

**Board of Public Works
Meeting Minutes**

October 27, 2016

A regular meeting of the Board of Public Works was held on Thursday, October 27, 2016, at 5:30 p.m. in the Auditorium at City Hall, 3rd floor, 229 Main Street, Nashua, NH 03060.

Commissioner Bergeron called the meeting to order at 5:30 p.m. and called the roll.

Members Present:

Commissioner Paul G. Bergeron
Commissioner Tracy Pappas
Commissioner Moriarty (Arrived after roll call at 6:20 p.m.)
Commissioner Joel Ackerman

Members Absent:

Mayor Jim Donchess

Also Present:

Ms. Lisa Fauteux, Director of Public Works
Mr. Andrew Patrician, Division of Public Works Operations Manager
Mr. Jon Ibarra, Superintendent of Streets
Mr. Jeffrey Lafleur, Superintendent of Solid Waste
Mr. Nick Caggiano, Superintendent of Parks & Recreation
Mr. Steve Dookran, City Engineer
Attorney Andy Prolman, Prunier & Prolman

Motion: To approve the Agenda as presented.

MOTION: Commissioner Pappas to approve the amended Agenda as presented.

SECONDED: Commissioner Ackerman

MOTION CARRIED: Unanimously

Motion: To approve the Minutes of the Board of Public Works Special Meeting of September 29th 2016.

MOTION: Commissioner Pappas to approve the Minutes of the Board of Public Works Special Meeting of September 29, 2016.

SECONDED: Commissioner Ackerman

MOTION CARRIED: Unanimously

Motion: To approve the Minutes of the Board of Public Works Special Meeting of October 12th 2016.

MOTION: Commissioner Pappas to approve the Minutes of the Board of Public Works Special Meeting of October 12, 2016.

SECONDED: Commissioner Ackerman

MOTION CARRIED: Unanimously

Commissioner Pappas

I did read through the meeting minutes of the October 12th meeting for Infrastructure and my guess is that they are both here from the neighborhood regarding the approval for a street and when you come to testify today, I did read through the testimony and I would appreciate it if the folks would say if they would like the city to accept it or not and what would be helpful to the neighborhood. I did read through it and I thought there were legitimate concerns and I think that what folks think would be the best for the neighborhood, I would appreciate hearing that.

Public Comment

Mr. Bernie Cote, 22 Greenlay Street

I am here tonight to talk about the incident that happened on Main Street with Jacob Goulet. I recommend that those stainless steel covers be changed to steel or that they be clamped as soon as possible. I know that they have clamped the one where the accident happened but I think the Board needs to get out and check every one of them so we don't have this happen again. It's never happened before in this city regarding these covers and I know that there was an article in the Telegraph that said it was the wind that moved it and I don't buy that. I leave my little trash and recycled bottles outside and the wind did not move mine so I don't buy that this was moved by the wind. I know that they secured it now but I think it's a little late. I don't want to take all night but I think it should be changed to regular steel and not aluminum and all of them should be checked and clamped down. I would appreciate it very much if the Board of Public Works could look into it.

Step III AFSCME Grievance

A. 16-9

Commissioner Bergeron

Is this going to be aired in the public?

Director Fauteux

Yes, it is.

I would like to invite Andy Patrician, Jon Ibarra and Jeff Lafleur up and then members of the union, whoever would like to present.

Mr. Ryan Lones, Chief Steward, AFSCME, Local 365

I represent the City of Nashua employees. To get everybody up to speed, this is in reference to grievance number 16-9 and in reference to Mr. MacLean who is here. His grievance is in reference to an open operator position that was existing within the street department. Mr. MacLean was the only internal employee to apply for such position. Within this position, the PDF, he needs a valid CDLA which he acquires and he also has a Mass Hydraulics License that is not required in this PDF but he has operated for other companies. We feel as that this grievance possesses minimum qualifications for such a position. According to Article 11, vacancies, promotions and transfers, under line three, it is in agreement with the City of Nashua, the union, according to the contract, that wherever possible promotions shall be made from within the ranks of regular employees who are employed in the department in which the vacancy occurs. This would be the street department. Section C of that same article you will see that there is a probationary period, a trial period of such for 60 days. Also, in line three there is a line that states that management has the right to also extend such probation by another 30 days if needed. In reference to this employee who is trying to better himself and essentially putting food on the

table for his family, there is no displacement of disapproval of such job; he would just end up going back to being a truck driver if the probationary period didn't pan out. That's all I have for you, I would be happy to answer any questions for you.

Commissioner Pappas

Can we ask questions to both sides?

Director Fauteux

Yes, you might want to listen to Jon and Andy and then you should absolutely be able to ask questions of both.

Mr. Jon Ibarra, Superintendent of Streets

As Ryan had stated Alex did put in for the job. He was the only internal candidate. We knew nothing about him as far as his skill set. Even though in reviewing his resume it indicated that he didn't have any experience he was an internal candidate so we wanted to give him an opportunity to come in and interview and go through our practical exam. Jeff and Andy were both part of the interview team including myself. After performing the interview and witnessing his operating ability and looking at the minimum qualifications for the job, where it states that you need a minimum of one year relevant experience to perform the duties in this job, which would include having the ability to run a loader, a dozer, a backhoe, a grater, an excavator, rollers, pavers, a sidewalk tractor with a plow and a blower and any rental equipment that we may acquire to perform the tasks that we do in our daily routines. According to his resume, he has had experience in a bob cat and plowing with a 10-foot blade on a backhoe. We didn't feel after going through the interview process that he was ready to have this opportunity. I have to think of the safety of the crews when we are out in the street digging around the utilities, high pressure, low pressure gas, water/sewer, overhead wires and underground fiber optics. He has potential. I was advocating that he get his training and that he pay attention to his senior operators and learn the job and then try again later down the road. That's where we were going with it.

