

PLANNING AND ECONOMIC DEVELOPMENT COMMITTEE

MARCH 4, 2003

A meeting of the Planning and Economic Development Committee was held on Tuesday, March 4, 2003 at 7:08 p.m. in the Aldermanic Chamber

Chairman Brian S. McCarthy presided.

Members of the Committee present: Alderman Scott A. Cote, Vice Chair  
Alderman Kevin McAfee  
Alderman Lori Cardin  
Alderman Timothy B. Nickerson

Members Not in Attendance:

Also in Attendance: Alderman-at-Large Frederick Britton  
Alderman-at-Large David W. Deane  
Alderman-at-Large Paula I. Johnson  
Alderman Kevin E. Gage  
Katherine E. Hersh, Div. Director Community Devel.  
Mike Lowe, Planning Board Liaison  
Mr. David Pierce

COMMUNICATIONS - None

UNFINISHED BUSINESS - RESOLUTIONS – None

UNFINISHED BUSINESS – ORDINANCES

-  
O-03-134

Endorser: Alderman-at-Large David W. Deane  
AMENDING THE ZONING MAP BY CHANGING A TRACT NORTHEAST OF  
AMHERST STREET FROM PARK INDUSTRIAL (PI) TO GENERAL BUSINESS  
(GB)

MOTION BY ALDERMAN COTE TO RECOMMEND FINAL PASSAGE

ON THE QUESTION

Alderman McAfee

This has been a sensitive area for me because we did do some rezoning there of a couple of the tracks and I see what kind of neighbors the Best Ford has been and we have given them that rezoning and they just keep pushing and pushing. The amount of asphalt that they have put down sends more and more marginal water into that Pennichuck Brook even though it is retained on site remediation with the storm water management plans I just can't see compounding that mistake, and I am not going to support this ordinance.

Mike Lowe

In the past, the owner I guess was PK Landscaping, has not been a good take carer of the watershed. Some of the piles of materials that had been washing right into the brook. What I am worried about is does this change the land use in a way that would make it worse for the watershed. That is my main concern.

Alderman Cote

I think actually Community Development Director, Hersh, put it best in the fact that what we have seen is a consistent change of the properties out along that area towards this sort of an arrangement. What we have available is watershed protection requirements and regulations and expect that the requirements associated with that would be put in place and people should be given the opportunity to be able to utilize their property in such a way that is meaningful and appropriate. To not necessarily support this action as a result of what one other agency may or may not be doing or what the current occupant is or is not doing I don't think necessarily fits the whole purpose of what it is we are trying to do. As a community I think we have an obligation and responsibility to make sure that people follow the rules, but to not support that because of something other than what was suggested doesn't seem to make sense to me. I would suspect that were this to go before the Zoning Board that the Zoning Board would have a difficult time saying no. We have asked consistently for changes in use such as this to come before this Board as opposed to going before the Zoning Board and I actually measure issues in terms of how the Zoning Board would actually look at this if it were to go before them as a request. It is obvious to me that if it was denied by the Zoning Board and it went to court that the city would have no leg to stand on in terms of denying this because of what has occurred all around it. We are living with the decisions that have been made not only by the Zoning Board, but by the city in general in terms of what has happened. What would be I think within our best interests is to ensure that whatever is developed there, and this is where Mrs. Hersh things kind of fall to you, is design, plan, and put in place in such a way that it protects the interests of the watershed district to the best of our ability.

Alderman McAfee

The storm water management it designs into properties are not infinite. They can only recharge a fine amount of water and once those are depleted you can't recharge those. You can backwash your swimming pool but you can't do that to the environment. To add another use potentially to put down more asphalt in that area -- I think we have been fighting to protect the

watershed -- I understand you point Scott, but the Zoning Board did approve that use and it was taken to court by our colleagues and then won. I should have put a stop to it when I had the opportunity and I apologize for that, but I can't support this.

### Alderman Cote

If I could respond, I think we might be mixing the issues because there are really two different things. When you look at storm water recharge efforts that have been occurring as a result of the changes in the legislation of a few years ago, that recharge is making a difference and how a site plan is designed and developed when it is within the watershed protection district is significantly different. There are significant requirements associated with setbacks. I know this having recently gone through this on a particular site that is within the watershed protection district. There is a significant effort I think or there should be an effort not only on the part of the city but by the people that are developing those areas to comply with what I have been told Mrs. Hersh is probably one of the best watershed protection ordinances in the state that we have. Recharge works well. It works very well if it is designed properly and installed properly and we won't allow a plan that isn't done that way. The distances and the boundaries along the watershed protection area I think are significant to provide adequate protection if done right and if managed properly over the years. I think it is difficult to try to mix those things and here again I think you are dealing with a case that should have been dealt with a long time ago or the city should have purchased these properties if it was in fact a concern.

