

A regular meeting of the Board of Aldermen was held Tuesday, June 14, 2016, at 7:30 p.m. in the Aldermanic Chamber.

President Brian S. McCarthy presided; City Clerk Patricia D. Piecuch recorded.

Prayer was offered by City Clerk Patricia D. Piecuch; Nashua Veterans led in the Pledge to the Flag; followed by the singing of the National Anthem by Alan St. Louis.

**President McCarthy**

**Before I ask the Clerk to take the roll, Alderman Moriarty is participating by telephone and under the terms of the state law that allows him to do that, he needs to explain why he can't attend, if he can hear us, and who he is with, if anyone.**

Alderman Moriarty stated the reason he could not attend, confirmed that he could hear the proceedings and stated who was present with him.

**President McCarthy**

**Acknowledged that those present could hear Alderman Moriarty as well.**

The roll call was taken with 13 members of the Board of Aldermen present; Alderman-at-Large Daniel T. Moriarty was not in attendance but participated in the meeting via telecommunication; Alderman-at-Large Mark S. Cookson and Alderman-at-Large David W. Deane were recorded absent.

Mayor James W. Donchess and Corporation Counsel Steven A. Bolton were also present.

**President McCarthy**

**Before we begin I am going to recognize Alderman Wilshire to make a motion so we can accept procedural motions without the roll call vote.**

**MOTION BY ALDERMAN WILSHIRE THAT THE RULES BE SO FAR SUSPENDED AS TO ALLOW FOR THE ACCEPTANCE OF PROCEDURAL ACTIONS WITHOUT OBJECTION**

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

Yea:	Alderman Wilshire, Alderman Clemons, Alderman Dowd, Alderman Caron, Alderman Siegel, Alderman Schoneman, Alderwoman Melizzi-Golja, Alderman McGuinness, Alderman LeBrun, Alderman Moriarty, Alderman O'Brien, Alderman Lopez, Alderman McCarthy	13
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Nay:		0
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**MOTION CARRIED**

**REMARKS BY THE MAYOR**

**Mayor Donchess**

First, we know that Mark Cookson's mother passed away and I would like to extend my condolences to Mark and his wife and his family.

Secondly, I would like to thank the Veterans who came and did the Pledge of Allegiance, I think Alderman McCarthy's idea of using that as a substitute or a pale substitute for the parade that was rained out was really nice. I also want to thank Alan St. Louis for doing the National Anthem again.

The first item of business that I would like to discuss is O-16-003 related to the housing code. I think there are a number of people who have expressed opposition to this over the course of a long period of time. It's gone to different committees twice and it's come to the full Board of Aldermen now for a second time. There seems to be many concerns but I don't think they should be as concerned as they are and that they misinterpret the intent and purpose and particularly the good landlords that we have nothing to fear from this change and I will go on to describe why I think that is the case. First of all the background, this started in the fall of 2015 when the T.V. report which I think was entitled "Motel from Hell" was nationally aired regarding one of the single residence occupancy type places here in Nashua. The pictures and story was quite shocking and as we began to look at that particular location and some others in the city we realized that we have some facilities that are not being run in a way and conditions that are not being kept in a way that they really should for the benefit of the tenants, the city or the landlords. So in the last term the Board of Aldermen started a Substandard Living Conditions Committee to look into this situation and see what we could do or recommend changes to try to improve the conditions which exist at the "Motel from Hell" and some of the other single residence occupancies like 23 Temple Street. We arranged a meeting at the soup kitchen to hear from tenants what their living situations were and are. The reason we did it at the soup kitchen and was arranged by Alderman Tom Lopez, he was not yet on the Board but he works at the soup kitchen and the reason that we arranged it there because we thought that the tenants at 23 Temple Street and a few other places would be fearful of retaliation if they were to speak out. So we held this meeting and a bunch of tenants came in and of course there were representatives of 23 Temple Street there and other places even though most of them didn't speak and we heard from tenants about things like feces on the walls of public bathrooms, bed bugs, clogged drains in public shared bathrooms that lasted for weeks without being corrected. A woman who had to share a bathroom where she couldn't turn on the water so she'd have to go down the hall and there would be a bathroom down there where there were men in the bathroom and it just went on and on and on. Then, after the hearing, one of the women who came into see us got an eviction notice for rent she supposedly didn't pay but it turned out that after an investigation and Alderman Siegel became involved, showed that actually she had receipts showing that she paid the rent. It was seemingly a retaliatory eviction. The next thing that happens is the eviction proceeding is filed in Portsmouth. This is a woman without a car and no money. I think because of all of the attention was able to ward this off. The Alderman O'Brien attempts to change the law so that a person like the woman we are speaking about and she is disabled, could, and the retaliation came the same day that her son died in the facility in the room next to her. So Alderman O'Brien tried to pass it in the State Legislature; legislation that would require that an eviction such as that be filed at least in the town where she lives rather than where the owners are located over on the Seacoast and unfortunately that failed. When I came into office, really on the first day, I asked about this and the code enforcement people said basically we are the property managers for 23 Temple Street and some other places because what happens is they don't do anything, they barely clean the place up and they just wait for us to inspect, they don't make corrections and they don't fix code violations. They wait for us to inspect and when we inspect and we cite them for two, five or ten violations then they correct them. Then we wait and if we wait a week it will be a few violations and if we wait two months it will be many violations. They wait until we inspect again then we cite them and then they correct. They don't even need a property manager because we do it for them. So as we tried to figure out how we can correct this situation and it's not like they can't afford it. The tenants tell us that they pay \$500 per month in rent for 120 units so that's \$60,000 per month out of one facility and the property taxes on that building are probably too low but they are around \$30,000 per year so it's not like they can't afford to be taking care of their properties but they don't. So what do we do about this? We have state enabling legislation that enables us to take a couple of different approaches. One would be the approach that Manchester has taken which is to require an annual inspection charging \$25.00 per unit for every unit in the city. In our case we have about 16,000 rental units so that would be \$400,000 per year and using that money what Manchester

does is expand their code enforcement department and do more aggressive code inspection, that is one way we could go or we could have proposed that approach. That would have taken in our case; \$400,000 out of the landlords of the city in order to expand our code capabilities and it would have hit good landlords and bad. Another alternative is the one we adopted which is the approach used in Keene which is, and they have had the citation system since 2002, and what we suggested is something much less onerous than was passed in Manchester which is simply to say that to avoid this system where a shrewd owner of a large very poorly kept facility can simply wait for us to cite them and then make the corrections with no penalty whatsoever, we decided to propose something that would hit bad landlords, not every landlord like the Manchester system, which would give the code enforcement people a little more leverage which would enable them to issue a fine upon the discovery of a violation. In their discretion, they can give a warning but they also can give a fine. Everybody who has testified agrees that our code enforcement people are very reasonable except everybody is afraid I think without reason, that they will suddenly become unreasonable or that we will hire new people who will suddenly take a very aggressive approach and I just don't think that's realistic. We only have three code enforcement people so really we don't have enough. If we adopted the Manchester system we could certainly hire a lot more or a third alternative is if we didn't want to go with the way that has been proposed in the ordinance or the way in Manchester, we could appropriate \$300,000 or \$400,000 extra dollars and hire three or four more code enforcement inspectors and do even more frequent inspections at the bad buildings. We could have someone go over there every few days just to make sure that nothing goes wrong because they are not checking. In addition to just the conditions for the people in the building, these facilities, particularly the one at 23 Temple Street, is a huge problem for Nashua, for the downtown, for our image and for the success of downtown. If you talk with R.J. Finley who owns the building at 30 Temple Street, and they have done a very good job of bringing businesses and employees to the downtown; they have taken that building from 10% occupancy up to 90% or 95%. They have Triangle Credit Union, they have tech companies like Persistent Systems from India; they have Acumana and other businesses that we want downtown. If you talk to them they say that they wanted to do a housing development with a mixed use right over their garage but why didn't they, at least according to them, because of 23 Temple Street, because it is such a dump that they just didn't want to take the risk of investing \$10 million next door. What they did is upgraded their parking garage and they did no development. I think that is the kind of impact that we are seeing. At that same building we have 500 police calls per year so although I don't fault or in any way criticize the good faith of the people that are opposing this; I think they are not looking at the big picture. Are we really going to be able to do nothing about any this, are we just going to continue to manage these properties and let out of town people just take tens and hundreds of thousands of dollars out of them every year without doing nothing to try to alter the way of doing business? I think we should pass this and if the code inspectors turn out to be so onerous in their approach to it, we change it but I just don't think that is going to happen and as the Administrative Officer of the City, I will tell them do not; use good discretion and use good judgement. One fear is that if you find that a tenant has kicked in someone's wall in the hallway and it looks like the tenant did it then obviously you should not issue a fine because the landlord is not responsible for that. I think we can make this work and I think we can use it to at least some degree to strengthen our hand against the very bad people we have who own some of the residences that we have really been focusing on with this Substandard Living Conditions Committee. That's my pitch on the landlord/tenant Bill and I know there are many people here who disagree with me but that is my feeling about it.

