

PLANNING AND ECONOMIC DEVELOPMENT COMMITTEE

October 18, 2005

A meeting of the Planning and Economic Development Committee was held on Tuesday, October 18, 2005 at 7:00 p.m. in the Aldermanic Chamber.

Chairman David Rootovich presided.

Members of the Committee present: Alderman Richard LaRose, Vice Chair  
Alderman David MacLaughlin  
Alderman Rob Shaw

Members Not in Attendance: Alderman Kathryn D. Vitale

Also in Attendance: Alderman-at-Large David W. Deane  
Alderman David D. Lozeau  
Alderman-at-Large Brian S. McCarthy (7:10 p.m.)  
Alderman Lori Cardin (7:15 p.m.)  
Alderman-at-Large James R. Tollner (8:40 p.m.)  
Mike Lowe, Planning Board Liaison  
Jay Minkarah, Director, Economic Development  
Roger Houston, Manager/Planning Director, Planning Dept.  
Bette Lasky, Chairman, Nashua City Planning Board  
Paul Bergeron, City Clerk  
Gerald Prunier, Esq., Business & Industrial Devel. Authority  
Mark Fougere, Fougere Planning  
Morgan Hollis, Esq., Gottesman & Hollis

DISCUSSIONS

*Southern New Hampshire Services – Nashua Corp/French Street Project*

Chairman Rootovich

With regard to the first discussion on the table, Donnalee cannot attend this evening due to another commitment so we will move that particular discussion item to our next meeting.

*A discussion ensued with the Business & Industrial Development Authority regarding Potential Development Opportunities (copy of tape on file).*

COMMUNICATIONS - None

UNFINISHED BUSINESS - None

## NEW BUSINESS – RESOLUTIONS

R-05-316

Endorsers: Alderman David D. Lozeau  
Alderman-at-Large Brian S. McCarthy

AUTHORIZING THE ACCEPTANCE OF A CONSERVATION EASEMENT AND PUBLIC RECREATION AND PARKING EASEMENT ON LAND OWNED BY U.S. LAND DEVELOPMENT, LLC ON WEST GROTON ROAD AND GILSON ROAD

MOTION BY ALDERMAN LAROSE TO RECOMMEND FINAL PASSAGE PENDING A FAVORABLE RECOMMENDATION FROM THE BOARD OF PUBLIC WORKS

## ON THE QUESTION

### Alderman Lozeau

This is the land that is now the rail trail that connects Gilson Road to Groton Road. This is a great thing. Roger Houston deserves a lot of credit putting this thing together. The Paradise and White family from Paradise Homes deserve an incredible amount of kudos for getting this together and actually donating the land for the uses of the city. I would ask that this be moved out of committee tonight because there is a liability issue with the trail being opened at this point. The liability issue is that the landowners that own it now have to have insurance on the land in case someone gets hurt. I can't imagine Public Works not giving this a favorable recommendation, but I understand it has to go through that process. I appreciate your support.

### Alderman LaRose

I went to the ribbon cutting. Aldermen Lozeau and Vitale were there. Last Sunday I took my wife over there to see it because she has a friend that lives in that area – they do some running in that area. I suspect that they will find a pathway to get to this project. We did walk it all the way up to the Dunstable/Nashua line. I have to tell you it is one classy bike path/walk path. The developers Mr. White and Mr. Paradise did one fantastic job. Off of the sides of the walkway are all grassed in. They have some trees, shrubs, they did one classy job, and I think they should be commended for what they did. Thank you.

### Alderman McCarthy

I want to express the same thanks to the same people. If you look at that segment of trail, we have been trying to get the 1,500 feet that goes from the Dunstable line to Groton Road for about 10 years, and now in a year we basically managed to get that paved, get that extended for almost another mile up to Gilson Road. I think the project was terrific. The Whites, the Paradise's, and Roger deserve to be thanked for making the progress that they have made on it in that amount of time.

### Chairman Rootovich

Are there any further comments? The motion before you is to recommend final passage pending approval by the Board of Public Works.

