

PLANNING AND ECONOMIC DEVELOPMENT COMMITTEE

June 17, 2003

A meeting of the Planning and Economic Development Committee was held on Tuesday, June 17, 2003 at 9:30 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: Alderman-at-Large David Rootovich
Alderman-at-Large James R. Tollner
Alderman-at-Large David W. Deane
Alderman-at-Large Paula I. Johnson
Alderman Timothy B. Nickerson

Also in Attendance: Mike Lowe, Planning Board Liaison

COMMUNICATIONS – None

UNFINISHED BUSINESS - RESOLUTIONS – None

UNFINISHED BUSINESS – ORDINANCES

O-03-155 (Amended)

Endorser: Alderman Brian S. McCarthy

REVISING THE CRITERIA FOR ENCROACHMENT INTO THE
CONSERVATION
ZONE OF THE WATER SUPPLY PROTECTION DISTRICT

Alderman Cote

Have we gotten a response yet from the Planning Board? It says it remains tabled at the Planning Board.

Chair McCarthy

I think it remains tabled.

MOTION BY ALDERMAN COTE TO HOLD O-03-155 IN COMMITTEE PENDING A RESPONSE FROM THE PLANNING BOARD

ON THE QUESTION

Mike Lowe

The reason the Planning Board held it – it didn't have the new text.

MOTION CARRIED

NEW BUSINESS – RESOLUTIONS

R-03-212

Endorsers: Alderman-at-Large Steven A. Bolton

Alderman Kevin McAfee

DIRECTING THE MAYOR AND CITY DEPARTMENTS TO TAKE IMMEDIATE APPROPRIATE ENFORCEMENT ACTION CONCERNING PROPERTY LOCATED AT 449 AMHERST STREET NEW BUSINESS – ORDINANCES

MOTION BY ALDERMAN NICKERSON TO RECOMMEND FINAL PASSAGE

ON THE QUESTION

Chair McCarthy

I would actually prefer to hold it. We don't have the sponsor here – we don't have any response as to – I don't understand frankly whether there is any action that we can take that we haven't taken at this point. I would prefer to hold it and I will not vote to support final passage.

Alderman Cote

We have one of the endorsers here.

Alderman McAfee

I just have a little bit of history because this has come in front of the Planning Board. If you know the site it is the old covered bridge that was torn down – they had some blasting problems and the owner was thrown into almost bankruptcy. It is sitting there and something has got to be done with the site. I will support your motion to hold.

MOTION WITHDRAWN

MOTION BY ALDERMAN NICKERSON TO HOLD R-03-212 IN COMMITTEE
MOTION CARRIED

NEW BUSINESS - ORDINANCES

O-03-182

Endorser: Mayor Bernard A. Streeter
Alderman-at-Large David W. Rootovich

AMENDING THE LAND USE CONTROL ORDINANCES TO EXEMPT CITY
DEVELOPMENT
PROJECTS EXCEPT FOR STANDARDS OF THE TABLES OF PERMITTED
USES AND
DIMENSIONAL AND DENSITY REGULATIONS AND PROVIDING FOR
PUBLIC HEARING
AND NONBINDING PLANNING BOARD REVIEW UNDER RSA 674:54

MOTION BY ALDERMAN COTE TO RECOMMEND INDEFINITE POSTPONEMENT
ON THE QUESTION

Alderman Cote

I was going to actually spend a tremendous amount of time this evening going back through all of the minutes of the Planning Board meeting, and I realized after listening to quit ea bit of testimony number one that wouldn't be necessary because a number of people have done that, but there are several hundreds of pages that are certainly worth reading and going through. What this issue is really about is a referendum on whether or not the Planning Board should continue its involvement with the city's projects. As I look back at the history in the early '90s when the legislation was put in place there was a very specific purpose associated with that. There were a number of projects that occurred within this community of which there was very little representation not only from the individual Ward Alderman that represents the constituents but for the constituents that surround a project so it was completed by the city. There was not proper notification given to abutters, there was not the proper airing of concerns, and I think the proper details mentioned and listed within projects that were there. The stadium committee did a great job putting a package together and putting it before the Planning Board. The Planning Board did a wonderful job as the lat line of defense for the individuals that live around the stadium. The Stadium Committee and the Joint Special School Building Committee knew very well what they were getting into when they elected to decide to put the stadium where it is. They understood the stipulations that were there, they understood the concerns of the abutters. If they didn't agree or didn't like or felt that there was some problem associated with that it didn't have to be built there, but the decision was made to build it there, and I think it was a good decision in the long run because the decision was based on how that facility would serve the high schools. Its geographic location is very specific to the two high schools that are surrounding it because the focus of the facility was in fact for youth sports. To try to change that

now and to try to undermine the whole process of the Planning Board based on what the city does and doesn't do I just think is heading down the wrong direction.