### Alderman Deane

I agree with Alderman Cote. I would just like Director Hersh to comment a little on the process that has to take place in the recharge area and the specific set back requirements of the ordinance that Alderman Cote mentioned. It is not 1940 anymore. People are well aware of what is going on up there. If you look at this track of land if they were to put a – it is zoned for park industrial what would they put there? What would that do to the recharge? They have their rights with the way the property sits now. It is that last piece of land on that side of Amherst Street that isn't zoned general business. Whatever transpired with the Best Ford lot that is another issue. That has nothing to do with. What transpired with things that happened with Mr. Kerouac I am almost positive that Director Hersh has gone out there numerous times and done site inspections so that was dealt with. It is not like anybody is not looking at what is going on out there. Could you comment on that a little bit?

### Kathy Hersh

I would be happy to. Actually I share your concerns Alderman McAfee and then I think that Alderman Cote has made a lot of good points as well. I think all of you have listened to me on this issue enough times over the last years to know that I am very concerned about this area, about our drinking water supply, and it is certainly an area that is near and dear to my heart. I think that the ordinance is working well. I think there are areas that – at least one particular area that we need to look at that we have talked about in the land use update that we are looking at

right now that we feel needs to be improved that would give us better ability to protect our resources, our drinking water supply without acquiring the property. Alderman Cote make a very good point. This is a narrow piece of property and maybe the best alternative is for us to look at some of these pieces of property and say do we really want them developed at all, is it really a matter of industrial versus commercial or is it really a matter of development at all. It is a very narrow piece of property. It is relatively close to, it is very close to the brook. If you look at other properties in that vicinity and you look at the way they have handled snow and they are supposed to be removing snow from those sites because what happens is when they plow snow on a parking lot the parking lot is salted, the parking lot is sanded, they push the snow and the tendency is to push the snow back and into the well. All you have to do is drive along those properties in the back there and you will see that instead of removing the snow that snow is being pushed back and into that well. Granted this is a very difficult winter, but that is the commitment that they made when they developed. Those are code enforcement things that we are on and that we pursue. There were violations on this site several years ago. It came to the Planning Board and we had a lot of discussions and we were extremely adamant that the site be brought into compliance and it is in compliance.

All of those are valid issues – whether or not this is zoned industrial or commercial isn't necessarily what the bottom line is. It is really how development is done on that site or whether or not it is even appropriate for development to be done on this site at all.

Alderman Britton

Do we have a little history of – why is the zoning being requested? Are they looking to sell? Have they been approached by other businesses? Do we have a history?

Kathy Hersh

When a property comes in for a rezoning they don't need to say what their intent is or what their plans are. There are a list of things that they can do there based on whether it is zoned commercial. We don't limit – when we rezone we don't rezone with conditions or things like that. There isn't necessarily nor do they have to say what they are going to be doing if they request a rezoning.

Alderman Britton

Have we heard anything informally or formally about what will happen?

Kathy Hersh

We've heard informally about part of the site, which is right up against Amherst Street and does not back up to the river because there are a couple of sites there, and it is a use consistent with the commercial uses along Amherst Streeter, but that particular site doesn't back up to the

brook. I haven't heard of anything on the other sites.

Alderman Britton

Thank you.

Chair McCarthy

Is there any further discussion? I actually want to take a minute to weigh in on this one because this is an issue that has been bothersome to me for a long time. I think in the end I am going to support the rezoning, but not without a lot of trepidation. This is I think, as Alderman Cote pointed out; the ultimate conclusion is that it will be in commercial use no matter what we do. We can choose to rezone it and have it be consistent with the rest of the uses or we can allow the Zoning Board or the Superior Court to take that action for us. I guess to me what bothers me is that it is the ultimate conclusion of the process for that side of the street that in fact maybe we should never have set in motion in the first place. I think the thing to be learned is not to set it in motion anywhere else. When we get these oh it is just one little lot in a big industrial space heck a little retail over there wouldn't hurt anything, eventually you convert the entire frontage to retail. It is the inevitable result is that the value of the properties around it goes up, the assessors department starts assessing them that way, they come in and get them changed, and our industrial base erodes. I think at this point we have precious little enough of it left and even what we have basically because of its long term layout as more of a general industrial that may not be appropriate for current industrial applications may not serve us well in the future. That worries me. I did not support rezoning the parcels that were next door to this and I was quite adamant about the Zoning Board's change in the usage.