MOTION CARRIED

NEW BUSINESS – ORDINANCES – None

-  
MOTION BY ALDERMAN LAROSE TO TAKE FROM THE TABLE R-05-270  
MOTION CARRIED

R-05-270

Endorser: Alderman-at-Large Brian S. McCarthy  
Alderman Kevin E. Gage  
Alderman David D. Lozeau  
Alderman-at-Large James R. Tollner

Authorizing CLarification and CONVEYANCE OF A conservation easement upon certain lands owned by the city of nashua to An appropriate agency; AND AUTHORIZING THE SALE OR LONG-TERM LEASE OF AN APPROXIMATELY FOUR-ACRE PARCEL OF SAID LAND TO THE NATURE OF THINGS, LLC D/B/A SECOND NATURE ACADEMY, SUBJECT TO THE CONSERVATION EASEMENT, In keeping with the provisions for an Educational use within the conservation easement, FOR USE AS A PRIVATE ELEMENTARY SCHOOL, PRE-SCHOOL, DAYCARE, AND SUMMER CAMP, ALL WITH AN EMPHASIS ON THE ENVIRONMENT

Alderman Lozeau

I am going to ask the committee for a recommendation of indefinite postponement. As you know Chairman Rootovich we sat down with the principals in this several weeks ago, and at that meeting we recommended that they look into another parcel of land in that neighborhood that was going to become available. I am pleased to report that land did become available and the principals in this have signed a Purchase & Sales Agreement for approximately 16 acres of land ten of which is in Dunstable, MA and the rest is in Nashua. It all worked out for the best.

Alderman McCarthy

I guess I would ask that it be held in committee for a while. I understand the change, but as always the devil is in the details. There is no need to do anything with it right away. Until the due diligence phase of that change is worked out I think it would be best to just hang onto it. When it is appropriate we can get rid of it.

MOTION BY ALDERMAN LAROSE TO TABLE R-05-270

ON THE QUESTION

Alderman Deane

Through you Mr. Chairman to Alderman Lozeau – are you comfortable with that?

Alderman Lozeau

Absolutely.

Alderman Deane

If you look at the purchase & sales issue ...

Alderman Lozeau

They are still going to have to do Planning and Zoning and all of that stuff, and hopefully it will all work out. As you know I am passionately supportive of this type of educational facility. I am glad we were able to find an alternative site. I hope it all works out. I appreciate Alderman McCarthy's support on this, and would strongly go along with this motion to hold.

Alderman Deane

Thank you.

MOTION CARRIED

MOTION BY ALDERMAN LAROSE TO TAKE FROM THE TABLE O-04-19

MOTION CARRIED

o-04-19

Endorser: Alderman-at-Large Brian S. McCarthy

AMENDING THE PLANNING AND ZONING ORDINANCES OF THE CITY OF  
NASHUA IN THEIR ENTIRETY

Chairman Rootovich

Mark Fougere

Just to summarize – as you all know we started last summer with a lengthy hearing process. Those hearing notes were summarized by NRPC with about 21 11 x 17 sheets of comments with anything that was spoken at the hearing, any sort of letter that was submitted – were summarized in the past 4-5 months. We have been going through each one in our sub-committee trying to clarify, improve or leave depending on the situation on language in the code.

What was sent to you late last week was all of the revisions that were made that we are recommending. We have come here a number of times with those changes in bits and pieces, but the code you have before you includes all of them that we are recommending. Also in your packet I believe was a handout with 7-8 items on them with some follow ups to last week – one is that we are recommending that the code be adopted as of January 2, 2006 so that there is a firm date where the code becomes effective and the development community and landowners can plan around that date. There are a lot of things that go into play as far as when a project will have to comply with this new

code – where they are before the Planning Board, is their application accepted, etc. It is important that a date be put out there stating that from this day forward. If it gets passed by the Board all new development will have to abide by the new code.

There are a couple of inserts – one was the zoning map showing the extent of the D1 and D2 zones, which will change the city's official map. There is an insert relative to the sign code. Carter Falk, the Zoning Administrator, had some minor additional changes that we thought were worthwhile to change to help clarify the sign code. There is nothing significant, but those details were not discussed at length in committee. There is also an insert relative to fees, which updates the fees the city charges for various projects. We will be codifying the Appendix A and B just to make it part of the code. We will also be moving the Executive Summary into Article I again just to be part of the code. We also will be cleaning up the code when we accept these changes – most likely there will be some edits that have to be done. We will leaf through the document page by page and make sure there are no other problems or typos and things like that.

Also I believe in the packet is a letter from Rivier College outlining some changes that they would like to see to the Higher Education Special District. Roger and I have discussed them. We don't see them as being significant or of concern. I believe the Chairman of the Planning Board just saw them this evening briefly.

I think after the work we have been doing over the last few months I think it has brought it to a point where it is ready to have some action.

