

REPORT OF THE PERSONNEL/ADMINISTRATIVE AFFAIRS COMMITTEE

JUNE 5, 2000

A meeting of the Personnel/Administrative Affairs Committee was held on Monday, June 5, 2000 at 7:00 p.m. in the Aldermanic Chamber.

Chair James R. Tollner presided.

Members of the Committee present: Alderman-at-Large Fred Britton
Alderman Stephen Lamos
Alderman-at-Large David Rootovich

Members not in Attendance: Alderman Robert A. Dion, Vice Chair

Also in Attendance: Alderman Marc W. Plamondon
Paul Bergeron, City Clerk

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INTERVIEWS

Chairman Tollner

For the committee's information, Louis Rossi who was going to be interviewed for the Conservation Commission called. He is out of town tonight. Eric Wilson is in a meeting with a client so he will not be able to attend tonight's meeting. We will move them to our next Personnel meeting. There's also a gentleman who is here tonight, Dave Haney. He has some scheduling conflicts so I would like to take him first so he can make his next appointment.

Ethnic Awareness Committee

David Haney, 40 Ridgewood Drive, Bow, New Hampshire. I am employed with Fleet Bank and have been working down here in Nashua for at least two or three years now as well as elsewhere in the state.

Chairman Tollner

For the committee, just give us the reasons why you are interested in serving on the Ethnic Awareness Committee.

Mr. Haney

Originally Rick Bailey approached me last fall to sponsor a training for a number of the members of the Committee to give them some sensitivity to diversity issues and ethnic awareness. I was able to provide some funds to allow them to do that. At the same time, it is entirely consistent with the way we operate professionally. There's an incredible amount of diversity awareness in our institution that is surviving the merger and really came out of both institutions before. I have a lot of personal predisposition in that direction as well as professional interest in that direction to respect and recognize

the value of our differences. The combination of both a personal predisposition that way as well as the institutional predisposition will allow us to come forward, and provide some practical leadership in the community that will allow us to reach across some of the various cultural diversity issues, and perhaps even expand that depending upon the appetite of the Mayor's Office to some of the other diversity kinds of issues that are not today encompassed in the reach of the committee.

Alderman Britton

Have you attended any of the Ethnic Awareness Committee meetings?

Mr. Haney

I've been attending now for about 8 - 9 months since I first became involved with them as an interested citizen.

Chairman Tollner

I work for a company that has a number of diversity programs. We're in the process of offering them to the city. I think there's going to be one next week and one the week after. I appreciate what you're doing in the community, first of all. I know of all the work, effort and patience, at times, that it takes to communicate those messages to the community and to the businesses.

Ethics Review Committee

Sr. Sharon Walsh, Director of Marguerite's Place, Nashua. I've lived at 273 Lake Street, Nashua since 1992. My main interest is that I am a value oriented person. I believe that values are something that we try to instill in the women and the children at Marguerite's Place every single day that we're in operation. Ethics is a very, very important thing in the community. It makes people stop and take an inventory of their lives, and to see why they are doing what they are doing and what the consequences of it are, and to take responsibility for their actions. We do that every day at Marguerite's Place when a woman or a child does something. We continually say: "And what's your part in this" or "What did you do to make this happen" and not allow them to put blame on everybody else - to take responsibility and to become a part of the community. I also sit on St. Joe's ethics committee. I've been on that for over a year now. It's looking at the quality of care that patients get at the hospital. We are really meeting the needs of the community in providing care for the people that come to the hospital for services as an outside person. I'm not part of the hospital.

One of the things that we looked at recently was to make sure that women and children or anybody coming into the hospital that is of another culture is dealt with according to the culture that they are coming from. Things are given to them. For example, any kind of literature that is in their language and not to presume that because you hand out a flyer or a brochure that everybody knows how to read that. The onerous is on the person giving it out to make sure that they understand that.

Chairman Tollner

I remember, during the Presidential Campaign, there was something with Cindy McCain when we came around with John McCain. It struck me that people that are living there and have the privilege to live there are still responsible and held accountable for their actions and their decisions.

Sr. Walsh

We try to empower them and that's a catchword. We really try to make it a real word and make it operable. We have one resident who sits on our Board of Directors. We also have a self-sufficiency committee made up of former residents so they say to us: "This is what our needs are in the community." Recently one of our board members was saying that maybe we could help in some way financially. They said: "No. You've done enough for us. It's our turn to do for ourselves now." That's a wonderful thing to experience - moving forward with their lives and taking responsibility for their lives. They do get a lot of support. The city is very, very good to them in providing safety and an affordable place for them for two years. They also then have to take that and run with that afterwards. It's not everybody else's responsibility to pay their electric bill, telephone bill, rent. That's why we make them pay when they live at Marguerite's Place. It might not be a lot; it's a percentage of what they earn or what is given to them.

Alderman Britton

Thank you for all your hard work with Marguerite's Place. I know we have an invitation before us to come. I think it conflicts with one of our events, but I know we will try. I think with your integrity and values, honesty and ethics, you will be a tremendous asset to the Ethics Review Committee. We're very fortunate to have someone of your integrity and experience to be there.

Hunt Building Board of Trustees

Eleanor Quinn, 28 Hall Avenue, Nashua. I've lived here since 1961. I've been President of the Hospital Auxiliary for the past two years. Meri Goyette, who is a friend of mine, has asked me to serve. I've done a lot of fundraising on different things in the city. It seems to be something that I'd like to do. She asked me if I would work and think of some fundraisers that we could have for the Hunt Library.

Chairman Tollner

Meri has spent a lot of time and energy on that building.

Ms. Quinn

I have also been approached by the Historical Society to help them with something that they have coming up. It's in regards to people in town who have done wonderful things. We think they should be honored. We're going to work on something this fall along those lines.

Ethnic Awareness Committee

Harvey Keye, 19 Radcliffe Drive. I've been here for about 26 years. I came here from upstate New York. I came to upstate New York from Pittsburgh. To Pittsburgh, I came from Cleveland, Ohio. From Cleveland, Ohio, I came from Chicago. From Chicago, I came from Charlotte. From Charlotte, I came from Atlanta. From Atlanta, I got to be born in Birmingham, Alabama. I happened to find this place heaven as opposed to Birmingham. I think you may have heard that before. At any rate, I love this city. I think it is marvelous.

I introduced the Mayor at one of the Martin Luther King's breakfasts during that week. I came here in the latter part of 1973. I was in the hospital equipment business. I had gone into Memorial Hospital in the wintertime. I had this beautiful jacket on from Pittsburgh that I had bought and the button was missing. I walked down the hallway to see the purchasing agent. The lady said: "Sir, come right in here." I said: "Why?" She said: "A button is missing off your coat." I thought that was marvelous. Bernie Streeter happened to come by. We made a marvelous acquaintance. Introducing him to a Martin Luther King Breakfast just last year, I said to him: "You know, Bernie, you owe me." He said: "What is it that I owe you for?" I said: "I'm introducing you to this marvelous group of people, and we want something in return." He said: "What do you want?" I said: "I want to be represented not necessarily a minority, but maybe a minority point of view, in this city. I don't think we've had either people step up to this city plate to take a swing at the ball that is pitched to them or whatever other reasons there may be. I think maybe we ought to look like the fabric of our society." He said: "Harvey, I promise you this publicly." Then he invited me to become a member of this Ethnic Awareness Committee. I think I missed your last meeting, and I apologize to you profusely.