On another subject, there is one ordinance that you might not have heard too much about, it proposes transferring management of the parking function from the traffic manager over to the Economic Development Department. This was proposed by the Community Development Director Sarah Marchant because the transportation manager is really a bus person and we need to align economic development with the parking and the parking is really a downtown economic development function and it has to do with the parking downtown and so we think it makes much more sense that person report to the economic development director. Keep in mind that the transportation manager reports to the director who reports to me anyway, they all report to me as the Mayor so they will be working together one way or the other but it just stream line things a little more easily.

Finally, I would ask that Mr. Parker, who is a very highly qualified nominee for the Conservation Commission be taken from the table and that he be considered and hopefully approved for that position. He is involved in landscaping and he has expertise in trees and other vegetation and will be a great input to the Conservation Commission. You might recall that Mike Gallagher came and testified that he would be a great help to them and you might also recall that we tabled his nomination to give him an opportunity to attend the meetings of the Conservation Commission which he has done and he is very anxious to go forward so I hope you will accept his willingness to volunteer and take him from the table and approve him for the Conservation Commission. With that, I conclude Mr. President.

RESPONSE TO REMARKS OF THE MAYOR - None

RECOGNITION PERIOD

**Recognition of Emergency Preparedness StormReady Rating**

President McCarthy acknowledged representatives from the Gray, Maine National Weather Service Office who were in attendance to present Nashua with an award for receiving an Emergency Preparedness StormReady Accreditation.

READING MINUTES OF PREVIOUS MEETINGS AND PUBLIC HEARING

***There being no objection, President McCarthy declared the minutes of the Board of Aldermen meetings of May 23, May 24, and May 31, 2016, accepted, placed on file and the readings suspended.***

COMMUNICATIONS

***There being no objection, President McCarthy declared that all communications be read by title only.***

From: John Griffin, Chief Financial Officer  
Re: Uncompleted Projects Status Report

***There being no objection, President McCarthy declared the communication accepted and placed on file***

From: Mayor Jim Donchess  
Re: Contract Award with Sanborn, Head & Associates for Gas Collection and Control Services

**MOTION BY ALDERMAN O'BRIEN TO ACCEPT, PLACE ON FILE AND AWARD THE CONTRACT TO SANBORN, HEAD & ASSOCIATES, INC. IN THE AMOUNT OF \$45,000**

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

Yea: Alderman Wilshire, Alderman Clemons, Alderman Dowd, Alderman Caron, Alderman Siegel, Alderman Schoneman, Alderwoman Melizzi-Golja, Alderman McGuinness, Alderman LeBrun, Alderman Moriarty, Alderman O'Brien, Alderman Lopez, Alderman McCarthy 13

Nay: 0

**MOTION CARRIED**

From: Roger L. Houston, Planning Director and CIC Secretary  
Re: Amendment to FY2017 Capital Improvement Program to Include the Rail Trail Lighting Program, Prioritized as a Short-Term "A-1" Project; and the Southwest Park Rectangular Fields, Prioritized as a long-Term Priority "B-3"

***There being no objection, President McCarthy declared the communication accepted and placed on file***

***There being no objection, President McCarthy suspended the rules to allow for the introduction of communications received after the agenda was prepared***

From: Alderman Ken Siegel  
Re: Response to Request for Continuance from Attorney Peter J. Nicosia  
(Proposed Nashua Ordinance O-16-003, Chapter 74) - Alderman Meeting June 14

***There being no objection, President McCarthy declared the communication accepted and placed on file***

From: Peter J. Nicosia, Esquire  
Re: Memorandum in Opposition to Proposed Nashua Ordinance O-16-003, Chapter 74  
(Board of Aldermen Meeting June 14, 2016)

***There being no objection, President McCarthy declared the communication accepted and placed on file***

From: Bob Keating  
Re: In Support of O-16-003 Administrative Enforcement Ordinance

***There being no objection, President McCarthy declared the communication accepted and placed on file***

From: Unsigned Email from Doodlebugs5@comcast.net  
Re: June 15, 2016 Aldermen Meeting; Proposed Nashua Ordinance O-16-003, Chapter 74

***There being no objection, President McCarthy declared that communication accepted and placed on file***

PERIOD FOR PUBLIC COMMENT RELATIVE TO ITEMS EXPECTED TO BE ACTED UPON THIS EVENING

Ms. Mariellen MacKay, 9 Webster Street

I am here in support of O-16-003. I am here also as a commission member of the Nashua Housing Authority and I am going to be brief because I am also a member of the Zoning Board of Adjustment and we are meeting upstairs. This ordinance and I did speak with my fellow commission members on the Housing Authority. It is in line and keeping with how the Nashua Housing Authority runs its Section 8 operations. As probably the largest landlord in this city, this addresses a need that the Housing Authority supports. A landlord, for instance, does not abate a violation within a reasonable amount of time then our executive director is in agreement that a civil penalty should be imposed but before warnings and not before ample time and not without absolute recourse. I understand that there is concern around an appeals process but an appeals process exists today and that is going to court, there is not Appeals Board. I guess when the Mayor referenced what Manchester does to gain so much money Nashua would have to do the same thing in order to be able to support an Appeals Board. I think that while

government overreach is never a good thing, this seems to be a very positive and proactive step which would help to make people more proactive rather than reactive as our Mayor indicated when he stated that the one hotel only fixed their violations when the city went out and identified them. As a homeowner I identify what's wrong with my home and I fix it before somebody comes in and tells me something is wrong. I know, I just put 44 windows in my house and resided it because I knew there was an issue. Again, while the appeals process seems to be an issue there is no Appeals Board so going to court seems to be the logical way to handle this. Again, the Nashua Housing Authority supports this and maybe delving into that appeal process even deeper. I defer to the Mayor and Alderman Siegel on this and Alderman LeBrun. I apologize for my brief comments and now I am going to exit because I have six more cases upstairs.

Mr. Don Dobens, 210 Pine Street, #11

I have a couple of questions on the substandard property Bill. In the beginning I was under the impression that this was started and letters were sent to property owners, am I correct on that?

President McCarthy

This is public comment.

Mr. Dobbins

Well, I am just trying to find out the information that I didn't have.

President McCarthy

I cannot answer questions at this time.

Mr. Dobbins

Well, I understand it was sent out to a couple of people and to the best of my knowledge nobody that's here in this room now and like that...then the property owners of Nashua ended up having an attorney come in and talking. I thought there was consensus that the property owners, whether it's residential, multi-family, mixed use commercial and multi-family or straight commercial or industrial; they are all under the same rule unless I am mistaken. I was under the impression that we were going to have some input and it seems like what ended up happening is the minutes of the meeting where the attorney had his input was taken into consideration and then the Board or Commission made a decision not to include the property owners in the process so we could have any input. I think it's interesting because the Mayor just had something in the newspaper where he wanted input on the budget but not on this topic. I personally think because of that ideally this should be pushed back and at least allow the property owners in Nashua to have an input on this process. It just seems like it is a situation of exclusionism which really bothers me to tell you the truth because that means all of the people in Nashua; if they want to come up and get included in a project they are going to be rejected. Thank you.

Attorney Courtney Ball, Nicosia & Associates, P.C.

I am here filling in for Attorney Peter Nicosia who was unable to attend tonight's meeting. He obviously, as you noted, made attempts to have the meeting tabled until the 28<sup>th</sup> of June but that request was denied. I am here to represent the Association of Nashua Property owners opposed to O-16-003. I have copies of the memo that Attorney Nicosia drafted but I assume everyone has a copy. Addressing the audience, Attorney Ball asked if anyone wanted a copy of the memo to follow along.

President McCarthy

Mr. Ball, please address your comments to the Board.

Attorney Ball

I just wanted to share those, thank you. Peter did offer to work with the Substandard Living Conditions Committee and drafted the appropriate language, language that he felt at the time was agreeable with some Aldermen and some of the inspectional services representatives but the original proposed ordinance was sent to this Board with no changes. I am here to formally request that you either table this tonight until the 28<sup>th</sup>, send it back to the sub-committee to defer the work or you deny it outright. I feel that it is incomplete and I feel that you have a roomful of people here that are willing to work with you even though the proposal on its face is to set up a fine system against property owners in town. They do agree with the reasoning behind it but they just want some input and tweak it to get it right. The major points of Peter's memo are number one, the discretion because it gives the appearance of favoritism. There is a concern with new inspectors with how you go ahead and set up the inspection intervals, selective enforcement, whether its complaint based or regular intervals. We feel that with some input this could be added to the Bill. We are hoping to actually have mandatory warnings and that way everything is on paper and everything is on the record and is searchable and reviewable and there is nothing hidden. Of course, the major course is the need for an administrative appeal even just a limited notice fast track appeal right now would be helpful. The district court process is not the appeal; you are getting fined, your fine is being increased and you have to go to district court and you are being slightly being pressured into paying the fine as soon as possible otherwise it could potentially go up. To the best of my knowledge there have only been a handful of cases last year that ended up in district court. I understand part of the reason behind the legislation is to prevent or limit the amount of times people end up in district court but I think the reverse is going to happen, you are going to have people that are forced to pay a fine in a quick period of time so it doesn't increase and they will be willing to pay more money just to go to district court and have their voices heard. They want an opportunity to voice explanations; you have issues such as tenant sabotage as they have mentioned kicking a hole in the wall, issues such as contractor delay, natural disasters and things like vacations and sicknesses. This falls into the third point, the time element of the ten days to comply. Well ten days is fine for some things but probably too quick for other things like cracked siding and things like that are not really crucial. As the first woman who spoke tonight mentioned Section 8 and I am pretty sure that Section 8 has a thirty day window so we are looking for a sliding scale and we think with more input and better definitions we can give a seriousness approach; health and safety, obviously those are crucial and need to be fixed as soon as possible and allow the property owners to give explanations and come up with a reasonable solution and a fourth major point is obviously the fine system. You have this time occurrence versus an event occurrence so if the fine; every single day it's a new fine for the same occurrence. I mean we understand where you are coming from and the need to get these things done but it just seems like with a little bit more input and of course allowing a little bit more input whether it goes back to the sub-committee or even if it's just tabled; there's a whole roomful of people who want to give input and obviously many of them know a lot more about different construction issues than I do but it seems like there could be more thought into the fine process. Of course if you had an appeal you could suspend the fine during an appeal. There is no process, if you go to district court and you win your case there is nothing in there about being reimbursed in case you had to pay a fine. Looking at the ordinance itself it borders on a violation, it's a constitutional violation of due process. You are obligating people to pay these fines, there being increased every day possibly and then after the fact they end up in court. The court system seems to have worked for a long time now, obviously this is an attempt to limit the amount of times that this ends up in court but as far as you know, you will probably have due process challenges and in my opinion it's not likely to survive. The ordinance is very vague and the person responsible for the violation; it could use some definitions, it's going to assume it's the property owner every time and once again they have been told that the inspectors are reasonable and understandable but it's just too open-ended and too ripe for abuse. With some better language the ordinance could be properly drafted