#### Chairman Rootovich

One other further amendment – the other amendment was with respect to our City Clerk, Mr. Paul Bergeron, sent in a change he would like to see with respect to manufactured housing permit so that is also on the amendment this evening as well to change.

#### Roger Houston

I just wanted to clarify one thing – Mr. Fougere said D2 district – that is the D3 district. The D2 district does not exist anymore. That was a recommendation of the committee. I don't know if everyone has a copy of the Rivier letter. I can certainly give it to you if you don't have it.

#### Alderman LaRose

I don't know if anybody is here from Rivier College. The City Clerk is here. I would like to hear from them. I would like to have them have their opportunity to say why they feel the change needs to be made.

#### Morgan Hollis, Esq.

I am here on behalf of Rivier College. Dr. Farrow the President who wrote the letter was unable to be here, but he and I have worked together with the draft over the course of the past year. We had originally come up with some proposed comments most of which were adopted. Upon our further

review several weeks ago, there were several items that were not adopted that we felt would be worthy of attention. I divide them into two camps; one is sort of philosophical and the other is more detailed housekeeping. The philosophical is the first point under his letter, which deals with the schematics between a campus master plan and a master site plan. The issue is that a master plan by the description in your ordinance suggests that a long range plan will be somehow developed and presented and every time there are adjustments in the long range plan it will be re-presented and any development in the HE district much follow that master plan or it will have to be taken up again.

When you have a large campus plan such as this that essentially means that if the college has a five year master plan they have to have their campus master plan, which is presented to the Planning Board whenever they go to make any change on site – it will have to be updated on an annual basis and be brought back to the Planning Board theoretically. A lot of times those changes occur for financial reasons. You may have for example a building, which your plan is to on the campus or on the long range master plan might be to make it dormitories in a certain specific area well it turns out that you can't make it a dormitory you have to make it a teaching laboratory or a perhaps on campus student activity center – well the buildings and the locations aren't going to change, but the use is going to change, and, therefore, that means you have to come back to the Planning Board again with an update even though it is a permitted use within the zone, even though the buildings aren't going to change and the layout of the campus isn't going to change.

As I said the concern of Dr. Farrow is these long-range plans change from year to year and they may change from month to month depending on fiscal objectives. Currently there is a plan to have a new gymnasium, but if the fundraising is not available it might not be a rehab of an old together with the conversion of part of another building. Those things all again are permitted uses under this current ordinance. It is the issue of where they are located, which will really hamstring any higher education facility. I think the real difficulty in keeping the words proposed in here is that you are requiring a higher education facility to do something that really no other business or entrepreneurial activity in the city would be required. Simply put whenever you develop for non-residential purposes you have to have a site plan, you must bring it before the Planning Board, but that doesn't imply that you have to present to the Planning Board or to any other body what your future objectives might be or future plans, and your future thoughts – it is simply what is the structure in place at the time. That is what the first change is that Dr. Farrow has requested in those inner lineations and changes are reflected in the document submitted to you.

The second change is really as I say the more technical house keeping changes. I don't think there is a whole lot of discussion. There is a setback issue where we are trying to be consistent making the building setback be consistent with the parking setback. There is a provision about sidewalks. We had requested that the sidewalks be 5 feet instead of 6 feet. It came back at 6 feet. We have made the point that all of the sidewalks coming into the higher education district and those that are existing in the higher education district and those that are being constructed by the city are all 5 feet so why is there a 6 feet requirement. I think those cover the points that are addressed in Dr. Farrow's letter. They are pretty succinct and shown on the suggested revised draft of that section. We would ask that you do consider those. Thank you.

Bette Lasky

On the philosophical part about the master plan – is it the fact that you are putting in the use of the building or is it the site or the fact that – all we are looking for is something that .. tape inaudible – speaker away from microphone ... I know that Rivier has been to us in the past. It is the overall plan of where they might be looking to buy land, to take over – of a general nature – I don't think anyone has the intent of making them stick to a certain use of any particular building in this kind of plan that we are asking for. I am asking you if we are on the same page.

Morgan Hollis, Esq.

