

**Board of Public Works Meeting
Meeting Minutes
April 25, 2019**

A meeting of the Board of Public Works was held on Thursday, April 25, 2019, at 5:30 p.m. in the Auditorium at City Hall, 229 Main Street, Nashua, NH 03060.

Mayor Donchess, Chair, declared the meeting to order at 5:30 p.m. and called the roll.

Members Present:

Mayor James Donchess, Chair
Commissioner Joel Ackerman, Vice Chair
Commissioner Tracy Pappas

Members not Present:

Commissioner Kevin S. Moriarty
Commissioner G. Frank Teas

Also Present:

Mr. Andrew Patrician, Assistant Director, Division of Public Works
Mr. Nicholas Caggiano, Superintendent of Parks & Recreation
Mr. Stephen Dookran, City Engineer
Alderman Ernest Jette, Aldermanic Liaison

MOTION: Commission Pappas made a motion to approve the agenda as presented.

MOTION CARRIED: Unanimously

Approval of Meeting Minutes – March 8, 2019

MOTION: Commissioner Pappas to approve the minutes from the Special Board of Public Works Meeting of March 8, 2019.

MOTION CARRIED: Unanimously

Approval of Meeting Minutes – March 28, 2019

MOTION: Commissioner Pappas to approve the minutes from the Board of Public Works Meeting of March 28, 2019.

MOTION CARRIED: Unanimously

Public Comment

There was none.

Parks & Recreation Department

A. MOTION: Commissioner Pappas made a motion to accept and place on file the 2018 Emerald Ash Borer information from the NH Division of Forest and Lands.

Discussion:

Mr. Nicholas Caggiano, Superintendent of Parks & Recreation

I just wanted to give you an update on the tree pest that has been invading from the Midwest to here. Sadly, I am here to report that Nashua has finally made the list. The Emerald Ash Borer is in the northwest quadrant of the city and will eventually take out all of the Ash trees. It started in Michigan and I've given you fact sheets before. They continue to work nationwide on different ways of control but it's very difficult and they haven't found anything. They are hoping a natural control will happen kind of like what happened to Gypsy moths in the '70s and early '80s. They overpopulated and created a natural bacteria that got them sick. They are looking into natural bacteria's that they can inoculate the trees with.

Mayor Donchess

What proportion of the trees do you think are Ash trees?

Mr. Caggiano

A lot of the Ash trees are near rivers and we have a lot of water so I would say a good 20% are Ash trees.

Commissioner Pappas

I know at one point we had a group of volunteers who kept track of city trees. Can you use that information even though it is outdated because it was done a number of years ago? My other question is if you are thinking they are near the rivers, do you have a sense of a way we might start replacing them.

Mr. Caggiano

Not yet. The state hasn't come out with a recovery method yet because they are still trying to come up with prevention. To answer your first question, we did do physical surveys and that technology is probably ten years old and now they do it by satellite, the same way they look at street parking and signs. The Forest Service has a really good idea of the percentage of the trees.

Commissioner Pappas

If we know we are going to lose a certain number of trees can we just start replanting other trees?

Mr. Caggiano

We could but we need to find the spots and they have to go through the “death process” which will probably occur over a five-year period. It might be a good idea to think about a replacement plan. We currently have a Chai tree account but I don’t think it would be able to fund the mass number of trees we would need but that’s a good idea.

Commissioner Pappas

So we would have to think of that in terms of our budgeting.

Mr. Caggiano

Yes, and I will keep you posted. This is a hot topic and I go to meetings and conferences so I will update you as I get more information.

Commissioner Ackerman

Are there any communities in the State of New Hampshire who are taking preventative measures?

Mr. Caggiano

The only preventative measure which is in place is both Fish & Game and DES are monitoring camp wood that comes out from other states. Right now there is a quarantine on Ash, it can’t be brought into the state because that is how it spreads.

Commissioner Ackerman

The Gypsy moth was very visible. Can residents of the City of Nashua notice anything very distinct?

Mr. Caggiano

You will see woodpeckers who will leave very large white sheets on the tree and that’s an indication that the Borer’s are in the tree. It is called blanding.

Mayor Donchess

Do the woodpeckers eat the Borers?

Mr. Caggiano

Yes.

Commissioner Ackerman

Other than the fact that the trees are going to die, is there any possible damage to properties?

Mr. Caggiano

No, other than the loss of timber. The big effect nationwide is to the baseball bat industry because bats are made of Ash or Maple. They are switching to Maple just because of this pest.

MOTION CARRIED: Unanimously
Engineering Department

A. MOTION: Commissioner Pappas to approve the Residential and Commercial Wastewater Service Permits and Fees as submitted.

MOTION CARRIED: Unanimously

B. MOTION: Commissioner Pappas to approve the purchase of manhole and catch basin castings from Concord Winwater Works Co. of Concord, NH, in the amount of \$194,866.40. Funding will be through: Department: 169 Wastewater; Fund: Wastewater; Activity: Sewer Structures.