Director Fauteux

He was tested, correct?

Mr. Ibarra

Yes, we did test him with three pieces of equipment, one was a backhoe and the practical scenario was to take a sump that was on its side which is a catch basin structure, it's a 4-foot diameter free cast structure utilizing the machine, a chain and hoisting pins to right the structure and then hoist the structure, set it in the back of a truck, release the tension on the chain, get the okay, the green light and then remove that structure and then set it back on the ground safely. During that process it took him 15 or 20 minutes just to get the structure up. Then when he got hoisted after getting in and out of the machine a few times to hook and unhook he did manage to get it into the truck. It bounced off of the side but I didn't hold that against him because he did get it in. It should have been a fluid and efficient thing, a smooth operation and it wasn't. The second scenario was that we took him out back with an excavator and asked him to load a truck with a pile of stone that was out back in the landfill. He got the stone on the truck. It was shaky and unstable but he did achieve the task. The third scenario was that we asked him to dig a trench that was 8' x 10' so he put the 10-foot long, going for a supposed sewer pipe that he was trying to expose and dig it to an OSHA state standard without the use of a trench box. We wanted to see if he could dig a standard hole that was compliant for safety and that didn't work out. As far as operating he was just reaching out and digging with the bucket and not using a fluid motion. He hooked the track with the tooth and that could cause damage to the machine. It's just my opinion. I've been around equipment my whole career between fire service and excavation. These guys have got 20+ years around heavy equipment. This was a general consensus and not a single decision. We feel that he needs the

training for the safety of the crews that we are working around, the guys who are in a hole, the guys who are in the street around him, pedestrians and vehicle traffic. You have to have a certain skillset to do that job. He's going to go automatically into the rotation. There are eight operators. We may keep him sheltered away from that kind of stuff when we can but he's in the overtime rotation so if there is an emergency dig and he's the only guy available then he is going to end up in that position and have to do that job and I don't want to take that chance at this time personally because I am responsible for that. That's how I feel.

Commissioner Pappas

This is interesting because I think both sides did a great job presenting. This is different than what we have had before. In the past we had several grievances that they were objecting to the tests and there were several internal candidates. This is the first time that there was one internal candidate and they went ahead with the test. In reading it, it was clear to me that there is some confidence in this applicant and I think that this applicant has been encouraged to go ahead and go on and get more training and that there is certainly a lot of potential there. I do think that we have to take a look and if we are told that there may be safety issues with other crew members or for hitting a gas line, I would err on the side of safety. That being said, I would certainly encourage this person because it sounds like this is a pretty decent employee and it sounds like this individual is being encouraged to get a little bit more hours behind him.

Mr. Ibarra

That's correct, we are all about promoting from within but you have to develop a certain skillset to move forward and that takes time, especially operating.

Commissioner Pappas

It is not an easy thing but as I said I think that both sides did a very good job presenting their case.

Commissioner Ackerman

Will Alex have an opportunity to do training over the new term?

Mr. Ibarra

Yes, he sure will.

Commissioner Ackerman

How long would it be before he could re-apply for the position? Is there a particular timeframe?

Mr. Ibarra

When there is an opening would be the next opportunity which gives him time to develop those skills and be sharp and ready and prepared for it. Yes, there is a turnaround. I've seen at least three or four equipment operators in the five years that I've been here go through the rotation. It will open up again.

Commissioner Ackerman

The fact that this grievance went through would not be held against him, correct?

Mr. Ibarra

No sir, I just want to be safe.

Commissioner Bergeron

I am looking at the minimum one year requirements for loader, dozer, backhoe, grater, excavator, roller, paver, sidewalk plow, tractor trailer, laser equipment and tag-alongs. How many of those did he have experience on?

Mr. Ibarra

He showed experience in a bob cat and running a backhoe with a 10-foot blade and that was related to snow removal according to his resume.

Commissioner Bergeron

So the process was that the job was posted, he applied for the job, he was the only applicant and then what? Did he get a verbal interview?

Mr. Ibarra

A verbal and a practical, we actually put him in the seat to see what he can do but first he gets a verbal and then we decide if he is either going forward or not going forward at that point.

Commissioner Bergeron

Okay so at that point he was able to show you what he could do with the equipment.

Mr. Andrew Patrician, Division of Public Works Operations Manager

In that verbal interview the applicant did say that he had no seat time in equipment working around utilities or sewers. He said he had worked as a laborer in that capacity but actually had no seat time in the equipment.

Mr. Lones

They said that the qualifications said this employee would need one year of relevant work experience. Mr. MacLean has worked for the City of Nashua for over a year and I've had the opportunity to acquire operator's hours so he hasn't acquired 120 hours but he has had that opportunity. I could be mistaken but I believe he only has 4 hours of operator hours.

