

PERSONNEL/ADMINISTRATIVE AFFAIRS COMMITTEE
APRIL 4, 2002

A meeting of the Personnel/Administrative Affairs Committee was held on Thursday, April 4, 2002 at 7:00 p.m. in the Aldermanic Chamber.

Chair James R. Tollner presided.

Members of the Committee present: Alderman Stephen C. Lamos, Vice Chair (arriving late)
Alderman-at-Large Paula I. Johnson
Alderman Timothy B. Nickerson
Alderman Robert A. Dion

Also in Attendance: Alderman-at-Large David Rootovich
Alderman Kevin McAfee

=====

COMMUNICATIONS - None

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

Chair Tollner

I think the committee did get a copy of a memo sent by the City Clerk's office over the fact that we pulled the license for that shop that we talked about a couple of weeks ago.

APPOINTMENTS BY THE MAYOR

Cable Television Advisory Board

(Nashua Fire Rescue Representative)

Roger P. Hatfield (New Appointment)
148 East Dunstable Road
Nashua, NH 03062

Term to Expire: January 1, 2004

Chair Tollner

I received a call the other day asking me if I though Roger should be here. He has been going to the meetings. He is a member of the Fire Department. Basically what he will be is the full-time Nashua Fire Rescue representative to the Cable Television Advisory Board.

You will also see two other appointments one to the Hunt Legacy and another one to the Park & Recreation Advisory Committee. Both of those people are reappointments. Both of them had, to my

knowledge, good attendance records, which was a question of the committee members in the past.

MOTION BY ALDERMAN NICKERSON TO RECOMMEND THE CONFIRMATION OF THE APPOINTMENT OF ROGER P. HATFIELD TO THE CABLE TELEVISION ADVISORY BOARD FOR A TERM TO EXPIRE JANUARY 1, 2004
MOTION CARRIED

APPOINTMENTS BY THE PRESIDENT OF THE BOARD OF ALDERMEN

Hunt Legacy Trustees

Arthur Olsson (Re-Appointment) Term to Expire: December 31, 2003
169 Coburn Woods
Nashua, NH 03063

MOTION BY ALDERMAN NICKERSON TO RECOMMEND THE REAPPOINTMENT OF ARTHUR OLSSON TO THE HUNT LEGACY TRUSTEES FOR A TERM TO EXPIRE DECEMBER 31, 2003
MOTION CARRIED

Parks & Recreation Advisory Committee

John A. Parolin (Re-Appointment) Term to Expire: December 31, 2004
24 Preserve Drive
Nashua, NH 03064

MOTION BY ALDERMAN NICKERSON TO RECOMMEND THE REAPPOINTMENT OF JOHN A. PAROLIN TO THE PARKS & RECREATION ADVISORY COMMITTEE FOR A TERM TO EXPIRE DECEMBER 31, 2004

ON THE QUESTION

Alderman Johnson

Could you please describe what his duties are exactly?

Chair Tollner

The Park & Recreation Advisory Committee is an advisory group that meets and works with the Board of Public Works, the general public, the Park & Recreation Commission, and they discuss a number of different issues and come out with a statement – nothing that is legislatively binding or anything like that – just as an advisory committee.

Alderman Johnson

In other words, they make recommendations where you could put facilities for or against basically?

Chair Tollner

That would be one of probably the number of things that they would do. They would also make recommendations as far as what they think the city should do as far as leagues, Mine Falls Park, Greeley Park – they did spend a lot of time involved in discussions regarding the southwest quadrant. A lot of time was spent with Greeley Park. That is basically what they would do is make recommendations.

Alderman Johnson

They are a very sports minded committee that they do a lot of recommendations dealing with sports and where sports facilities should go?

Chair Tollner

I would say that they are involved in that yes, but that is not the only thing. They would also be involved with the Mine Falls Committee, in addition to recreation, the care of Mine Falls – working with them setting up guidelines, etc. Yes, some sports and a number of other things – anything that reports really to the Board of Public Works or the Park & Recreation Department.

Alderman Johnson

What percentage would you say is sports related with this board?

Chair Tollner

I would probably say 50/60, maybe 60%.

Alderman Johnson

The rest of it is basically taking care of Mine Falls, Greeley Park – how we should upgrade that?

Chair Tollner

That – maybe they would discuss the rail trail, things like that with regard to projects that the city would be involved with.

Alderman Johnson

Why would 50-60% of it be mostly sports and nothing else in the city?

Chair Tollner

I am giving a lot of latitude to what people would categorize as sports. Park/Recreation – a lot of

people thing anything recreational would have to do with sports activities, but it could be anything dealing with Park & Recreation is what they would be involved in. Sports would be I would think a significant piece.