Discussion:

Mr. Stephen Dookran, City Engineer

This is a typical addition to our paving program. We want to address all of the broken and obsolete structures, the catch basin grates, sewer and drain manhole covers. The wastewater fund will fund the replacements because it is a wastewater item. If the contractor purchased them and installed them it would be a lot more.

Commissioner Pappas

I was happy to see those savings.

Alderman Jette

These three bids are from companies that supply these items. Do they make them?

Mr. Dookran

No, they don't make them, they just market the products. Sometimes they are the same but they can also be from different manufacturers but they all meet the standard constructions specs.

Commissioner Ackerman

Do we recycle the old ones to reclaim them for any sort of cost savings to the City of Nashua?

Mr. Dookran

Yes, we recycle them and reuse. Those that are broken and not reusable are brought to the landfill and are placed in the metal heap. Those that have some kind of use are brought to the Wastewater Facility and where they can be reused in locations that may need to be changed. For instance, if they are obsolete and are of a unique size, the Wastewater Department may find a location where just the grade itself can be used but the frame would be disposed of. The triangular ones, which are very unique to just Nashua, the practice that we have had for many

years was to turn them over to the Historical Society and they auction them off and use the proceeds for their own needs.

MOTION CARRIED: Unanimously

C. MOTION: Commissioner Pappas to award the construction contract for the 2019 Pavement Preservation Program (Crack Sealing) to Sealcoating, Inc. of Braintree, MA, in an amount of \$143,865. Department: 160 Admin/Engineering; Fund: Bond; Activity: Paving.

Discussion:

Mr. Dookran

I will start by saying that we are trying to make crack sealing as a normal part of the preservation of the pavement as recommended by the study done in 2015. If we don't do this type of preservation or routine maintenance, our pavement will deteriorate much faster. A couple of years ago we did another preservation technique called micro-surfacing and we are not convinced that is the best way to go, although we may do more pilot testing on that. Crack sealing, which we did, has held up very well in the city. There are a lot of advantages to sealing new cracks. You reduce the amount of moisture that would enter the pavement, especially by freezing and thawing. As recommended in that study, if you do the crack sealing in a timely fashion, while the PCI (Pavement Condition Index) is still between 60 – 99. When you do that you are essentially giving life to the pavement. If you crack seal a road when it has a PCI of 75 it brings the PCI back up to into the '90s. The crack sealant itself will last about three years. According to the study, you can keep crack sealing every three years or so until the overall pavement is getting to a point where you need to mill and overlay. We are a little late getting out to this. It has been widely used by many communities. The State of New Hampshire has been doing very large programs on major highways. This year they have spent \$100 million on crack sealing on roads like 101 and I-89.

Commissioner Pappas

I want to clarify that we have never done that in the past and number two, what is micro-surface.

Mr. Dookran

We did three streets two years ago, part of Main Dunstable Road, Riverside Street and Beauview Avenue. Main Dunstable Road and Riverside Street have held up well. You can still see the cracks however the pavement surface will last. Beauview Avenue, on the other hand, was not a good selection because it was too far gone and they were having mechanical problems on the day they were applying the material.

Commissioner Pappas

Is significantly cheaper than mill & fill?

Mr. Dookran

Yes, it's a lot cheaper and you are promised a five-year increase in life when you do micro-surfacing so we are saving another three years for Riverside Street and the portion of Main Dunstable Road that was done.

Commissioner Pappas

Is this our first attempt at crack sealing?

Mr. Dookran

No, two years ago we did crack sealing as well.

Commissioner Ackerman

I think it's a great program. How does this \$143,000 this year compare to the dollar amount spent with the prior time we did the program and will it continue to cover the same distance which was approximately 31 miles.

Mr. Dookran

If we did it in two phases the total dollars were the same. We did streets like D.W. Highway, East Dunstable Road and a bunch of residential streets as well. I don't recall the exact mileage.

Commissioner Ackerman

Was this the contractor that did it the prior time?

Mr. Dookran

Yes, this is the one who won the contract back then.

Alderman Jette

Mr. Dookran, I forwarded you an e-mail I received from a constituent with a negative opinion of the program. Have you had a chance to review it? It sounds like from what you are saying that you have a completely different view than he does.

Mr. Dookran

I did review the e-mail and I did go by the gentleman's house, which was located on a street that was crack sealed two years ago and I did not notice any problems on that street, especially in front of his home so he must be talking about an experience he had in some other location while he was driving, not even in Nashua. Mr. Patrician can tell you that we have had one complaint from that experience two years ago about the stuff remaining tacky after a little while after it was applied. If you drive around and look at the streets that were done you can see that cracks have been tightened up. I think after two years I would say it was a success. That doesn't mean there would be an occasion when it might not have been applied or sanded properly and someone would have that kind of experience. For the most part, I think it's a good program.

The state's government, the Federal DOT uses it a lot on their big highways and that shows a lot of confidence in this technique.