Mr. Patrician

That's correct.

Mr. Lones

Me, personally, I have worked for the city for six years and the only way to operate, especially in the street department, is to do the duty as the work is being done. Let's say I am out on the street and we are paving, the only way that I would potentially get operator hours is if I jumped on a roller with the permission of a foreman and that such operator felt comfortable with me being on it and then I would acquire hours by that.

Mr. Patrician

That's correct.

Mr. Lones

It's not going to be as easy for this employee to get his operator hours as stated. They also touched base on rotation. There is this thing of having more senior operators. The senior operators operate before junior operators so this employee will have the opportunity to operate given that Mr. Ibarra gives that to him. Aside from that he will be used in the laborer capacity more than he will as an operator until his time comes and he is able to operate. Based off of the minimum qualifications and he gets put into this job he will have such time to operate all of that equipment. I think even Mr. Ibarra has been here just a little bit of a shorter time than me came into the field with experience but how much of that equipment did you actually run while you were at the street department? Very little.

Mr. Ibarra

Every piece except a crane buddy.

Mr. Lones

Very little. An excavator, a backhoe, a roller; you are talking very basic pieces of equipment.

Commissioner Pappas

I guess this would be for either Mr. Patrician or Mr. Ibarra or a combination. If we have plenty of people on a crew, if there is someone who wants to learn, would they be able to hop in?

Mr. Ibarra

What they do is they approach the operator that is on the job that they have been working with and if that operator and that foreman consent to it and are comfortable with it given the task that they are doing, yes, they can get seat time. That's where hone your skills. It might be a half of hour here and an hour there but that's the opportunity that is provided.

Commissioner Pappas

Is there plenty of cooperation?

Mr. Ibarra

Yes, everyone wants to see everybody grow.

Mr. Lones

It really depends on how the operator feels with being comfortable getting out of that particular machine. Let's say you were digging next to gas or sewer and you didn't want to puncture a main line of any sort, water, sewerage, gas, it doesn't matter, if that operator is digging in that capacity then Mr. MacLean is not going to have the opportunity to dig. If they are digging in the street which they do because it's the street department it would be very hard for him to obtain the hours and it would also be hard to be able to obtain the amount of ability to run all of those pieces of equipment which I've never seen someone do in the time that I have been here. It's very sporadic. You usually use very few pieces of equipment and very basic pieces of equipment.

Commissioner Pappas

I think that both sides did a great job but in the end I am feeling that we have to err on the side of safety. I certainly hope that we do give every opportunity for our employees to grow because I think it's good for us to give promotions from within but at the end of the day if I am hearing that it might be a safety issue, I would err on the side of safety.

MOTION: Commissioner Pappas to deny the grievance.

SECONDED: Commissioner Ackerman

Discussion:

Commissioner Ackerman

I wanted to take a moment to echo what Commissioner Pappas said with regard to safety. Safety comes first and the well-being of everyone. I would certainly encourage this person to do everything whether it be on the job training or anything of that nature. To gain that experience and gain that fluidity that you were speaking about and I would certainly hope people would want to hire from within but to your point, safety first for the public and your own employees and colleagues.

MOTION CARRIED: Unanimously

Aldermanic Referral

R-16-071 - AUTHORIZING THE CITY OF NASHUA TO EXTEND THE LEASE AGREEMENT WITH THE NASHUA DOG OWNERS GROUP, INC. FOR THE DOG PARK AT YUDICKY FARM

MOTION: Commissioner Pappas for a positive recommendation for R-16-071 - Authorizing the City of Nashua to Extend the Lease Agreement with the Nashua Dog Owners Group, Inc. for the Dog Park at Yudicky Farm

SECONDED: Commissioner Ackerman

Discussion:

Commissioner Bergeron

Very briefly, I did see that this was tabled at the Infrastructure Committee. They were basically referring it back to us and their concerns and questions were only in regard to whether we had any further plans in Yudicky.

Mr. Nick Caggiano, Superintendent of Parks & Recreation

I fully support this. The dog park people have been wonderful neighbors. They help clean up and are part of the community. They come to some of our events and we've done some projects together.

Commissioner Pappas

Obviously you have to have animals that have had immunizations and it seems like you have to be part of the group. I am curious to know who keeps track that dogs have their rabies shots and that kind of thing.

Mr. Caggiano

Nashua Dog has their own rules and guidelines and those are required.

Commissioner Pappas

So if they can do that then they obviously know if the dog has had a rabies shot or not. I agree that they are a good group.

Commissioner Bergeron

The question that the Infrastructure Committee has was whether this had anything to do with any further proposed changes that may or may not be done in Yudicky Farm.

Mr. Caggiano

I am not aware of any proposed changes to the dog park facility at Yudicky. It hasn't even been brought up in discussion. I think they are very content with what they have right now.

Commissioner Ackerman

Was the original lease term the five years?

Mr. Caggiano

Yes it was.