I am concerned about development along the watershed, which is why I worked on the water supply protection district, and frankly as we go through the Pennichuck actions when we meet with the surround communities and say gosh we really want Merrimack to take an active role in protecting lands along the watershed the response we get is yeah like Nashua did on your side of the river? We are basically laughed at in that regard when we ask for water supply protection lands in surrounding communities. We should take that very seriously. I think ultimately the lesson to be learned is we need to be much more proactive about long term land use planning and making very sure that the decisions we make today result in the decisions we want tomorrow. This particular piece of property at this point, I have been out and looked at it a lot of times, I don't suspect it can even be developed as a single commercial use it is so short front to back that it is probably going to be divided up into several uses along its front for small retail type uses. I think we're probably stuck with it at this point.

Is there any further discussion?

MOTION CARRIED

NEW BUSINESS – RESOLUTIONS - None

NEW BUSINESS – ORDINANCES – None

Chair McCarthy

Did we have an updated on R-02-147?

Kathy Hersh

Yes.

MOTION BY ALDERMAN NICKERSON TO TAKE R-02-147 FROM THE TABLE  
MOTION CARRIED

R-02-147

Endorser: Alderman Brian S. McCarthy

REFUNDING THE IMPACT FEES PAID BY SSJ, LLC FOR HOUSING FOR  
THE  
ELDERLY AT THE COLONY CLUB OFF CONANT ROAD PURSUANT TO  
NRO  
SECTION 16-594

MOTION BY ALDERMAN NICKERSON THAT THE RULES BE SO FAR  
SUSPENDED AS TO ALLOW FOR THE INTRODUCTION OF A COMMUNICATION  
RECEIVED AFTER THE AGENDA WAS PREPARED  
MOTION CARRIED

From: Katherine E. Hersh, Community Development Director

Re: Request for Waiver of School Impact Fee for Westchester Colony Club

MOTION BY ALDERMAN NICKERSON TO ACCEPT AND PLACE ON FILE  
MOTION CARRIED

Kathy Hersh

I just wanted to comment, and I appreciate that you all read this, but I just want to comment that the city, the site plans determine that – or restricted this to one person 55 and older and the reason that it took me a while to get back to you on this particular issue was because I was getting the covenant on this development. Most recently in the 2002 census there is now a new category and it is grandparents that are primary care providers so there is an increase in the number of people 55 and older that are primary care providers for children and have that responsibility, therefore, I needed the covenant in order to make sure that the covenant did not allow children in this development in order to be able to say to you that there will be no impact on the schools, which is one of the provisions for you to be able to waive this if you so choose.

Chair McCarthy

What is the pleasure of the committee?

Alderman Cote

You indicate in your letter here that in your opinion the waiver meets the criteria. You have looked at the covenant and you are comfortable with it?

Kathy Hersh

Yes. In fact I quoted the covenant at the end of the first paragraph, which is what I used as the basis to believe that there would not be children living in this development.

MOTION BY ALDERMAN COTE TO RECOMMEND FINAL PASSAGE PENDING A FAVORABLE RECOMMENDATION FROM THE NASHUA CITY PLANNING BOARD  
MOTION CARRIED

Chair McCarthy

Did you want to address O-02-131 Director Hersh?

Kathy Hersh

I think we have talked about this before. Although abutter notification certainly is something that we all think is a good idea I am sure, there is a cost to this. We do collect fees from the application fees and abutter fees and things like that as part of that from the applications, but all of those go into the general fund. The costs come out of the Community Development Division's budget. I think it is important for you to understand that if we base it on for example in the year 2000 there were 9 meetings and there were 16 applications that were considered so if we did abutter notifications there would be the potential of \$1,156 going to the general fund, but the cost coming out of the Community Development Division budget would be about \$900 for newspaper advertisements, which would be required and then another \$600 for staff time. That was in the year 2000, which was a pretty – we haven't had as many applications for the historic district as we have in past years. In more recent years we haven't had as many applications. Back in the '80s we use to have significantly more activity. I bring that to your attention.

Alderman McAfee

At an earlier meeting, I know Kevin wasn't there so we left it on the table, we are not legally bound to notify these people. I guess that was my point. If an applicant is doing renovations to the degree that it has to go in front of the HDC then I am not saying charge them the money, but this district they are abutted by 2 at the least or 4 at the most abutters that are in the district so

why can't these applicants just have a form to fill out. It is easy enough for you to pull as to who those abutters are and get them to go over – look over the fence, talk to their neighbors about what they are doing and sign whether they approve or not – just have them sign that they have been notified. It would take a lot of legwork off your people to make sure that was done – registered mail or whatever. If there is no legal reason to do it we can do it another way.

Kathy Hersh

If that is what the Board wants to do.