and have the support of the residents of the city. There is certainly a potential with the fines and the increases that it could go over the statutory limits of RSA 31:393 which is a \$1,000 limit for per offense and that hasn't been addressed in the ordinance. Once again, if there was an event based violation that you could set up based on the seriousness of the event. That's basically some of the points of the memorandum itself. It could use a definition section on exterior standards versus building code violations; it's very ambiguous in a lot of instances. Ultimately, we understand that you are trying to cut down on litigation and trying to cut down on the district court process but what you are doing essentially is you are front loading the judge, jury and executioner so to speak with the inspectional people. At that time the people are there to explain and to talk to people and probably get a break. If they are not around at the time then they are not going to have an opportunity to explain anything. If there is appeals process then now you have a back loaded process where people will always have an opportunity to speak their minds and you are going to find a situation where people are going to be stuck paying fines and they are going to demand to get to court even if it costs them more money, it's just human nature, they are going to want somebody to hear their story. Finally, there is a potential that this backfires and it really causes rents to sky rocket. You may even see a new category in rents; first month, last month, security deposit and all of a sudden there may be a new category, administrative fine deposit. You get your money back at the end of the year if you don't cause administrative fines at the property. I want to thank you for listening to me and once again, I think that if you listen to the people in the city and get a little bit more input then you are working in the right direction but it's just not quite there yet. Once again I request that you deny it, send it back to sub-committee or table it for another two weeks and just allow more input to come in. Thank you very much.

Mr. Greg Lombard, 106 W. Parish Road

I own one building in this city and I don't have much to add to what's been already said other than to point out that this type of an ordinance; I am just a small landlord and this is the kind of thing where you say you are telling me to trust you code enforcement staff and that they will always be well intentioned and I believe that they are. By the way, I support cleaning up the bad properties because that's good for all of us. It's hard to look at something like this and not feel some anxiety when I know that I might be facing some of the fines in here, particularly with the ten day notice; that's not enough time to fix a lot of problems, particularly the more expensive ones. These might put my kid's college funds at risk, my investments. Although I do trust the good intentions of everyone here, I think there really is a lot of benefit talking with the landlord's here because they are the ones that are going to know best.

Ms. Cecile Marquis, P.O. Box 3854

Mr. Whitney had written an article in the paper and he was going to be late so he asked if I could pass it out to all of you. Also, I do understand, Mayor, that your concern with the hotels and the rooming house and all that and I don't take that away from you. I know that you do care about the city and the Aldermen do too. The problem I have with this is that when you are looking at rooming houses and that is a different; if this ordinance came through it's supposed to be going against rooming houses is what we were told. The next thing you know we find out that it's about regular landlord's; two-family landlord's to 100-unit landlord's and single-family homes too because if their siding is bad on a single-family home this ordinance says that you have to fix it and if you are poor and you don't have the money to fix it or you can't paint it, some of these people don't have anyone to do this work. I am concerned about that. The other concern I have is as embarrassing as it was, it happened. We have to move forward and say this isn't good and work as a city including the landlord's – which is the rooming houses. All I am saying is to the Aldermen and to the Mayor is that this to me is only one sided and it's not against the tenant. This is against the whole thing of what is going on here and who is going to hurt the tenant. Some landlord's may say forget it, I'm not going to deal with this and sell their building to an out of town landlord and it's already happening. Everybody that I here is that the legislators are saying the best thing for Nashua is to have owner occupied properties but owner occupied properties; especially if they are elderly or low income, they are going to have issues with fixing things around the building and if you are giving them

only ten days to get things done and they don't have the money then they are going to have fine after fine. Our grant programs that we have had over the years do take care of some of the necessary, you know if somebody needs a roof and they don't need the money or other things. All I am saying to you as a Board is to have more than ten days. It takes five to seven days to get a permit if we are supposed to do everything the right way which like water tanks you have to a permit on now. Even code enforcement for Section 8 gives thirty days to fix things. I'm not saying all issues should be thirty days but to be reasonable it should be in the writing to give some landlord's thirty days to fix small items because if you add \$50.00 for every item, it adds up. I understand the Board wanting to make Nashua great again or on People Magazine but the reality is that we just came out of a really bad recession and tenants cannot afford extra rent. I've had Aldermen come to me and say people can't afford the rents that they are paying now which \$600 - \$800 per month. These kinds of fees will increase because the owners can't do it between the taxes, the water bill, sewer bill and insurance and mortgages. I mean some of you maybe own your house and you don't have a mortgage but there are mortgages out there for these people to cover and I am not saying that we should give a handout to landlord's but they are also taxpayers in this city. They deserve some rights and I think it would be better to table this Bill and go back to the committee and let's work on it together. None of us landlord's; we are all against this not because we are bad landlord's but we are wanting to have it in writing. We need warnings and a longer time table to fix things; ten days is not acceptable. Even if you call a plumber right now, they are three weeks out to even come and look at something. All I am saying is that you are basically giving fees to us that we; I mean we are going to have fines because we can't get plumbers or electricians there. If it's in the books and it says you have ten days and you can't do it, what do you do, you are going to get a fine. All I am saying is we need to have a more reasonable time period; thirty days is not unreasonable. It doesn't have to be a Board that says this landlord and this code enforcement person is not evenly workable, even if they had one person, one Alderman and one code enforcement person working together to say let's give them a little more time, that's all we are asking for. We want the respect and we deserve the respect. These people pay their taxes and take care of their buildings for some of them for thirty or forty years. All I am saying is if you are going to vote on something send it back and ask it to be talked to in a discussion with the landlord's too. None of us are bad landlords and most of the rents are under \$1,000. If we are having fees and everything else they are not going to be able to afford it, they are going to raise the rents. The city wants better housing for these tenants but we have to work together, this isn't a one check all answer to this situation. The rooming house is a whole different ballgame. That's a whole thing with health and the Fire Marshall. That's not code really because they don't deal with code. All I am saying is talk between each other and give us more time and let us talk, and have a warning period in writing. We are asking for four things that are not unreasonable and I am asking you to really consider our needs right now. Not just the needs of the tenants because the tenants do deserve a clean place to live and I'm not taking that away from them. Most of the landlord's I know; 89% to 95% are really good landlord's. You might have a 5% margin. Maybe you have taken ten landlords to court and you are inflicting all of these fines against good landlords because you feel that it's necessary, necessary against whom, us or the bad landlords that are going to be bad landlords anyways? If you do these fines I think what you are going to find is these landlords are going to see their buildings and you are going to have new Massachusetts landlords or wherever they are coming from; Portsmouth that don't have the same effort in keeping their buildings good. Most of these landlords live here or they live in Hudson or Merrimack. They are not from out of state, they are local and they care about their properties just like all of you Aldermen care about your properties. All they are asking for is to be respected and considered in this ordinance. Please send it back and let's work together. Thank you.