MOTION CARRIED: Unanimously

Engineering Department

- A. MOTION:** Commissioner Pappas to approve the Residential and Commercial Wastewater Service Permits and Fees as submitted.
SECONDED: Commissioner Ackerman
MOTION CARRIED: Unanimously
- B. MOTION:** Commissioner Pappas to approve a Drainlayer's License for Nardone, Inc., 45 Outlook Road, Wakefield, MA, 01880, in accordance with Nashua City Code §255-19 Issuance of Drainlayer's License.
SECONDED: Commissioner Ackerman
MOTION CARRIED: Unanimously
- C. Informational:** Update on 2016 Paving Program
MOTION: Commissioner Pappas to accept and place on file the update of the 2016 Paving Program
SECONDED: Commissioner Ackerman
MOTION CARRIED: Unanimously
- D. Informational:** Amherst Street Improvements Project with Continental Paving, Inc. of Londonderry, NH – Schedule Impacts
MOTION: Commissioner Pappas to accept and place on file the Amherst Street Improvements Project with Continental Paving, Inc. of Londonderry, NH, - Schedule Impacts
SECONDED: Commissioner Ackerman

Discussion:

Commissioner Ackerman

Can Mr. Dookran give us a little commentary and visibility beyond what is available here?

Mr. Steve Dookran, City Engineer

The primary delay has to do with the utilities getting out of there much later than we anticipated. We talked about this project last year about getting out there first thing this year. The utilities said they were interested in doing the work and at no cost to the city and we were all excited about that. We haven't paid any money but they would not move until we had a contract with the construction contractor which is Continental, but that was late in the year and then apparently, they started doing their planning and that took a lot of time. We also didn't realize that there really wasn't open communication between the two main players. The poles are owned by one of the utilities and then you have five carriers on the poles so you really have to have open communication to get things going. It so happened that Fairpoint, who owns the poles, put a few of them in the wrong location, not according to the design location and then the electric company couldn't run their power and they needed the poles to be relocated. There were problems in relocating the poles because there are times that you have other issues. You might remember that we had an incident where the traffic signal was hit and you have to put temporary wires. The temporary pole happened to be in the way of relocating the utility pole. All of these complications add to all of the delays in just getting each of the five utilities in turn took more and more time. Continental was out here trying to do as much as they could working around the utilities but it got too late to want to have to pave, it's too cold to top paving so we have worked out a plan for when they shut down, which we expect to be done in three weeks or so and then resume in the spring. One of the things that we are trying to achieve even though we shut down is to open up the left turn out of Charron Avenue. I think people believe that will manage the traffic better and we intend to get that in before we close the job for the winter. You see in the memo that we have done a change order and it included some of the additional work because of the shut-down but most of it had to deal with unanticipated construction work and changes in the drainage; in fact there was a large drain structure that was in the way that we did not know existed so that involved quite a large investment cost. We were fortunate enough to get it into the contract, a contingency, so that's why you haven't seen a change order because we had a contingency just for that kind of reason.

Commissioner Bergeron

So basically the jug handle will stay until spring but the left hand turn off of Charron Avenue we are hoping to accomplish by the end of this year?

Mr. Dookran

That's correct.

MOTION CARRIED: Unanimously

- E. MOTION:** Commissioner Pappas to approve a contract with Fremereau Appraisal, Inc. in the amount of \$14,500 for the appraisal of six Broad St Parkway parcels or portions of parcels declared as surplus. Funding will be through: Department: 160 Administration; Fund: Bond; Activity: Broad Street Parkway.

SECONDED: Commissioner Ackerman

MOTION CARRIED: Unanimously

MOTION: Commissioner Pappas to suspend the rules to allow for public comment regarding Cherrywood Drive.

Discussion:

Commissioner Pappas

At the beginning of the meeting we had looked at the testimony of the Infrastructure Committee meeting and looked at the concerns of that area. I thought that there were some legitimate concerns. What I would find interesting to see if you think that it's going to be helpful or not helpful to the city to accept as a public drive that would have been one of my questions.

SECONDED: Commissioner Ackerman

MOTION CARRIED: Unanimously

Public Comment

Mr. Ajay Pareek, 120 Cherrywood Drive

I live on the corner of Cherrywood and Annabelle Court. Basically our concern is that this development has been going on for the last ten years and the progress of all of the streets has been very slow. They were trying to do some work over the last couple of years and try to improve things but it's not completely improved. There are issues and concerns on the cul-de-sac area and also the grass strip that is along the sidewalks. They are not seeded properly and in the cul-de-sac the roundabout is not completely done. We think those problems should be addressed first before the city accepts it. The driveways were rebuilt but they have cracks. If you travel along Cherrywood Drive, if you go further than the roundabout, that's basically the limit. Beyond Ridge they are not accepting it but we still think that area is still really hard to drive around that area and there are safety concerns. It has to be properly curbed, there is no curbing done yet. I just have multiple concerns. I have some pictures that I sent to Mark Cookson and maybe he can share that with you.

Mr. Kiran Bommareddy, 5 Annabelle Court

I have a question that the city can take it over and do it but then it comes to the original question of is it ready for you to take it and probably you have to fix those roads and the builder has to fix it even before you taking them. If the city takes it then the city has to pay the money to fix it. That's my comment. The roads are not in a state for the city to take them.

Mr. Pareek

Only part of the Cherrywood Drive is sort of done but beyond that it's still a work in progress and it's been almost 10 years and you go further to Ballerina and a lot of things have been dug up so our suggestion is why not let the builder just completely finish the project before the city accepts it, otherwise we just have to wait a few more years for the builder to actually complete that part of Cherrywood which is still not completely done. The curbing has not been done. Maybe by next year they can finish it and then the city can accept them. We just don't feel safe driving in that area. You can come and take a look and drive around and see for yourselves.