I think the reaction is two things; one currently is some sort of voluntary thing when you come in to present a site plan for Rivier, it is in a residential zone, needs special exception so you show what you are asking to have permission for and then as a courtesy matter that goes to the Zoning Process, and then when you come to the site plan review process we bring in this plan that has been presented in the past and say now we are showing you where the new piece fits in with the plan. What hasn't always been shown is by the way 6 months ago our long-range planning committee has been eyeing this corner of the property and we may well if we can find it in our future sources of revenue, put a new gymnasium in there. This codification would imply and in my opinion require that kind of interaction ... tape flipped ... may well be dream plans in the public sector before they are even reality, and yet at the same time if you are not discussing them you are not complying with the campus master plan because it is part of your internal master planning. That is why I commented to Mr. Fougere the word future really just brings with it a whole set of baggage that I think makes it difficult for any institution whether it is a university or whether it is a business to engage with the city on – you become a partner all of a sudden in future planning.

Bette Lasky

As I understand it is the codification of this that they are more upset about.

Morgan Hollis, Esq.

Yes

Bette Lasky

Is there something that we could say perhaps in the higher education part the – the purpose section that encourages a some sort of plan without it being codified because these are just sort of feel good kind of things, but it is in writing that we would like to have some sort of vision when there is one from the institution.

Morgan Hollis, Esq.

We tried, and the best answer I can give you is I couldn't come up with any – even language which says anticipated future or reasonably conceivable future – you start going down that path and you are on a very slippery slope that somebody will say why didn't you disclose that when you were here the last time – well it was a dream – well that doesn't matter that is what it calls for. I think that any board would be uncomfortable whether it is private or public having that kind of discussion at a public hearing and the university is pretty firm about that.

Alderman McCarthy

Attorney Hollis the section that causes that to be needed is 16-43A where it says the site plan shall include current and anticipated uses of the property?

Morgan Hollis, Esq.

Yes. I think sort of the preface, which is this section implements the following master plan recommendations – that is really your internal commentary – it is at the top of the section. I think the reason why we have interlineated and deleted sections there is really just to be clear that we don't want you all to think that by passing this ordinance some of those are maybe not being accommodated. We just wanted to express to you that perhaps by passing it as we have recommended that first section may need some review. You may have to decide if that complies with it. In the document itself, in the ordinance itself, which is really the only code that affects our use, it would be AA1 and the words "and anticipated".

Alderman McCarthy

Is the objection to delineating what the possible future uses are or where the possible locations of structures are in the master plan?

Morgan Hollis, Esq.

I would guess both because they are sort of unknown. What we are suggesting is once we know we would come to you obviously as part of the site plan – that is called a master site plan as opposed to a lot specific site plan.

Alderman McCarthy

I guess just reading the section again if you look at paragraph B, which is permitted uses, that would seem to answer the question of what the current and anticipated uses of the site are because those are the ones that are allowed. Any other use that will be on the site will be by exception or conditional permit or a variance, which would have to be applied for separately. If that is the sticking point, it is not clear to me that AA necessarily has to stay there and if it goes away that destroys what we are looking for in the master plan. I think if you look at what we do with master plans the intent is to try to get a picture of how things are going to develop so that we understand the connection to surrounding sites and all the typical things about circulation, etc. It would seem like the purpose of the master plan doesn't change much if you take out that current and anticipated uses bullet, which is why I asked the question about building locations. I think yeah there is a separate issue there of is someone shows a plan with a footprint that is a size that can basically only be a gymnasium you tip your hand on the same thing. I guess that can basically be taken care of with amendments to that master site plan in that case. I think there is enough value in having that district that we ought to figure out some way around that. It looks like there should be a simple way to do that. I guess the question I would have for Attorney Hollis is if paragraph AA were simply deleted does that address that concern?

Morgan Hollis, Esq.

Yes. AA now reads current and anticipated use of the property and the suggested change would be and anticipated could be deleted so it would be current uses only.

Alderman McCarthy

For Mr. Fougere and Mr. Houston – do you concur that the purpose of the master plan wouldn't be undone by doing that?

Roger Houston

I don't see a problem deleting that.

Morgan Hollis, Esq.

Thank you very much.

Paul Bergeron

Thank you Mr. Chairman. I brought a few extra copies of the amendment I had been discussing with some of the members of the committee. I did mail it to members of the committee, but since there are Aldermen here that I did not mail it to ... the request deals specifically with Section 16-110 of the current ordinance on manufactured housing. The city requires that mobile home parks be licensed annually. My understanding is that this ordinance goes back to 1969. Essentially it fell to the City Clerk's Office to do this. I am not exactly sure why. The ordinance doesn't mention our office nevertheless the term license is used and perhaps back in 1969 the City Clerk was responsible for all licensing. We bill the mobile home parks a total of \$2,160 each year for the right to operate a mobile park. The only thing I am asking is that if the Board sees fit to keep this license on the books at all that the word license be changed to permit and that the issuing authority be the so called Administrative Officer, which appears in the sub-section just prior to this licensing section so that it is clarified that the Planning Department is doing this licensing and not our office.