Alderman Cote

I had asked Roger Houston last time he was here what his position on this was, and he had indicated that as much public notification as possible is always the better thing to do because it avoids controversy and it avoids problems. I said so Roger what is it all about, is it about the money, and he kind of said yeah it is about the money. I guess my question to you would be that if I brought forward legislation to transfer \$1,000 into your account to cover these expenses would you be more comfortable going forward with public notification as proposed in this legislation?

Kathy Hersh

I would be more comfortable going forward with the \$1,500 that I believe it is going to cost me. I really sound like I am being really picky and protective here of my budget and I don't mean to be, but these are real costs that we really incur and that we then don't have in our budget. Quite honestly we don't know what some of these costs are. For example if you take a look at my budget you will see that there is over \$13,000 just for transcription of minutes, which can go up or down depending on how busy a year we have. Postage is a pass through and there are other items that are pass throughs and it is a concern to me just because I need to make sure that if we have a really busy year there is just not enough money in my budget. There is no fudge room in my budget to be able to compensate. It is not like I can take the revenues – I have a busier year so therefore I can take the revenues and pay for these expenses. That is really my biggest issue.

Alderman Cote

If I could follow up – you had indicated that it would be around \$900 of advertising expenses and I though you said \$600 worth of staff time, which is already accounted for in your budget isn't it?

Kathy Hersh

That is assuming that my staff has two hours per case available that they are not doing anything right now.

Alderman Cote

I guess my trouble with that is that if you – there isn't a sliding scale of how things go here and if you end up next month getting 50 requests for major projects that are going to come in and in the following month don't get any there has got to be some give and take here. If you read the budget line as tight as you are saying what you are suggesting is that if this year is a lower year in requests then we had ought to adjust your budget down. Then your staff is not spending all of the time doing all of that processing. I don't think you can manage it that way.

Kathy Hersh

Okay. It is sort of like a classroom at schools where you have a point where you say after 26 children I need to hire a new teacher, but in reality I can have 27, 28, or 29 students and pay that teacher extra, at least this is the way it use to work, until I get to the point where it just doesn't work anymore and now I need to hire that teacher. That is kind of the fudge room. For example, I have the same number of planners that I had back in the middle '90s when the Board of Aldermen, which I applaud introduced and passed legislation that said that the city will live by its own laws. Now all of the Public Works projects come through the same process that everybody else does and I nobody came in here and said you know what this is a huge pressure -- and I can come in with the numbers of how many projects and how much time because we record all the building permits and things like that so I can show you the increase just based on having to review city projects – there comes a point where you have to start saying if you put anymore I can't provide you with the service that you are asking for. I feel like I am at that point. There may be other times when I am not at that point and then I would be less opinionated about this.

Alderman Cote

Understood.

Alderman Britton

I know it may have been the last meeting of this committee, we, not I, but I attended the meeting and we talked about this legislation and it was amended. I don't have an amended copy. I don't know whether any committee...

Chair McCarthy

There was no formal amendment offered. We discussed amending it to just require the offsite signage.

Alderman Britton

The signage and an ad in the paper was my understanding – that there would be an ad in the paper each time when there was something to be done plus signs. You are saying that is not

formal?

Chair McCarthy

I don't think we entertained any motion to make the amendment.

Alderman Britton

It was my understanding it was made, but maybe not. There is no copy available this evening and none with our packets so maybe it was not formal. Anyway we did talk about it and we did talk about – Roger Houston was here, and we did talk about signs and advertising in the paper. The consensus was a better notification was not necessary. It was kind of like a compromise. Anyway I just wanted to make that statement. Thank you.

Alderman Johnson

I understand Mrs. Hersh's point here, but I also realize that I think that abutters have the need and the right to know what is going on in homes or any open space next to them. As far as the signage goes I think that is a great idea that we put a sign up saying that something is going to happen, but as you are driving by – I can give the perfect example of West Hollis Street with the traffic coming by I can't see what they are planning to do. You have to jump out of the car and then you need a magnifying glass just to read the sign. Unless we are going to supply magnifying glasses to people and some way that people can read it as they are going by on the roadway there is just no way that you can read the signs.

I feel for people because I know what has happened in the city in the past that people don't get notified and then it is a surprise look at what is coming in my backyard. As far as we might want to try maybe doing a web site, putting something on our system, but not everybody has a computer and not everybody gets the Telegraph so there has to be a better way. I know that last year in the budget year we had additional people – I remember you got some help in your department. I can't remember in your budget if you are asking for additional help this year. You know somehow I think these people who pay taxes in this city should have a right to know what is going on in their neighborhood some how some way. If you don't want to do the mailings because it is costly and to stuff an envelope why can't we get some volunteers in here to help in the department. The school gets volunteers – why we can't get volunteers for city hall to stuff envelopes sometimes. I think there can be some creative ways to find ways to let the citizens of this city know what is coming next to them or around them, and I think you have to gear how close an abutter is and how far of a distance an abutter is. It might not be as bad as we think it is. Thank you.