Mr. Prasad Thiriveedi, 6 Medallion Court

I live on the roundabout and the roundabout was never touched. I collected some pictures this afternoon. I was the first one on the street and never bothered to worry but after buying the house and its owner occupied still the construction is going wrong. Every year he shows up as he is doing something and then he leaves there and it doesn't go anywhere. He doesn't finish it. He digs on the one side and then dumps on the other side and leaves and he can see the gravel everywhere and the gravel ends up on the lawn and also it

damages the driveways because when the city plows the snow it all ends up coming onto the driveway. It's a safety concern too because my son is 7 years old and I still cannot allow him to play outside because it's not safe and there is a lot of dirt. Also, he comes up with a big stick of steel which makes a big noise. He can complete the screening in one or two weeks because we can live somewhere else and then come back but it's not happening.

Mr. Bommareddy

Is there a best way to resolve this issue, can we work with someone from the city like a point person?

Commissioner Bergeron

We are going to discuss that and get the information from the superintendent, maybe from the city engineer as well. I did read the minutes of the meeting so we are aware that it was tabled at the Infrastructure meeting pending it coming to us. I did go out and drive around there yesterday and I took some pictures which I forwarded to the commissioners as well basically of the roundabout and the gravel. That first roundabout that is not finished and then I did go onto Tamara and Moonstone and Annabelle and took pictures of those. The question is what is the city's responsibility and what's the developer's responsibility, etc. I think some of it is maybe a little bit of what was not communicated on who is responsible for what and so I think we will be able to get some of the answers here for you.

Commissioner Pappas

Does the city plow your road or is the developer still responsible?

Mr. Thiriveedi

The city does it I think, at least in our area for sure.

Commissioner Bergeron

The city has been plowing the road and picking up the trash.

Mr. Thiriveedi

Yes.

Mr. Dookran

The plowing and the trash are done by the city.

Commissioner Pappas

I was thinking that would be something to hold over the developer if they were plowing the road or doing the trash.

Commissioner Bergeron

We are aware of your concerns. Again, some of your concerns aren't dealing with what is before us tonight in some of the other sections as well. If we did approve this tonight we would only be accepting these portions and not some of your other concerns which can certainly be brought up.

Mr. Thiriveedi

We came for acceptance in this meeting, right, and so what does the city think? Do you think that it is ready to be accepted?

Commissioner Bergeron

As soon as we are done with you gentlemen we are going to bring up the city engineer and we will listen to what he says and figure out what is the city's responsibility and what is the developers responsibility and then I think what is going to happen, and I did speak to someone who lives in your neighborhood, and she is not in your area but she is in a roundabout as well and I saw her today at a meeting that wasn't pertaining to this and I asked her who takes care of that cul-de-sac. She has the exact same thing you folks have and she said they did and said it was never clear on who maintains that and she said the residents there do. I think some of your concerns from what I read, and I'm not sure if it was you gentlemen or other folks that came to the Infrastructure meeting, but it was a question of who is maintaining those. I know the shrubs and I did take pictures and the commissioners have seen those.

Mr. Pareek

Regarding that, for example, my driveway, about 1 ½ years ago when they were putting the curbs on Cherrywood Drive and Annabelle, they basically re-dug part of the driveway and now it's really steep and part of the driveway has basically developed a crack. I know some of the other residents have the same concerns about their driveway too. I don't know who is responsible for that.

Commissioner Bergeron

Are you on Annabelle?

Mr. Pareek

I am actually on the corner of Cherrywood and Annabelle. Now there is a crack developing so they probably didn't do the job properly. Who should I be talking to about that? I am sure there are other residents who have voiced concerns about this.

Mr. Thiriveedi

When ice forms it's very hard to join the road because of the slope and there have been a couple of accidents.

Mr. Bommareddy

It's not about the tires, it's something about the way the road was made so it gets icier in that area and that is a cause of concern.

Mr. Dookran

Indeed the development has been going on for many years.

Commissioner Pappas

It sounds to me like the residents are saying we shouldn't accept it and I figured if the developer who was responsible for plowing and trash that would be a good thing to hold over their head so I guess once you go ahead and explain, if you have a sense as to what happens if we deny it being a public road.

Mr. Dookran

So it's been going on for many years and we've had a host of problems, not just in public works but the people planning and community development with things not making the right amount of progress and the developer is looking for permits and occupancy certification and so on. The explanation that came back from the developer has to do with when the development started, and this was ten years ago, it was just at the beginning of the housing collapse and he wasn't turning out the houses as fast as he anticipated so he couldn't get his money back for his capital expenditures to reinvest in the infrastructure. I think we understood that. He said his investment wasn't a good one and it took him a while to recover. It's gotten better in the last couple of years. One of the problems I think with that development is the way it is the way it proceeded. If you remember Maplewood went in four phases and it progressed from one into the other. When Gagnon Farms came along and wanted to extend Cherrywood, it went from where the neighborhood ended to Ridge Road. In hind sight it would have been better to continue along Cherrywood to Ridge Road but instead what they did is they came from Ridge Road and they did the first portion of Ridge Road and the cul-de-sac off of that portion and they are moving towards (inaudible) so people now are inhabited in what was completed and all construction; vehicles don't have to travel on the completed section causing construction impacts more than anyone wanted to have. For that to me is a problem but it's too late. If the developer didn't run into financial issues maybe it would have all been done within a few years, six or seven years ago and everyone would have been much better off. Nevertheless, a portion of Cherrywood was completed as well as the cul-de-sac off of that portion and the portion ends at the roundabout so the roundabout is not part of the acceptance.