Mr. Bob Dione, 447 Main Dunstable Road

I am not going to repeat except for three key items. Mayor, I am happy to hear that you are going to go after the bad landlords with all your gusto because that's what is really needed. You need to make sure that the tenants have a safe and healthy environment. How do you do that? I think there is a lot of merit to what Peter, our spokesperson, the attorney, had brought up. It was taken in at the sub-committee meeting and I believe it was presented to city council and then the ordinance came back virtually the

same so there was no real recognition of anything within that. I'm not saying that no one reviewed it, I am sure it was but nothing came about from that. There was one change. Peter's letter said that there was no change but there was one change. There were some things that used to be scratched out and now they are no longer scratched out but essentially it's the same because all it says is "the city "may" give notice so it "may" or "may not." We all know that life safety and health codes are very critical and we all respect those, the people that are here anyway. We also want the bad landlords to be taken care of in terms of getting them to correct their situations. When I look back to my original notes from when I first spoke with this Board and the sub-committee back in February and I made some notes that I suggested that we have an input and a working session or multiple working sessions to be able to talk about our concerns. Have three landlords, three tenants, three of the administrative people, legal advice because we certainly do need that and one independent Alderman who will make sure that things are going in the right direction and keep on moving. We are not going to get every point that we want but I am not speaking for everyone and maybe the administrator's won't get everything that they want. We are going to be educated if we do get together, it's a simple thing. In business we get together to solve problems. We asked for this a couple of times and the sub-committee did ask us to join them in this area. We had our spokesperson go up to talk because we knew it would be a professional presentation that would be effective than just rambling on. Part of his presentation was to say let's get these work sessions going and let's talk about it. That did not take place and I'm very disappointed in that. I hope we can get something resolved and get a work session going so that we can come to a better conclusion. I think there is a lot of merit to the law and the legal input and there are some concerns from the landlords and I don't want to repeat that because we have said it over and over again. Hopefully we will work together, thank you.

Mr. Robert Tourigny, Executive Director, NeighborWorks, Southern New Hampshire

NeighborWorks is a landlord and property owner here in Nashua. We own 19 Temple Street which is just down the block from the property that the Mayor was discussing this evening. We have another 38 apartments here in Nashua and over 400 units in Southern New Hampshire. We own and develop affordable housing, we provide consumer education to families to make good, wise decisions about their housing options and that doesn't include just homeowner options but also in rental housing. We provide landlord trainings and seminars to help people become good landlord because they might want to buy a two-family or a three-family and live in one unit and rent out the other. You have established a Substandard Living Conditions Committee so I don't need to tell you about the dire affordable rental housing situation here but I would like to explain why I think the enforcement of the ordinance you are considering tonight is important in impacting those conditions. Each year the New Hampshire Housing Authority surveys the owners of some 15,000 rental units across the State of New Hampshire including over 2,200 apartments here in Nashua. In doing so they are able to calculate the median rent and the vacancy rate for each region. Nashua continues to maintain its place near the top of the highest rent list, only slightly behind Portsmouth. What is most concerning from the survey is the steadily declining vacancy rate that we see in our portfolios. Vacancy rates are down by 50% in the last six or seven years and I think that's probably attributable to the economy and the situation that was mentioned earlier. As a landlord we love high occupancy and low vacancy rates but when vacancy falls below 2% in a community which is what it is here, it essentially becomes a market where an owner can rent out literally any unit in any condition because the demand is so strong. We are in what I would call the equivalent of a historically high sellers' market if you were to compare it to the home ownership or for sale arena. So what does all of this data mean, it means that it puts an extra burden on local jurisdictions like yourselves to crack down on code enforcement because of what I said earlier, you can literally rent any unit in any condition to someone because the demand is so high. When sitting your seat you need to look at the carrots and the sticks that you need to keep property owners in compliance. With the demand for rentals are at an all-time high you need to be able to hold property owners accountable and more than just a minor slap of the wrist. When the cost of fines and fees are considered to be just another cost of doing business because business is good then it can create the substandard living conditions situation that you are working to address. I think that the enforcement ordinance you are considering tonight is a step

towards improving the situation and you just need to start somewhere. Will all property owners like it, definitely not but it shouldn't affect property owners who are doing their best to provide a safe, decent and sanitary unit for their tenants. Thank you for the opportunity to speak tonight.

Mr. Nick Peck, 99 Taylor Street

We have been here many times talking about this problem and the Mayor had his opening statements that basically there are two properties in Nashua that you are having trouble with. We have departments within Nashua, the building department, fire department and the Board of Health. You are sitting in front of us right now and telling us that these managers of the building department, Board of Health and the fire department are having problems with two properties in Nashua. You want to enact a Bill that's going to affect everybody in Nashua, every property owner in Nashua. I think it's pretty unreasonable that the City of Nashua can't handle two property owners. If you are having trouble with 23 Temple Street and you can't solve the problem then maybe there should be new people hired that can solve the problem. Above and beyond that if you are having trouble with 23 Temple Street why don't you buy it and solve the problem? We are standing here and we have been fighting this for months and we are going against deaf ears with some of the Aldermen in here and I just don't understand why you are not listening to us. Thank you.

Mr. Fred Teeboom, 24 Cheyenne Drive

First of all, I would like to address O-16-11 which is tabled in committee, the reduced taxation for charter public school facilities. I ask that you take it off of the table and pass it. I gave you all an analysis that shows that there are over 500 kids that go to charter schools from Nashua and save the taxpayers over \$4.4 million. If you don't believe that number you can take a look at my analysis. The cost as I understand was not part of the ordinance but the item are about \$80,000 and that's steep and a loss of taxation. It's an enormous gain for the taxpayers and I hope you pass it.

The next thing that I would like to address is O-16-003 and I am not a landlord, I have no skin in this game. But, then I was not a panhandler either and I spoke against the panhandler ordinance. I have been called by landlords because of my experience with the NRO's (the Nashua Revised Ordinances) and as a former Aldermen-at-Large and asked me for some input. R-15-182 is what started all of this, appointed a committee to investigate living conditions in the Country Barn Hotel and 23 Temple Street and other larger rental properties that are unnamed to determine whether the housing or health codes are being violated or whether new housing and our health code provisions should be enacted to protect the living conditions for Nashua residences. I have seen no report of this sub-committee, the investigative sub-committee, it is customary to see an investigative report and there have been none produced. No specific conditions have ever been identified by this committee or by anyone on any named property in Nashua, it's all been general discussion other than the Country Barn Hotel and 23 Temple Street and that came through a television program. O-16-003 basically is sold on the basis of efficiency of enforcing code and that's basically it. If you list all of the staff discussion with McKinney and all of the rest of them; it's a more efficient process and it has nothing to do with the purposes which this Substandard Living Conditions Committee was established. Let's take a look, there are specific items in the ordinance, let's forget the generalities, there's a table called Table 4.1 which basically is the fine structure. Paragraph 170-2 is the reference and that is a license required for food services, what does that have to do with living conditions? Another paragraph is 175 which is a catch-all, it relatively defers to state law and it deals with, in summation, sanitary food code. What's that got to do with living conditions in housing for which this committee was established? Another one is 190-146, site plan procedures generally, this talks about site plan reviews. I thought we had the Planning Board that did site plan reviews, what is that doing in this ordinance? Another one is 156, Article IV, fire prevention code. Surprisingly if you look through that you find that there is a Board of Fire Prevention Code of Appeals so there's actually already a Board to appeal to if there are violations of fire prevention. What's that doing in the sub-set of living conditions ordinance that itself has no appeal, there is already an

appeal that's even better. It makes no sense. This thing was put together and it's going to be lying around for a long time and somebody says let's go stick this all into the ordinance and that's probably why it is poorly drafted. If you look back at paragraph 74.482 and 74.4B1, 2 and 3, then it talks about a penalty plus \$50.00 after ten days up to \$1,000. What does that mean? The highest fine, which is a third violation of \$500 so how do you get up to \$1,000? Does that mean that you are going to be fined every day \$50.00? It's unclear and vague by any rationale. Then there is Chapter 182, §26, violation of penalties it says where no specific penalty is provided then there should be a fine of not more than \$1,000 and another issuance of a citation. So where there is no specific penalty you get a fine of up to \$1,000, what does that mean? What has that go to do with living conditions? Finally there is a lot of talk about the warning; I think Alderman Clemons made that point. That warning has existed before a discretionary warning was taken out and then was put back in. It says the head of the code enforcement department, or his/her designee, may issue a warnings; it's discretionary, "may" should at least when you start issuing fines, the (inaudible) was before you had fines. You should at least change "may" to "shall" so it's mandatory. It makes it easier on the code enforcement not to have this stuff. It's easy to put the code enforcement people to have this list but look at it from the other side; they look for efficiency and the demand for authority. Are we looking at people who have to meet these conditions and they have to understand it so send the attorneys in so they can have a field day in court. Enough said but for all of these reasons, take this thing back, table it, work it, I'm not against higher oversight over landlords, I've owned several food businesses alone and oversight is good but don't throw in everything but the kitchen sink that something has to do with living conditions. Thank you.

Mr. Gene Parent, 15 ½ Main Street

I am totally against this proposed ordinance for a variety of reasons but what really ticked me off was the way it was introduced. It was snuck in under other agendas so it would not be noticed. You could have tried to view this ordinance not as an Alderman, not as someone who initiated it or sponsored it nor as a city employee but as a Nashua landlord or a business owner. This proposed ordinance is vague and tends to violate, fine and summons to court no one but the landlords and the business owners. Everything is aimed at us. We have mentioned several times that we would like to sit down and discuss things and no one said come on over. This to me is a one sided affair, just like Cecile Marquis said. Does anyone listen to the public anymore? Who do you represent anyway? Please consider all of the facts. Also, did anyone see the news two weeks ago on Fox News, Bill O'Reilly of the O'Reilly Factor? He stated that cities across America are milking citizens and taking their money through fines, tickets, permits, etc. or by increasing or initiating new ones. Is this what this ordinance is about, initiating a new one and milk us out of the money? As far as Mayor Donchess goes, what you stated before under your term that things would get better but what's to say after you are gone; things always change and it's not in writing. Four years from now or whenever you go who is going to be next and what are they going to do to us. I'm against this, please table it or send it back to committee so we can discuss it. We are willing to talk, are you? Thank you.