Mike Lowe

Having now sat on the Planning Board for 2-3 years I am beginning to learn the process. When

I first sat on the Planning Board there were no signs and there were no notices it was just in the paper. There were always very few people. Now there is at least 10-20 people there every single meeting. I never saw anybody come in with the newspaper but I have seen them come in with that little notice that they have gotten.

Chair McCarthy

We haven't changed that notification at all. In fact, I would point out that the action that we just took on the rezoning of Amherst Street, not one abutter was notified by mail of that rezoning because we don't send out notifications of rezoning. We only send out notifications about variances.

Mike Lowe

At least on the variances they work.

Chair McCarthy

If there is an increase in the number of people who attended the only change that we have made in notice requirements in recent years is the addition of the on site signage.

Mike Lowe

I am seeing the on site signage as working good, but I am also seeing more people coming in with the little card when the card has been available.

Chair McCarthy

That has not changed when they got those cards.

Mike Lowe

I think that this legislation probably should – I don't think it needs the notice in the paper. I think what you need is the card and the sign period. I think the notice in the paper is probably more expensive than actually a card. You are only talking 4-6 people notification maximum probably on 90% of all the – you are talking \$2 maybe. You might charge the person that wants it an additional \$10 fee and that would probably cover most of your costs except for the big sign. Thank you.

Alderman McAfee

This is not like it is some kind of unfunded mandate. We're not saddling, I know as Mr. Lowe said that extra \$10 doesn't go into your budget. We don't have to incur that. Have the applicant

walk next door and say this is what I am doing. I don't understand the ...

### Chair McCarthy

The problem I have with that is it is way too easy to get claims of they signed the thing themselves and they didn't come over and tell me about it. The requirement we have now where abutter requirement is required we do it by certified mail and there is proof that person was notified. I worry that we get ourselves into a case where the process is challengeable because there are steps in it that can't be verified. I don't personally think that the abutter notification by mail is necessary. I believe that the on site signage does everything we want to do with regard to that. It is really tough to believe that the sign would be up on the front lawn of one of these places for two weeks and the neighbors would not notice it there. I notice them all over the place. Maybe I am a little more sensitive to them than most, but they are pretty visible.

### Alderman McAfee

They either stop and read it or they make an effort to come in here or get on the web site and find out what the story is.

### Alderman Gage

I was going to mention if the committee was willing to have Mr. Pierce come up at some point.

I just want to touch base on a couple of things. This was sent to the Nashua City Planning Board, which came back with a favorable recommendation on the 16<sup>th</sup> of January. When Mr. Houston was here, as Alderman Cote said, it seemed like the bottom line to him and also tonight with Director Hersh seems to be that money would have to be the bottom line with this, not necessarily the ordinance itself, but the money surrounding that. I certainly think with Alderman Cote bringing up the moving of some money over there – I certainly would go along with that myself. I think \$1,00 would be appropriate. From what I can see the employee time was mentioned and \$600 and different things, but I certainly think with the salary folks are getting and the jobs they are doing, we've got a computer system I believe a new system last year part of it anyway to help increase the productivity and efficiency of the department and hopefully that can come into use there and that would be supported. Thank you.

### Alderman Cardin

My initial comment is going to be on the comments that Mr. Lowe made about not putting the ad in the paper, which I guess I have a problem with that because I think the more people that are notified the better. I think the signs that are put out there are great. Every time I drive by it is there, it is obvious to anybody who goes by what that is, and if you have to stop and read it and look into it at that point I think it is probably more effective than the ad in the paper, but I just think the more people that get notification the better.

David Pierce, past board member of the Historic District Commission

In regards to money for this, I realize your budget is coming up. First of all I would like to thank Alderman Gage for endorsing this because I think it is very important that abutters are notified and signs have their purpose. Alderman Johnson brought up that you would have to stop and look at the fine print, which is true, but people other than abutters show up at public hearings – the Zoning Board when abutters are notified, and people other than the abutters show up in favor or against ordinances when they come up. The signs I don't think are going to cut it. However, I think there is a reasonable compromise here. This in general says that abutters need to be notified for anything that comes before the Historic District Commission including signs and other issues. Rarely, I won't say rarely, but very few times does an application come to the Historic District Commission for a new structure or a new facad or something of that nature, however, it does happen and I do feel that abutters should be notified. There is \$1,500 put into the HDC account each year and in FY '02 and FY '03 there was \$1,500 put in. Not all of it was spend and it went back into the general fund and in fact in FY '02 \$300 and some odd dollars went into the conservation commission to use. I think there is plenty of money in the \$1,500 to include to notify abutters only on structures whether they be temporary or otherwise or facads and that way you cut down the costs – only the abutters are being notified on issues that come before the HDC for structures versus everything in general. I think it would cut – there would be plenty of money there. I would also like to say that there is liaison on the HDC from the city Planning Board, Robert Rheahme I believe and Carter Falk is. I think that should be included in their job duties to notify abutters. They could perhaps have that duty to do it. I would like to ask that if money is an issue that you amend this O-02-131 to just apply to structures or facads.

