

BUDGET REVIEW COMMITTEE

FEBRUARY 24, 2020

A meeting of the Budget Review Committee was held Monday, February 24, 2020, at p.m. at City Hall Auditorium, 3rd Floor.

Alderman Richard A. Dowd, Chairman, Chairman, presided.

Members of Committee present: Alderman-at-Large Michael B. O'Brien
Alderman Jan Schmidt
Alderman Ernest Jette
Alderwoman-at-Large Shoshanna Kelly

Members not in Attendance: Alderman-at-Large Ben Clemons, Vice Chair
Alderman-at-Large Lori Wilshire

Also in Attendance: Alderwoman Elizabeth Lu

Chairman Dowd

Yes Alderman Wilshire is ill so she will not be with us this evening. First order of business is Public Comment.

PUBLIC COMMENT - None

COMMUNICATIONS - None

UNFINISHED BUSINESS – None

NEW BUSINESS – RESOLUTIONS

R-20-015

Endorsers: Mayor Jim Donchess
Alderman Thomas Lopez
Alderman Patricia Klee
Alderwoman-at-Large Shoshanna Kelly
Alderman Richard A. Dowd
Alderman June M. Caron
Alderman-at-Large Ben Clemons
Alderman-at-Large David C. Tencza
Alderman Jan Schmidt
Alderman-at-Large Brandon Michael Laws
Alderman Skip Cleaver
Alderwoman Linda Harriott-Gathright
Alderman-at-Large Lori Wilshire

AUTHORIZING THE WAIVER OF CITY BUILDING PERMIT AND INSPECTION FEES FOR THE RENOVATIONS TO THE NASHUA POLICE ATHLETIC LEAGUE BUILDING AT 52 ASH STREET

MOTION BY ALDERMAN O'BRIEN TO RECOMMEND FINAL PASSAGE

ON THE QUESTION

Alderwoman Kelly

Just a comment, I wanted to thank the gentleman who came out to speak about this program. It sounds like it is going to be a wonderful project and I am excited to support this.

Alderman Jette

So I too think this is a wonderful project and the fact that this organization is coming forward to donate the talents and the material and the labor, the different groups of people to make this happen is a wonderful thing. However, I read the analysis provided by the Legal Department, and just so that everybody knows, what this Resolution does is authorize the City to waive all City Building Permit and Inspection fees related to the renovations of the Nashua Police Athletic League Building at 52 Ash Street. It was made clear that this doesn't mean that they are not going to get the permits, that they are not going to do everything according to Code. They are going to do everything the right way; they are just asking us to waive the fees, which sounds like a great thing.

But I see the Legal Department and we are talking about a small amount of money, \$1,400.00 to \$1,800.00, but the Legal Department tells us that the Building Construction Permit Fees are established by Ordinance and the ordinances do not contain any general provision for a waiver of building construction permit fees. There is a section that does provide for a waiver but it doesn't apply to this situation. So my question is, I wish there was somebody from the Legal Department here, but are they telling us that we don't have the authority to do this?

Chairman Dowd

No we had the authority in the original legislation, all that we have to do is say, "yes we want to do it". Since it isn't, we have to have a Resolution that says it, so this is making a Resolution to authorize us to do it under that code. So in other words, every time we want to waive it, it's not just, "hey we want to waive it". You have to have a Resolution to say "why" and "for what". Otherwise, you wouldn't need a separate Resolution.

Alderman Jette

OK I questioned that interpretation. I don't read it the same way. I would be, you know, I'm reluctant to recommend final passage of this Resolution because of that reservation. So you know, the Legal Department will have an opportunity before the Full Board votes on this.

Chairman Dowd

Tomorrow night.

Alderman Jette

To clarify that.

Chairman Dowd

I don't know if it is on the Agenda tomorrow night but it will have to come before the Full Board and you can ask in advance Legal to define that. In my estimation, PAL, being part of the Police Department and you know having very limited funds to begin with, I don't the City should be going out of our way to get \$1,400.00 to \$1,800.00 out of their limited budget to allow them to build a building for permits and fees. Back in the old days they were a lot less, but now they are very expensive. So they asked us to do this and you can ask for more definition from Legal but I think we ought to pass this tonight. Otherwise, we are just pushing it down the road.