I am here because I think we have an opportunity in this 21st century to do so much that we haven't done for the last 400 years. We have the privilege and opportunity to recognize one another as human beings, not from where you're cometh but where you're going. Where you're going really doesn't in many cases depend on what your heritage, your culture, your race, creed or religion might be. What I think it depends on is your passion and your maniacal and fanatical attitude about how to bring better human relations in the future for all people. I think if we had this kind of proclivity for each of us, however we get it, we will be better off if we could rise above the fray and find better places for all of us. That is why I want to become a part of this Ethnic Awareness. If it is going to be ethnic awareness same as it was for the last 40 years, I wish you would not vote me on this Board. I don't want to be a part of anything that does not have interchanges and inner challenges for the next whatever number of years it might be. We've seen the last 40, 50, 60, 70 years. We've seen the last 40 years of Martin Luther King. If we're going to do the same things we've done for the last 40 years, we're not going to get any different results.

My request is you vote me on this Board, if you will, help initiate some changes that unifies and galvanizes people throughout this community. We have a marvelous city, a fantastic state, and we have an opportunity to do something about it, and I'd like to be part of it.

Alderman Britton

I want to thank Representative Keye for his interest in serving. I'm sure with all the interest he's expressed this evening, he'll do a great job, and help them with the challenges they have before them.

COMMUNICATIONS

From: Paul Newman, Manager, Urban Programs Department
Alan Manoian, Deputy Manager, Urban Programs Department
Re: Resolution R-00-55, "Relative to a Name for the New Rail Trail"

**MOTION BY ALDERMAN ROOTOVICH TO ACCEPT AND PLACE ON FILE
MOTION CARRIED**

APPLICATION TO LICENSE HAWKER'S, PEDDLER'S, ITINERANT VENDOR'S - None

APPOINTMENTS BY THE MAYOR

Child Care Advisory Commission

**MOTION BY ALDERMAN TOLLNER TO HOLD IN COMMITTEE THE
APPOINTMENTS OF THE FOLLOWING INDIVIDUALS TO THE CHILD CARE
ADVISORY COMMISSION: REINA GILMORE, FATHER ROBERT ODIERNA, JACK F.
SWARTZ AND CHARLENE WOLFE
MOTION CARRIED**

Conservation Commission

**MOTION BY ALDERMAN TOLLNER TO HOLD IN COMMITTEE THE
CONFIRMATION OF LOUIS FRANK ROSSI TO THE CONSERVATION COMMISSION
FOR A TERM TO EXPIRE DECEMBER 31, 2000
MOTION CARRIED**

Ethics Review Committee

**MOTION BY ALDERMAN BRITTON TO RECOMMEND CONFIRMATION OF SR.
MARY SHARON WALSH TO THE ETHICS REVIEW COMMITTEE FOR A TERM TO
EXPIRE DECEMBER 31, 2002
MOTION CARRIED**

Ethnic Awareness Committee

**MOTION BY ALDERMAN TOLLNER TO RECOMMEND CONFIRMATION OF THE
FOLLOWING INDIVIDUALS TO THE ETHNIC AWARENESS COMMITTEE: DAVID
HANEY FOR A TERM TO EXPIRE DECEMBER 31, 2001, AND REP. HARVEY KEYE,
KAREN OGRODOWCZYK, AND DR. GEORGE REID FOR TERMS TO EXPIRE
DECEMBER 31, 2002
MOTION CARRIED**

Hunt Building Board of Trustees

**MOTION BY ALDERMAN BRITTON TO RECOMMEND CONFIRMATION OF THE FOLLOWING INDIVIDUALS TO THE HUNT BUILDING BOARD OF TRUSTEES: RICHARD J. LAROSE FOR A TERM TO EXPIRE DECEMBER 31, 2004 AND ELEANOR M. QUINN FOR A TERM TO EXPIRE DECEMBER 31, 2002
MOTION CARRIED**

Mine Falls Park Advisory Committee

**MOTION BY ALDERMAN TOLLNER TO RECOMMEND CONFIRMATION OF THOM HORNE TO THE MINE FALLS PARK ADVISORY COMMITTEE FOR A TERM TO EXPIRE DECEMBER 31, 2002
MOTION CARRIED**

Nashua Housing Authority

MOTION BY ALDERMAN TOLLNER TO HOLD IN COMMITTEE THE APPOINTMENT OF ERIC R. WILSON TO THE NASHUA HOUSING AUTHORITY FOR A TERM TO EXPIRE OCTOBER 14, 2004

ON THE QUESTION

Alderman Rootovich

Being that Mr. Wilson is a former alderman and served on the Nashua Housing Authority as liaison for the Board of Aldermen when he served on the Board, I see no reason why we shouldn't pass this appointment today. If the committee feels more comfortable going through an extensive interview, we can do that too.

Chairman Tollner

I spoke with him and I mentioned that to him. He would like an opportunity to come and speak before the committee. He did appreciate a similar suggestion on the Chairman's part, but he did want to come by and speak with the committee.

MOTION CARRIED

APPOINTMENTS BY THE PRESIDENT OF THE BOARD OF ALDERMEN

Auditorium Commission

**MOTION BY ALDERMAN BRITTON TO RECOMMEND CONFIRMATION OF JOHN T. LILJEBERG AND MARY PHILLIS TO THE AUDITORIUM COMMISSION FOR TERMS TO EXPIRE DECEMBER 31, 2002
MOTION CARRIED**

UNFINISHED BUSINESS - RESOLUTIONS - None

UNFINISHED BUSINESS - ORDINANCES

O-00-18

Endorser: Alderman-at-Large Suzan L.R. Franks

Alderman Marc W. Plamondon

ADDING REGISTRATION AND ADDITIONAL REPORTING REQUIREMENTS FOR LOCAL POLITICAL COMMITTEES TO THE ORDINANCES REGARDING CAMPAIGN CONTRIBUTIONS

- Reconsidered and Re-Referred to Committee at full Bd. mtg. of 5/9/2000

Paul Bergeron, City Clerk

At the time this ordinance was referred back to committee, the Mayor sent along to the aldermen copies of some of the Manchester Charter provisions, which dealt with campaign reporting. The Chairman of this Committee asked if I could make myself available when this ordinance came up for consideration. I think, in part, because at the time that the Charter revisions were implemented in July of 1997, I was serving as Deputy Clerk in Manchester. The task fell to me to develop the financial reporting forms and to implement the changes that the Charter had imposed on the city.

There were some problems with the language dealing with financial disclosure that were created in Manchester. I should back up a little bit and say that financial reporting, campaign reporting varies from community to community in town or city elections. Some cities, like Rochester, have no reporting requirements for candidates or committees. On the other hand, Manchester goes to the other extreme and requires not only financial reporting of political committees and candidates for campaigns but requires full financial disclosure of all its office holders. They go way beyond what a lot of communities do.

In preparing myself to answer any questions that the committee might have had about this ordinance, I found myself making a checklist of all that was bad with the Manchester Charter, and some of the issues that I had with the ordinance, O-00-18. I finally decided maybe the best thing to do was to just redraft the ordinance, and indicate using bold type and strike-through type where changes to the current ordinance might occur. What you have before you in regular Times New Roman type would be the current language of the ordinances as they appear on the books today. Anything that appears in bold, italics would be new language. I've always cited where that new language came from, either from the ordinance in front of the committee, where you might see in brackets O-00-18, in some cases it came from the Manchester Charter, and in some cases it came from state law. In those areas where we were striking out sections of the current ordinance - what's on the books today - the language appears but you'll see a strike through mark.

To go over some of the items that I addressed, near the end of the ordinance, for example, Sec. 765, reports required, this appeared in O-00-18. But it really duplicated what had been created previously once we started talking about campaign reports for political committees. Under current ordinances, any person or entity who spends or receives money for campaigns is required to file a report. The problem with the current code of ordinances is there's no definition of what "entity" is. I think, as a result, political committees haven't been filing from what I can tell for many years here in the City of Nashua. It may very well be that the original intent of this section of the code was to have political committees file, but in actuality it hasn't happened. I think by changing the language in the earlier part of these provisions, there's no need for this at all, and hence

I'm suggesting striking it. I would also add at this time that these were really my own notes. It hasn't been reviewed by city counsel. If the committee wishes to proceed perhaps they might want to consider tabling this and ask city counsel to review it too.