Alderman Cote

It strikes me that much of this discussion is kind of fitting into that category of kind of throwing nickels around like they are man hole covers. Last night at the Finance Committee meeting we approved over \$1 million in barrels. You kind of put things in perspective here in terms of what our responsibility is to the community. I have to believe that it is our responsibility to do as much as we can to notify people as often as we can of stuff that is going on. I certainly think that the suggestion that Mr. Pierce made about structures and exterior stuff has a point, but I think that it is going to be difficult to differentiate that. I don't see this as a big issue. I think we should do this. I think providing notification to people on stuff like this that occurs through the newspaper, through a mailing, and through the sign consistent with what we do with everything else is a good thing to do. All you need, because you talk about those 2 hours to process the requirements that are there, all you need is one upset abutter to show up at your counter and demand to find out what is going on, and I assure you your 2 hours are gone so I would think from your perspective and from your staff's perspective that they would applaud any effort to go above and beyond notification because the more people know the more empowered they are to be able to respond to issues as they come up. It is when people don't know that they show up, that they are upset, that they want answers, they are demanding copies of minutes, they want to know when the next meeting is, and all of that is far more consuming of time and energy and

money and resources and efforts than doing this. Let's just do this and let's just do it consistent with the way we do everything else and be done with it. Let's take \$1,000 out of the trash barrels we bought last night. I don't care. I think this is certainly well worth doing. Then let's evaluate it after a period of time and if we find out that it is becoming such an enormous strain upon your staff or your resources then we'll make an adjustment.

### Chair McCarthy

The question I want to ask is how do we get the abutter lists for things that require notification now?

### Kathy Hersh

It depends on which Board. Sometimes the applicants bring in the abutter lists. With respect to the ZBA for example we generate the abutter list, which right now is cumbersome, but with the new software when it is up after we have worked out the bugs that will hopefully be a snap. We do it in different ways. To respond to you Alderman Cote, I agree with you 100%, but I do think it is my responsibility to explain to you the impacts of some of these decisions when we make them. Although this sounds like a very small impact and it is a relatively small impact in the big scheme of things, it is really important that we all understand what the impacts are of these decisions because you are right I may deal with that abutter who comes in because they didn't get notification, but if that abutter comes in because they didn't get notification they are coming in because they did get notification so I am still dealing with that abutter, which is good, which is our responsibility, which is fine, but the problem is I want to be able to deal with them. I don't want to have to say I am sorry but we just can't. We are maxed. I just need you to understand that we are maxed. I would be more than happy to – I don't disagree with you that I think abutter notifications is important. I think people should be notified to every extent possible and I am more than happy to take on this responsibility but I just think that you all ought to understand the impacts.

In fact for example at the state level when people introduce legislation there is a fiscal impact statement on the bottom of state legislation. What is the fiscal impact of this decision? I sat on this Board for 10 years and quite honestly there are many things including the legislation to have all of the city projects go through the same process as everybody else and voted for these things without understanding what the impacts are on staff. We are in tight economic times. We are all working diligently internally to provide budgets that are responsible and that meet the Mayor's guidelines and that will meet the Budget Committee's guidelines, and it is important for us to give back to you the feedback that says you know what fine we will do it but when people call it is really hard to be able to respond to everything that everybody wants to do and to meet that high standard that our citizens expect and that we expect from ourselves because we do have a high standard that we believe that we should be meeting to serve the public – it isn't always easy to be able to do that with the resources that we have. I would be more than happy to do whatever this Board chooses to do because I do actually believe in people knowing about what is going on in their neighborhoods. Certainly any one of us who has had something go on in our

neighborhood that we didn't know about that might have impacted us feel very strongly about this and would want to make sure that they know about it. I would be happy to do whatever you would like.

### Alderman McAfee

Just a comment about what Mr. Pierce's statements were that if you choose to notify them, notify them on everything because then you will run into problems about why wasn't I, why was I. If you are going to do it, do it on a blanket.