Commissioner Bergeron

So you are talking about that unfinished roundabout by Medallion. So we are talking on this plan just this gray area is what we are accepting and that unfinished roundabout is not part of this.

Mr. Dookran

That's correct.

Commissioner Pappas

Was it all done by the same developer?

Mr. Dookran

Yes.

Commissioner Bergeron

At some point they will come to get a street acceptance of that.

Mr. Dookran

That's right.

Commissioner Bergeron

That first picture, it is a mess.

Inaudible dialogue from a member of the audience who did not approach the microphone.

Mr. Dookran

Regarding that, with some developers that would work but this developer said that it couldn't because he's got bond money tied up, hundreds of thousands dollars tied up in the pieces that he wants to be accepted so he can that bond released and reinvest that into the unfinished section. The city has a process after the streets are accepted the developer needs to post a maintenance bond for another two years for a much reduced amount so we would coverage for maintenance should we need it, we could use the bond to cover the maintenance. For the record, do we take the developer at his word that he can't afford to do the whole thing before acceptance, I don't know. I think the city has to be fair about this, how we apply for roads and what acceptance is. As long as it's a portion of a street that is completed and it meets all of the criteria for acceptance then we have to proceed and that's by law and if we don't the street, through natural traffic and construction traffic will continue to deteriorate and two years down the road let's say everything is ready for acceptance he may have to go back and reconstruct portions and that's what I am talking about fairness that comes into play here. Do we wait...for three years and then its three years older and damage caused by plowing and just natural use.

Commissioner Bergeron

So in these developments like this, the roundabout in the center strip, that is now part of what? Who is responsible for that center strip that's going down there?

Mr. Dookran

The median along the piece that is going to be accepted, that's within the right-of-way and in this case it is the city that would be responsible for maintaining that.

Commissioner Bergeron

Responsible for what, maintaining the curbing and what have you?

Mr. Dookran

Yes and the landscaping. There are developments in the city where the developer has made arrangements with the homeowners and the one that is mentioned in the minutes, in the development off of Ridge Road, there is a homeowner association grievance that will put that burden on the homeowners. They have formed an association and they will take on those common pieces within the right-of-way but that's not happening in this case.

Commissioner Bergeron

So the city will be responsible for maintaining the shrubs and landscaping on the median and those three roundabouts?

Mr. Dookran

Do you mean the cul-de-sacs?

Commissioner Bergeron

Yes, the cul-de-sacs on Moonstone, Tamara and Annabelle; we would be responsible for maintaining those shrubs and what have you?

Mr. Dookran

Yes.

Commissioner Bergeron

Have you seen the condition that they are in now?

Mr. Dookran

I have seen it but what we have found...as far as the condition goes, I think the developer has proposed that he use woodchips so it would essentially be maintenance free. The city doesn't have the resources to maintenance...what you find in most sub-divisions that have been established, the homeowners around the roundabout take care of them. We hope that in public works because I don't think that public works can take care of all of these. The developer has proposed these wood chips and hopefully that is maintenance free. As far as the latest residents want to pitch in and take care of them, I don't think the city will have a problem allowing them to do so. As I have mentioned, there are other developments that there is a homeowners association by agreement with the city.

Commissioner Pappas

My sense is, I mean a lot of people took a bath when we had that housing crunch but my sense from the neighborhood, from looking at the meeting minutes from Infrastructure is that they don't want us to accept it. I think if we accept it then it will take pressure off of the developer and I want to put his feet to the fire. I will not support accepting this as a public street because I think that this individual, this company, should be held accountable.

Commissioner Moriarty

Engineer Dookran, from your standpoint, the developer has met all of the city requirements regarding it for public use?

Mr. Dookran

At the time we accepted the petition to bring forward, everything public was a minor (inaudible) it may have been in acceptable condition. We sent out letters to the neighborhood welcoming input regarding the condition and we barely received anything and I can't remember how long ago. Upon not receiving any meaningful comments we forwarded the petitions to the Board. It took a while to get them to the Aldermen, to Infrastructure and now here. You might remember that we did bring this to the Board before but it's been a while. There are a few things now. We have had a drought, the grass has died, the trees have died and we know the developer will act on those but the basic infrastructure is the curbing, the pavement, the drainage and the sidewalks. They are all in good shape. I heard some comments about driveways; driveways are not within our purview. That's like having a crack in your house, we can't comment on that. They would have to deal with it through their warranty.

Director Fauteux

If we approve the acceptance of this section is there any way that we can force the developer then to do some additional work? Can it be a contingent approval so the people aren't left hanging?