Among the items, Applicability of 756, we're simply adding the words "and to political committees." That's the current language that was included in the proposed ordinance. That certainly flows well and is appropriate here. Then there's no other changes until we get into definitions. Here I'm defining the term "measure" which shall mean: "any question, which is submitted or intended to be submitted to a popular vote at an election." This is the definition used in the Manchester City Charter. I think it probably needs to fit here. The reason being that the very next definition talking about political committee mentions the term "measures." You have to have that definition in there for that to make any sense. Essentially what we are doing is limiting this specifically to municipal elections. Another concern I had with the ordinance as proposed, was it's definition of "political committee". It said "any political committee which does not have to register as a political committee under state or federal law." I thought that was a little open-ended. Although I can't think of a situation, we don't want to be requiring filings during a state election just because the state doesn't require that they file with the state. I thought maybe we just should focus it specifically on municipal elections and let the state deal with its own problems.

Chairman Tollner

I would agree.

Alderman Rootovich

What does RSA 664:2?

Mr. Bergeron

That would be a section of state law which defines political committees. The language that I took comes almost word for word out of state law.

Alderman Rootovich

This definition is right from state law?

Mr. Bergeron

Yes. I could actually read the state law and you could then perhaps catch the words that are different.

Alderman Rootovich

It's just that when I read: "Political committee means an organization of two or more persons which have organized for the purpose of influencing municipal elections or measures." If Alderman Tollner and I got together and decided to support a candidate that technically would become a definition as a political committee.

Mr. Bergeron

That's correct. You'd have to file. Under the current ordinances as they seem to have been implemented here in Nashua, candidates have to file. But let's say there was a committee or a group of two or more people that called themselves "Friends of Alderman X". They could raise money and spend money and never have to report anything. Alderman X wouldn't be required to file anything. I think the reason for calling it a committee of two or more - and we ran into this experience in Manchester dealing with the hospital issues when some citizens wanted the Elliott and Catholic Medical Center merger to come to an end the corporation, Optima Corporation, opposed a straw ballot that was being conducted and raised funds and spent money to oppose it. Technically a corporation is a person even though there are a lot of people that work for that corporation. They didn't have to file a report as a political committee. In fact, corporations that are supporting or opposing ballot measures, if it has a direct impact on their business, don't have to file anyway. This is the definition that falls within state law. It's simply a restatement of state law.

Alderman Rootovich

Isn't the same thing done by the candidate himself, by filing as opposed to two separate people also filing? The candidate, himself, is reporting his contributions and his expenditures. I don't understand why it's a parallel or dual role. If I'm running for office, have two people who are raising money for me, and I'm authorizing to spend the money on whatever - political advertising - what you are saying is they also have to register along with myself. The expenditures and the contributions will be parallel in the document.

Mr. Bergeron

Actually in my short experience here, the aldermen have been very good. In fact all candidates have been very good of making that their financial reports include all receipts and expenditures regardless of where those funds came from or how they were spent - whether it was called "Friends of Alderman X Committee" or if it was actually their own individual revenues. Experiences with other committees, and this also occurs on the state level, a candidate will have to file if he is also raising and spending funds as a committee - "The Friends of..." or "People to Re-Elect..." or whatever they might call themselves. That committee is also filing. They are not filing the same numbers. They are sort of like two separate accounts, two separate checking accounts receiving their money from different sources and spending their money for different reasons. It is sort of a parallel structure, yes.

Chairman Tollner

From what you said earlier, if Alderman Rootovich and I were collecting money for Alderman Lamos, that money would be going into Alderman Lamos' committee. In that case, it would be registered by Alderman Lamos. I think what you are trying to get at is, for example, if a particular union was looking for something - say a couple ballot questions and they are either in favor or not in favor of it - or an association: a builders association, a taxicab association. That's what I think you're getting at. They would have to register.

Mr. Bergeron

Again drawing back from my experience when Manchester had a fluoride question on the ballot, there were groups of people supporting it and groups of people opposing it. Both of those organizations had to file because they were advocating for the passage or defeat of a ballot referendum question.

Chairman Tollner

Now the way our ordinances are written, they would not have to.

Mr. Bergeron

They would not have to.

Chairman Tollner

This would require them to do that.

Mr. Bergeron

Yes.

Alderman Britton

This still has me a little bit confused. You could have two or more people that are actually working and raising funds for a candidate in the city and choose not to be organized. They are supporting a candidate for whatever reasons and they raise money, and try to get people to vote for this candidate. Under that premise, they wouldn't fall under a two or more person, which have organized for the purpose of influencing an election or would they? The key here is organized by establishing a committee and naming a committee.

Mr. Bergeron

As you get deeper into the ordinance, they start using the term "political committee." The filing requirements fall into place when the committee is raising and spending funds. If you had two volunteers essentially who are out knocking on doors for you that's not a political committee under this definition within the section of campaign expenditures. If, however, those people are running fundraisers or if they are placing ads in the newspaper then they are required to disclose where they are receiving the money and how it is being spent. If, for example, those two raised funds, maybe had a barbecue, raised \$200 and that \$200 was given to the candidate and the candidate has a list of where all that money came from then the reporting would happen on the candidate's level. On the other hand, if they had a barbecue and 100 people came and they just handed a check for \$500 to the candidate, the candidate would record \$500 received from such and such, a political committee. Then it is the responsibility of the political committee to do all the itemization.

Alderman Rootovich

If a political candidate receives a check from a law firm that has several attorneys that work there, would that constitute a political committee?

Mr. Bergeron

No. First of all certainly under state law, I don't think you can accept contributions from a business or a corporation or a law firm. If you received it from four people who happened to work at that law firm - four individuals - it's not a committee. It's just a political contribution that would be recorded as having been received from those four people. The definition kicks in when you have a group of people physically going out and saying "We're trying to raise funds for Alderman so-and-so. We're going to take out ads." Therefore, you would need a treasurer because you need a fiscal agent. You're creating an entity which is out there raising money. We require charities to record, to file their presence with the Attorney General's Office or our office. In the sense, I guess, this is what a lot of campaign laws are doing. They are saying: "Who are the people that are out there raising and spending the money?" They are getting them on paper.

Chairman Tollner

Why don't you continue onto the second page. Then we can come back with questions. That way we'll give him the opportunity to get through and have some sort of flow as far as what we want the legislation to say.

Mr. Bergeron

Sec. 7-58, Publication. There are no changes in A, B or D. In C, I thought it was kind of interesting. In the current ordinance only office holders who have campaign debt or a surplus after an election have to file on December 31st. There was no requirement, under the current code, that other candidates or political committees have to file as well. I suppose it's quite possible that you might have a loser of a campaign having a nice war chest that isn't being accounted for. Here, I simply added the language "any office holder candidate or political committee" so everybody falls within this requirement. I also took from RSA 664:6 language that shows when this whole reporting system can have some closure. Essentially once the surplus has been eliminated or debts cleaned up then there are no more reporting requirements. That's consistent with state procedures.

The procedures in 7-59, Registration of Political Committees. I didn't make any changes at all to the ordinance that was referred back to the committee. It is almost word for word what comes out of state law. I did cite what sections of state law that comes from - 664:3.

We get into penalties. I noticed in the proposed ordinance city counsel, I assume, eliminated the first paragraph. That probably makes sense because that's very hard to enforce. It talks about anyone who has the intent of circumventing this ordinance would be found guilty of a circumvention and failure to comply. I don't know how you can find someone guilty of intent in a situation like that. The other paragraph addresses it. If they make a violation then they have to pay the fine.