### Alderman Britton

About a year ago I filled the Aldermanic representative to this Historic District Commission and I have been going to the meetings for about a year and am the Vice Chair of the committee. As I mentioned at the last meeting we primarily have dealt with either additions, which have been adding of decks and stairs to the back of property or the adding different siding to the home to preserve it. We always look to make sure they keep historical significance, the architecture that is there. We did have one additional building built at the Red Cross complex there on Concord Street, but primarily they have been relatively minor, or signs on some of the establishments downtown on the corner of Franklin and Main Street for example. They have been relatively easy things to deal with except for maybe doors and windows being changed. I personally think more notification the better and in our commission we have been talking about signs now for about 6 months. I think now that there is action going to be taken I think that is great. I think either one or the other would be fine – either abutter notification or the paper. I really don't have a preference. I am not sure all three is necessary though due to some costs and effort. Thank you.

### Alderman Deane

I agree with the comments Alderman Cote had and I just wanted to tell Director Hersh that what I have asked for in the Infrastructure Committee is a cost analysis on every piece of legislation that comes through that committee that regards any expenses that come out of the traffic department because people lose sight of the fact that the traffic department is a maintenance department. They don't budget a lot of money to run around and put up stop signs. Everything that comes down the pike we now have costs associated with each ordinance so if we are putting up, it includes the truck charge, the crew charge, and it is showing us exactly what it is costing us to have them go out and put a sign up. I think having the costs associated with this should be done. I do agree the more information we get to the public the better. Communication is the name of the game and by hopping over the fence and telling your neighbor you are doing something, what if the neighbors don't get along. It shouldn't be the neighbor's responsibility. When you fill out an application it is the city's responsibility to make sure that everybody is properly notified and we should accept that process. If there is an added cost to it, like Alderman Cote stated, if you get an irate resident that comes in you could lose half a day just dealing with that one problem where if you had spent \$2.29 or whatever the cost to send a registered letter it would have been gone. If there is a cost associated with it and times

are that tight let us know what – you should be able to sit down and figure what the associated cost with each and every or a rounded figure on what you need for notification for each application and that should be figured – go back 5 years and see what the numbers are in the last 5 years and get a 5 year average and we will budget that accordingly.

### Chair McCarthy

I guess for me with regard to that issue the question is not so much the money because we can find that as it is fairly small amounts. It is two things. It is consistency amongst all of the applications and processes we deal with and it is effectiveness of the notification. As far as the effectiveness goes if I had a buck for every person who has come in and stood before the Zoning or the Planning Board and said I never received proper abutter notification that X was going to happen and we were able to produce a receipt signed by that person where they signed for having that card put in their hand I would be rich. People get that stuff and they toss it. They don't even bother to read it. When we started putting the signs up the number of comments we got of wow this really great I wouldn't have known that was going to happen from people who got the notice was terrific. I think the signs are the most effective piece and that is why I am reluctant to do the abutter notification because everybody else we do it for we charge them. If you come in for a variance or you come in for a site plan those require abutter notification you have to go look up the list and give it to us and we tell you how much it is going to cost to mail them out and you have to pay it. That could substantially – it has an impact if we do that on the applicant who is not paying very much for a fee to put in a HDC application now, and if we don't do it then we are being inconsistent – why does that person not have to pay for abutter notification but the guy who wants to put a deck on that overlaps his side yard setback by a foot has to pay for abutter notification for the dimensional variance he has got to request. We ought to be consistent in those things. I actually think that the signage is our best bet particularly for something where the impact is fairly concentrated on a few homes on one street. People are going to see those when they drive by them. I think that is our best bet and I think it is consistent with all of the other notification that we normally do. To me it is not the money it is the consistency of the way we do the notifications.

### Alderman Gage

I would urge the members of the committee to support O-02-131. I think as has been stated here several times the more notification that we – the more times that we let people know what is going on in city hall and the committees and boards related to city hall and their city government I think the better off we are no matter how we do it whether it is the signs, just the signs or the signs and the mailing and whatever else. I don't think the fiscal impact is at a make or break point in my personal opinion.

### Alderman Cote

I actually wanted to respond to something you just said because you had indicated that just putting the sign out for this if I heard you correctly was that would be consistent with what we do

in similar type notifications and that is not actually true.

Chair McCarthy

What I am saying is we don't – the ones where we require a butter notification we require that the applicant pay for it. On other items that don't require a butter notification by state law we simply put up the signs. That is basically rezoning.

Alderman Cote

Okay. Why don't we amend this legislation to require that the abutter notification be paid for by the applicant?

Chair McCarthy

We can do that.

Alderman Cote

Well then let's do that.

Chair McCarthy

My question is whether that is any more effective than putting the signs up.

Alderman Cote

We can sit here and debate all night whether or not somebody is turned on by the sign or they reference by the little thing they receive in the mail, but I think the important thing is that you do whatever you can to notify them so if that involved some people like to read the paper and some people don't, some people read sign when they drive by them like you and some people don't. Other people read their mail. You have all three avenues covered at that point in time, let's amend the legislation to include that the applicant has to pay the burden of or take care of the burden of not only finding out who the abutters are but also pay for the mail costs and then we are all set. I actually cannot believe we have spent the amount of time discussing it that we have given how important the issue is. What would the appropriate amendment be?