Mr. Dookran

Right, I heard another comment about the unfinished part of Cherrywood and they have made some progress. Through personal intervention last year we got permit to rebuild that other part of Cherrywood. It was actually rebuilt from scratch. He didn't want to do it, he just wanted to overlay it and it was crumbling so we had him rebuild it from the bottom up. The curbing is in and it needs to be finished, it needs to be patched. The roundabout itself that everyone is talking about, that is delayed because they were proposing a plan that was approved by the Planning Board which included putting in cobblestone and we decided that would be a maintenance nightmare. There is a football traffic calming device down there and that was supposedly done with cobblestones and that's why we decided that cobblestones are not the right thing to do. We did some design changes recently and passed those changes onto the developer and I think their trouble is getting this curber to come in do all of that at the same time as they are doing the edge curbing. He recently said that his intention is to get the curbing into the roundabout and have that at least ready for better traffic management in the wintertime. We have seen some improvement. Regarding the future roads, I think they are making progress. The developer is working with the planning folks and getting permits and getting his occupancy certificates so he can release homes and so on. We don't get involved in that. We had done a developer's agreement years ago to hold the fire to his feet and that made some improvement. Regarding the public works part of this and the pieces that are ready for acceptance, I don't think we have any real problems right now with any of those pieces. If we do want to push them to the rest up the street to get them done more quickly we will have to work through the planning office because they are the ones who are actually in control of this development not public works. We just said that we would do the quality control and we tell the city when it is ready but we don't...

Director Fauteux

Isn't it the Board of Aldermen who has the ultimate authority on street acceptances?

Mr. Dookran

Yes, this is just a referral.

Director Fauteux

I just wanted to be clear on that. This Board is not the Board with authority.

Commissioner Bergeron

But for the record it was tabled at the Infrastructure Committee meeting and sent back to us.

Director Fauteux

Yes, they are looking for our input. I just wanted to make sure everyone knew that we don't have the authority.

Commissioner Pappas

I think the place is in deplorable condition and I can't vote to support this because I think it will put the person's feet to the favor more if we say no so I won't be able to support this.

Director Fauteux

The idea if we accept this portion that this is going to free up dollars so that the developer may be able to get some of this work done or...

Mr. Dookran

That's one of the reason's that the developer wanted...the kind of traffic that he sees through this street is not just Gagnon Farms but it's neighborhood traffic too and it will just continue to be damaged because of the through traffic and he doesn't want to be held responsible for the duration of the street.

Director Fauteux

Of course there is also a plan that was approved by the Planning Board so planning is not going to issue any certificates of occupancy unless there is a certain percentage that is completed so we have that assurance too.

Mr. Dookran

The development agreement moving forward; permits and so on, is contingent upon these portions of streets being accepted.

Commissioner Bergeron

I do know that on the new construction site that all of the developers will say that they don't get their money until phase 3 basically which are the last few homes in a development. Again, this is just a recommendation to the Board of Aldermen for the acceptance, we are not the final authority on it but maybe the residents are better off if we did accept it as a street and then any concerns that they had whether it is drainage or what have you, would be on us to look at the repair and curbing but I think a lot of the concerns that I read in the minutes was in regards to some of the landscaping and it might be a small matter but these are very expensive homes at \$500,000 plus and they have dead trees in their cul-de-sacs and it looks horrible.

Mr. Pareek

The residents in that are tried to do some landscaping and the developer came and took everything out and they haphazardly planted trees at the wrong time and they didn't grow. They came randomly from the middle of the summer and just sprayed some seed and just left. The idea that they do things it's like randomly and of course you can see that it looks like...I mean we have expensive homes, we are paying taxes but it doesn't look like a nice neighborhood. Regarding the driveway, actually I am not talking about the driveway. When they were redoing the sidewalks they dug up part of my driveway as they did for most of the residents in that area and then after they finished it, I don't know what they did but this crack showed up after that. There are some driveways that are very steep driveways so people have problems getting up to their garage, for example. These are real concerns I think they need to be resolved before anything is accepted or maybe have an agreement with the developer or the city or whoever is responsible so that the area looks better than what it has been for the last ten years.

Mr. Bommareddy

These are all premium houses and we pay for roads. He charged me \$30,000 plus.

Mr. Dookran

I will just add that there are developers that you work with and things go really smoothly. Asher Homes, we've had a lot of struggles with them, not just here but in other places and...

Commissioner Pappas

Is that the developer?

Mr. Dookran

Yes. It takes working with them and we've had other cases where we've been very tough at the city and the developer disappears, bond and all. I think we've made a lot of progress in the last few years and trying to accept these portions is probably important to continue making that progress. We will push him to get the street conditions, the ones that are complete as well as the ones need more work, to keep them in a decent condition so the neighbors are not affected as much as they are.

Commissioner Bergeron

I think the residents would be better off if we accepted these portions because again, we are only accepting the grey area on the map. I think the residents would be better off if the city did take this over and then any concerns you have would be coming to us as opposed to waiting for the developer because it sounds like you've been waiting a long time for some of these things. I think it would be good whether it's through the Ward Alderman or somebody to maybe have a neighborhood meeting and spell out a little bit who is responsible for what because I know that the woman who I spoke with said that the concern that they had which was very similar was who was doing what and it was never clear. Basically the residents in that cul-de-sac took over that and have a landscaping company and it looks beautiful. I agree that they are premium homes and I guess it wasn't clear on who is responsible for what and I think that's where the miscommunication comes in and again, my concern is that if we don't spell it out; I mean we can't certainly be taking on any more maintenance projects. It would be nice to come to some kind of an understanding with residents. I think if the residents go out and plant some trees and someone comes along and takes them out then that's certainly not cooperating, that's obviously one hand doesn't know what the other one is doing. I would recommend that it go to the Board of Aldermen.