I talked already about eliminating 7-65. Finally, I threw this in because it does come

from the Manchester Charter and I've found it to be quite useful: Applicability of Statutes of State Election Laws. Essentially anytime a question pops up, any of those gray areas dealing with elections that we don't have an answer for because it's not addressed by Charter or by ordinance, Manchester would fall back on state laws and try and find some kind of parallel -whether it deals with computation of days for filing periods or whether it deals with how can you dispose of a surplus after an election and you have some funds you want to get rid of it. Under state law, you can give it to charity if you wish to and zero out your balances. There are 260 pages of state laws that we can fall back on. What Manchester did anytime these types of issues came up was the city clerk would sit down with city counsel and see if there's some kind of parallel in state or federal law that allows them to answer some of the problems that have come up in these gray areas. Essentially I have been doing that anyway here in Nashua.

Chairman Tollner

Isn't that inherent in the legislation that we already have on the books, it's just not written.

Mr. Bergeron

It's not written. Generally what we try to do to justify some of our decisions when addressing election issues if there's no answer in the Code of Ordinances or the City Charter then we look at state law and find some kind of parallel. That becomes the basis of our explanation.

Chairman Tollner

Going back to Sec. 7-59, Registration of Political Committees, (a) "any political committee shall register with the city clerk not later than 24 hours after receiving any contribution in excess of \$10.00" that's pretty stringent. Is there a reason why we wouldn't say within five business days or ten business days. If I have a conversation at a party and some of us get together and say we're going to start a political committee and someone says: "Here's \$20 why don't you start it." For me to have to register that committee within a day is putting a lot of pressure on somebody.

Mr. Bergeron

I don't disagree, Alderman. That's the policy that the aldermen would have to decide if they choose to go forward with this. It's simply the language that's currently in state law for state filing requirements, which was copied for the city ordinance.

Chairman Tollner

This committee could change that to five business days or ten business days.

Alderman Lamos

Mr. Bergeron, first of all, thanks for your fine work on this. I appreciate that very much. From your experience in Manchester, how has the Manchester ordinance stood the test

of time in terms of court challenges? Have there been any? Have there been any constitutional challenges relative to the Manchester ordinance that you can give us in terms of a data point here?

Mr. Bergeron

Not dealing with campaign contributions. When I was in Manchester, we felt we were always being hauled into court for one thing or another. I've been reviewing the files here in Nashua, and it seems like you folks have had quite a history here as well. But, on different issues - Here it dealt with petitions and signatures. In Manchester the most recent ones dealt with a person who felt he could file as both candidate for Mayor and candidate for the Board of Aldermen. We ended up in court on that one. There always seems to be something that people wish to challenge.

Alderman Rootovich

I too want to thank you for your diligence in putting this together. It seems that if you are going to run for office you need to hire an accountant, a lawyer, and several other individuals before you even think of running. When I am reading, for instance, as Alderman Tollner said, Section 7-79 - Registration of Applicable Committees - again you need the statements of the names, addresses, occupation, principal places of business, etc. There is a Chairperson, Treasurer, Agent and other officers. Even if you are exploring the opportunity to run for a higher office, according to this, you would have to file with the city clerk without even making a decision. Was that also the case? For instance, if I have 4-6 people together and need them to do some research, which may or may not include funds necessary to do that I would have to file as a committee the intent of running for office based on the language here.

Mr. Bergeron

That is fairly accurate. In Manchester, there were candidates who, prior to announcing their intent to run for whatever office, because they were out fundraising they were required under the city ordinance to file as a political committee. What some of the candidates did in the last Mayoral election was have a committee file the Mr. Banes for Mayor exploratory Committee. They filed. Once Mr. Banes announced his candidacy for Mayor, they transferred whatever balance that was in that committee's account to his campaign directly, and then it became a Banes for Mayor account. You're right. It has to be very confusing. Sometimes you do need to think like an accountant to address this.

Alderman Rootovich

Based on the political atmosphere in our own city and on history, if I were to forget to appoint a treasurer or a chairperson someone could technically challenge that in court.

Mr. Bergeron

I guess they could. People can challenge almost anything.

Alderman Rootovich

If a candidate were to run for office, use his own funds, and bring aboard 5-6 individuals to counsel him would they also have to file even though he is using his own money and planning to retire debt after if he decides to go forward? Would he have to file even though he is using his own funds, and has some very close friends that he is asking advice from?

Mr. Bergeron

No. I believe if funds are being raised and expended by a candidate including ones own money, no matter how many people are assisting him, and all revenues are going for a campaign where all receipts and expenditures are going to be on the candidates report then there is no reason to create or have a political committee file. If, however, a candidate chooses to set up a parallel group, which will, separate from his own receipts and expenditures, raise funds and spend funds then that separate group or committee does need to designate a chairman and a treasurer. Actually you almost have to do that under state law because your treasurer is the fiscal agent that signs a lot of the political literature. If the friends of Alderman x are sending out letters with that kind of a statement in its return address instead of the alderman's home address or home name, then that committee is making expenditures and has to file.

Aldermen Britton

You may have mentioned this previously, but the reports required section has all been crossed out. Where is that taken care of (765 on the amended version you provided this evening)?

Mr. Bergeron

765, which is in the current code of ordinances seems to me to be the language that was intended to require some kind of filing for political committees. It talks about any person or entity who expends money and gives report dates and amounts, which essentially paralleled what is in the code dealing with candidates. The problem with the current language is that there is no definition of what an entity is. I think that is why, currently, political committees aren't filing or organizations that are spending money to perhaps influence a ballot question aren't filing.

By adding the word political committees to the very first section (756 - applicability) we are saying that these reporting requirements apply to all incumbents, candidates and political committees as well, I believe we have addressed what an entity is. Therefore, they would follow the same rules and regulations as the candidates do.

Alderman Britton

I appreciate all of your hard work as well and your suggesting changes to this ordinance based on your experience as well as other experience.

Mr. Bergeron

The policy decision lies with the board. I am not here to say that this is the best or only way to go. I tried to take a look at Ordinance 00-18, which was referred back to committee, and highlight those areas that I had concerns about. I also wanted to address some of the Mayor's comments that he felt there were provisions in the Manchester Charter Provisions, which the committee might want to look at. I have highlighted those as well. I then, of course, made the references to state law. This is a much cleaner ordinance than what was sent back to the committee for its consideration. Whether or not the Aldermen decide that this is anything they want to consider now becomes a policy decision for this group.

Alderman Britton

Have you had any input from the original two co-sponsors of the ordinance?

Mr. Bergeron

No I have not.

Alderman Britton

Alderman Plamondon, didn't you co-sponsor? My concern is that I would like to hear from both co-sponsors on their feelings about this legislation.

Chair Tollner

I don't think it is the intent of the committee to pass this tonight. What the committee could do is to make a motion to amend O-00-18 to the copy that Mr. Bergeron has put together, and then hold in committee. I believe the two sponsors of the original legislation were very well aware that we were discussing it tonight. I would not pass or change anything without giving them yet another opportunity to come to this committee and speak. When they are reading these minutes I would strongly recommend that if they do want to make any amendments to the amendments that we have made that they do that in committee and not at the full board level like we usually do our work.

A few members of the public have a brief comment or two. Keeping in mind that we are not going to pass this tonight, I think the intent of the committee or at least of the Chairman would be to join with Mr. Bergeron to work with Corporation Counsel to make sure that we have addressed all of the issues. We will also make certain, from a legal perspective, that this is a sound piece of legislation.

Alderman Plamondon

As a co-sponsor of this ordinance I want to say that I have no conflicts or concerns with the proposed amendments. However, Alderman Franks is the author. I do believe that she ought to be contacted regarding the pending amendments.

Chair Tollner

We will have a number of meetings before our next one, and if she has any comments or concerns she can come to our next personnel meeting.

Frank Henry, 9 Greenwood Drive

Where did this \$10.00 figure come from? Is that in state law or is it the \$500 figure?