MOTION CARRIED: Unanimously

D. MOTION: Commissioner Pappas to consider the hardship request from Michelle Rodriguez to excavate for installation of sewer, water and gas services for a proposed four-lot subdivision at 711 West Hollis Street approved by the Planning Board March 21, 2019.

Discussion:

Mr. Dookran

The applicants for the remaining four items are with regard to hardship for excavating within the moratorium.

Mr. Richard Maynard, Maynard & Paquette Engineering Associates

I am here representing the applicants at 711 West Hollis Street which has one existing house and four new houses proposed with a private common driveway servicing it. We are here to request permission to open up West Hollis Street, which I understand was part of the five-year moratorium but I'm not sure where we are in that moratorium. In this particular project, the existing sewer is in the centerline of West Hollis Street which is where we need to connect. The other utilities are right at the curb line on our side of West Hollis Street and those are minimal. The patch would be 40 feet curb to curb and 80 feet longitude on the road we are requesting. This project has gone through the Zoning Board and the Planning Board and provides some middle-income housing that we need in this community. To get sewer to it we have to interrupt the road.

Discussion:

Commissioner Ackerman

Assuming the Board does move forward and grants this exception, when would the work occur and what impact could it have to traffic in the area.

Mr. Maynard

It will definitely create some temporary detours and would probably take three to four days to install the line to the center line. It's a four-lane road so we can maintain traffic and we will still have the other two lanes for traffic going in either direction. The immediate impact would be three to four days and one other day in which they would do the final paving which would be weeks or months later depending on how everything progressed. We could stipulate that it would be outside of the peak travel hours which tend to be 7:00 a.m. – 8:00 a.m. and 4:00 p.m. – 5:00 p.m.

Commissioner Ackerman

Is 711 West Hollis Street near Fotene's Market?

Mr. Maynard

Yes, it is right next door.

Commissioner Ackerman

You commented it was a four-lane road.

Mr. Maynard

In width, it's not four driving lanes but it's four lanes in width because there is a center turn left and things like that. It's 40-foot wide curb to curb.

Commissioner Ackerman

There's only an eastbound and westbound lane on each side with the turning lane.

Mayor Donchess

We have four of these requests and we are spending millions of dollars paving the streets every year. The next three are on smaller streets and they seem to be mandated by state law in the sense that there have been gas leaks detected. The state law requires that gas leaks be fixed within one year. They are calling them a grade one or a grade two gas leak. West Hollis Street is a very heavily traveled street. I don't know about the other Commissioners but I have had a lot of complaints about the condition of the street. Here we are, we spent I don't even know how much money on West Hollis Street, it's heavily traveled and we are going to compromise the quality of the street two years before the moratorium is up. It was paved on September 21, 2016. So we are talking 2 ¼ years early.

Mr. Maynard

This is an observation as a Professional Engineer who has lived in Nashua all my life. Part of our problems with our roads and with utility company's cutting into the roads, the job they do in replacing the patch and compacting the trench is poor. Soil compaction is supposed to be done in 6-foot lifts. In this particular case, there is going to be an independent inspection of the project which will be paid for by the developer under the direction of the City Engineer's office and therefore, the quality of work should be significantly better, if not ideal. If you do it right then it doesn't cause a problem. If you don't force the contractors to do it right then you will have a problem.

The next point I want to make, not to quibble, is what's the difference between two years and five years.

Mayor Donchess

The difference is five years.

Mr. Maynard

But it's not like you just paved it and then opening it up. We have a housing market that is in need of moderately priced homes. This is the only way to service the project. These longtime Nashuan's will not be able to develop their land so all I can tell you is it should be better than normal or what you have seen elsewhere that causes you to be concerned.

Mayor Donchess

Does the City Engineer have an opinion on this? Can this be patched in a way that it would be the equivalent with what we started with before the project began?

Mr. Dookran

This is what we have discussed not too long ago. What is happening to our patches? As I presented at one meeting, our study has shown that patched pavement does deteriorate faster than if it wasn't cut into. Even though our restoration standards are tougher than other communities, I think Mr. Maynard is correct in that some of the trenches done by utility companies are not done properly and we are not getting the proper compaction. That is because our ability to inspect the patches is limited by the lack of personnel. There may be a way to get it back to exactly the way it was when it was a brand-new street, you might be able to but that would mean making our already strict restorations standards even stricter. I can't give you a good answer.

Commissioner Pappas

I have been pretty consistent regarding this. We are asking the citizens of Nashua to fund a lot of money in paving and we are doing it by bonding and paving is something that deteriorates in value pretty quickly. If someone had a gas main break or their sewer broke, I would consider that a hardship. I think we have the five-year moratorium in place for a reason and even though we do have stricter patching standards, clearly it has been an issue in the condition of our roads. I think the Board of Public Works; the Board of Aldermen and the Mayor have shown a commitment to wanting to get our roads up to par. I think granting hardships that aren't really hardships is something that I am not willing to do.