It didn't occur to me until early on this evening why we have this legislation in front of us because I think the average person that would sit there and look at sweeping legislation that would completely remove the authority of the Planning Board's review over city projects would have a problem with that Stellos' Stadium aside. I think the average person would say that just doesn't seem right. The reason why I believe that legislation is now there, and I could be wrong – I am sure I will be corrected if I am – is that the applicant has the responsibility to submit a request to the Planning Board to remove the stipulation. That is the only way it can be removed. The City of Nashua was not the applicant for this project. The Joint Special School Building Committee, which is comprised of 9 members of the Board of Aldermen and 9 members of the Board of Education is the applicant that went before the Planning Board. I believe Alderman McCarthy is right in his statement earlier that actions taken by the Board of Aldermen to try to remove a stipulation like that wouldn't necessarily be appropriate.

One thing that stands out, having gone through the nearly 500 pages of minutes over the weekend, was that Chairman Lasky and at times Acting Chairman Doufore of the Planning Board consistently indicated that very point – that if the applicant ever had a problem with that stipulation they had the right at any point in time to come before the Planning Board and ask for it to be removed. That would provide the public forum that so many people are indicating that they haven't had the opportunity to have.

Therefore, I am not going to be supporting this because I think globally it is the wrong thing to do. If there is truly an issue, and I believe that there may be, in not allow some adult play at this stadium and it can be worked into the schedule that has been outlined as a compromise to the abutters I don't have a problem with that. I do have a problem with professional play at this stadium because I think it is contrary to what we decided to do and why we moved it forward. I think some adult play if it can be fit into the schedule with the understanding that youth sports comes first and there are no arguments about it and the noise issues are resolved and the concerns that have been raised over and over and over again by the abutters are addressed then it is fine, but I see not need to go forward with this legislation. Thank you.

Chair McCarthy

I would like to address this next. I agree with Alderman Cote and I want to very carefully explain my logic for the stance that I took on this ordinance when it came before the Board for first reading, and what I think about it now. We have focused tonight and in general on the Stellos' Stadium issue, and I agree there is an issue there that needs to be resolved, but it is one of those things where we have had the power to deal with that issue all along. All we have to do is go back to the Planning Board to get the stipulation changed and convince the abutters that is a reasonable idea, and the testimony I heard tonight supported that. There are a number of issues that we have been asked to address some of which we have taken partial care of, some of which we have simply not addressed. Those are the issues that need to be dealt with in order to make that part of it viable. I agree there is an issue there. I actually only recently found out

that the Spanish League was playing at Main Dunstable School; a couple hundred feet from my house every Sunday morning so clearly they are closer to my house than the stadium is to Mr. Andosca's and I have never heard they are there so clearly there is an area there where certainly that play could take place at the stadium and it wouldn't impact anybody, but it is up to us to convince the neighbors that is the case and to get the Planning Board to change that.

I want to talk mostly about that issue. Two comments that I heard that were interesting tonight were Mr. Vancor's comment about this Board making policy and Mr. Panny's reference to the Supreme Court. When I think about those I don't think anybody has been a bigger proponent of the Board of Aldermen establishing itself as the makers of policy in the city over recent months than I have. We express policy in the course of land use by putting forth land use ordinances that state what uses are acceptable, where, and what the criteria are for citing those usages. We hold everybody else accountable to those standards. In order to make them objective we take that final decision of applying policy to specific situations and we give that to an objective board that is appointed rather than elected. I am actually glad we do that because I have seen the way we look at these projects and frankly it can get ugly at times. We have a tendency to count who is on what side of the aisle more than we do to balance the rights of the abutters versus the rights of the applicant, particularly when the applicant is us who ironically has very little rights that aren't given to us by the citizens who are the abutters. I think that objective review with respect to those criteria is extremely important and if we don't think policy is served by that what does that say – it says that the ordinance that expresses land use policy is not correct when applied to a particular set of usages, and I don't think we should find that to be terribly surprising. I sat here and looked through this pile of applications that have been subjected to this review and actually I have been on the applicant's side of almost every one of those.