We have no review authority, no oversight authority, no regulatory authority. Throughout the city all of the departments manage their own permits and licenses for which they have some authority over. Very essentially this office is providing a billing function here, and I don't think it is really the purpose of our office to do that.

Chairman Rootovich

I am absolutely shocked that you want to give up this opportunity. Are there any questions or comments for Mr. Bergeron?

Roger Houston

Just one clarification – I think probably the best recommendation here is to just eliminate the licensing

fee section, which is section E. That is 16-110E, which is on page 146 of the new proposed code. The licensing authority was the Board of Aldermen under that existing code. It wasn't the Planning Department or the Planning Board. The Planning Board is not a licensing agency under the state. It is really not a permit process but a licensing process.

Chairman Rootovich

You suggest eliminating entire E.

Roger Houston

Right. I don't think the need for that licensing process is there anymore. My discussions with Mr. Bergeron it is not something that is very effective now anyway, and it is not something that needs to be regulated in the City of Nashua unless of course the Board of Aldermen wants to establish your own licensing agency.

Alderman McCarthy

First of all just as a housekeeping measure no matter what we do there is a typo that is important, which is in paragraph 5 on the second page and in the original text it says a permit may be revoked at any time by the issuing authority of – I believe that should be if, which establishes the criteria for revocation. The reason I bring that up is I suspect that is the reason this section was in there in the first place is to give the city recourse in the case where there is a major problem with one of the mobile home parks that requires enforcement action. I guess I would ask if we give up the permitting process to enable them to have a mobile home park what is our recourse if we find that there are conditions that we don't feel are appropriate that would have triggered that revocation?

Paul Bergeron

I could just relay a conversation I had with Laura Games regarding just that point, and she said she has never had to invoke the license and that if there is any cause for her to have dealings with mobile home parks because of setback requirements or sewer lines or anything else that there are other ordinances on which she can draw upon to address the problems.

Alderman McCarthy

That is because it is such a powerful deterrent that we never have a problem.

Roger Houston

Most of these do have site plans or some other planning process that I suppose could be revoked under the current state law statutes, which weren't in effect when this original ordinance was adopted. I did shop this around with all of the agencies that are a part of this process from the Health Department and others (Fire and Enforcement), and none of them felt that this licensing process was really needed. It is something that is there. I am not sure the need is there. I think if you were looking comprehensively citywide not just at manufactured homes, but maybe multi-family structures

like some cities do then having some sort of licensing process or certificate process well that is a different issue, but having this separate one for manufactured homes isn't really that key.

Chairman Rootovich

Are there any further questions?

Bette Lasky

Before you look to someone for a motion I would like to thank some people.

Chairman Rootovich

By all means.

Bette Lasky

Let me know when you feel it is appropriate.

Alderman Deane

I had a question on these prohibited signs – it states any sign not specifically authorized by this chapter is prohibited unless required by law – then when you go down to B and it states – any sign attached to any public utility pole – the public doesn't own the utility poles they are owned by the electric company or the telephone company. Although the City of Nashua freely utilizes utility poles throughout the city and they are not supposed to and we file an ordinance that is passed and a stop sign or yield sign or street sign or whatever in some cases is attached to those poles, which shouldn't be – although we continually violate that privilege, and I don't think we have ever heard from PSNH or from the telephone company – I think PSNH owns them in Nashua. In Hudson the telephone company owns them – I think they swap off different communities.

Chairman Rootovich

Alderman Deane you are concerned with the enforcement issue?

Alderman Deane

It is not appropriate that be in there. It is stating that if it is implied by law then it is all right to do and it is not all right to do.

Alderman McCarthy

I guess I am not sure yet exactly what that distinction – I would agree that in general us saying attachment to someone else's property is outside our scope of authority, but in the specific case of utility poles they are placed by permit from us in the public right of way and we have control over how that is done so I think we can eliminate putting signs on them.

Alderman Deane

But those poles are also now taxed where they weren't in the past. Does that have any change in the use of the right of way because prior to that we never taxed the poles and now we tax all of the poles.