Chair Tollner

The \$500.00 figure is Manchester. The \$10.00 figure is state law.

Frank Henry

I did a little homework on this subject. Some of the constitutional rulings from the U.S. Supreme Court in reference to the existing presidential election campaign funds that are going on, etc. One of the numbers that were put around was \$10,000 contributions. Another was \$1,000 contributions. These numbers were brought to the court, and the court pointed out the dollar limitation is limitation on voice. Limitation on free speech. During their arguments that even asked are you going to lower it to \$100 or \$10.00. We are limiting free speech with this ordinance. State constitution forbids limiting free speech. You have no right, even though other cities as well as our own have passed campaign laws. There are no constitutional provisions for such laws even though they may have been in existence for 100s of years. I would like to ask in writing, to corporate counsel for a response, in writing, to this committee and to this member of the public as well as the newspaper. The question is do the provisions of this article, state law notwithstanding, city charters, town charters, provisions notwithstanding, does this violate our state constitutional - tape interrupted -

When two or more people gather to influence a measure does that mean the city clerk is going over to Executive Drive in Hudson and not hold a certain door called the Telegraph? They serve two functions. They are a news media, but they are also an influencing media. They do put in some nice editorials and new items favoring one or the other. Does the Telegraph have to march its little tail down to your office and register? Is there an answer to that?

Chair Tollner

I don't think they have to, but I will find an answer to that.

Frank Henry

Well, they are two or more people my friends.

Chair Tollner

But they are not collecting any funds.

Frank Henry

Oh, they are not? They don't look like a free agent to me.

Chair Tollner

They are not collecting any funds for a particular candidate or purpose. We'll take your other question.

Frank Henry

My real concern is, regardless of the corrupt way that we have been operating, one of the things that has been brought forth arguing favoring this bill was open, honest government. Open, honest government requires that we look at our benchmarks as the constitution. That tells us what we can and can't do. If we don't like what the benchmark says change that first then put the screws to us.

Alderman Bergeron

I would like to correct something I said earlier. The \$10.00 limitation that is in the draft before you is the city's language. It is Ordinance O-00-18. State law actually kicks in at \$500.00. The speaker was correct.

Mike Lowe, 6 Sheffield Road

I can't understand how this effects organizations such as unions, the KFC, etc. If they put in their newsletter we support this list of candidates are they now a pack, and have to give Mr. Bergeron a list of their membership? Even though some of the members didn't do it they used members funds to do it. The same applies to a union and the NTA, etc. This is the way this is coming across to me.

Chair Tollner

We will check with Corporation Counsel. In reference to the examples that you used, if the Knights of Columbus was to create a special fund to support a particular Alderman or candidate, then yes they would. If it is in a newsletter saying they support a particular candidate, and there was no collection of funds then they wouldn't have to. It would be simply an endorsement, which we see all the time by different entities. If a union was to create a new fund to support a particular candidate, yes they would. You see that type in larger offices.

Mike Lowe

What you are saying is that the union could use existing funds that they already had on hand?

Chair Tollner

I am saying that if they opened up a new account or made a contribution to a political committee on behalf of the union instead of an individual, going back to the question that I think Alderman Rootovich addressed before, if you received a check from a law firm it

would have to be a check from an individual just as the type some of us have received from individuals when we have run in the past. I think what we want to do is bring this to Corporation Counsel. I understand what you are bringing up, but I don't think it is that black and white.

Mike Lowe

I'm just saying that it can get sort of wishy washy especially when the union can come out with a political newsletter supporting a candidate, and would have to register, yet the Telegraph can do the same thing and they don't have to register.

Chair Tollner

I believe the intent of this legislation is if they are going to endorse someone, and are taking a collection to support that candidate then they would have to register.

Mike Lowe

I'm not saying they are taking a collection. I'm saying they are using existing funds. The union may have \$100,000 in the bank and say we're going to use \$5,000 to come out with a newsletter in favor of you because you supported us. The Telegraph might come out the next day and say we oppose you. One has to register and one does not.

Chair Tollner

In the case of the Telegraph, I will let them speak for themselves at a later date. I don't think that they would endorse a particular candidate and contribute. I don't ever recall them contributing.

Mike Lowe

I'm not saying they are contributing. I'm saying they are doing the same thing. They are using existing funds that they have gotten from their advertisements and so forth.

Chair Tollner

That is a bit of a stretch, but we will look into that.

Mike Lowe

I'm saying you have to be careful where you are going with this. That is why they are having such a hard time with packs right now.

Chair Tollner

We will get a copy of the minutes to Corporation Counsel. I would ask Paul to work with them, and bring these issues and questions to their attention.

Alderman Rootovich

Can we have city Corporation Counsel here at the meeting when we talk about this. I think it is critical as there are a lot of questions that need to be asked. Some of the responses Corporation Counsel may give may spur yet other questions. I think this needs some good clarification. If anything is to come out of this I think it should be black and white. Anytime we leave it open to ambiguity you will have problems. All of us ran campaigns, and spent more time defending what you can do rather than getting the job done.

Chair Tollner

I agree, and will make sure that happens.

**MOTION BY CHAIR TOLLNER TO AMEND O-00-18 IN ITS ENTIRETY, AND
REPLACE IT WITH THE SUGGESTED REVISIONS THAT WERE PRESENTED TO
US BY THE CITY CLERK
MOTION CARRIED**

**MOTION BY CHAIR TOLLNER TO HOLD AS AMMENDED O-00-18 IN COMMITTEE
PENDING THE ATTENDANCE OF CORPORATION COUNSEL AS WELL AS CITY
CLERK AT THE NEXT MEETING
MOTION CARRIED**

Chair Tollner

I would ask, in the meantime, that the City Clerk sit down with Corporation counsel, and provide them with a copy of this amended legislation.

Thank you very much for your work on this Paul.

NEW BUSINESS - None

HELD IN COMMITTEE

Resolutions

R-00-55

Endorser: Alderman Marc W. Plamondon

**DESIGNATING A NAME FOR THE NEW RAIL TRAIL RUNNING PARALLEL TO
WEST HOLLIS STREET, BETWEEN MAIN STREET AND WILL STREET**

MOTION BY CHAIR TOLLNER FOR FINAL PASSAGE OF R-00-55

ON THE QUESTION

Chair Tollner

I believe the committee has had time to read the memo sent to us a few weeks back from Alan Manoian. I appreciate that Alan and Paul Newman are here. I think we can save them a lot of time. I have spoken with Alderman Plamondon about this over the

last few months. I think it is an excellent idea to name the trail the Nashua-Worcester Rail Trail. For reasons that you are looking at right now from a historical perspective, and then to address the recommendations that have been given to a number of the members of the Board of Aldermen over the last few months. I think an excellent compromise would be to name different intersections of the rail trail after some of the individuals that we have been presented with, i.e. I think we all received a request to name one of them after Max Silver. Alderman Plamondon, who has spent an enormous amount of time on this along with others, thought that to be a great idea. This addresses the proposal that was put into the memo to this committee the other day. Knowing that should help you along in whatever discussion we have here tonight.

Paul Newman

To make you all feel confident since it seems you were headed in that direction this is probably more than just a compromise. It is an excellent choice for this. Allan Manoian has done hours of research on his evenings and some of his weekends on the history of this. This name really has quite a bit of significance. As I said in my cover memo, I discovered within the last few weeks that the opening of the railroad was an event in New York City that appeared on the front page of the New York Daily Tribune. Why in the world? Certainly you can see in Nashua, Worcester and maybe Boston, but New York City? It then relates a story about how this eminent group of citizens took leave from New York City, boarded a steamer to Norwich and proceeded to Worcester and embarked on a new rail bed to examine it and to celebrate its completion. It included Governors or former Governors, important business people from New York City and so forth. Allan can tell you a little bit about why this was significant to that extent, and perhaps even the people back then didn't realize how significant it might become to Nashua's future over the next century. If you will indulge us for a few moments.