MOTION CARRIED

UNFINISHED BUSINESS - None

NEW BUSINESS – RESOLUTIONS – None

NEW BUSINESS – ORDINANCES

O-02-21

Endorser: Alderman-at-Large David Rootovich

NON-PUBLIC SESSIONS AND MINUTES OF COMMITTEE MEETINGS

MOTION BY ALDERMAN TOLLNER TO RECOMMEND FINAL PASSAGE

ON THE QUESTION

Alderman Rootovich

In the first three months of this year there have been a couple of executive sessions which various committees have had from the Board of Aldermen, and from those executive meetings the tapes have been kept in the City Clerk's office. There have been one or two of our colleagues who have tried to obtain those tapes – I believe Alderman Johnson was one of them, she had called me with some concerns, and the City Clerk's office felt uncomfortable dispatching those tapes for any member of the Board who was not part of that committee to listen to. I took Alderman Johnson's comments and went to see Corporation Counsel asking for an opinion on whether any member of the Board of Aldermen had access to those tapes relative to executive sessions. He was pretty clear and concise on his answer. The answer that he gave me is the product that you see before you right now with O-02-21. Basically there are two parts to the ordinance. It is pretty clear that anything that comes before the full Board of Aldermen for a vote from any committee clearly states that any member of the Board of Aldermen not only has access to that executive session, but also access to any documents and to the tapes if they cannot attend the meeting. That is for anything that goes to the full Board for a vote. However, there is one committee on the Board of Aldermen that you all know being the Finance Committee that has certain authorities granted them by the city Charter. Any executive session that committee goes into, members of the Board of Aldermen that were not members of the Finance Committee would not have access to those minutes, access to the meeting, and access to documents from that. The reason being is that much of those things that we go into executive session for are cases of pending litigation. Those are settlements that have arise from Corporation Counsel's office and the Finance Committee has authority to make those decisions on its own – it would not come back to the full Board of Aldermen.

The only two exceptions to that rule would be an Alderman-at-Large who would sit in to make up a quorum if a quorum wasn't available and the position of the President of the Board of Aldermen, which by Charter he has x-officio of all standing and special committees. That was the impetuous of

drawing up the legislation so it would be clear to the City Clerk's office and anybody else when it came to executive sessions.

Alderman Liamos arrived and joined the meeting.

Chair Tollner

I had a question of Corporation Counsel. We went into non-public session a few months ago when we were discussing the situation with regard to the Spartans. I was asked a question by one of my colleagues who was not at that meeting, and I asked Corporation Counsel if I was able to have a conversation with a colleague because they may have to vote on that particular piece of legislation if it came forward. It was conveyed to me that if an Alderman is not at the meeting that we should not be having those discussions.

Alderman Rootovich

Again, if it was going to come back to the full Board of Aldermen for a vote – I would assume that the colleague that had asked you would want to get the minutes and read the minutes and possibly not an opinion, but what was actually said and testified in the documents pertaining to that – if the issue before that executive committee was going to the full Board of Aldermen for a vote then that individual would have access to those minutes and any discussion that took place. I had asked him that specific question.

Chair Tollner

I am to understand that in Section B of the legislation that is what would be pertaining to the Finance Committee.

Alderman Rootovich

That is correct. As you know Mr. Chairman, that committee has certain authority granted by the Charter that is separate from the Board of Aldermen.

Alderman Johnson

I am glad that this piece of legislation has come out because I think it clarifies exactly what we are and are not entitled to because I think it was very hard when I came on the Board and there was pending legislation before us that some Board members had to do a quick catch-up. If you have to vote on something you need to know the history, and if you are not privy to the information then you cannot give a precise and right vote that you need to do. I am very happy that this spells out exactly who can and cannot be in these non-public sessions. Thank you Alderman Rootovich.

Alderman Nickerson

I can certainly understand the issue in regards to the Finance Committee how it is a special

committee that it happens is made up of Aldermen as well as the Mayor himself. I guess some of the concerns that I have about Paragraph B is if there is an issue in a committee – say it is a personnel issue that is discussed in one of the committees say in a situation like tonight where there is not everyone present, but that discussion may then lead to some legislation that one Alderman that is not a member of the committee, who happens to be a Ward Alderman that person may want to introduce, this paragraph, at least from my understanding of it, would not allow that Alderman to possibly read those minutes of the non-public session of that meeting, and possibly be able to resolve that issue. Is that correct?

Alderman Rootovich

No Alderman Nickerson because you can't go into executive session for any reason. The New Hampshire state law is pretty concise and clear what you can go into executive session for. Myself sitting on the Board for 8 years I don't remember going into executive session ever to discuss a personnel matter. That is discussed by the various boards and commissions we have set up – the School Board has its own as does the Fire Commission and the Police Commission. I don't know of any incident – if you can give me a specific incident I can answer your question. You go into non-public session based on what is on the agenda or something that is given to the Chairman well before hand, but I can't think of anything we have ever had in the last 8 years – If you have an example I can answer your question.