Alderman Jette

I have long been an advocate of enforcing the city ordinances and this ordinance says that "construction shall not be permitted on any street paved within the last five years except for emergency or hardship purposes and only if the conditions that follow are met." I don't have a vote on this matter but I would encourage you to consider whether or not the conditions are met. I don't think there is an emergency but is their hardship. I would be interested in what the applicant feels the hardship is. It's only if you find there is a hardship that merits violating the moratorium and the requirements as to how the patch is constructed are met. If Mr. Maynard says that patches that other people are doing are not being properly put in then that's another issue which

falls to the Engineering Department to police it and not approve it if it's not done properly. I think the threshold that has to be met first is what is the hardship.

Mr. Gil DuBray

I live right next door to the property. My parents grew up there and we've been there for forever. As things were happening and everyone was trying to cut into the street, my aunt had just died. We were going to list the property but we decided to wait a little bit and do a little bit better than the \$100,000 we could have gotten for it at the time. Having lived on the street all of this time I have seen a lot of patches put in and you are correct, if the patch is put in poorly then there is a bang when you hit it and it's annoying. Having seen patches put it that was perfectly was like a brand-new street. We have been sitting on this for a long time and we need to move it along. We are just middle-class folks who are just trying to do our best and we don't want to sit on another two years to get a waiver so I guess we would just have to sell it for significantly less money without the waiver. I don't know if that qualifies for a hardship or not.

Mr. Maynard

The property in question is a 1.42-acre lot which the family has held for the last few years and Mr. Dubray is one of the owners of the property. The only way this property can be upgraded and properly utilized is for a sewer connection to allow the development to have four new homes. That is a hardship when people are not allowed to use their property as the zoning and planning regulations allow.

Mr. Dookran doesn't have a ton of staff to police all the excavations that occur in this community, however, a special stipulation of this particular approval is that the applicant, who is the property owner, shall engage the services of a private, third-party engineer selected by the City Engineer's office to inspect and certify that the project has been constructed properly. In that regard, this is somewhat unusual because this kind of approval has only been recently adopted. I think this is the second project where they put that stipulation in for private, third-party engineering firms to provide inspection services because for whatever the reason, the City Engineer's office is overwhelmed with that kind of work.

Mayor Donchess

Are you the third-party engineer?

Mr. Maynard

Yes, this is a new idea that a couple of people on the Planning Board have been lobbying for the last several months. They want third-party, private engineers to be inspecting particular projects. Not every project but projects of particular magnitude or complication. This is a site plan with four homes and not a subdivision with one home being constructed on a lot, there is road construction and drainage involved. There will also be a new driveway going onto West Hollis Street. Although it is not overly complicated, it has a lot of items that need to be properly and normally the City Engineer's office would have an inspector on the job periodically but they don't have enough staffing and can't handle these things sometimes. This was an idea of the Planning Boards in the hopes that these projects are done better. Part of the problem is we have the full gamut of

contractors out there from the ones you see year after year who tend to do a quality job and then we have the run of the mills from out of town and they do sloppy jobs and cut corners.

Mayor Donchess

Have you selected the contractor in this case?

Mr. Maynard

No, we have not but one of the leading candidates is Jennings Construction and they have worked in the City of Nashua for 30 or 40 years. They are recognized as a quality contractor. More importantly, are the third-party inspections by a licensed engineer. The other complication is if the property owners are not allowed to develop their property then they will be doing an abatement for their taxes because you have precluded them from doing anything for several years and that's a messy situation. Theoretically, if the project was approved, their tax assessment would go way up but if they can't do the project and they had to go back to the Board in two years to get an approval, in that interim period, we essentially have a property of minimal value.

I am reasonably confident with a third-party inspection that the replacement patch will be every bit as good as what is out there now. Again, whether we allow them to do it now or in a few more years when the moratorium is up it's not going to change the quality of the road as long as it's done properly and is inspected on a regular basis. As part of my engineering background, I was a Field Inspector and enforced these kinds of things and I know the difference between "shotty" work and good work. I see it all the time, you can't throw 2-feet of dirt in a trench and expect it to compact. It has to be in 6-inch layers and each layer compacted.

Mayor Donchess

One problem we are faced with is this is not a street with one hundred cars driving on it per day, there are tens of thousands.

Mr. Maynard

I understand that.

Mayor Donchess

Would you be willing to meet with the City Engineer and Mr. Patrician? Have you met with the City Engineer about this?

Mr. Maynard

Not about this particular issue but in general we have talked about it.

Commissioner Pappas

I was going to make a motion to deny because I don't think the hardship was met.

Mayor Donchess

Would you be willing to meet with the City Engineer and Mr. Patrician and discuss in detail how you intend to patch the street? You will need to convince them that you will be able to do this that will preserve the quality of the street substantially as it currently exists.

Mr. Maynard

Yes, of course. Is that a prerequisite before the Board votes, is that what you are suggesting?