Ms. Sue Newman, 25 Charlotte Avenue

I will be brief. I have followed this since the Country Barn Hotel issue came up and embarrassingly I wasn't aware of the situation there and be all that as it may, I was out of town today and I looked at the newspaper on-line and the first thing I went to was the editorial and I assumed this was a slam dunk and you would be and this legislation would be going through; O-16-003. Sometime later I looked at the front page and realized there was some controversy with it. Rentals are tough, prices are up and when there is a shortage of rentals anything that's got four walls and maybe a roof that is mostly in good condition can get rented. With that said, my involvement started with this with the television show and sometime later on that year I spoke with David Deane and I explained in a spirited manner what I thought about the whole thing; that I thought it was a use of working the system when you could have landlords apparently keeping substandard or worse than that conditions that they could easily get rented and they got vouchers so the money was coming in and the repairs were not required. With that I thought the

committee came through with some reasonable things and I thought it was a place to start. I think the newspaper editorial captured it right that the Bill before the Aldermen gives the city the tools needed to deal with these repeat offenders while maintaining an appeals process and so forth. But, in fairness, I think several of these people also had good points. I don't know if this will pass tonight but I would hope that you maintain and build in flexibility to keep some of these good people's concerns in the forefront with it. I appreciate the efforts because something had to get done and I appreciate the committee's work to get something started, thank you.

Mr. Joseph Haas

Two of you Aldermen know who I am because I sent them an e-mail back in April and I checked the website today and it's not listed under correspondence. Do you have to be a resident of this city in order to get correspondence over to the full council here?

President McCarthy

I don't know how you submitted it.

Mr. Haas

I sent it to the City Clerk, I see her sitting right there, Patty and your assistant, she's the one that told me to come here and just you know, talk; she didn't say to sign up. Also the Mayor, I wrote you an e-mail and I talked with you on the phone. This is with regard to my attending an auction back in November over at the Mayflower, McLaughlin Transportation. I got there before the auction occurred, it was advertised as a public auction and they told me to scram and to get out. The owner didn't want me on his property.

President McCarthy

Does this have anything to do with is on our agenda to be acted upon this evening?

Mr. Haas

Yes, item #13, I presume is your increase in compensation of your elected officials, is that still on?

President McCarthy

Of "elected officials" yes.

Mr. Haas

Yes, an elected official meaning the Town Clerk who isn't doing her job as far as I am concerned.

President McCarthy

No, the Bill deals with paying personnel who work at the polls on Election Day.

Mr. Haas

Okay, I didn't see the details on-line, I'm sorry. So I wait until the public section later in order to discuss what I was hoping, not to waste your time, but if the two; Dowd and Lopez, if they had transferred that e-mail over to the rest of you I wouldn't have to be here today. And Lavoie, I've been to his police commission and him too and I voiced my frustration over there. Me as a citizen wanting to spend money

in the city and being told to scam and get lost, it's a public auction but we don't want there, that's ridiculous. There's an RSA 444:06 that the City Clerk...

President McCarthy

You have to wait until the second public comment period to speak on that.

Mr. Haas

Well in the meantime are you going to take a break or a recess, can you have my e-mail distributed to the rest of the people?

President McCarthy

No we cannot.

Mr. Haas

Well that's tampering with public records and that's a crime. You guys are criminals.

President McCarthy

Sir, I will let you speak to the issue later on but I am not going to let you call this Board criminals.

Mr. Haas

Okay, thank you, I appreciate it.

Mr. Bradley Whitney, 38 Fifield Street

I own several properties and I am a landlord. I always use the same contractor and sometimes they are busy so if you only give ten days then that can include six working days or eight working days depending on when you get your ten day notice. It is 1 ½ time rate on Saturdays and double time on Sundays and most of us cannot afford that. I would like you to take into consideration that it is pretty unreasonable and very harmful to hard working people that may be ill. I don't know what the length of time is for the warning period, there's no time that they give you thirty days or ten days warning period. It hasn't been explained so we are in the dark on that. I hired a contractor and he put in sumps that should have taken six to nine months and it took 1 ½ and I had to get rid of him and get someone else. There are problems and we try to solve them but I don't think you are reasonable and you are looking out for your own interests only and I don't see any problem with an infestation fine or time period to get rid of bed bugs. It's a lot different than a broken window. This ordinance is a one shot that takes care of everybody but you don't have two different time periods for emergency/health or some minor detail. I think it should be revised for that and I don't think it's fair to put it through and it's being forced down our throats and we don't have any input and I didn't think that was the way Nashua worked. Nashua is a wonderful town and you guys are all great people but you are not really...this is being pushed through too fast for me and we should feel that our voices are heard. Thank you.

Mr. Erik Bray, 3 Dover Street

I want to voice my support for this Bill but at the same time ask that you table it and further the discussion. I am a property owner and not a landlord and I have struggled to comprehend the objection to this ordinance. I think what is being triggered here emotionally by both the landlords in opposition and property owners in favor of is that code enforcement clearly needs work and I think this is a great first

step but the focus on the landlords as opposed to the properties in general neglects the fact that you can drive down many streets in Nashua and see things that appear in direct contradiction with the established ordinances. As a property owner it's disappointing. We need to know what to expect in our communities and are the ordinances enforceable. You are a Board that establishes ordinances. If further discussion is needed on this to garner community support and have an ordinance that is enforceable and that's supported and that betters our community then further the discussion, it's great to hear what's happening and help explain it to the people, make the right decision. Nashua desperately needs realistic expectations that property owners understand and they are held accountable for. If this is the ordinance that establishes that then so be it but if it takes more time to get it right to improve the entire community, property owners, renters and landlords then do it. That's all I ask.

PETITIONS – None

NOMINATIONS, APPOINTMENTS AND ELECTIONS – None

REPORTS OF COMMITTEE

Budget Review Committee ..... 05/19/16

There being no objection, President McCarthy declared the report of the May 19, 2016 Budget Review Committee accepted and placed on file.

Budget Review Committee ..... 05/23/16

There being no objection, President McCarthy declared the report of the May 23, 2016 Budget Review Committee accepted and placed on file.

Budget Review Committee ..... 05/31/16

There being no objection, President McCarthy declared the report of the May 31, 2016 Budget Review Committee accepted and placed on file.

Budget Review Committee ..... 06/02/16

There being no objection, President McCarthy declared the report of the June 2, 2016 Budget Review Committee accepted and placed on file.

Finance Committee ..... 06/01/16

There being no objection, President McCarthy declared the report of the June 1, 2016 Finance Committee accepted and placed on file.

Personnel/Administrative Affairs Committee..... 06/06/16

There being no objection, President McCarthy declared the report of the June 6, 2016 Personnel/Administrative Affairs Committee accepted and placed on file.

Planning & Economic Development Committee ..... 05/17/16

There being no objection, President McCarthy declared the report of the May 17, 2016 Planning & Economic Development Committee accepted and placed on file.

Planning & Economic Development Committee ..... 06/07/16

There being no objection, President McCarthy declared the report of the June 7, 2016 Planning & Economic Development Committee accepted and placed on file.

Substandard Living Conditions Special Committee ..... 05/26/16

There being no objection, President McCarthy declared the report of the May 26, 2016 Substandard Living Conditions Special Committee accepted and placed on file.

WRITTEN REPORTS FROM LIAISONS - None

CONFIRMATION OF MAYOR'S APPOINTMENTS

Conservation Commission

**MOTION BY ALDERMAN CLEMONS TO TAKE FROM THE TABLE THE APPOINTMENT OF WILLIAM S. PARKER TO THE CONSERVATION COMMISSION**

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

Yea:	Alderman Wilshire, Alderman Clemons, Alderman Dowd, Alderman Caron, Alderman Siegel, Alderman Schoneman, Alderwoman Melizzi-Golja, Alderman McGuinness, Alderman LeBrun, Alderman Moriarty, Alderman O'Brien, Alderman Lopez, Alderman McCarthy	13
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Nay:		0
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**MOTION CARRIED**

**MOTION BY ALDERMAN CLEMONS TO CONFIRM BY VOICE VOTE THE APPOINTMENT OF WILLIAM S. PARKER, 1 ROCKLAND STREET, NASHUA, TO THE CONSERVATION COMMISSION FOR A TERM TO EXPIRE DECEMBER 31, 2018**

ON THE QUESTION

Alderman Schoneman

I am the Aldermanic Liaison to the Conservation Commission and I attended the last meeting and Mr. Parker was there and I said I would speak on his behalf tonight. I had a chance to speak with him to make sure that he understood what the commission was all about and what his role would be there and he does and he enthusiastically, as the Mayor said before, would like to serve on that commission.

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

Yea:	Alderman Wilshire, Alderman Clemons, Alderman Dowd, Alderman Caron, Alderman Siegel, Alderman Schoneman, Alderwoman Melizzi-Golja, Alderman McGuinness, Alderman LeBrun, Alderman Moriarty, Alderman O'Brien, Alderman Lopez, Alderman McCarthy	13
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Nay:		0
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**MOTION CARRIED**

President McCarthy declared William S. Parker duly appointed to the Conservation Commission for a term to expire December 31, 2018.

