are under construction with site work. I am not aware that particular parkland is identified for a parking lot. I would want to check with Kevin Sheppard to see if he is aware of that.

Alderman Levasseur stated the letter that we have to Alderman Cashin says specifically in the fourth paragraph down that "it is going to be for construction of a faculty parking lot. The school neighbors were totally unaware of this movement until plans were already drafted for a \$200,000 project". Before we build on that...is that already City property.

Alderman Cashin stated it is owned by Parks and Recreation. There was a park there at one time.

Alderman Levasseur asked is this person requesting to purchase this land after we have already done the site work and starting construction.

Mr. MacKenzie replied I did look at the site today. There is no work preparation being done. The abutters are concerned something is going to happen. I would be hesitant that be turned into a parking lot. There are abutters there that will effect their residential property values. I am not sure of the status of that project whether it would be a parking lot. One of the concerns of the abutters would be that it would be turned into a parking lot.

Mr. Sheppard stated the project we have now that we are working with the Parks and Recreation Department is Phase I of a two-phase project at Webster School. The existing project as it stands now does not include any work on that property. But I believe Parks and Recreation has looked at that property for the future for a potential parking lot. I do not think that has ever been finalized. There has just been preliminary plans and discussed.

Alderman Cashin asked is this a buildable lot if you combine those two lots.

Mr. Sheppard replied in the affirmative.

Alderman Levasseur asked in the past have we allowed people to just buy City property. We went through this two meetings prior to this. If they already have a plan for this in the future for extra parking or would we rather have this as a buildable lot and get it on the tax rolls. We do not know what these people want to do with it. Where do we go from here on that.

Alderman Cashin replied we have the option to recommend it be sold if we have no public interest. But in this case you have to send it to Parks and Recreation Commission and they have to release it before we could do anything with it. We do not own it.

On motion of Alderman Thibault, duly seconded by Alderman Levasseur, it was voted to send this request to the Parks and Recreation Commission and report back to this Committee with a recommendation.

Alderman Cashin addressed item 9 of the agenda:

Request from Trinity High School regarding the acquisition of surplus City-owned property between (new) Bridge Street and Trinity High School.

On motion of Alderman Levasseur, duly seconded by Alderman Thibault, it was voted to receive and file.

Alderman Cashin addressed item 10 of the agenda:

Communication from Jay Taylor advising of antenna lease fees received relating to the Hackett Hill Property and requesting the Board establish a special non-lapsing account dedicated to help offset future expenses required as a result of the development of the proposed business park.

On motion of Alderman Levasseur, duly seconded by Alderman Thibault, it was voted for discussion.

On motion of Alderman Levasseur, duly seconded by Alderman Shea, it was voted to table this item until Jay Taylor is available for discussion.

Alderman Gatsas asked Mr. Chairman, I thought that we made it clear that if there is something on an agenda they should be here. Somebody from that department should be here to discuss it. It is clear that five Aldermen gave up their time and we have looked at two things on an agenda now we are through eight and the first

two was you calling the meeting to order and calling a roll and there are six items after that and two of them we were not able to discuss because nobody is around to talk about them. I do not know how much of a clear message we could send to department heads that somebody needs to be here. It is unreasonable and inexcusable that it happens.

Alderman Thibault stated that is a good point and I wonder if the City Clerk has advised all of these department heads that Committee meetings as well as general BMA meetings maybe this is where the mistake comes in. On these Committee meetings they should be here also to answer all the questions. I agree with Alderman Gatsas fully.

Alderman Cashin stated Leo, would you be sure that Jay Taylor is here for the next meeting.

Alderman O'Neil stated the Committee on Administration as well as the CIP Committee has made those same requests. This is the third Committee that we make and request for departments to be represented with full information at meetings. This is starting to get out of hand.

Alderman Shea asked are the department heads aware of the agenda items that are placed.

City Clerk Bernier replied they receive the agenda on Friday afternoon guaranteed by Monday morning.

Alderman Shea asked if for instance a department head has a vacation of two weeks should an agenda item be placed on an agenda of a Committee for that department head to be here.

City Clerk Bernier replied there are a number of items on an agenda that needs to be addressed. That is the reason it goes from the Board to the Committee and we try to curtail these phone polls because of the time that is involved with Committees and preparation. It is up to the department head and the deputies to stay on top of it. They do get the agenda. They have received a letter from the City Clerk's Office from the direction of the Committee on Administration. Alderman Gatsas as well as the CIP Chairman, Alderman O'Neil. The letters have gone out and we will make extra copies and send them out tomorrow morning. We are looking to you for direction to address this issue.

Alderman Cashin stated send this one out under my name.

**TABLED**

Alderman Cashin addressed items 11 of the agenda:

Request from Ronald and Kathleen Gosselin to purchase property located on Pond Drive, known as Lot 750/11.

Mr. MacKenzie stated on item 11 that one is a little bit different. This is a particularly important site for the Pine Island Pond and the Conservation Commission has been involved and the person hired through the EPA funds has been involved. The applicant primarily wants vehicular access through this property as the main reason they are interested. We do have a staff person that was trying to set up a meeting to review that. Perhaps the City interest and their private interest could be met with perhaps a right-of-way versus ownership. That one we just have to get the staff time to get that meeting together and that one approved.

On motion of Alderman Levasseur, duly seconded by Alderman Shea, it was voted that this item be tabled.

Alderman Cashin addressed item 12 of the agenda:

Request from Leon J. Cote to purchase properties on Riverdale Avenue, known as Tax Map 680, Lots 5 & 5A and Tax Map 680, Lot 1 and Tax Map 681, Lot 4.

Mr. MacKenzie stated these are properties on the river that are an amenity to the neighborhood and increase the property values of those existing properties. Because that is a rare resource having river frontage it has been our recommendation that those be used for conservation and recreation of the neighborhood.

On motion of Alderman Thibault, duly seconded by Alderman Shea, it was voted to deny the request with Aldermen Gatsas and Levasseur being opposed.

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

7/25/00 Lands & Buildings  
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A True Copy. Attest.

Clerk of Committee