Mayor Donchess

Yes, that is what I am suggesting.

Mr. Maynard

I think that is reasonable.

MOTION: Commissioner Pappas to deny the request.

Discussion:

Commissioner Ackerman

Mr. Mayor, I like your approach of having a conversation with the third-party engineer and I hope, our past conversations regarding the degradation of the pavement program and the sliding scales that the Engineering Department will have inspectors in place soon. I think we are going to see more and more request to cut into pavement moving forward.

Mayor Donchess

I am going to vote against the motion to deny but I will not vote to grant the request at this point because I want to hear what the result of the meeting with Mr. Dookran and Mr. Patrician.

MOTION FAILED: 1 – 2 (Yay: Pappas - Nay: Donchess & Ackerman)

MOTION: Commissioner Ackerman to table the request pending the meeting between Mr. Maynard, Mr. Dookran and Mr. Patrician regarding the potential restoration of the patch.

MOTION CARRIED: 2 – 1 (Yay: Donchess & Ackerman - Nay: Pappas)

E. MOTION: Commissioner Pappas to consider the hardship request from Liberty Utilities to excavate for installation of replacement gas lines on Burke Street which has a 5-year moratorium.

Discussion:

Commissioner Ackerman

In speaking with some of the other people involved with the Board of Public Works Commissioners and the Assistant Director, we are obviously paving quite a bit of streets and as I understand it, many of these programs....I have been on the receiving end of a gas leak and it creates a lot of anxiety. It sounds like there is a state law which says you have to address it within twelve months.

Mr. Brian Frost, Gas Engineer, Liberty Utilities

There are state and federal pipeline laws and Liberty's own internal operating procedures and practices are that we grade each leak based on the risk to the public and structures and repair it. The leaks which represent an immediate hazard to the public or to a building are repaired immediately. The leaks which represent potential hazards are monitored and repaired within six months or within the same calendar year. Leaks that do not represent a hazard are monitored and repaired and we have a metrics that we have agreed to with the state to minimize those and repair them on an on-going basis.

Commissioner Pappas

I am concerned about our roads but I think there is a difference between a gas leak and someone wanting to get every last dime they can squeeze out of a property. I approve of going into the road to fix the gas leaks. I understand that sometimes even if it isn't a leak if we have a newer road, if there are some tie-ins, I fully understand that utilities might need access to the road. Certainly, no one wants to deal with the horror of a gas explosion.

Mr. Frost

With regard to item E, we have been working with the City Engineer's office to replace the aging infrastructure before paving is completed to minimize future leaks later and the disturbance of pavement. Burke Street was paved a few years ago and the pipe there has been replaced but the piping on Allds Street has not been. The city is proposing to pave Allds Street so we need to make that connection within 20-feet at the seam. Unlike the characterizations made earlier, our work is inspected by the City Engineer's office and our internal policies and field practices use compaction equipment on the trenches and 6-inch lifts. We don't dump 2 feet buckets of soil and we do periodic dynamic cone penetrator testing of our trenches in agreement with Mr. Dookran's office to check for compaction results before repaving and final restoration. This is similar to what we did on Concord Street before we replaced the pipes in advance of the city's paving.

Mayor Donchess

In the first instance on Burke Street, you are trying to make the connection between Burke and Allds.

Mr. Frost

Yes.

Mayor Donchess

The subsequent ones are ones that you have actually encountered leaks where you want to go in and fix them so they don't develop into something more serious.

Mr. Frost

With regard to motion F, it says it is after-the-fact. Liberty Utilities leak surveys every street before the city paves and then repairs any leaks but we also, every winter, continuously drive the city while frost is on the ground. You might have heard how water main breaks occur during the winter because of frost. That is possible with any underground pipe including gas. Liberty has a program where we have vehicles driving the city every day during the winter to look for any leaks. The leak on Shasta Court was a grade one leak which means once we found it, we determined it presented an immediate, hazardous condition so it was repaired immediately. The other leaks for item G are grade two leaks that will need to be repaired this summer but they were found during a winter patrol.

Commissioner Pappas

I have noticed that Liberty Utilities does a good job with the contractors that they hire. In difficult traffic situations, I think they also do a good job of trying to keep the traffic moving at a safe rate. I would hope that others would follow their lead.

Mr. Frost

Thank you, Commissioner Pappas, Mr. Dookran's office also helps us immensely with input to the traffic plans.

Commissioner Ackerman

In the past, Mr. Dookran has reassured the Board that the utility companies must do a good job at working with his office. I was curious, is Liberty Utilities was specifically looking at our 2019 paving program to make sure there are no class two leaks on any of those locations.

Mr. Frost

Yes, before any paving occurs the City Engineer's office relays a list of the streets for the summer paving and we are currently out in the field leak surveying. We do a walking survey so it's an exhaustive type of search and we will repair any leaks before it's repaved.