Alderman Jette

So if I could respond. In my mind it's not a question of whether or not this is a deserving thing, I think it is. If we have the ability to waive these fees, it probably makes sense to do it. But if we don't have the authority to do it, we shouldn't do it. And I would be happy to contribute to a fund-raising effort to raise the – it's a small amount of money. You know, I'd be happy to contribute to that and I am sure that there are people in town or other organizations that would do so. I don't think that we, as Aldermen, you know, we take an oath to enforce the law. And if the law doesn't allow us to do this, we can't just do it because we think it is a good thing and we don't want to ...

Chairman Dowd

But the point is that this Resolution is authorizing the waiver. So we do have the authorization if we pass this Resolution to pass it. Otherwise, Legal never would have sent us the Legislation. Maybe they didn't say it right but ...

Alderman Jette

They will be able to clarify before the Full Board votes on it.

Chairman Dowd

Yes, ask the question at the Full Board level.

Alderman O'Brien

Thank you Mr. Chairman. I am going to ask you to pick your brain a bit and your memory since your experience being on the Budget Board. But I do know that the City has had a very long history of replacing City structures and infrastructure that would involve building permits such as Fire Stations, Schools, just to limit a few. And even though I think Alderman Jette brings up a good point, one of the things is consistency of the law and other words of past practice. I mean has the Budget Committee, in the past, waived fees like in the example to the Fire Department or to the School Department in the building of one of their new buildings, one of their new facilities.

Chairman Dowd

Well this is a little different in that this is not a City building, I don't believe, it is a private building for PAL. City Buildings are a whole different story. If we pay the fees to Planning for plans for a City Building, we are just paying ourselves. We take it out of one pot and put it in another pot. But that's different than this.

Alderwoman Lu

Just a question for Alderman Jette. Alderman Jette, what did you see were the instances that were allowed or do you recall where you found that, the instances in which a waiver is allowed.

Alderman Jette

I didn't say that I had found any.

Alderwoman Lu

I thought you did, I thought you said none of them applied in this situation.

Alderman Jette

May I respond? I was just reading the analysis that was provided by the Legal Department that is attached to the end of the Ordinance. The third sentence of the second paragraph says, "NRO 105-21B does contain a waiver provision but it is not applicable in this situation". I am just reading what they said.

Chairman Dowd

It may be, and I don't know because I don't have that in front of me and you can ask Legal but that may be when you are talking about City owned buildings. Again, we waive it because you take it out of your right pocket and put it in your left pocket, it doesn't make a lot of sense. So that's maybe what that is and we can find out before the next meeting, I can ask Attorney Bolton on that. But this is not a City building, it is not a City Group, even though it's PAL, it's run by the Police Department, but it's separate if you will.

Alderman Jette

I believe it is a non-profit corporation, the Police Department is actively involved in it but it's not part of the Police Department.

Alderwoman Schmidt

Thank you Mr. Chairman, I just wanted to say for anybody watching, the organization that is going to be doing this is called "Building on Hope". And if you look it up, they've done some pretty spectacular things around the State. We are incredibly lucky to have this. If anybody wants to do fund raising for this, I am sure they would be more than happy to have help.

Chairman Dowd

For the other part of the project.

Alderman Schmidt

Yes. Thank you Mr. Chair.

Chairman Dowd

Anything else Alderman Jette?

Alderman Jette

No. I would just like to move to amend Alderman O'Brien's motion to provide the condition that the City Legal Department confirms that we are authorized to do this.

MOTION BY ALDERMAN JETTE TO INCLUDE THE CONDITION THAT THE CITY LEGAL DEPARTMENT CONFIRMS AUTHORIZATION BY THE BOARD

ON THE QUESTION

Chairman Dowd

That's fine.

Alderman Kelly

So I appreciate what you are bringing forward. I feel like I agree with Alderman Dowd that if they didn't think it was legally viable, they wouldn't have put it in front of us and it feels a little bit redundant to ask them to clarify.

Chairman Dowd

I think you know what the answer is going to be. I am not even sure that we need to amend this to ask them the question. If we find out that it is not legal to do, then we will probably all vote it down. But if it is legal to do and it is legal under the Resolution that they provided to us to do it, I think we ought to pass it.