Alderman McCarthy

The poles are taxed on their value as utility poles not as signposts. If we were somehow forced to allow signage on them, which we all know from sign companies that have come in and testified is extremely valuable – we would have to reassess the poles at a rate as advertising devices, which would make them significantly more valuable.

Alderman Deane

I think during this year's update they did re-assess all of the phone poles. I know the one at my house went up about 42%.

Roger Houston

I was looking in existing code – somehow this looks familiar like it might already be in existing code and that is why I was looking for it. I believe it is, but I have not found that at this second.

Alderman Deane

Don't lose any sleep over it Roger.

Chairman Rootovich

Is there anything else Alderman Deane?

Alderman Deane

No.

MOTION BY ALDERMAN LAROSE TO AMEND O-04-19 BY INCLUDING THE RECOMMENDATIONS FROM THE RIVIER COLLEGE AND CITY CLERK'S OFFICE

ON THE QUESTION

Alderman McCarthy

Is the current motion to include those things that are in this...

Chairman Rootovich

All we are doing now Alderman McCarthy is to add these onto the revisions we have already made.

Alderman McCarthy

That includes some technical changes to the HE district for setbacks?

Chairman Rootovich

Correct.

Alderman McCarthy

Does it include the change to Paragraph AA as well?

Chairman Rootovich

Yes it does.

Alderman McCarthy

And that change is remove the word “and anticipated”?

Chairman Rootovich

Yes.

Alderman LaRose

So number 8 would be the Rivier College see letter October 13, 2005 and implement those changes and number 9 I guess it seems to be the elimination of Section 116-110E.

Chairman Rootovich

Correct.

MOTION CARRIED

Chairman Rootovich

Are there any further comments, concerns, or issues before Alderman LaRose makes an additional motion?

Alderman McCarthy

Actually is it just Section E in 110 or was D also – is the license separate from the permit?

Chairman Rootovich

Mr. Bergeron is that a separate entity?

Paul Bergeron

My understanding of the way the current ordinance is written there are actually two permits; sub-section D deals with the permit to authorize the layout and establishment of the mobile home park and then in addition to that sub-section E set up an annual licensing process. My understanding if you eliminate sub-section E you are not impacting that initial permit.

Roger Houston

That is my recollection as well certainly the licensing portion of it. There is a permit that is issued as part of the Planning Board approval of the manufactured home park.

Alderman McCarthy

I had two other small issues that I wanted to bring up one that I just realized and one that came up in the discussion last time. After the discussion we had about car washes and what the criteria were for exiting cars and making sure that the water didn't run out into the street I agreed with the arguments that we had here about the general site plan criteria, but when I took a look at the final ones of those I think there is a general issue around runoff water from operations. We actually specifically cover storm water runoff. We don't cover essentially wastewater from the site itself. What I would propose in the site plan regulations, and this is on page 278 in the approval criteria, I would propose adding a paragraph between 11 and 12 which would become the new 12 that says "The Site Plan provides adequate means of capture and containing and treating waste water or excess water used on the site and preventing the discharge of any such water onto any adjacent property, street, water body, or waterway" which I think would give the Planning Board the ability to review those things and the authority to turn down a site that they felt didn't meet them.

Mark Fougere

So placing it in the Site Plan requirements that would apply to any site.

Alderman McCarthy

Yes. I think it is a general issue. Anybody who is generating water ought to be prepared to deal with it.

MOTION BY ALDERMAN ROOTOVICH TO AMEND THE SITE PLAN REGULATIONS TO ADD THE WORDING "THE SITE PLAN PROVIDES ADEQUATE MEANS OF CAPTURE AND CONTAINING AND TREATING WASTE WATER OR EXCESS WATER USED ON THE SITE AND PREVENTING THE DISCHARGE OF ANY SUCH WATER ONTO ANY ADJACENT PROPERTY, STREET, WATER BODY OR WATER WAY"  
MOTION CARRIED

Alderman McCarthy

The other one is an issue that came up in enforcement a while ago. I just looked at the final wording, and this has to do with electronic message centers – the general tenor of our ordinances in zoning is if we don't say you can do it you can't. When we did the ordinance on electronic message signs the language in there basically says you can't have them except, and then defines a set of acceptable criteria. One of them says the changing sign electronic shall be restricted to three lines of text. This was interpreted by some applicants to mean the text part can be three lines, but you can put graphics on it that move. As the author of that language I can say definitively that was not the intent that the intent was the sign can have three lines of text period. That is the way I believe it should be interpreted. That is the way we are now interpreting it, however, if we wanted to make that clearer so that it is not subject to any further discrepancy than it has already had, we might want to add a couple of words to that section to disallow graphics.