MOTION CARRIED: Unanimously

F. MOTION: Commissioner Pappas to consider the after-the-fact hardship request from Liberty Utilities for excavation to repair a Grade 1 leak in Shasta Court which has a 5-year moratorium.

MOTION CARRIED: Unanimously

G. MOTION: Commissioner Pappas to consider the hardship request from Liberty Utilities for excavation to repair four Grade 2 leaks located at 16 Shelly Drive, 23 White Plains Drive, 60 Cox Street, 8 Chapman, and Shakespeare Road and 122 Lille Street.

MOTION CARRIED: Unanimously

Wastewater Department

A. MOTION: Commissioner Pappas to approve the User Warrants as presented.

MOTION CARRIED: Unanimously

Administration

A. MOTION: Commissioner Pappas to accept and place on file the March 20, 2019, Budget Transfers

MOTION CARRIED: Unanimously

B. MOTION: Commissioner Pappas to approve the Fence and Wall Permit Application as presented.

Discussion:

Commissioner Pappas

I think the application is a great idea but my question is do we do it for every single fence. Is it just for new fences or do we have some sort of a guideline as to how far off from the road it has to be or does everyone have to fill out a fence application?

Mayor Donchess

I think it is just the fences along the right-of-way or could potentially be in the right-of-way.

Commissioner Pappas

There are different right-of-way's in different areas of the city. I remember asking whether it was 8 feet or 10 feet or 20 feet and I got an answer that it really varies from place to place.

Mr. Andrew Patrician, Assistant Director, Division of Public Works

Now that we are going to get into these applications we are going to be going out and checking the area to make sure they are putting it in the right place. Isn't that correct Mr. Dookran?

Mr. Dookran

I would like to say yes to that but there is an existing ordinance that requires anyone putting in a fence adjacent to a public street needs to check with the City Engineers office to demonstrate that they are putting the fence or wall in the right location which meets on their property. That exists today, however, it is not well-known to the public and the permit is not going to be beefing

up that requirement. It would be a mammoth task to go out every time and do a survey to determine the bounds because sometimes those things don't exist and there is research that needs to be done. I think we can reasonably show where the right-of-way is. We will probably lean on the side of caution where it will be on the private property rather than risk it being in the right-of-way.

Commissioner Pappas

Let's say someone has a sidewalk in front of the street, can we say as a general rule it has to be "X" number of feet from a sidewalk? Sometimes you have more grass in front of the sidewalk. I hate to get into the weeds but we kind of have to.

Mr. Dookran

There are rules of thumb but there is more investigation that has to be done every time. Generally, the back of the sidewalk is where the right-of-way line is.

Mayor Donchess

But not always.

Mr. Dookran

That's correct, not always and that's why additional checking will be necessary. In the older part of the city, the old residential streets were about 40 to 45 feet wide and several were placed such that the back is the right-of-way land. The newer subdivisions, the right-of-way width is 50 feet and push to have the sidewalk at the right-of-way line. There are places where there are no sidewalks and you have a sidewalk being built and you put it in a location of convenience to avoid a fence, shrubbery or light poles and those are the locations you really want to check to make sure it's in the right location.

Commissioner Pappas

Are we going to let the fence companies know?

Mr. Dookran

The intention is to first get to the fence companies who do work here to make sure that they know there is a permit requirement but we also definitely have to reach out to homeowners because some people do their own work.

Mr. Patrician

I would like to point out that the Legal Department just changed some of the wording. The Board did approve this fence application a while back.

Mr. Dookran

I wanted to point out that the Mayor mentioned that this permit only talked about fences adjacent to a roadway but it includes others as well. When a fence is not going to be adjacent to the right-of-way, the Building Department has to get involved because the public works will only have jurisdiction along the roadway. The form does talk about fences on the side or the rear as well.

Mayor Donchess

A fence that is not adjacent to a roadway, if it's no more than 6-feet tall, it doesn't require a building permit.

Mr. Dookran

It doesn't but the form was constructed such that it does ask for fences other than the frontage. If the intention was only for frontage fences then maybe the form has to be further modified. By that, I mean frontage fences as well as fences that are over 6 feet.

Commissioner Pappas

I think you need a variance for something over 6 feet.

Mayor Donchess

Yes, if you are not adjacent to a street.

Commissioner Ackerman

If I recall correctly this was an attempt to ensure that we longer had situations that occurred similar to what we have seen over the last six months come before the Board. I think this is a fine approach to this and I think Engineering Department will very quickly be able to see where the applicant wants to place the structure and I think it's a great way to protect the city, the residents and people that are traffic. I see no longer to delay for this particular piece of the puzzle.

MOTION CARRIED: Unanimously

C. Director's Report

Mr. Patrician

Due to Director Fauteux not being present at this meeting there will be no Director's Report but she will present a report at the next meeting.