When we put the new radio communication system in and we cited the tower on Shakespeare Road that project was probably delayed – bear in mind this is a primary public safety project put in place to deal with communications of our police and fire departments during their response to emergencies to deal with the safety of the citizens and the safety of the employees of those departments – that project was probably delayed by 2 years and its cost increased by \$1 million by the time we were done based on trying to meet with the criteria of both the Zoning Board of Adjustment and the Planning Board in citing the tower. I think that was the best thing we every did because had we not subjected it to that review we would have placed it on the lot with the two Pennichuck towers right on Shakespeare Road – it would have been visible from everywhere on Long Hill. It would have had a tremendous impact on the abutters to that property. As it was although many people were unhappy with it I believe that the impact by following the policy that was set forth in our ordinances to protect abutters from towers by following that policy we produced a result that did exactly that – it is virtually invisible from most places on the hill because the criteria by which we cited it and by which it was reviewed were correct and it correctly expressed the policy that this Board wished to set forth. There are 100 examples in here. You heard Mr. Lowe say that. There are 100 stipulations that were put forth on there.

When I look at every project that has gone before the Planning Board the results are better after they come out than they were when they went in because that board is the one that day after day after day looks at details of site plans, looks at abutter concerns, and has the jurisdiction to fix those things and to address those concerns in a reasonable way. I want to keep it that way and I have felt that way all along. I supported the original ordinance when it was passed in '94, I am not prone to take it out now, I think there is an issue that needs to be addressed with respect to usage of the stadium – I had a conversation with Mr. Lewis about that a week or two ago, and came up with the issue of there was never a forum provided even to discuss that issue, and that is the reason why I scheduled a Ward meeting for this Thursday night so that we can start a meaningful discussion of what things aren't acceptable, what things might be acceptable, and what do we have to do to make them acceptable. It is that kind of discussion and dialog that will get us to a resolution. If we simply take this action we will be back here in two years and there will be more people sitting on that side of the aisle than on that side because we will be right back to projects that have tremendous impacts on neighborhoods. There is no substitute for finding reasonable solutions and for communicating. I can't support this change to the ordinances at this time, and I would ask the committee to do the same.

Alderman Cardin

Stellos' Stadium aside I agree with the indefinite postponement of this legislation. I am an abutter of a city park myself and it frightens me that some things could be put there and I wouldn't have any say or any input as to what it is. I do agree with a lot of the testimony tonight that we have a need for expanded use probably at Stellos' Stadium, but I don't think this legislation is what is going to do that for us. I agree with what the two prior speakers on the committee have said, and I will support the indefinite postponement. Thank you.

Alderman Johnson

I was on the Board of Education when Stellos came before the Board of Aldermen. I brought in over 200 people each time to the meeting talking about why it should be put in that neighborhood. I remember the last meeting none of the abutters/none of the neighborhood came because it wasn't supposed to be going at that point. I remember all the youth came in here – the football, the soccer, and that was the night that the decision was made to put it in that neighborhood. Yes I do live in the neighborhood, and yes it is a shame that we have the sports community going against the neighborhood. I try to remove myself a lot of the time saying that I am one of those nimbys – not in my neighborhood – and the fingers that are being pointed all the time at the people that are abutters. I guess the only way you would understand is if you were directly impacted in the neighborhood where the high school is – the fear of those cones might come down at this point in time because of this legislation, and people don't like that roundabout so that would be a direct cut through right through Cheyenne and Sanborn and let's forget about the kids that are in that neighborhood, and of course we have Broad Street Elementary School. This really shouldn't have been about Stellos tonight. This should have been about the city as a whole. We have checks and balances. I was one of the people who voted against removing the Board of Public Works because I felt it was still a checks and

balance although we might not agree with them all the time – and I do not agree with Mrs. Lasky and Mr. Doufore when Stellos was put in the neighborhood because I felt it was an intrusion. Although I don't hear the noise directly I get a lot of phone calls from the neighbors as Mr. Andosca talked about the noise travels around the river. The air horns, the stomping of the feet, the Brittany Speak music – I like Brittany Spear I don't care it is no problem to me because I listen to it with my daughter all the time – but it is the issue of the intrusion, the noise that people did not have before. It is like if we took Mr. Motta's neighborhood and Mr. Parolin's neighborhood – yeah it is the Harris Preserve area – it is a preserve area, but if they put a race track in there like Hudson Speedway and said it will be great around the preserve and you heard the noise all the time you would be coming before this Board or the Planning Board probably saying we can't handle the noise, what can we do about it, what compromise can we make, what can we do to better the situation – it is an unfortunate situation that people say they didn't know about it.