Oath of Office administered by Corporation Counsel.

Business & Industrial Development Authority

**MOTION BY ALDERMAN CARON TO CONFIRM BY VOICE VOTE THE APPOINTMENT OF KIM REAGAN, 30 TEMPLE STREET, NASHUA, TO THE BUSINESS & INDUSTRIAL DEVELOPMENT AUTHORITY FOR A TERM TO EXPIRE MAY 1, 2019**

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

Yea: Alderman Wilshire, Alderman Clemons, Alderman Dowd, Alderman Caron, Alderman Siegel, Alderman Schoneman, Alderwoman Melizzi-Golja, Alderman McGuinness, Alderman LeBrun, Alderman Moriarty, Alderman O'Brien, Alderman Lopez, Alderman McCarthy 13

Nay: 0

**MOTION CARRIED**

President McCarthy declared Kim Reagan duly appointed to the Business & Industrial Development Authority for a term to expire May 1, 2019.

Oath of Office administered by Corporation Counsel.

UNFINISHED BUSINESS – RESOLUTIONS

**R-16-030**

Endorsers: Mayor Jim Donchess  
Alderman Richard A. Dowd  
Alderman-at-Large Lori Wilshire  
Alderwoman Mary Ann Melizzi-Golja  
Alderman-at-Large Michael B. O'Brien, Sr.  
Alderman-at-Large Brian S. McCarthy

**CREATING A SPECIAL REVENUE FUND FOR SCHOOL CAREER AND TECHNICAL EDUCATIONS (CTE) TUITION FEES**

Given its second reading;

**MOTION BY ALDERMAN DOWD FOR FINAL PASSAGE OF R-16-030**

ON THE QUESTION

Alderman Dowd

This was recommended for final passage at the Budget Review Committee and it's creating a special revenue fund where we can put the monies collected for CTE tuition from people outside of Nashua. It allows the Board of Education to collect that money so that when we go to replace the equipment that's used in the CTE courses they will have some money to do that. That was the intent when the CTE was built at the two new high schools but it's just been a while for us to get to this point.

Alderman Moriarty

Career and Technical Education, I am a big fan of it. Mid-skilled and advanced manufacturing jobs is something I could talk about for a long time. I'm all for it and we should have this in the school budget and we should have it in the city budget but I am voting against this particular resolution which creates the special revenue fund has the effect of bypassing the spending cap. Oddly enough the laws that allow us to create the special revenue fund do not require ten votes which is kind of strange because in all of the other cases where they are bypassing the spending cap they require ten votes. I urge you to think about that and vote no. Thank you.

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

Yea: Alderman Wilshire, Alderman Clemons, Alderman Dowd, 10  
Alderman Caron, Alderman Siegel, Alderman Schoneman,  
Alderman Melizzi-Golja, Alderman O'Brien, Alderman Lopez,  
Alderman McCarthy

Nay: Alderman McGuinness, Alderman LeBrun, Alderman Moriarty 3

**MOTION CARRIED**

Resolution R-16-030 declared duly adopted.

**R-16-033**

Endorser: Mayor Jim Donchess

**AUTHORIZING THE MAYOR AND CITY TREASURER TO ISSUE BONDS NOT TO EXCEED THE AMOUNT OF TWO MILLION TWO HUNDRED THOUSAND DOLLARS (\$2,200,000) FOR THE PURCHASE AND INSTALLATION OF A CITYWIDE TELECOM SYSTEM**

Given its second reading;

**MOTION BY ALDERMAN WILSHIRE FOR FINAL PASSAGE OF R-16-033 BY ROLL CALL**

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

Yea: Alderman Wilshire, Alderman Clemons, Alderman Dowd, 12  
Alderman Caron, Alderman Siegel, Alderman Schoneman,  
Alderman Melizzi-Golja, Alderman McGuinness, Alderman LeBrun,  
Alderman O'Brien, Alderman Lopez, Alderman McCarthy

Nay: Alderman Moriarty 0

**MOTION CARRIED**

Resolution R-16-033 declared duly adopted.

**R-16-035**

Endorsers: Mayor Jim Donchess

Alderman Ken Siegel

Alderman-at-Large Daniel T. Moriarty

**RELATIVE TO THE RESCINDING OF AUTHORIZED UNISSUED DEBT**

Given its second reading;

**MOTION BY ALDERMAN SIEGEL FOR FINAL PASSAGE OF R-16-035**

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

Yea: Alderman Wilshire, Alderman Clemons, Alderman Dowd, 14  
Alderman Caron, Alderman Siegel, Alderman Schoneman,  
Alderman Melizzi-Golja, Alderman McGuinness, Alderman LeBrun,  
Alderman Moriarty, Alderman O'Brien, Alderman Lopez,  
Alderman McCarthy

Nay: 0

**MOTION CARRIED**

Resolution R-16-035 declared duly adopted.

**R-16-036**

Endorsers: Mayor Jim Donchess  
Alderman-at-Large Lori Wilshire  
Alderman June M. Caron  
Alderman-at-Large Mark S. Cookson  
Alderman Tom Lopez  
Alderman-at-Large Michael B. O'Brien, Sr.  
Alderman Mary Ann Melizzi-Golja

**UPDATING THE FINANCIAL STANDARDS FOR THE CITY'S WELFARE GUIDELINES**

Given its second reading;

**MOTION BY ALDERMAN WILSHIRE FOR FINAL PASSAGE OF R-16-036**

ON THE QUESTION

Alderman Siegel

While I believe that this is well intentioned I don't believe that this is something we should adopt. This increases the amount of money that we are giving away and I don't believe that's warranted and I don't think that we have an obligation to do that and so I would urge that we don't do so.

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

Yea: Alderman Wilshire, Alderman Clemons, Alderman Dowd, 8  
Alderman Caron, Alderman Melizzi-Golja, Alderman O'Brien,  
Alderman Lopez, Alderman McCarthy

Nay: Alderman Siegel, Alderman Schoneman, Alderman McGuinness, 5  
Alderman LeBrun, Alderman Moriarty

**MOTION CARRIED**

Resolution R-16-036 declared duly adopted.

**R-16-037**

Endorsers: Alderman Richard A. Dowd  
Alderman-at-Large Lori Wilshire  
Alderman June M. Caron  
Alderman Ken Siegel  
Alderman Mary Ann Melizzi-Golja  
Alderman-at-Large Michael B. O'Brien, Sr.  
Alderman Tom Lopez  
Alderman-at-Large Brian S. McCarthy

**AUTHORIZING THE TRANSFER OF UP TO \$1,146,336 FROM THE SCHOOL CAPITAL RESERVE FUND INTO CAPITAL PROJECT ACTIVITY "SCHOOL HVAC IMPROVEMENTS" FOR THE PURPOSE OF IMPROVING HVAC SYSTEMS AT VARIOUS SCHOOLS**

*Given its second reading;*

**MOTION BY ALDERMAN DOWD FOR FINAL PASSAGE OF R-16-037**

ON THE QUESTION

Alderman Dowd

There are several schools that have been complaining about the air quality in the schools and this is going to do a significant amount of work at Mt. Pleasant, Fairgrounds and one other school. This will be to improve the quality of the air, the temperature of the air of the schools so that the students can continue to learn better. It's not the final solution which would require a project.

Alderman Moriarty

The school HVAC improvements, we have been doing a lot of them over the past years on the average of \$6 million and \$9 million per year. It's a lot of good work has been made and this school capital reserve fund, in my belief, should be devoted towards not maintenance but I had the impression it was for special capital improvements and so I am going to be voting no on this.

Alderman Siegel

I am somewhat astonished, there's a problem in this school where students and teachers are literally having trouble breathing and functioning so I think under those circumstances one has to be a little bit circumspect about how one defines how funds are used. Presumably they are used to better the health, safety and welfare and education of our students and given that they are having trouble breathing and functioning, I would suggest that this would be one of the highest profile things we can do.

Alderman Moriarty

I will just repeat that we are spending between \$6 million and \$9 million per year for HVAC improvements. We are not punishing the children by voting no on this.

Alderman Siegel

If a majority of this Board agree with that statement, that we are not punishing the children then in fact we will be punishing the children and the staff. Again, I would urge passage of this.

Alderman Dowd

This school is not slated for one of these HVAC projects that he's talking about that does an extensive renovation of the school and this school is going to take a unique renovation to do the final correction. These are interim steps so the kids can go to school and be able to breathe when it's really hot.

Alderman Lopez

I really don't understand why we are collecting taxes if we are not making sure that kids can breathe in the schools, it seems like kind of a no brainer.

Alderman Moriarty

I would like to point out one last time that we are spending between \$6 million and \$9 million so the children can breathe. At the Joint Special School Building Committee, there is a project that's on-going and there was sort of an end of the year sweeps that there was money that was left over from other projects that were being collected in order to plus up an existing contract. So, the money is being spent out there and to portray this as voting no as somehow we are making kids not be able to breathe is completely misleading.