Commissioner's Comments

Commissioner Pappas

Ten years ago after I was inaugurated I remember someone coming up to me who was a private citizen and said “so, just so you know, the deal is that Conway Arena would really like to have another sheet of ice and it would seem to work out well since we are kind of overgrowing the Street Department building and it would be convenient to have everyone centrally located.” I didn’t think much of it because a lot of times we make plans and those plans don’t happen.

A couple of years after that the city had purchased some abutting homes near the landfill and the argument was made from area residents that “we have all of those trucks” and I think there was a great amount of angst from folks in that area when we purchased those homes. I think they were set on fire by the fire department. There was a lot of upset and not knowing what was going on. I can’t remember if it was required in the legislation or part of the purchase & sales agreement that folks were promised that we wouldn’t have a city building put up there.

Mayor Donchess

I think it was in the legislation.

Commissioner Pappas

I know when the city purchased the property on Burke Street, part of my upset in considering that was I didn’t think that residents had really been informed. I understand when we were going through the purchase process, we really couldn’t make it public but I really think if we start making plans...I think before any money is spent that we should really let residents know, not just area residents but residents in general.

It sounds really strange but I thought of this on Earth Day. My kids wanted to go through a whole day of not creating any trash and I started to think that sometimes I have concerns that we might just be tossing building away. I would like to see us, before we make any moves to number one, include the public and number two, think outside of the box solutions. I think it was a really interesting concept to put a second-floor onto the Street Department. It’s unfortunate how that area we were kind of put in a box by another administration’s decision. To have given away the land to the Y would seem like a good idea but when you think of...that’s a big chunk of land. I think Stello’s is very well placed, I understand that. Since we have all that stuff there and then the skateboard park. I would like us to come up with really inclusive plans as we move forward. It may not be ideal to not be centrally located but I would argue the upside to not being centrally located is that then not one area of the city gets stuck with all kinds of traffic which have always been a concern of mine. I also was thinking of the police department. I know the Police Commission was in front of the Board of Aldermen and they were looking at getting a ventilation system which was not a cheap fix. I think that sometimes we take a back seat and almost act like we are second-class to other divisions like maybe we don’t deserve a new ventilation system. Quite honestly, which is worse, the facilities at Greeley Park or the ones at the Street Department. My guess is Greeley Park and I think they would be condemned if the city didn’t own them. I hope moving forward when we are coming up with solutions that we can be inclusive and really listen to each other and to the public in general and try to be cognizant whether you live in an area that’s all residential or an area that’s commercial, these are peoples homes and we need to be sensitive to that. I think we also need to be sensitive to the fact that we are not doing ourselves any favors, as a division, by just saying it’s okay, we’ll just wait.

When you don't upkeep your home it turns into trash. I hope we can move forward with an open mind.

Commissioner Ackerman

I had sent an e-mail to Director Fauteux earlier today about a residential inquiry regarding a particular street, Beard Street, which was reconstructed and paved in 2018 and it's getting repaved again when Auburn Street got ripped up three times and is a mess with potholes today.

Mr. Dookran

Beard Street got its base paving because we had sewer and utility work and what is proposed this year is final paving. It is not being repaved it's just finishing the job. The adjacent street which is Auburn Street has a low condition index. It had some gas work done and that's what why it was ripped up. The gas work is done and we have some old sewers that are suspect so we are doing an investigation on the sewers and we are also coordinating with Pennichuck as to any required water work before it gets on the paving list.

Alderman Jette

I would like to talk about the hardship request at 711 West Hollis Street. I want to point to the Commissioners, and forgive me for being so bold but it is regulated by ordinance and I think at your instigation the ordinance was passed by the Board of Aldermen imposing the five-year moratorium because of the problem that we have experienced in the past regarding paving streets and then ripping them up a short time afterward and that no patch is perfect and there is a deterioration that occurs. The ordinance was passed to try to alleviate that problem. The petitions that you had before you tonight, they all refer to §285-13(A) but it's actually §285-13(G) that talks about the so-called emergency or hardship exception. Section G states "the construction shall not be permitted on any street paved within the past five years, except for emergency or hardship purposes only." Number one, there is no construction allowed within five years except for an emergency. There were some gas leaks and that sounds like an emergency to me. They are labeled as a hardship request but they shouldn't be because it's really an emergency request. There was no emergency involved with the other one, it's just a hardship. Before you start talking about the quality of the patch and suggesting that the applicant can meet with the Engineer and come up with a higher quality patch, you are jumping ahead of the requirement that you first find there is a hardship. I don't know if you felt there was a hardship expressed, that's within your own discretion but I think it's a mistake to say to applicants that you can meet with the City Engineer and see if you can come up with a plan for a better patch. I think that's inviting future applicants to say we don't have an emergency and we really don't have a hardship except we would like to maximize the potential profit that we get from the property. We are going to offer you a deal here, we are going to make you a super patch and allay your concerns. I think that's a slippery slope. I think if you want the city to say instead of a five-year moratorium, we will allow you to do new construction on newly paved roads, if you meet certain standards of patchwork then we ought to change the ordinance to say that. As long as the ordinance says no, you can't excavate on newly paved property within five years then that's what it ought to be unless there is an emergency or a hardship. There is no definition of hardship in this ordinance but there are plenty of definitions of hardship in the zoning ordinances.