I was at almost every meeting. I was at meetings at the elementary schools, I was with the neighborhood – I would sit there, and I will say it again, there were times that some of the neighbors walked out in tears because of the issues. Some people were rude to the abutters. I think Stellos has to come back on the table only because we have to resolve this one way or the other at this point in time. I understand both sides of the coin, but it was presented – when I was on the Board and Mr. Cole who was a member of the Board of Education said let it be known that this facility is for the youth of Nashua. That is what it was presented to the community as. I think this piece of legislation is cowardly. I am sad by what the Mayor has said tonight. I was at the meeting at the Greek church – I had one of my neighbors yelling and screaming at the Mayor saying you are lying to us – there is always one exception and there will be another exception. He made it clear that he would never ask for another exception. Mr. Andosca said the mayor was fighting with him and that was wrong. I was there. This is an exception. You abolish every rule and regulation of the Planning Board for one issue and one issue alone. It should have never been sold to the community as a youth facility if it wasn't going to be a youth facility. That was wrong. Hindsight – a \$5.6 million plus hindsight is wrong.

I tried to get in touch with Mr. Stellos several times between yesterday and today and we played phone tag. I wanted his opinion on this. He gave ½ a million dollars. He said he thought it was for the youth. I can't understand this. Mr. Motta even said yes it was for the youth, but his quote is even in the paper. I think Mr. Motta is a very honorable man. I have sat with him. I have spoken with him. As a matter of fact Mr. Motta, Mr. Lewis, myself, and a friend of mine, Mr. Ross, we sat together and we have a two page agreement here in case it ever did come down what we would do – stipulation – I think he is an honorable man. I think he would abide by this. I think he would basically set the standards for if he made a little mistake nobody else would ever come into that field because it would be shut down. He also said that he would provide us with a cell phone number because there are times that I get calls and I have nobody to contact. I can't get a number from Nick Caggiano or probably from Mr. Crombie again.

The overtime situation – Mr. Motta said there would be no overtime he would start games early enough so they wouldn't be until 10:00 p.m. I think he is honorable. How come the City of

Nashua can't be honorable? They start games knowing that it will go into overtime with the lacrosse and they don't care. I asked Mr. Caggiano tonight why can't you do this. He said well maybe – I will talk to Joan and we will start it earlier – hello is there something wrong here? We are trying to work and be good neighbors whether it is this neighborhood or for the high school, but we as a city do not abide by our own laws. It is almost like we feel in our hearts we are exempt and we don't care about the neighborhood. It has been stated many of times that the soccer community are taxpayers – so is everybody else who is affected by any project that is put in their neighborhood – they are taxpayers. We cannot lose sight of that. Unfortunately it is the neighborhoods that are always impacted and it is the neighbors that are always coming in and pleading for their lives because this is where they have bought their homes, because they like the neighborhood, and this is – we have gone in I think and destroyed more neighborhoods than we should. I am looking forward to Thursday's meeting and I have asked Mr. Motta and Mr. Lewis and Mr. Parolin if we could do it in a civilized way this time and I was hoping and I had asked at that point in time that the whole league does not come because I don't want everybody to start feeling intimidated – I don't want a shouting match like it was in September. This has to be a round table discussion because if we don't do it now we will never get past first base.

Unfortunately my opinion is and I feel that it should be for the youth. What the full Board decides and if we can come to any type of agreement with the neighborhood the first issue is we have to address this noise. Thank you.

Alderman Rootovich

Since the individual from the Planning Board has come to the microphone and tried to address my motives and intents of supporting legislation I thank you for allowing me to explain my own motive and intent. First let me address the Planning Board issue – I never asked any member of the Planning Board to justify their decision or any decision they have ever made especially one relating to Stellos' Stadium. I have never stated that they overstepped their authority. In fact they did exactly what they are authorized to do. I too am very proud of every member of the Planning Board. I think they do a superior job. My intent is not to eliminate the Planning Board or curse anything over them that they are doing something that is not legal, making bad decisions or doing anything they don't have the authority to do. My reasoning is clear – I believe that some of the decisions that they have made are policy decisions. The Board of Aldermen as elected officials have the accountability to the citizens to determine the greater public good on all city projects as elected officials. We do that when we vote on bonds. We always take public input. I have had the privilege to work with about 35 different Aldermen and three administrations, and I can honestly say that every individual; that I have worked with they have all done the honorable thing of taking public input. I don't think that will ever change. However, I believe that putting decisions like that with the Planning Board removes that responsibility from the elected board, this Board of Aldermen. I think that is wrong. That is my intent of this legislation.