Chairman Rootovich

What section are you referring to?

Alderman McCarthy

It is on page 199 and it is in paragraph 2-2 on that page. I was actually looking at this when I read the amendments tonight so I am not sure of the amendment – perhaps Mr. Houston or Mr. Fougere has a suggestion for wording.

Chairman Rootovich

Is that three lines including the line for local time and temperature or is that an additional one?

Alderman McCarthy

There is historically some distinction between what are called time and temperature signs and other message signs. That is an either or. That has to do with – time and temperature signs are more broadly allowed than electronic message centers.

Mark Fougere

Is the way the city is currently interpreting that section – I know this all stems from a particular sign on Amherst Street – is it the way it is interpreted now you couldn't have another sign like that?

Alderman McCarthy

Yes.

Mark Fougere

The goal is to allow text, but not graphics – you can make an argument.

Alderman McCarthy

Yes.

Mark Fougere

The problem with the term graphics is you can interpret graphics to be many different things.

Alderman McCarthy

I guess I would look for language that made it clear that the only thing you can put on the sign is text.

Chairman Rootovich

I would put that right up Alderman McCarthy – changing electronics shall be restricted to three lines of text and shall not include any graphics.

Alderman McCarthy

The question that Mr. Fougere raises is does that allow something else that is not described as text or graphics by the clever applicant?

Chairman Rootovich

I may ask what that may be.

Alderman McCarthy

I don't know, but when we put the language in they will find one.

Alderman Shaw

If you look at page 198 under applicability it does talk about words, letters, designs, figures, numerals, and pictures.... It actually speaks about some of the different things that can make up one of these. It doesn't use graphics, but it does capture pictures, designs, figures, etc.

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Jay Minkarah

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You could simply add that language if you wanted to make it absolutely clear – at the end of the first sentence three lines of text only and then say no additional symbols, graphics, images – paraphrasing that language – shall be allowed.

Bette Lasky

Text being only the written word.

Alderman LaRose

What we are saying here is that you couldn't have graphics at all. Is that correct?

Alderman McCarthy'

That is correct, and that is the current interpretation of our existing ordinance. The problem is that we have had to enforce numerous times on that because people who read the ordinance see the definition on page 198 that says an electronic sign can do this and this and then when they see three lines of text they say the other things aren't regulated at all even though they are not present and therefore not allowed.

Alderman LaRose

Why are graphics – why do you feel graphics shouldn't be shown?

Alderman McCarthy

That is a policy debate that we have already had. We don't allow them now, and I will briefly recap it because the arguments that were presented when we passed that are there are two reasons why you put changeable text on signs – one is so that you can re-use the real estate and get more text onto it over a period of time to provide a larger message, the other one is so that your sign can sit there on the side of the road going pick me, pick me and draw attention of the motorist away from everything else on Amherst Street that they ought to be paying attention to like the other 89,000 cars a day that they share the road with. We did restrict them due to those discussions to being non-graphics and text only.

Alderman LaRose

That was before my time. Thank you.

Chairman Rootovich

I am fine with the language Mr. Minkarah came up with. I thought that pretty much addressed.

Alderman McCarthy

I am happy with it.

MOTION BY ALDERMAN ROOTOVICH TO AMEND PAGE 199 PARAGRAPH 2-2 AT THE END OF THE FIRST SENTENCE TO STATE “THREE LINES OF TEXT ONLY” AND THEN BY PARAPHRASING THE SAME LANGUAGE THAT IS FOUND ON PAGE 198 UNDER APPLICABILITY  
MOTION CARRIED