Mayor Donchess

I think a lot of times when the ZBA finds hardship, I don't see it but I saw this as a borderline hardship. I haven't decided to actually grant this. Maybe we are leading people down the primrose path that we are not going to but you are arguing that there isn't a hardship and therefore a super patch doesn't fulfill the ordinance and maybe you are right. I asked the Assistant Director if he felt was confident that they could restore it to the current condition and he said they might be able to. At that point, it seemed to be a reasonable course but maybe you are right. It's also a very heavily traveled street so we should be careful.

Alderman Jette

We are facing the possibility that Pepperell is going to license one of their quarries to be a place where fill can be deposited from all over the state of Massachusetts. They are talking about these super large dump trucks at the rate of as many of ten or more per hour going down that street.

Mayor Donchess

I think that is going to be turned down.

Alderman Jette

I hope it is turned down but we have no control over that because it's within the Massachusetts Department of Environmental Services. Even without that, this is on the road to the landfill and there are heavy trucks that are going to the landfill every day and the road gets a beating.

Mr. Dookran

Alderman Jette has pointed out that the Board has the responsibility of determining whether it is a hardship or not and the burden of proof of that hardship is on the applicant. I think hardship is subjective in most cases. At the next Board meeting, you will see another request from a major development that's been planned in the city and they want to cut to put utilities in the street that was paved just last year.

Mayor Donchess

What street?

Mr. Dookran

Temple Street. Therefore, we have to be consistent. I think the Board will likely deny that because of the significance of that development.

Mayor Donchess

Do you know what the address?

Mr. Dookran

It's 78, the Corriveau-Routhier property. I was at a planning meeting today and I cautioned them by telling them that they had to go before the Board of Public Works and request a waiver to cut into the street before you go too far down the road.

Mayor Donchess

Thank you for the heads up.

Commissioner Pappas

I would just concur with the City Engineer and Alderman Jette, I do think these rules are in place for a reason and I think we have been far too generous with granting hardships. Other than gas leaks, I think the only other time I have voted for a hardship was when there was something like three months left on the five-year moratorium and I thought the citizens of Nashua would be better off if the side to side patch was done. Mayor, I think it's really great that you have made the commitment of funds to pave the roads and while I understand wanting to get every last dime you can from a property but I think it's the Nashua residents and taxpayers who get stuck holding the bag because every time you cut into a road it weakens the road. I think we are going down a slippery slope and I hope we can get stricter with our rules.

Commissioner Ackerman

I thought we addressed the degradation of pavement through the subcommittee and the additional scaling fee would cover the cost of that. To Alderman Jette's point, if a change in the ordinance was required one of the things I was thinking during Richard Maynard's commentary was that perhaps a thought process of if we do allow this, is to have the residents or the developer put a bond up to ensure that the road would maintain itself five years later and then they can get the money back provided it doesn't need additional maintenance. It might be a win-win approach, it's just a thought.

Alderman Jette

When was Temple Street paved and when would the moratorium expire?

Mr. Dookran

It was paved last year so there are at least 4 ½ years left and it seems that the developer wants to get all of the approvals this year so they can start construction. They are some major residential buildings that they are planning.

Personnel

A. MOTION: Commissioner Ackerman to accept the resignation of Andrew Carlino effective April 14, 2019.

MOTION CARRIED: Unanimously

B. MOTION: Commissioner Ackerman to unseal the non-public minutes for Personnel from the Board of Public Works meeting of March 28, 2019.

MOTION CARRIED: Unanimously

MOTION: Commissioner Ackerman moved by roll call that the Board of Public Works go into non-public session pursuant to RSA:91-A (3) §IIB, the hiring of any person as a public employee.

A Viva Voce Roll Call was taken, which resulted as follows:

Yea: Mayor Donchess, Commissioner Ackerman & Commissioner Pappas 3

Nay: 0

MOTION CARRIED: Unanimously

MOTION: Commissioner Ackerman to come out of non-public session.

A Viva Voce Roll Call was taken, which resulted as follows:

Yea: Mayor Donchess, Commissioner Ackerman & Commissioner Pappas 3

Nay: 0

MOTION CARRIED: Unanimously

MOTION: Commissioner Ackerman moved by roll call to seal the minutes of the Board of Public Works non-public session of April 25, 2019, until such time as the majority of the Board votes that the purpose of the confidentiality would no longer be served.

A Viva Voce Roll Call was taken, which resulted as follows:

Yea: Mayor Donchess, Commissioner Ackerman & Commissioner Pappas 3

Nay: 0

MOTION CARRIED: Unanimously

Adjournment

Commissioner Ackerman made a motion to adjourn.

MOTION CARRIED: Unanimously

Meeting adjourned at 7:12 p.m.