Chair McCarthy

I don't actually have a copy of the ordinance in front of me. I think we will have to – it actually calls for the applicant to pay it now. It does not however require the on site signage.

MOTION BY ALDERMAN COTE TO TAKE FROM THE TABLE O-02-131

MOTION CARRIED

O-02-131

Endorser: Alderman Kevin E. Gage

ADDING PUBLIC HEARING AND ABUTTER NOTICE REQUIREMENTS TO  
REVIEWS BY THE HISTORIC DISTRICT COMMISSION

MOTION BY ALDERMAN COTE TO AMEND O-02-131 TO ADD WHERE IT IS  
APPROPRIATE REQUIRING ON SITE POSTING OF THE SIGNAGE

ON THE QUESTION

Chair McCarthy

If what you want to do is send this back tonight what I would like to do is draft an amendment between now and the full Board that says that because there is some specific language that we used everyplace else that requires the signage and I want to look at what that is and put the right thing in there. I don't think that stops us from doing what you want to do. Is that all right?

Alderman Gage

Yeah. I would also like to hear – once we get over that point I would like to hear the rest of Alderman Cote's amendments there.

Alderman Cote

This is kind of like everything that is wrong with government. This should be easy. All we want to do is approve an amendment that requires us to add the appropriate language in here to put sign postings in front of these houses for notifications. I think we can make that consistent with other abutter notifications.

AMENDED MOTION BY ALDERMAN COTE TO AMEND O-02-131 BY ADDING  
THE APPROPRIATE LANGUAGE CONCERNING THE POSTING OF THE SIGNS  
CONSISTENT WITH OTHER ABUTTER NOTIFICATIONS  
MOTION CARRIED

MOTION BY ALDERMAN COTE TO RECOMMEND FINAL PASSAGE OF O-02-131  
AS AMENDED

ON THE QUESTION

Alderman Nickerson

There has been a lot of discussion as far as the cost of this, and if there is a significant concern, which it sounds as if there is that the funds for this will not be able to be found in this budget year and the Community Development's budget for this year we could always amend this to make it

affective come July 1<sup>st</sup> that way ... you are all right with having it...

Kathy Hersh

This small amount yes. For the rest of the year sure.

Alderman Nickerson

Okay. Then never mind.

Kathy Hersh

Thank you.

Chair McCarthy

Is \$2 the correct fee?

Alderman Britton

Not having a copy of the legislation with me now what does it call for besides signs? Does this call for abutter notification?

Chair McCarthy

It says the following subsection is added: The Commission shall hold a public hearing on all applications. Notice of the application and the date and time of the public hearing shall be given to the applicant and every abutting property owner whose property adjoins or is directly across the street or stream or from the land under consideration as determined from the records of the City Assessor. Such notice shall be given by certified mail not less than 14 days before the date of the public hearing. Notice of the public hearing shall also be placed in the newspaper for general circulation in the area not less than 5 days before the date fixed for the hearing and after that will be the language requiring the on site signage. The Abutter notification fee shall be any necessary postal fees plus \$2 per abutter.

Alderman Britton

Thank you so the public hearing would be before the Historic District Commission members in room 208 where we normally meet generally.

Chair McCarthy

It doesn't give that level of detail.

Alderman Britton

I realize you didn't but it is an important issue I wanted to talk about. The public hearing will be held before the Historic District Commission and not before the Board of Aldermen in any manner.

Chair McCarthy

Yes.

Alderman Britton

Thank you.

Chair McCarthy

Is there any further discussion?

MOTION CARRIED

## DISCUSSION

Kathy Hersh

I can't remember whether or not I let the Planning & Economic Development Committee know, but we were successful in our application for LCHIP funds. Did I update you on this? No? Okay great. The Board had voted to have the city apply for LCHIP funds and Department of Environmental Services Water Supply Grant Funds to acquire 100 acres adjacent to the 250 acres that we acquired last year adjacent to Pennichuck Pond. We have been successful in our LCHIP and DES applications. We had asked for \$500,000 from LCHIP and we were awarded \$200,000, which is consistent with what happened last year and we were awarded \$250,000 from DES. There will be some additional amount of money that needs to make the whole deal come together and that money is available in the conservation fund so there won't ... tape flipped ...

## ADJOURNMENT

MOTION BY ALDERMAN NICKERSON TO ADJOURN

MOTION CARRIED

The meeting was declared adjourned at 8:05 p.m.

Alderman Scott A. Cote

## Committee Clerk