

COMMITTEE ON BILLS ON SECOND READING

December 5, 2023 at 5:45 PM

Chairman Gamache called the meeting to order.

The Clerk called the roll.

Present: Aldermen Gamache, T. Sapienza, Fajardo, E. Sapienza

Absent: Alderman George-Kelly

Messrs.: J. Belanger, P. Chiesa

1. Ordinance Amendment:

“Amending Chapter 38: Procurement Code of the Code of Ordinances of the City of Manchester by adding additional requirements during the prequalification of bidders associated with the procurement of City construction contracts.”

(Note: Communication from the President of Associated Builders & Contractors recommending some changes is attached.)

*On motion of **Alderman T. Sapienza**, duly seconded by **Alderman Fajardo**, it was voted that the Ordinance Amendment ought to pass and be referred to the Committee on Accounts, Enrollment & Revenue Administration.*

2. “An Ordinance amending the Zoning Ordinance, Chapter 155 of the City of Manchester Code of Ordinances, to provide reasonable accommodations to disabled persons by defining “disability” and adopting RSA 674:33, V.”

Alderman Fajardo stated I want to be sure that the language is appropriate. I reached out to the Director of Policy and Planning at the Council for Developmental Disabilities up in Concord and got guidance that the only thing to consider amending is to simply remove the word handicap. That is no longer considered best practice when describing somebody with a disability.

Alderman E. Sapienza asked what would we be replacing it with.

Alderman Fajardo responded nothing. It says disability and handicap.

Alderman T. Sapienza asked are you sure handicap people aren’t going to come in and complain that we removed it.

Alderman Fajardo answered I hope not.

Jeff Belanger, Planning & Community Development Director, stated I appreciate you looking into that and making sure we are wording things the right way. For your awareness, the language we used for that definition comes directly from federal law. It comes from the Americans With Disabilities Act. It uses the word disability and the Fair Housing Act uses the word handicap. What we are trying to do is make sure that legal language is incorporated into the ordinance.

Alderman Fajardo stated I was aware of that based on what you provided in the packet. I guess it is a judgement call in this room to decide if we want to adopt language that we know is outdated despite what others are using. I see your logic around wanting to be explicit in covering it. What was the housing one?

Mr. Belanger stated the Fair Housing Act. We could work this out with the Solicitor's Office. We could potentially make reference to the Fair Housing Act and not use the word. The main definition as you probably saw from the language is using the word disability and we are just putting the word handicap elsewhere in the ordinance. For anyone who wants to find out about the word handicap please see our definition of disability. So, it is kind of the secondary thing. There is not a lot of attention called to it.

Alderman Fajardo replied then it wouldn't be too impractical to see it come out.

Mr. Belanger responded no but like I said maybe the Solicitor's Office can weigh in. We want to make sure we are consistent with federal law.

Peter Chiesa, Deputy City Solicitor, stated we are just parroting what is laid out in the statutory framework.

Alderman Fajardo stated I understand that. I think there are a lot of things that are written that are considerably outdated or not necessarily informed by what we might consider being appropriate in the current day. If we could push to reference the specific act that could be a replacement.

Mr. Chiesa asked if we could reference what act.

Alderman Fajardo answered the Fair Housing Act.

Mr. Belanger stated we would need to use the word handicap somewhere in as discreet a way as possible. That specific word is specifically defined in the FHA and that is crucial for this reasonable accommodation process that we are trying to setup here. I would lean in favor of keeping it in, but I get where you are coming from. If necessary, we can work around it.

Alderman T. Sapienza stated leaving the word in makes it more inclusive, not less.

Alderman Fajardo stated it is not a question of inclusivity in this scenario. It is more about using the current language that is considered appropriate.

Alderman T. Sapienza stated we are using both.

Alderman Fajardo asked avoiding language that is considered no longer within the best practice. There are several scenarios throughout all of our city documentation where we are saying things that might be phrased differently if they were written today, and since we have the opportunity to think about this as we write things today, I wanted to raise it.

Mr. Chiesa stated I would point out that this wouldn't be the last vote on the matter. It has to go back to the BMA and there is going to be a public hearing. I can also make

outside counsel available to meet with you and the other aldermen and explain the reasoning for the words that are proposed.

Alderman Fajardo stated I don't know if we need to do that. I understand. I don't need it explained. I think it is a point of view. Perhaps I could suggest that I am willing to let it move forward but in the next committee, if I do more homework, I can flag it there.

*On motion of **Alderman E. Sapienza**, duly seconded by **Alderman Fajardo**, it was voted that the Ordinance Amendment ought to pass and be referred to the Committee on Accounts, Enrollment & Revenue Administration.*

*There being no further business, on motion of **Alderman T. Sapienza**, duly seconded by **Alderman E. Sapienza**, it was voted to adjourn.*

A True Record. Attest.

A handwritten signature in black ink, appearing to read "Matthew Normand". The signature is fluid and cursive, with a long horizontal stroke at the end.

Clerk of Committee