The issue with Stellos' Stadium is primarily the impetus for me supporting this. I believe that the decision made whether that stadium should be used for youth or adults should be within this

Board and not the Planning Board. I would ask that the committee would at least hold this as with other requests from members of the Board of Aldermen so that I would be allowed to at least work on some language. I have listened to as much testimony tonight as everybody else has and I adhere to a lot of things they are saying and agree. I also agree with a lot of my colleagues. I don't think it is fair to go back and change all of those stipulations that have been put on. That is not my intent. It wouldn't be the honorable thing to do. I would ask that I at least have some opportunity to change some of the language in there and bring it back to this committee, and if the committee deems that language is not adequate at that tie indefinitely postpone it, but at least give me that opportunity. I haven't had that opportunity yet. This is a public hearing – again I have taken in what a lot of people have said and I agree with what a lot of has been said.

We're not trying to do an end around as many people have indicated. The only thing that I can do as a member of this elected Board is submit legislation to form an ordinance to change things, and that is what I did, which is my right as any other Alderman has to do. I didn't back door it. Nobody called me on the telephone to ask my intent or motives. They came and made up their own stories. I would ask that this committee at least allow me to make some language changes, and if the committee deems that those language changes are not in the best interest of the city then I would go with the recommendation of this committee. I would at least ask the committee to do that. Thank you.

Alderman Tollner

I want to clarify a couple of things. I have sat here for close to 3 hours. When we first started to discuss this stadium Alderman McCarthy and I were the only two Aldermen on this Board that voted to build the stadium against the highway. I think that probably given all of the effort, time, energy, discussion, aggravation, and work, it was probably the more appropriate thing to do. After voting against putting it where we did then I was asked to participate on building the stadium where I was uncomfortable and we did. First of all I want to thank everybody who contributed the time, money, and effort to build the stadium, but you know what it is not the sports community against the neighborhood. Let me just tell you right now there is an incredible number of people in that neighborhood and in Ward 5 and around the city that want Stellos Stadium, that enjoy Stellos Stadium. There were not 200 neighbors that came to any meeting that I was at that were against Stellos Stadium – yes there were a handful and I will reiterate again that the Stadium Committee more than listened to them, respected them, were never disrespectful to any neighbor that came to any Stadium Committee nor the Planning Board. The intent of the stadium, the youth, has been served very well and will continue to be served well by Stellos.

Parking – parking is not an issue at Stellos Stadium. I took the Chairman of the Planning Board – she and I were at a game and we looked at the top of the stadium to see if there was a problem with parking, and I think every member of the Planning Board, the Stadium Committee, the Board of Aldermen – any committee that has touched this particular project would agree, once or twice a year there may be a parking problem. I will also say when the Stadium

Committee – this is only my opinion – went before the Planning Board we were uncomfortable – we were put in a defensive position from the perspective of we were trying to do something or shove something down people’s throats – all you had to look at was every single Stadium Committee meeting that we had where we opened up comments to the public, changed the design, changed the outside structure of the stadium, changed the parking, eliminated one field/ put another field, landscaping – all of those things that you do when you work with people. I agree that the noise is still an issue, but there are an incredible number of things that we did and they were all based on comments from the neighborhood.

I can’t remember a project in my 10 years, and I would ask Alderman McCarthy and Rootovich to disagree with me, I can’t remember a project that we have spent so much time and worked so diligently with the neighborhood that was affected. Things change – 8 years ago in Ward 1 we were going to build 300 homes where the new high school is right now. Neighbors didn’t want it so what we did was bought a little piece of land and then later on because of the work of members of this Board as well as the Planning Board were able to convert that project into a high school. If there was not neighborhood involvement, Board of Aldermen involvement, Planning Board involvement, Planning Department involvement you wouldn’t have a high school right there you would have probably about 150-200 homes. We live in a city. Ward 1 is more affected by that new high school than that neighborhood will ever be affected by Stellos’ Stadium. We have a responsibility to work with the neighborhood, but because a small percentage of people don’t want it doesn’t mean we don’t make a smart decision or a respectful decision and still go ahead with the project. It is for the good of the city.