Alderman Nickerson

I guess the best way to do it would be to give you a hypothetical in a way – let's say there have been dealings with some financial accounts, if there is some type of say issues with – a fairly recent one is an issue with say opinions to the Zoning Board of Adjustment – there was possibly a suggestion at a recent Planning & Economic Development Committee meeting to go into non-public session and discuss some issues that were there. That is in a way related to a personnel issue, which certainly allows us to go into non-public session for that under the Right-to-Know Law, but a person that is not a member of that committee could not have access to those minutes.

Alderman Rootovich

Again, I can't think of any issue that the Planning & Economic Development Committee would take up in reference to issues with the Zoning Board. It is a semi-antonymous board that does not answer to the Board of Aldermen so I can't think of a scenario where that would happen, but I guess to answer your question if it did you are correct. If that decision that came out of that committee and again a committee only has authority to recommend, they cannot grant so I don't know what they would grant. They could be an impartial board listening to an argument, but they couldn't make any settlement – they have no power to do that. To answer your question that way I don't know what they would come out of that executive session with as they have no powers to grant anything. Anything that would come out via legislation to change things on the Zoning Board the Board of Aldermen would have access to because eventually it would come back to the full Board of Aldermen for a vote so they would have access not only to the meeting but to any documents and/or minutes from that meeting.

Chair Tollner

If we were meeting as a committee and like happens a number of time such as tonight where there are a couple of members that are not on the Personnel Committee that are here and we went into non-public, a Ward Alderman could stay during that non-public meeting – he or she would not have to leave.

Alderman Rootovich

If he is not a member of the committee is that what you are asking?

Chair Tollner

Again, Alderman Tollner, I don't know what you would go into non-public session for – again the state law and our local Charter is pretty concise and clear on what you can go into non-public session for. You would have to give me an example again so that I could answer your question. Let me answer it this way – what if there was an issue with a department within the city in which there may have been some question on the way that things were handled – we had that back when we first came on the Board with the City Assessor's office whether there was enough money – that was a special committee set up by the President of the Board of Aldermen, it was Chaired at the time by Alderman Kelley if you remember – those went into executive session. Those minutes were sealed and the only persons that had access to those minutes were members of the committee because there was nothing that came back to the full Board for a vote. It was strictly investigative committee, which gave recommendations back to the Mayor. That was a separate issue. It did not come back to the full Board for a vote.

Chair Tollner

I agree with you as I remember that and I think that is the appropriate way to handle it. I will go back and use the Spartans again. I think that was at a Planning & Economic Development Committee meeting when we discussed that.

Alderman Dion

It was Infrastructure.

Chair Tollner

There were a number of members who were not on the Infrastructure Committee that were in the Chamber that night with the full intent of that possibly going to the full Board so they could stay for that.

Alderman Rootovich

That is correct.

Alderman Johnson

I will clarify what Mr. Nickerson I think was alluding to – you can go into non-public to protect the reputation of somebody who is not on the Board especially if it is a personnel issue. I think that night what was happening there was sparring between an Alderman and an employee of the city. I think that is why people said maybe we should go into non-public because the issue is that person was not a member of the Board and yes you could ruin the reputation of that person – not doing it intentionally but the way it was going back and forth and that is why people said do you think we should go into non-public. Yes, the school district does go into non-public a lot, maybe there are times that they shouldn't, but they always do it when it is usually a personnel issue and you want to protect that person's reputation as much as possible because they are not a member of the board – because you don't want to libel them. You just don't want to do it, and sometimes it isn't good. I don't agree, I think it should be held out more in public, but sometimes you have to take a look at the other side of it and say that if something is brought up and you don't mean to bring it up and you really ruin their character – there is a reason why you can go into non-public for that reason, but when you come out of it they say the best thing to do is open up your minutes as much as you can from a non-public, but you can always say you went in for this reason to protect somebody's reputation that is a closure to it or like on the Board of Education you could have gone in there and when you came out you could say you went in there for disciplinary problem so people knew exactly what was the reason why you went in. I think that is what Alderman Nickerson was alluding to.

Chair Tollner

Using that example, looking at this legislation you could go into non-public – you could seal the minutes, but that particular situation would not go before the full Board, it was just a discussion so in that example if I wasn't there that night and you had gone into non-public session I would not have the opportunity to review those minutes because that particular situation would not come back to the full Board to vote on it.

Alderman Rootovich

Under that scenario you are correct – it would only be members of the Planning & Economic Development Committee or an Alderman-at-Large that sat in because there was not a quorum or the President of the Board of Aldermen.

It really clears up a lot of ambiguity that has been going on especially with the City Clerk who felt at times uncomfortable releasing some of the minutes. I thought that this would be a way to clearly set the rules straight.

MOTION CARRIED

DISCUSSIONADJOURNMENT

MOTION BY ALDERMAN JOHNSON TO ADJOURN
MOTION CARRIED

The meeting was declared closed at 7:25 p.m.

Alderman Timothy B. Nickerson
Committee Clerk