## Bette Lasky

I just want to say that I have been involved with this project for the past four years. It seems like only a dozen. I did want to thank some people who may not be with the city, but they have friends and family who may be listening. I feel there have been a lot of people that have put in a lot of time and effort into this. Not to sway your votes, but I think that what has come out has been the best of what has been presented by all of these people and by the input from the business community and the city leaders. With that I just want to say thank you to Alderman McCarthy who has put in many hours in the beginning, obviously Mr. Houston, Mr. Fougere, and the other members of the Planning staff. Mr. Fougere was there I think with two incarnations – one as a member of staff and now as a consultant. Former Alderman Scott Cote, former Alderman Kevin McAfee, Planning Board members – Ken DuFour who has put in innumerable hours, Mr. Bill Slivinski, and Mr. Lowe who is here with us now and has except for the last few months when his health didn't allow I, was there from the beginning - thanks Mike your input is always appreciated, and Dick LaRose of late, and Zoning Board of Adjustment Sean Duffy, Mark Malkasian, former Mayor's Liaison, Brian Christianson, former City Engineer Eric Teitelman – this shows you the changes that have gone on in the city – former NRPC Commissioner Andrew Singelakis, Mr. Jim Petropolus, Attorney Prunier, Kevin Slattery a member of the Edge stone Properties has put in a lot, Katherine Nelson put in a good many hours for the Conservation Commission writing the wetlands ordinances that we have here and her follow up Linda Bretz, Brian Morrissey from the Fire Department, Attorney Connell from Corporation Counsel and Bob Keating when we wrote the sections on affordable housing was very instrumental , and Jay Minkarah. Again the Planning staff without whom – it has been a pleasure to do battle English construction with Mr. Minkarah. Also Chamber of Commerce – Chris Hodgdon who we wish a happy honeymoon to. Again the Planning Staff – Mike Yeomans, Rick Sawyer, Carter Falk, Karen Berchtold who was here, and Kerrie Diers. Alderman Rootovich, Brad Whitney too. Thank you all. Thank you to everyone who participated. I hope you think it is a good project and I think it is long overdue.

## Alderman McCarthy

I would echo that and issue thanks to the same group of folks and also particularly to our own Planning Staff. I am not sure anyone understands the full scope of the history of doing this. The five years Mrs. Lasky describes only describes the successful last attempt to get to changing these. Mr. Fougere and Mr. Yeomans and Mr. Houston and I go back to having interviewed the same set of folks on another occasion to try to get it done professionally and prior to that working on doing it in-house. Somewhere around is a set of ordinances that my wife and I had actually scanned out of the pages in Chapter 16 of the printed ones because it was before we had electronic copies of them and I had done some editing on it, Mr. Yeomans had done some other cleanup on it and we were looking at it and realized that the scope of that was beyond what was going to get done without some significant outside help. This set of ordinances has probably been ten years in the making – not soon enough, but I want to thank everyone that was involved in it. I am glad we are close to the end of that process. I think that the end product will serve us well for hopefully as many years as the last set did.

## Chairman Rootovich

I am not going to mention all of the names again. Obviously I want to thank all of those that were mentioned earlier. One thing that I think nobody realizes is the time that staff puts in – their dedication

and their help in getting this done – Mr. Houston and Mr. Fougere and Mr. Minkarah from my heart I appreciate all that you have done. It has been an experience. Without you we would have never got it done. I want to thank you for your hard work. It is greatly appreciated.

Another tid bit, the committee spent 47 meetings – a total of 141 hours over the last two years going through this not to mention the 9 meetings we had of 21 hours in the sub-committee. It has been quite some time in the last two years getting this document to where it is today. I want to thank committee members as well; Aldermen Shaw, MacLaughlin, LaRose, and Vitale for their hard work as well.

#### Alderman Shaw

I would especially like to thank the sub-committee because I think that was probably the toughest thing to go through – not having actually participated in it, but just understanding that is where all of those items had to be resolved and a consensus made to be able to present us the final version. I really appreciate the work that group has gone off and done and been able to get us something that we could accept and move forward with. Thank you. Thank you to everybody else as well, but that last hurdle I know has been especially challenging. Thank you.

#### Chairman Rootovich

Are there any further comments?

MOTION BY ALDERMAN LAROSE TO RECOMMEND FINAL PASSAGE OF O-04-19 AS AMENDED WITH THE CONCURRENCE OF THE NASHUA CITY PLANNING BOARD  
MOTION CARRIED

#### DISCUSSION

Alderman LaRose mentioned a presentation from Southern New Hampshire Services that took place at the last Planning Board meeting. He stated that some members of the Planning Board are concerned about the amount of building taking place in the city and the impact on schools. They think the Board should take another look at the school impact fees for possible increase.

#### ADJOURNMENT

MOTION BY ALDERMAN LAROSE TO ADJOURN  
MOTION CARRIED

The meeting was declared adjourned at 8:45 p.m.

Alderman David MacLaughlin  
Committee Clerk Pro Tem