There was a cry that this stadium is going to devalue our homes – didn’t happen. Homes over there I will guarantee you are selling for more money than they were before we discussed this stadium, while we were building the stadium, and after the stadium was built. There were comments tonight let’s have some common sense usage. I think that is what we need to do. Hopefully that meeting on Thursday night that Alderman McCarthy is having will be a start of that.

As far as overtime games, these are high school teams. You start the first game at 5:00 p.m., the second game at 7:00 p.m. – how in good conscience could we ever tell in a playoff game – high school kids – it is 10:00 p.m. you have to stop, go back to your homes/drive back from wherever you are coming from and let’s start the game over or continue the game tomorrow? It just doesn’t make sense.

As far as the comments made about the Planning Board minutes, and I have them all here, I did say that I had promised some neighbors that it wasn’t our intent and there shouldn’t be professional sports there. To those neighbors I will back up that promise. Personally do I have a problem if professional sports come in there if we can work out an agreement – yes. When we went before the Planning Board and probably a lot of you weren’t there – it was a pretty intense meeting – it was probably one of the more intense meetings – when we walked out of there we felt like we went through the ringer – we felt like we were doing something wrong. Every time we came up with something there were stipulations and you acted like we were putting a shopping

center in the middle of a neighborhood and asked to build a bridge. There is an incredible buffer over there. Some of the people in Ward 1 live closer to that stadium and hear more noise than some of the people in the neighborhood. To date, I have gotten one phone call. I don't know how many phone calls Alderman McAfee has gotten, but you live in a city. The stadium was built for a purpose – primary purpose for youth sports. There were members of the soccer community that attended some of the meetings. I think one of the reasons why we came with the youth sports was A) we were going to get some funds from the State, and B) at that particular time I know it was a number of years ago, there was this outcry that because we brought the Pride in it screwed the youth in Nashua. Well, in some of the testimony tonight from Mr. Parolin quite to the contrary – there are more events right now at Holman Stadium than there are Pride games, and when would those baseball players that live in Nashua, that play in Nashua would ever have an opportunity to throw side by side or work or listen or learn from professional baseball players? There is value in that and there is a balance in that.

When right away we say no professional sports at Stellos Stadium well we may come to that conclusion, but you can't argue that some of the youth in Nashua will lose out on that – that could learn, partner, whatever – improve their game, go on to get a college education, play on numerous teams – this has been one project that has been a headache from the very beginning. We got hassles from the football people who said tradition – leave it at Holman – finally those people came around and finally other people came around. I have to tell you Alderman Densberger did a great job in leading that Stadium Committee. I can't think of a better job because right now it is very easy to say you went before the Planning Board and this is what he said and what she said – if you put yourselves in everybody's shoes that were working on that project for as long as we did and went through what we did I think the Stadium Committee did a damn good job and quite frankly I think the Planning Board does a good job. I think the Planning Board is there to protect the neighbors. The example used tonight about Cheyenne Drive – well if we didn't have the Planning Board Cheyenne Drive would be open – I don't think so because when we were talking about building those homes any member of this Board of Aldermen could file legislation to close a road. I respect the work that the Planning Board does and has done with as Brian mentioned a number of the projects that really worked out well and there is a nice balance – I have to say when we went before the Planning Board that night personally I did not feel that comfortable. I felt that when I walked in there I was not playing – myself and the project was not playing on a level playing field. When we walked out of that meeting I think some of the other members of the Stadium Committee felt the same way. We had to get the project approved and had to deal with what was on the table.

I hope the meeting on Thursday night works out well. I hope and I truly believe that there should be different usage for Stellos' Stadium than we have right now because it is a jewel that we are not taking full advantage of. Not only the youth is missing out, but the adults that want to play there are losing out and the youths trying to find and learn more soccer, more lacrosse, whatever event that you have there will lose out in the long run. Thank you.