Alderman Kelly

Can I follow up please? So my second question was just a timing perspective. So if we want the question answered, that's fine. Was this a special meeting because they need to start pulling permits, because I did not see it on the Agenda for tomorrow night yet. So I don't know if we were planning on suspending the rules?

Alderman O'Brien

I may have an answer to that. If I may remind the Chairman, tonight we have this item before us, but we have an additional Budget Review Committee Meeting on Wednesday the 26th. This gives us, I think, plenty of time to refer this matter back for clarification from Legal. So I recommend going with the vote tonight and if an amendment is needed at that particular time, we could re-address it at Wednesday night's meeting.

Chairman Dowd

We can certainly find out as early as tomorrow whether there's an issue. Anything else? So you didn't make an amendment? Or you did make a motion to amend?

Alderman Jette

I did make a motion to amend.

Chairman Dowd

So there's an amendment on the floor to R-20-015 to how do you want to state that?

Alderman Jette

So the motion made by Alderman O'Brien is to recommend final passage and I want to amend that by adding "on the condition that the Legal Department confirms that we are authorized to do this".

Chairman Dowd

OK that's the amendment that's on the floor.

MOTION FAILED

Chairman Dowd

It fails. Now the Motion on the floor again is the final passage of R-20-015. Any other discussion?

MOTION CARRIED

NEW BUSINESS – ORDINANCES - None

TABLED IN COMMITTEE - None

GENERAL DISCUSSION

Chairman Dowd

I am just going to say that we are getting awfully close to Budget season. I have the Chief Financial Officer putting together a little crib sheet for the new people on the Board and maybe some of the people who have been on one or two years that defines what each section of the Budget Book is used for, what it tells us. And hopefully if he is doing it the way I asked him, is how they relate to one another. But we will be trying to talk a little to that before we actually get into the budget deliberations. So I want everybody to be familiar with how the Budget is put together as a whole and then we can talk about each individual department.

Is there any other general discussion?

PUBLIC COMMENT - None

REMARKS BY THE ALDERMEN

Chairman Dowd

So tomorrow night, Full Board of Alderman Meeting, 7:30 here, I believe it is here.

Alderman O'Brien

Excuse me Mr. Chairman, no it is at Nashua High School.

Chairman Dowd

Oh Nashua High School North, OK. And then Wednesday is a Public Hearing followed by Budget on the Public Health Building, I believe it's \$1.8 million I think or around that number. So we will be here Wednesday.

Alderman Jette

If what we just talked about is not going to be on tomorrow night, why do we have a Special Meeting tonight to discuss this?

Chairman Dowd

That's a good question that Alderman Wilshire couldn't answer, especially with a Budget Meeting on Wednesday. I will also be asking Legal why or somebody. I have enough meetings tonight. Anyway, I am not sure how many things are on the Wednesday's agenda. I'm not sure what the reason was but Lori is going to talk to the Legislative Assistant and find out why.

Alderman O'Brien

I think I can, Mr. Chairman if I may? Thank you, I think I can clear up some of that, I'll fall on the sword. At the Alderman's meeting when this was discussed about a month ago, looking at my calendar, I inadvertently put down that I had Infrastructure written down on an incorrect date. So it was a motion that was read to have the meeting by Alderman Lopez, so I saw the conflict there errantly in my book to which I brought up and made the suggestion to change the date, to which everybody was in agreement and which I thank you. But I wish somebody kind of put the brakes on me a little bit in how we clarify.

But in my confusion that was the reason. So for Wednesday night, there is a Special Board at 7:00; 7:30 is the Budget Review Committee and its anticipation is to be relatively short because I have got Infrastructure immediately following at 8:00 or so. Those are all the correct dates. So if there's going to be snowball thrown, I'll take the hit.

Alderman Jette

It was a pleasure meeting with you Alderman O'Brien.

Alderman O'Brien

Thank you Alderman Jette.

POSSIBLE NON-PUBLIC SESSION - None

ADJOURNMENT

**MOTION BY ALDERMAN O'BRIEN TO ADJOURN
MOTION CARRIED**

The meeting was declared closed at 7:18 p.m.

Alderman-at-Large Michael B. O'Brien, Sr.
Committee Clerk