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

Yea:	Alderman Wilshire, Alderman Clemons, Alderman Dowd, Alderman Caron, Alderman Siegel, Alderman Schoneman, Alderman Melizzi-Golja, Alderman McGuinness, Alderman LeBrun, Alderman O'Brien, Alderman Lopez, Alderman McCarthy	12
Nay:	Alderman Moriarty	1

**MOTION CARRIED**

Resolution R-16-037 declared duly adopted.

UNFINISHED BUSINESS – ORDINANCES

**O-16-003, Amended**

Endorsers: Mayor Jim Donchess  
Alderman Ken Siegel  
Alderman Don LeBrun

**ADMINISTRATIVE ENFORCEMENT OF ORDINANCES**

Given its third reading;

**MOTION BY ALDERMAN SIEGEL TO AMEND O-16-003 IN ITS ENTIRETY BY REPLACING IT WITH THE GOLDEN ROD COPY PROVIDED WITH THE AGENDA**

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

Yea:	Alderman Wilshire, Alderman Dowd, Alderman Caron, Alderman Siegel, Alderman Schoneman, Alderman Melizzi-Golja, Alderman O'Brien, Alderman Lopez, Alderman McCarthy	9
Nay:	Alderman Clemons, Alderman McGuinness, Alderman LeBrun, Alderman Moriarty	4

**MOTION CARRIED**

**MOTION BY ALDERMAN SIEGEL FOR FINAL PASSAGE OF O-16-003 AS AMENDED**

ON THE QUESTION

Alderman Siegel

I am going to go through a variety of comments that hopefully address some of the objections that were made in public comment and deal with a little bit of the history with this and how we got here and correct some very, very clear misconceptions about this legislation because I think certain people may have literally read the wrong copy of the legislation, that's all I can ascertain. There are communications on your desk from Attorney Nicosia and myself. The attorney is stating that he asked for a continuance of this legislation. This is not a court of law and you can see from my reply that I did not deny that nor did President McCarthy as that is not how this Board operates. When legislation is referred to the full Board it is strictly the power of the full Board, as a legislation body, to decide what to do. Should we, as a legislation body, eventually vote to table this or do something else or kill it entirely, that is what we shall do. It is not up to me or Alderman McCarthy, and in fact, that would be improper as we operate as a legislation body so I don't understand how that was even stated. I also want to say that the landlords were very much included in this process and I will explain why that is exactly the case. This legislation was originally referred to the Personnel/Administrative Affairs Committee so for those that were objecting to how it ended up in the other committee it originally went there and was then sent back up to the full Board of Aldermen and re-referred back to the Substandard Living Conditions Committee. The reason was very specific, it was because a lot of the testimony associated with code enforcement and the discussion about the tool kit for code enforcement, which by the way, had little or nothing to do with the Country Barn discussion, occurred in that committee and it was felt that there would be a sufficient level of expertise in that committee to have a meaningful discussion to forward the agenda of making the legislation appropriate for all parties concerned. It was the will of the full Board of Aldermen to refer and it was referred and committee meetings were held. There were two committee meetings held and when I say the landlords were included in the committee meetings, let me be specific, Attorney Peter Nicosia who represented the landlords was explicitly included in the discussions, he came into the horseshoe and was a full participant in all of our discussions. That, by the way, as everyone on the Board knows, is at the discretion of the committee chair and is not a requirement. We could have just said I am sorry but you have sit there and make your public comment and then be done with it. As the committee chairman I felt that was not forwarding anybody's agenda. The idea was to get as much open discussion as possible and as the legal representative and the elected spokesperson for the landlords that were in the audience there was a general consensus that he was the right person to be at the meeting and he was invited and was a full participant. I might say a very full participant as he had a lot to say. Some of it was agreed to and some of it was not, that's what we do in committee and that's what we do at the full Board of Aldermen, that's how we deliberate. This idea that somehow the landlords were not involved in the discussion to me is a misnomer unless they believe that their paid representative did not, in fact, represent them. They were represented so that's a misnomer, I'm sorry. I would also point out that the landlords that were involved; to my understanding they were meetings at the Nashua Public Library in which a lot of them discussed this legislation. We were not invited, I would have been happy to have attended. City officials were not invited and I'm sure they would have been happy to attend. Nobody told us about them and as for the notion of us not informing people about when these meetings would be held, in fact, e-mails were explicitly sent by our legislative manager to Attorney Nicosia informing him exactly when the committee was going to be meeting so that as much as possible, his constituents, which are paying him, would be informed. To the extent that he did not communicate that to them, if that was what occurred, that is out of our control but we went above and beyond and that was a professional courtesy that I felt was reasonable. Now, there is a statement in Attorney Nicosia's memorandum which you received which states that the legislation was not amended and that this had gone through the committee process and appeared back at the full Board of Aldermen tonight unchanged. We just voted to amend the legislation with the golden rod copy in which it had been changed. One of the specific changes that were made was to put the warning procedure back in to make it explicit, that it's in there so instead of there being nothing, which there is now, there is no codification of discretion now, it is exactly what was asked for which was to address our fears that going forward there may be unreasonable code enforcement agents in place and that there is nothing in the legislation that talks about discretion. Well, it's in there. Please refer to the goldenrod copy to page 8 where that is explicitly put in there. My

statement is that the attorney's that spoke are working off of the wrong copy of the legislation possibly and I think they are doing a disservice to their constituents, that's my opinion. I don't know what actually happened there but I can only ascertain that from the comments that nothing changed because that's not the case. I would also point out that there has been mention of an unreasonable timeframe, ten days or what not, please refer, again, to the discretion clause in which it specifically talks about a reasonable and certain timeframe. The reasonable and certain timeframe in committee that we talked about was explicitly dependent on what the nature of the problem was. If you are doing a roof it is very reasonable to assume that is going to take quite a long period of time and in fact the way things work is that as long as there is some due diligence to pursue a remedy for a problem then there is no issue. This ordinance addresses the instance where code enforcement is notified of a problem and at that point there is a waiting period where there can be a full remedy and if a phone call is made that this is remedied or the reporting tenant for example, doesn't follow-up then code enforcement has no action and nothing happens. Now we get to the point where there is follow-up and at this point, assuming that people are reasonable, which is generally the case, and in fact codified, a warning is issued in which they talk about it. Remember that the warning is only issued in the event that there has been no effort at that point to correct the problem so we are now at the point where no effort has been made to correct the problem and we are going to issue a warning and hopefully something will be done, again the timeframe is not specified in the legislation, this ten days is a mythology and I don't know where that came from. There is no hard limit; everyone recognizes that there are different problems that require different timeframes so that is kind of silly in that sense. You literally have to be a willful violator. As far as the notion of an Appeals Board, we currently have a code system. There was some reference to all of the different clauses that were in the legislation, all that is the restatement of the existing code, there are no new clauses or magic police powers, we just restated what is in the blue book and I might also say that this ordinance goes beyond the scope of landlords. Not a single restaurant owner has testified that there is an issue and restaurant owners are covered. Anybody with life/safety issues is covered. This is general enforcement of ordinances by the code enforcement department. The idea that somehow we are going after people and this is going to be an additional expense, right now if the city were to be a police state or to "go after people" our only course of action would be to take people to court. Now, everybody who owns property most likely is a corporation which means you can't represent yourself in court and you are hiring an attorney. That attorney is going to click out at about \$250.00 per hour and up and there's going to be a retainer fee and that's a whole heck of a lot of money that's going to occur. That's the remedy right now; go to court so a vindictive city government would go and rototill everybody in court if that's in fact the police state tactics that we are talking about. By the way, there is no Board of Appeals right now so right now we are in a situation where code enforcement exists and there is no Appeals Board that we have right now and you would go to court. That's your first step. This is codifying discretion and providing an intermediate step which you don't even get to unless you are willfully violating the ordinances. I rarely get too wrapped up in legislation and I understand there are two sides of an issue and just for example, the pension fund legislation, it was a hard fought discussion and I felt strongly and other people had reasonable objections and that's fair, it didn't pass. In this case I have actually yet to hear a reasonable objection. I have heard objections but I've heard objections based on the wrong legislation and I haven't heard anything reasonable associated with the exact legislation in front of us so I would defer to our city attorney to comment on whether this would be unconstitutional or not and in fact I would like to ask through the chair if Attorney Bolton might be willing to weigh in on a statement that was made that somehow this is unconstitutional or there is no due process in here since I am not an attorney and we have an attorney present.

#### Attorney Bolton

It was the unanimous opinion of the three lawyers in the city's legal department that this ordinance would be constitutional if adopted.