Chair McCarthy

I wanted to comment with all due respect to Alderman Rootovich's request I will support indefinite postponement of this piece of legislation and the reason for that is as follows: I don't actually think that the Planning Board got to a point where it made policy on any of those issues. The stipulations that look to be policy making are stipulations that originated with the testimony of members of this Board before the Planning Board that were then memorialized as stipulations on the site plan. Any time any applicant comes before that board and says this is what we will do to mitigate the impact on the neighborhood that is memorialized as a stipulation and that is what happened there. If we believe that stipulation was wrong we shouldn't have said it first of all. If we believe that we ought to allow stadiums for any use in any zone then that is what ought to be in our zoning code in the usage table. I guess what I would encourage if we want to make something that expresses that as policy let's submit a different ordinance that addresses the issue in the zoning code itself and not in the applicability section. I don't think it hurts anything with respect to that to indefinitely postpone this legislation. That legislation would require a fresh public hearing, because of the scope of the change it would require re-referral to the Planning Board so certainly if that legislation existed tomorrow it would take no longer to pass it as a new piece of legislation than it would to pass it as an amendment to this one. I think the opinion I have hard expressed by many of the committee members ought to stand.

Alderman Tollner

Regardless of whether we vote to send this to the full Board of Aldermen it will not be voted on at the full Board level for another 3-4 weeks? It wouldn't be on Tuesday night's agenda?

Chair McCarthy

I don't know that for a fact. I think that normally depends on how quickly the minutes are done from the meetings. Given the length of the public hearing I wouldn't guess that this one will be done.

Alderman Tollner

-
In saying that I am not a member of the committee, but I would support the request of a colleague to hold it in committee right now. It doesn't hurt it. There is no time ticking on this particular piece of legislation. I don't think it will hurt or exasperate the situation by holding it in committee right now.

Chair McCarthy

I would respectfully disagree. I believe that having this piece of legislation pending is basically threatening to the entirety of the citizens of Nashua with regard to all other projects.

Alderman Deane

I understand everybody's frustration here – with the dealings I have had with Mr. Lewis and I have talked with Mr. Motta – it seems quite clear to me that from what was stated earlier that if

the application, which was the Joint Special, submitted an application to the Planning Board then they could have the stipulation removed. Was I correct to understand that would be the process?

Chair McCarthy

Yes.

Alderman Deane

What would the process be if that was to happen. Who is the Chairman of Joint Special? Is that Alderman Bolton?

Chair McCarthy

Yes.

Alderman Deane

Would he have to get a majority vote from Joint Special in order to submit?

Chair McCarthy

I think it is an area that we may – I don't believe the facility belongs to the Joint Special School Building Committee at this point. It is technically in the ownership of the school department so you could claim that they need to be the one to file the application. I think looking at past practice it is likely that the city could in fact file its own request to the Planning Board to remove the stipulation.

Alderman Deane

I would like to ask Corporation Counsel for an opinion – this has gone round and round and I know I talked to them as this woman over here did earlier about the discrimination by age and I sent Mr. Lewis a copy of the opinion I got, and his response is what is this? I think that is an issue as well. As far as this legislation, and I said it a month or so ago at a full Board meeting, I can't support this. I have had my issues with what the Planning Board has done, but I always look back after the fact, and I think it is a check and balance for the community. I think if you take that away from the people that is just plain wrong because if there is something that is going to affect you or your quality of life in your neighborhood and you don't have any right to get up and talk about it that is not right.

If we want to get the adults in there, which it seems like this was the gist of this legislation, there has to be another way to do it. There has been enough discussion and frustration from the soccer people that I can't believe that somebody can't come up with a way to allow this to happen when there is free time. I don't really have any issues with that as long as the youth in

the community is serviced with the hours that they need – I don't really have a problem with it. I just can't believe that it has taken this long and this much time and frustration with people to not be able to find a way to have the stipulation either removed from the final decision made by the Planning Board.

Alderman Johnson

We're sitting around here debating on this and we know what the real issue is – it is Stellos. If it is a school facility, if we got to a meeting on Thursday and let's say we all come to a meeting of the minds wouldn't the Board of Education have to have the final approval?

Chair McCarthy

I think that is an issue that we will have to bring forward to Corporation Counsel. I think it is a stickier issue than it looks at first blush.

Alderman Johnson

That is all we hear is it is a school facility. When I was on the Board of Education it was definitely stated that it belonged to the Board of Education. The Memorandum of Understanding basically started coming out of the Board of Education and they agreed to have the Board of Public Works do the maintenance of this facility. It came out of their umbrella. Am I correct Alderman Nickerson?

Alderman Nickerson

Yes.

Alderman Deane

That is what it states here in the one they just approved that Stellos' Stadium is first and foremost a Nashua School District facility.