Alan Manoian, City of Nashua, Downtown Specialist

We started a few years ago thinking about this new railroad bed. I had an understanding at that time of the significance of the railroads here in Nashua and Nashua's contribution to the whole American experience of railroads, and what it meant to our country. As I started doing more research on this line I became rather impacted, and impressed by the significance of it. I think this is our opportunity to finally start to acknowledge Nashua's railroad heritage. I want you to understand that Nashua, New Hampshire was the State of New Hampshire's first railroad township. This was the first place the railroad came here in the state of New Hampshire. That was not by accident. This is because of the significance. Waltham, MA, Lowell, MA and Nashua, NH were the first three planned, manufacturing townships in America. We were the experimental cities in 1826, which was 20 years before there was a Manchester or a Lawrence or Worcester, etc.

Daniel Abbott whose home sits up the top of Library Hill today was the father of the concept of bringing manufacturing in a planned experimental city. These did not even exist in England. The first railroad in America believe it or not was in Quincy, MA in 1826. It was literally a rail road to bring the Quincy granite from the quarries out to the tidewater. It was a road made of wooden rails. It was hauled by horses. This was the first rail road in America.

The next railroads were introduced in South Carolina. Then the Boston and Lowell Railroad, in 1835. These were the first railroads in America. The locomotive engines

didn't exist here. They had to be brought over from England and Scotland and assembled here. We are a high-tech city today. We have been a high-tech city. This gets back to the roots of our high-technology heritage. We brought high-technology to America. This was high-technology of its day. The Boston and Lowell line was completed in 1835. Daniel Abbott, who brought the textile mills to the city, planned the whole city out and formed the Nashua and Lowell Railroad. This was the first railroad to come to the state of New Hampshire, and he was the President of that railroad. That was the second link.

If I could read this excerpt from an article in the Telegraph from 1847 - The annual report of the directors of the Nashua and Lowell Railroad - In August of 1839, the following proxy was made in relation to this enterprise. Their road has just been completed as far as Nashua, and in contemplating the results which had it thought would grow out of this ultimate extension, the director said a continuation of this road to Amoskeag, meaning the future Manchester, and Concord thus to the Connecticut (River of course) in Burlington striking the lakes at Ogdonsberg, New York would open a new channel of trade and travel to and from the West, and give to every farmer upon the route the advantages of cheap transportation and a better market. When this long chain is so essential to the well being of Boston as well as through the country through which it passes shall be completed and link-by-link it may be the state will have reason to rejoice at the prospect and the projectors of the Nashua and Lowell Railroad who have persevered through times of unparalleled depression and difficulty to its triumphant accomplishment may feel a lot of pride they hazarded the experiment.

I want to keep going back to this point, we were the experimental city, and forged the first link of the chain within the state of New Hampshire.

--Refers to maps that outline the area where the line came up from Boston--

This was all about connecting to the Great Lakes in the mid-West.

This was finished in 1838, and when the name of our township was changed from Dunstable to Nashua. It always tied into the railroad. The Concord Railroad was completed in 1842. Our own Isaac Spaulding (the Spaulding house still stands on Main Street) was the president of that line. We were creating this new world. Chartered in 1845, was the Worcester and Nashua Railroad to connect into Long Island sound, connecting a great route right through the heart of New England, through Worcester and connecting to Nashua, NH. If you can get to Nashua, you can get to the world. This is what made Nashua what we are. The whole point was now you did not have to go through Boston to get to New York. It became more important to get to Nashua than to Boston. New York had a whole new line straight up through New England. This changed everything for us, for New York City and the rest.

The railroads here in Nashua started off with textile mills. The Gregg & Sons located here in 1870 came here to this rail line. The reason Ester Brook Anderson built the great shoe factory here, which was in the heart of the old Greek neighborhood where most of the Greek people worked in the shoe factory came because of this rail line. We were able to diversify more than Manchester and Lowell. This ties into why when the textile industry collapsed Nashua saw it through. We had greater diversity of industry here because of this rail line. Nashua truly became a French-Canadian mill town. They were the dominant ethnic group. You cannot interpret the French-Canadian experience

without interpreting the railroad experience. They were the only group of immigrants that immigrated to America on a train. This rail line goes through the heart of what was first called French Village, the First French, Canadian Roman Catholic Church sits across from it, the Greek church that sits on Ash Street. If you go through the old directories of Nashua you will find that most of those Greeks worked in those shoe factories right there.

It is all tied together to who and what we are. It ties together with our new image of a great new high-tech, progressive city. This is what we have always been, and this is going to be a great opportunity for the many new people who have come here in the last 20 years that do not know the history. We are going to get a plaque put in the city by the state saying that this was the first railroad township of this state. We are going to start bringing back this heritage. This is a great opportunity to do it with this line. We are going to start working when the Board Street Parkway is completed. The great boiler house and smoke stack of the Nashua Manufacturing company is going to be our new museum of Nashua's industrial heritage. While the spur goes right off we're going to start developing a heritage tourism industry in Nashua. Tourists are going to come to Nashua some day. The thing I love about it is that it ties in with New Hampshire being a great high-tech state.

The more you delve into this, all the new cutting edge technology started here in Nashua in the American experience. This is going to be our chance to interpret it. It should be recognized for the importance of what it was, the Worcester-Nashua Railroad. It really gets to the heart of who we were, and who we are today. Hopefully that heritage will carry us through. It seems a great opportunity to start naming things and recognizing our heritage.

Chair Tollner

How many intersections are there?

Paul Newman

I believe it is around 9.

Chair Tollner

I think we should go with your strong recommendation.

Paul Newman

You may or may not have noticed during Allan's presentation, that he referred to it as the Worcester-Nashua Railroad, which is the true and proper historical name, even though that newspaper article used it interchangeably. We were wondering does one call it the Nashua-Worcester because you are at the Nashua end? If you would be inclined to go that extra leap there we would suggest that it does keep with the true historic name of it.

Alan Manojian

I'm grappling with this myself. The reason I gave you this first map is because this is about the Nashua River Valley. All our great railroads ran along the great valleys and

rivers. We are at the mouth of the River. The whole point had been to connect these two great cities. Should we name something here in Nashua with Worcester's name first and Nashua's second? Does that take away from us? Does it lessen who we are, the heritage of this and the story of what it is?

Believe it or not some day this railway will go all the way to central Massachusetts. You will be able to get on your bicycle and ride down to central MA. The rail bed is there. This is possible. It is kind of a visionary thing. It is important with regard to learning about our heritage that the sign be correct.

Paul Newman

This is one of the things that presents an opportunity if we are trying to come up with a graphic and a look for the signage. I am passing around an enlargement, which came of the Internet, of a Worcester-Nashua Railroad train pass. This is great for imagery.

Chair Tollner

You mentioned that the proper name is Worcester-Nashua. If we do want people to gain a grasp for the city's heritage, what better way to call questions or interest from the future youth and citizens than to name it the proper way.

Alan Manoian

It will stimulate people to ask why it would be Worcester-Nashua rather than the other way. We don't want to revise history to suit what we think is comfortable.

Alderman Britton

I feel comfortable with the Nashua-Worcester Rail Trail, being that it is not an active railroad here anymore. The Rail Trail to me is a little different than the railroad even though there is a tremendous amount of history and heritage. I feel comfortable keeping it Nashua-Worcester Rail Trail. I would introduce a motion at the appropriate time to suggest that naming. Under consideration, I don't know who the committee wants to handle naming segments of the trail, but I can see at least 4-5 names here that we may want to consider or may even have someone else consider and recommend to us.