Mr. Dookran

If there is any hesitation about taking over because there are issues that is not the right-of-way. We had an experience on Hydrangea Avenue just beyond where Cherrywood is; it hasn't been accepted and it's been around for 15 years and the reason is when it came to the Board for acceptance the neighbors showed up and complained about things that were outside of the right-of-way and the Board put in a road and since then the developer decided well I am petition the acceptance and nothing has happened since. If it's not a public street at some point in time it's going to deteriorate and I don't know who is going to repair the street but it's many years.

Commissioner Bergeron

So at some point it's better that we accept the street at the ten year mark or whatever it is.

Mr. Dookran

Yes, we can put it on our street list and attend to all of the problems that the street will eventually experience. I've listened to things that are outside of the right-of-way and we try to deal with them as well.

Commissioner Moriarty

I am just curious why before it came to this Board it wasn't already worked out in writing what the contingency is before we approve this and then he goes bye-bye and now all of the residents are not happy. Now it's an issue. I understand what you are saying that are far as the Board of Public Works and the Division of Public Works that he has met his criteria so we really have no reason to deny this but in the same respect I feel that the city does have the upper hand and could have held him to a contingency agreement in writing. Now you are going to go back to him and say now this is what we think we want you to do and he's going to say I have my approvals.

Commissioner Pappas

I think we can still vote no.

Commissioner Ackerman

Mr. Dookran, when we had a presentation at our last meeting on October 12th I was led to believe that this was a critical date for the Renaissance but then during tonight's meeting I hear that this is only a referral by this group in order to get it to move on to the Aldermen. Is there truly a critical reason why we must approve this tonight because they have a closing tomorrow?

Director Fauteux

That's not related to this, that's Bancroft Street which we will take up later.

Mr. Dookran

The issues that are not right-of-way, the city, meaning community development hold the developer responsible for certain things like deficiencies that develop within the driveway, I think it comes down to what is the city's responsibility. I believe that they purchase the house from the seller then it's between that owner and the seller like any private deal. So the warranty kicks in, the insurances kick in and so on. I believe that is where some of those issues lie.

- F. MOTION:** Commissioner Pappas to recommend to the Board of Aldermen the Acceptance of a portion of Cherrywood Drive (830 feet), Moonstone Court (510 feet), Annabelle Court (675 feet) and Tamora Court (380 feet) for Public Use and Maintenance in accordance with City Code 285-21 and 22.
- SECONDED:** Commissioner Ackerman

Discussion:

Commissioner Moriarty

Based on your experience with other developers and builders, your recommendation would be that we should proceed forward at this point in time based upon your experience and let the builder continue to work with the residents?

Mr. Dookran

Yes, that is my recommendation. It's not perfect but based on my experience I would recommend moving forward with accepting.

Commissioner Bergeron

I just feel that the residents will be better off if we accept the streets in the long run. Even with its problems I think they would be better having to come back to the different Boards of the city as opposed to continuing to kick the can with the developer, at least with this portion of it.

MOTION CARRIED: Majority, Pappas - Nay

Director Fauteux

I was wondering if we could go out of order and take up letter C under Administration as there are a few people that are here waiting for it?

MOTION: Commissioner Ackerman to go out of order and take up the approval of the Bancroft Street Maintenance Agreement.

SECONDED: Commissioner Moriarty

MOTION CARRIED: Unanimously

Administration

C. MOTION: Commissioner Pappas to approve the Bancroft Street Maintenance Agreement.

SECONDED: Commissioner

Discussion:

Attorney Andy Prolman, Prunier & Prolman

I am representing the developer, Renaissance of Nashua Limited Liability Company. Since the October 12th meeting I have provided a full plan set of the entire plan and portions which include the Bancroft Street and how it's going to be built and laid out, where the porous paving is in the parking areas and where the regular paving is. We are moving forward to closing although it may kick into next week but it is imminent and we hope to see ground being broken in the next two or three weeks. It's been a long time coming and we are hoping for your support.

Commissioner Bergeron

This is the agreement that we have that we had tabled at our special meeting because we had just received the contract that evening.

Commissioner Pappas

I think we were going to be asked to okay it sight unseen.

START AT 14:20

MOTION CARRIED:

- A. Motion:** To approve the use of DW Highway Traffic Mitigation funds in an amount not to exceed \$7,050, to have Electric Light Company, Inc., of Cape Neddick, ME excavate, repair and patch underground conduit at the intersections of DW Highway at Graham and DW Highway at Circumferential Highway. Funding will be through: Department: 160 Admin & Engineering; Fund: Trust; Account Category: 55 Other Services.

Commissioner's Comments

Commissioner Pappas

This is a general reminder for folks regarding soft yard waste. I think sometimes in the fall that folks tend to have more yard waste in areas where it's not crowded on the streets, some folks will go ahead and put their leaves out so it's just a reminder to sticklers on the street who might think that people shouldn't be putting their

soft yard waste out, I think the ordinance gives enough wiggle room that if it is not a problem with traffic that is allowed.

Commissioner Pappas motioned to adjourn.

Commissioner Ackerman seconded the motion.

Meeting adjourned at 7:47 p.m.