Alderman Rootovich

Point of Order – Can I ask Alderman Deane when he says the one that was approved – I have never seen one of those approved so if he has one that is approved I would like to see it.

Alderman Johnson

May I continue Mr. Chairman?

Chair McCarthy

Sure.

Alderman Johnson

I have seen the Memorandum of Understanding between the Board of Education and the Board of Public Works. It just never came to us. That is where it ended. It never came to the Board of Aldermen.

Chair McCarthy

Which ironically is the policy body that should have approved it.

Alderman Johnson

I think I was one of the first people to get their hands on this. Again, I would just like to say I look forward to Thursday's meeting and I hope that it can be a nice roundtable discussion and we can try to get some issues – I hope a lot of people from the neighborhood will be there so we can address – again I am going to say the biggest issue I think that I have heard tonight from the abutters is definitely that noise issue, and I think that is what really needs to be addressed first and foremost. Thank you.

Alderman Cote

I think the sooner we can get an opinion from Corporation Counsel as to where that responsibility lies the sooner I think we can start the process of getting something in motion for discussion anyway, but just for the sake of discussion the application was certainly made by the Joint Special School Building Committee. The Stadium Committee has not been disbanded yet – it is still part of Joint Special right now – it has actually been folded in – the responsibilities have been folded in under the Pennichuck Jr. High School Building of which I happen to be the Chair and you happen to be the Vice-Chair. It is still there.

Mike Lowe

Just so nobody think the Planning Board is remiss we have a meeting on Thursday night so we probably won't be in attendance. I just wanted to make sure everybody knew – I know I would like to be at your meeting. Are you going to have minutes?

Chair McCarthy

No, probably not. I would actually like to while we are here thank the Planning Board for the amount of time that it has spent debating this pile of public projects – having sat through a lot of that I know how much work has gone into those and the city projects are typically the most challenging ones because they are not like anything else. I appreciate the amount of time that the board has put into working on those projects.

Mike Lowe

Thank you.

MOTION CARRIED

O-03-184

Endorsers: Mayor Bernard A. Streeter
Alderman Brian S. McCarthy

AMENDING THE BUILDING REGULATIONS AND PLANNING AND ZONING
ORDINANCES TO ALLOW THE BOARD OF ALDERMEN TO WAIVE

CERTAIN

APPLICATION AND PERMIT FEES IN PARTICULAR CASES IN EXCHANGE
FOR

EQUIVALENT VALUE IN OFF-SITE PUBLIC IMPROVEMENTS AND LAND
DEDICATION

MOTION BY ALDERMAN COTE TO HOLD PENDING THE PUBLIC HEARINGS
SCHEDULED FOR JUNE 30, 2003 AT 7:00 PM IN THE ALDERMANIC CHAMBER

MOTION CARRIED

HELD IN COMMITTEE

R-03-197

Endorser: Alderman Brian S. McCarthy

ADOPTING A "DEVELOPMENT PROGRAM" AND "TAX INCREMENT
FINANCING

PLAN" FOR A TAX INCREMENT FINANCING DEVELOPMENT DISTRICT
UNDER

RSA 162-K AND NRO 2-741, COMPRISED OF LAND IDENTIFIED AS TAX
MAP 43,

LOT 66, APPROXIMATELY 1.2 ACRES, LYING EASTERLY OF MAIN
STREET

ON THE NORTHERLY SIDE OF THE NASHUA RIVER

O-03-171

Endorser: Alderman Brian S. McCarthy

ESTABLISHING A TAX INCREMENT FINANCING DEVELOPMENT
DISTRICT UNDER

RSA 162-K AND NRO 2-741, COMPRISED OF LAND IDENTIFIED AS TAX
MAP 43, LOT 66,

APPROXIMATELY 1.2 ACRES, LYING EASTERLY OF MAIN STREET ON
THE

NORTHERLY SIDE OF THE NASHUA RIVER

DISCUSSION

Alderman Nickerson

Do we have a time of when the School Board and County Commissioners will be meeting with the Board of Aldermen?

Chair McCarthy

We do not. I have to check with our Legislative Office on that again. In fact, now that you mention it I am not entirely sure I ever asked them to actively pursue that. I will take care of that.

ADJOURNMENT

MOTION BY ALDERMAN NICKERSON TO ADJOURN
MOTION CARRIED

The meeting was declared adjourned at 10:20 p.m.

Alderman Scott A. Cote
Committee Clerk