Chair Tollner

Let's take the name of the trail first. I know we have a bunch of names for the trail, but if we give it the official name for the trail, and then go back and give due consideration to the intersections, then we really don't have to be in any rush. These are intersections that are going to be named and never renamed again. There are at least 2-3 names that really mean a lot and played a major role in the foundation, growth and prosperity of the city.

Alderman Plamondon

I have been working on this since August of 1997. I want to commend all of the people that phoned and wrote in with a wide variety of excellent names. I want to mention a few things. I think that Paul and Allan have given some very good forethought on the

historical accuracy. Maybe we should look at the accurate name. Maybe the word heritage should be in there as well since we are trying to emphasize the heritage along the trail as Allan had mentioned. There is a ton of history through the variety of neighborhoods along this rail trail.

To have various pieces along the trail (markers) denoting this particular section of the trail in honor of whomever, and then say this section of the trail is adopted by. There are a lot of sections of the trail that have been adopted. For example, Independent Order of Oddfellows' Pennichuck Lodge adopted the section near City Hall, and have been working this and cleaning it for over three years now. PAL wants to adopt a section between Vine and Ash, etc. I think they need to be recognized. That would be a nice way to tie in. Name a section of the trail and then also saying it is adopted by.

As far as naming a section of the trail I want to forewarn a wise caution. When we start naming sections of the trail in memorial we have to be careful as far as setting a precedent. I for one agree that the section by Vine Street, should be named after Sergeant Paradise who grew up in the neighborhood, gave his life in Vietnam honorably, and served our country and the city with pride. I think that would be a nice section to name after him because he lived right there. That is appropriate. Perhaps we could name a section for Jack Kearowack near Pierce Street. That would apply. He has gained considerable notoriety and is continuing to do so.

Chair Tollner

There was an hour and a half PBS special on him the other night.

Alderman Plamondon

The end of the trail by the Pennichuck area would be a very good location for honoring Mr. Silver and the work he has done for the city. I hope to put some kind of a basketball court at that end of the trail. He was very active in basketball. Of course, it is in the committee's hands, but this is the way I was leaning towards. Whatever you feel you would like to recommend to the full board I would definitely support.

Chair Tollner

I would like to give Alderman Lamos and Alderman Rootovich an opportunity to speak on behalf of the name. I would like to have a unanimous decision from this committee so that we can communicate that message to our board members.

Alderman Rootovich

I tend to agree with Mr. Manoian. I am a historian, and believe it should be the original name, the Worcester-Nashua Trail. I will support that.

Alderman Lamos

I guess we are not unanimous. As a Nashua native I think the Nashua-Worcester Rail Trail is the proper name it should be given. If you want to go back to history you can play that card, but with all due respect to my distinguished colleagues here I still feel that on Nashua property that should be named the Nashua-Worcester Heritage Rail Trail.

Chair Tollner

Alderman Britton has a motion on the floor. We will entertain his motion. I think there is a tremendous amount to say about heritage.

MOTION BY ALDERMAN BRITTON TO NAME THE RAIL TRAIL THE NASHUA-WORCESTER RAIL TRAIL.

Chair Tollner

There is no convincing you to put the Worcester in front of the Nashua?

Alderman Britton

I think we are paying respect, in this case, to both cities. Worcester gets a lot of respect on part of a trail that only exists in Nashua right now. I think we are paying a lot of respect to history.

Alderman Rootovich

I am also a Nashua native. I have lived here for 45 years. I grew up in this city. I have a lot of emotion to this city. I think history clearly dictates that we should name it its original name out of respect. It should be named the Worcester-Nashua Rail Trail.

MOTION FAILED

**MOTION BY CHAIR TOLLNER TO NAME THE UNAMED RAIL TRAIL THE WORCESTER-NASHUA HERITAGE RAIL TRAIL
MOTION FAILED**

**MOTION BY CHAIR TOLLNER TO NAME THE UNAMED RAIL TRAIL THE NASHUA-WORCESTER HERITAGE RAIL TRAIL
MOTION FAILED**

**MOTION BY CHAIR TOLLNER TO NAME THE UNAMED RAIL TRAIL THE NASHUA-WORCESTER RAIL TRAIL
MOTION CARRIED**

Chair Tollner

Mr. Manoian, in some way shape or form, could you get some form of communication to the Board. I will ask Sue to work on having the minutes from tonight's meeting ready for the Full Board of Aldermen.

Ordinances

O-00-06

Endorser: Alderman Frederick Britton

SETTING A MAXIMUM RATE FOR TOWING WITHOUT THE PRIOR CONSENT OR AUTHORIZATION OF THE OWNER OR OPERATOR OF THE MOTOR VEHICLE

ON THE QUESTION

Chair Tollner

Alderman Britton, are we ready to pass this tonight?

**MOTION BY ALDERMAN BRITTON TO TAKE FROM THE TABLE O-00-06
MOTION CARRIED**

MOTION BY ALDERMAN BRITTON FOR APPROVAL OF O-00-06

Alderman Britton

As the committee is aware from the last meeting, the Ordinance was 4-5 paragraphs longer. I have worked with Captain Jim Mulligan, the Towing Association, Rod MacIntyre, City Counsel and the Traffic Department. Everyone is in agreement that they like this reduced version of the ordinance, which talks about the maximum rates that can be charged without owner approval. The requirement of conspicuous notice, which talks about a sign, 18" x 24", which was passed out at the last meeting. The sign says Customer/Tenant Parking Only. Violators will be towed at vehicle owners risk and expense. For towing information call the Nashua Police Department at 594-3500 where they keep a record of the towing.

There is also a violations and penalties provision to the ordinance, which is the standard violations and penalties provision to our ordinances, which allows a penalty up to \$1,000 for each day that someone is not in compliance. Normally a \$100.00 fine is appropriate for a fine as far as history is concerned. Basically it is boiled down to three sections, one dealing with what they can charge, which really equates to what the city rates are for city towing even though it is a non-city towed event, a sign and a fine for not being in compliance. There has been a lot of consideration by the right parties, and I think it is ready to move forward.

Chair Tollner

As far as the signage goes, who is going to pay for that?

Alderman Britton

The owner of the private parking lot. They would have the option of having it built themselves or letting the city do it. It can be done either way as long as it meets these requirements.

Chair Tollner

The concern I have with that is we don't order anything else as a city and sell it to anyone. I would strongly recommend that the owner be responsible for putting the sign up, and the city play no role other than, according to your legislation, the sign would have to match the legislation the way it is written.

Alderman Britton

That is fine. We really don't mention it here either way. I could make sure that the city clerk's office is aware of the committee's request in that area. I have spoken with Alderman McCarthy, and he has no problem with this legislation moving forward.

Chair Tollner

Why would we, the city, be putting a cap on towing charges for someone who has parked illegally on someone's private property?

Alderman Britton

There have been people that have been charged excessive fees. There has been sort of a scam that has taken place as we heard from several people that spoke to our committee. I think it is unfair for some of our residents to have to pay excessive fees. By keeping to the same fee as is charged by those companies that are part of the Nashua City contracted towing, we have a reasonable history of charges that all of them consider to be fair and reasonable, and associated charges with that such as storage. It is well known, published and deemed to be reasonable. Why should someone else get any more than what we consider reasonable for a city contract rate?

Chair Tollner

If, down the road, the city decides to increase the maximum towing charge this legislation would go in line with whatever increases that the city might impose.

Alderman Britton

It would always be whatever is the current contractual rate.

Alderman Rootovich

I know why Alderman Britton put this together, and I appreciate his hard work and diligence as well as his compassion for the individuals who have to pay excessive fees. However, saying that, I have always had a very strong belief that government whether it is municipal, State or federal should not interfere in private entities setting their fees and rates. The marketplace takes care of that. If we get into setting the fee here what's next? We talk about storage. If I wanted to charge a certain fee for storage, will that come under government scrutiny? If I wanted to charge excessive parking fees does that come under government scrutiny? I really feel strongly about this. The government should not play a role of regulating anyone's fees in private business. That is strictly an area where the market will dictate. If the fees are excessive I would say that the individual should challenge it in court. When government gets involved in regulating business in terms of fees we're going in an area that we should not be in.

I commend Alderman Britton in his diligence and his compassion for the individuals who had to pay these fees but this is one area where I feel very strongly that government should not be regulating a private business' charges. Therefore, I will not be supporting it.

Chair Tollner

For these tow trucks to come on the property they have to have the permission of the owner of the property correct?

Alderman Britton

If they are using a private towing firm that is correct. They have an agreement with the private towing firm that comes and removes illegally parked vehicles on these parking lots. They already have an agreement with a company. We found at least two of the companies were charging excessive fees. One of the companies was sitting across the street waiting for someone to park illegally, go to a different location to shop or eat, and they would move the care immediately. We were told this by people who came before our committee. I respect Alderman Rootovich's comments. I think we are providing some protection for those who are not able to protect themselves. We are helping in an area where help is needed.

Alderman Rootovich

They can still park across the street, watch them, and have it towed. We would just be regulating how much they can charge now. That con activity can still go on. You are not preventing that.

Chair Tollner

I'm in between on this one because the comment that if someone parks illegally they need protection from high towing fees bothers me. Given the fact that they parked illegally, why would we protect them? I know there were people here last time, and I respect their concerns. If I'm a property owner and have a limited number of spaces on the side of my store and Mr. Henry comes in and takes up the last spot that I have for my customers why should the city care how much that person is charged?

Alderman Britton

It is a very good point. What happened here several times is that there were innocent parties charged excessive fees. The signage was not large, not completely visible, and one of the evenings was a July 4th event where people felt, for a few hours, they would park almost anywhere to enjoy the events, etc. I agree, when you say they are parked illegally, they shouldn't be there. Some people I think were parking illegally because of a lack of proper signage, which is one of the issues the ordinance addresses. I can understand that point of view.

Chair Tollner

I think the work you have done on the legislation is excellent. I would be very comfortable with the legislation mandating appropriate signage that is positioned where you can't help but is it. The problem that I have with it is curtailing the cost the property owner will incur with the loss of customers, etc. One piece of your legislation that takes care of that is there should be proper signage, large, bright colored signs that one would have to have a visual disability not to see it. For us to support someone that is parked illegally by putting a cap on the towing rates doesn't fly with me. If I were that property

owner I would want them out of there regardless of whether or not they were towed and charged excessively.

Alderman Liamos

I don't have the benefit of last year's actions that initiated this. However, after listening to the discussion, I agree that the signage will create a standard that will be uniform through the city as opposed to the unique signs that you have right now or lack of signs that you have now. I think that conveys to the citizens consistency. The issue relative to fees versus non fees has compelling arguments on both sides. I would support this legislation because I feel that even though you are setting a fee, and the marketplace will ultimately dictate that as if the fee is too low you won't get carriers who will go and tow for that fee.

We're not trying to encourage illegal parking. I think we are trying to display some fairness on the city's behalf to prevent the possibility of gouging. Ultimately if the fee isn't sufficient to allow towing you won't have towers then we would have to come back to this committee to introduce kicking that fee up. Outside of that I think the uniformity offered by the signage is a must have.

Chair Tollner

I don't think there are any problems with what the towing companies are charging right now. Right here we are saying a maximum rate. There is no problem whatsoever in getting any towing companies to come tow a car at the maximum rate. If that is the maximum rather there would never be an issue whether we could get someone to come and tow the car off of private property.

- TAPE INTERRUPTED -

I think the signage is a great idea, and we should enforce that.

Alderman Britton

If the owner of the property calls the city Police Department, and has the vehicle that is parked illegally towed at the city contract rate that is what the towing company is going to get. If they decided to call a private company that is not a member of the city towing contract they are going to get their own rate. I think consistency and fairness is important. They will get the same, reasonable rate that is negotiated that many other companies have agreed with, and will not be able to be the exception by charging another \$30-\$40 more. This is a rate that I believe more than ten towing companies have agreed to. We'll do whatever the committee wants.

Alderman Rootovich

Where did these cars get towed from?

Alderman Britton

From behind where the boulder climbing building is.

Alderman Rootovich

In the current city contract we have with this entity of tows, is there a paragraph in there that stipulates the amount they can and cannot charge for storage?

Alderman Britton

Yes there is.

Alderman Rootovich

Is that also at a maximum amount?

Alderman Britton

Yes. That is why we put this wording here that says at the current Nashua City requested rate plus other reasonable charges and fees set forth in the price schedule. Everything from towing at normal hours, off-hours, storage, etc. is in there. It is all spelled out and agreed to by the ten or more towing companies that are parties to that agreement.

Alderman Rootovich

Do we have a copy of that agreement?

Alderman Britton

There is a copy at the City Clerk's office. I don't have a copy of it.

Chair Tollner

Maybe you can provide us with some information as far as where the Police Department stands on this.

Alderman Britton

Captain Mulligan supports it. I spoke to him and Rob MacIntyre, the President of the Towing Association, for about an hour regarding this. They both support it.

Chair Tollner

Refresh my memory. I remember last time when the towing association came. The individuals that had created the situation and brought the legislation to bear, I'll use the word independent towing companies, were not part of that organization. Where they were running their towing companies out of had also generated some complaints to the Police Department correct?

Alderman Britton

Yes.

Chair Tollner

If I own a property and want to have a vehicle towed that is there illegally, and decide not to use one of the city's tows, that individual can charge whatever they want. Where is the protection then to the individual?

Alderman Britton

The protection comes from the fact that we are setting a limit on what they can charge, otherwise they are violating a city ordinance.

Chair Tollner

I thought the intention of putting this together was to have some sort of protection to the individual car owner not to be charged excessive fees.

Alderman Britton

That is the intent.

Chair Tollner

If I had a deal with a towing company saying charge \$100.00 I want a \$20.00 kickback there is no protection to the individual.

Alderman Britton

There is no protection now, but under this ordinance there would be. They would be operating in violation of this ordinance if we pass it. This will mandate the fee that they can charge.

Chair Tollner

This would be for any towing company?

Alderman Britton

Yes. For any towing company.

Chair Tollner

What happened last time was the exact same thing. What regulates that individual to take that car back to his property, the towing company's property, and charge \$50.00 per day to store it. There is still no protection to the individual.

Alderman Britton

In the legislation, they must comply with the current City of Nashua rates that are agreed to in that price schedule.

Chair Tollner

What this legislation is they are able to charge the maximum in the schedule right now. -
-Tape inaudible-- Last year was a kickback situation between the shop owner and the
towing company.

This would give some protection from the standpoint that they won't be gouged. The
more I think about it I remember the police coming and speaking about the independent
towing companies and the issue they had with that as well as getting the maximum rate.
That is basically the intent of the legislation.

MOTION CARRIED

DISCUSSION

Chair Tollner

We have worked on two significant pieces of legislation tonight. The first of which being
Ordinance O-00-18. I would recommend to the endorser, Alderman Franks, who should
have a copy of the amended version in her mailbox, that if she should have any
questions or would like to make any amendments she could speak with the City Clerk
and Corporation Counsel. The other one being R-00-55, which I know that we made a
recommendation on so that we could get it out of committee, but I want my colleagues to
know that I will make a motion at the full board to amend that motion to identify the
appropriate historical name of the original railroad.

ADJOURNMENT

**MOTION BY ALDERMAN ROOTOVICH THAT THE PERSONNEL/ADMINISTRATIVE
AFFAIRS COMMITTEE MEETING OF JUNE 5, 2000 BE ADJOURNED
MOTION CARRIED**

The meeting was declared closed at 9:10 p.m.

Alderman Stephen C. Lamos
Committee Clerk