Alderman Clemons

I read Attorney Nicosia's statement and where it says that there were no changes and I think what he meant, because I had a conversation with him, is that when this was brought back through committee and it went to the Substandard Living Conditions Committee, the discussion that was had in the committee was at least to me and to several other people that were present, that the ordinance was going to come back and it was going to look a lot different than what it looks like now. That there was going to be an appeals process put in there, a mandatory warning was going to be put in there, there was going to be a clearer definition of what some of the fines were and what some of the definitions in the ordinance were. I have to say that when I got the initial e-mail with what is now before us, the amended version, my first reaction was nothing has changed. None of the things that were discussed in the committee were adopted into the ordinance. The closest thing that came out of that was the discretionary warning but it's not a mandatory warning. That language is already codified so it's not anything new either. When you hear that terminology that there were no changes and you understand it from that perspective then yes there were no changes. I had worked with one of the city's attorneys to go over how to put in a mandatory warning. I had asked the chairman of the committee to put that on the agenda and I was denied. I left it at that and I didn't want to bring it forward here tonight but there is an alternative out there and the alternative would require a mandatory warning. Why I feel that is important and why I think that this doesn't pertain or why there should be a mandatory warning is because right now we have codified the discretionary warning but there is no fine associated with it. This ordinance seeks to put in a fine so if we are going to fine someone then we should at least warn them ahead time. If we don't have the decency to put that mandatory warning in our ordinances, why bother having any warning at all, you may as well take out the discretionary warning too and just hope that the code enforcement officers use some kind of discretion. I am not necessarily against putting in these fines but it has to be done in a way that gets the community involved, that gets the landlords involved and the property owners involved and it does it in a way that everybody can come out and say that I am satisfied with the outcome of this because I compromised here or there. We do not have that in front of us tonight. What we have in front of us is an ordinance that isn't going to change anything with either of the two properties that are of concern to us. What are we going to do when we go to Temple Street and there are bedbugs? We have already been told tonight by the Mayor that when we go there they fix the problem. I suppose we could fine them but I am sure that they could slap up their rent by another \$10.00 per room for a week and cover the fine. It's not going to solve the problem. They will pay the fine but the reality is the person that's going to end up paying the fine is the person that is renting the room. The same thing with the Country Barn Hotel, this isn't going to change anything. The only instance that was given at the Substandard Living Conditions Committee where this might be useful is when the Fire Marshall has a problem, like the ovens in restaurants that need to be cleaned and right now what they do is play this game of cat and mouse so maybe in that case a fine would help because the restaurant owner wouldn't want to get a fine. To say that this is somehow going to clean up the properties of the worst offending landlords is incorrect, it's not going to do anything because you can't put a law like this into place and change an immoral person's behavior. They will say here is the table of fines and I will multiply that by how many rooms I have and I'm going to increase the rent on everybody, that's just reality. What we really should be focusing on here is going back and seeing how this schedule is going to actually help us. I think there are some ways where it could be useful but in this form and without a mandatory warning, I cannot and will not support it. I don't think that it's fair to say that because I'm against this or if somebody votes no that they don't care about the bad properties in this city. In fact, I think that by voting no on this and maybe tabling it and bringing it back to committee, I think that's going to show those property owners that maybe we should retool this so that we can come up with something that really is going to go after them and really is going to solve the problem because this isn't going to do it.

Alderman LeBrun

I feel compelled to explain my no vote on this. I either misplaced or I do not have the amendment and therefore I felt compelled to vote on something that I had no knowledge of.

Alderman Moriarty

We did listen last time and I want to take credit publicly for at least doing that even though our lovely local newspaper editorial attacked us. I am still on the fence on this, I could be persuaded either way but I wanted to mention one thing in support and that is that everybody knows that I am sort of a liberty minded person and I'm very small government and my instincts have always been from the beginning to vote no because I think we ought to keep restrictions on the government. Once you offer the government a power it's very hard to take it away so I am very cautious when it comes to giving them power. The best analogy I would use in this case would be the police department. The laws are written to give them the ability to give someone a fine for speeding and I've had the police department do traffic enforcement on Searles in Ward 9 and they will report back how many citations they gave and how many warnings they gave. We live life already in Nashua benefitting from the intelligent thought of our elected officials and our employees, specifically the police department who know when to give a warning. The Mayor has already said that our code enforcement are good people and they are going to use good judgement and I believe that if we were to pass this that all of the good landlords our of city are not going to suddenly get piled under with fines and that the code enforcement is going to know just like the police department does when to give a warning

Alderman Siegel

First to address my colleague, Alderman LeBrun's concern, the amended version was attached to the agenda provided at the meeting so that's with you. If you looked at the legislation that is under O-16-003 on the website, that was not the legislation that is attached to the agenda. It's very important to be discussing the legislation we are voting on with the additions of the discretionary warnings. I want to address this issue of the mandatory warnings which we had extensive discussions within committee and in fact, after the first meeting in which this was brought up which generally everybody regarded as a very cordial discussion, it was, we took all of the input and went back and said okay, what does this actually mean in practice, is this going to work and if it's fine we will put it in there. There was no knee/jerk reaction to say I don't care what anybody says we are not going to put it in, in fact, the leaning went the other way around. It was to say unless there is a reason to keep this out we will put it in so why was mandatory warnings not put in? Let's keep in mind this is not just a landlord/tenant ordinance, this is code enforcement and Bill McKinney who is our building inspector gave the very specific example, a real life example, of contractors that are effectively serial violators. They will come in on a job site and do something completely out of code and completely illegal. If a mandatory warning were issued or required then from job site to job site and they would go without any consequence whatsoever. With a discretionary warning most contractors, as you can imagine, are completely legitimate so you give them a warning they will say I'm sorry and the job there is no issue, that's not a problem. But with that mandatory warning it becomes something just literally that you can institutionalize (inaudible) and less face it, somebody that is willfully violating is an unethical person. Nothing in the existing codes is anything more than codified common sense and in fact, many times life/safety issues. The idea that we would mandate a procedure which would specifically allow behavior which is negative is not okay and that's why it's not in there. Now, to address this whole police state issue which may be overhanging that was mentioned and I know it was not a specific topic but there is a need for government oversight. I mean could you imagine a situation where we viewed our health department as a police state because we came to a restaurant and the refrigerators were temped out at 65 degrees and food was in there and we said do you know what, we will not empower code enforcement to do anything, we are going to have a mandatory warning, which by the way, would refer to all code enforcements. So spoiled meat, no problem just let it go. Again that's an extreme example, it's not something that is going to happen but this idea that there is a police state and that we empowered us with new powers, we haven't done anything, the codes are the codes, it's just here is an intermediate step other than going to court, again, the police state would just be rototilling everybody and taking everybody to court. This does not do that.

Alderman Lopez

I attended both of the Substandard Living Conditions Committee meetings and I would like to reiterate that I felt it was as inclusive as we could make it. The chair, Alderman Siegel, invited the landlords who were present to sit in the horseshoe and discuss things or to elect a representative to represent them. They chose Attorney Nicosia. Attorney Nicosia had already given us his memo and he chose to use his time to go over that in detail with all of our city staff. There was no Attorney Nicosia said that and our staff thought about it and said oh, you are right. It was more that Attorney Nicosia said this and our staff said well that's already happening or this is how that is addressed right now or this is why that wouldn't be a good idea. The back and forth was more because our staff was basically explaining to Attorney Nicosia how it worked. I never got any impression at all that there was any intention to sit down in yet another separate subcommittee group that is somehow not part of the Substandard Living Conditions Committee and work something out. That was an idea that Attorney Nicosia came up with and then just kept repeating it over and over again to the point where he expressed disappointment that we had not decided to it. No one any point said that would be a good idea and we are going to need three over here and three over there. That was never really on the table. The Substandard Living Conditions Committee would have been a great time for landlords to directly weigh in instead of hiring a lawyer and trusting that lawyer to represent your interests for you. On that not I would want to say that regardless of what happens tonight when you come the Substandard Living Conditions Committee, if you are invited to speak or you have public comment, use your right and don't just hire somebody to just speak for you and hope they get it done because it seems like that's not really what happened here. Again, we got another note from Attorney Nicosia which is really just summarizing everything we have already heard several times now. Another representative of his firm came and read through what we have already received so we haven't really had input per se, directly from landlords that's different from what the person that they paid to represent them has said so far. I think we have been as inclusive as possible but we are not really getting willingness to compromise. The people who aren't in this room will never show up in this room. The people who are actually victims of substandard living conditions who are living in the economic bracket that don't have any other choices and have to put up with whatever housing they can get are not going to come into a room full of landlords, like half of the landlords in the city and start complaining about code violations because they are going to be afraid nobody is going to rent to them so we are not hearing from everybody directly because when we did have people come in and testify suddenly they were getting eviction notices and suddenly things were happening that were intimidating to them. I can understand what those people are going through and I am keeping in mind that I represent them too, at least in Ward 4, I have the largest population of people who are living in rooming houses and single occupancy units and I think it's important for their voices to be heard here too. We have heard from places like the Nashua Housing Authority and NeighborWorks which work with those populations and are the closest thing to a direct voice that those people have and they agreed that this is a good step to take and this is something that we should do. I also asked the city's department staff if it would make a difference and if it would help them deal with people you would normally have to court. They said yes, Sarah Marchant said that this would actually help them if they had to go to court in creating a documentation chain. The other staff gave examples of how it would help them in their particularly fields. Our staff says yes and they believe that this will make a difference and improve the ability to enforce code in the city.

Alderman Clemons

With all due respect to Alderman Lopez, I think that in some cases there could be instances where this might be effective for a landlord, maybe. But it's basically just adding a layer to an already cumbersome process. I too, live in a Ward that has a lot of rental units, Ward 6; in fact my house on Ash Street is the only single-family house surrounded by rental properties. The landlords there do a very good job of upkeep of the homes. The thing that I want to be sure about is that we are not passing something that in the future will give the city the right to automatically come in and penalize people just because that's what they want to do or they want to set a new precedent. I've seen stuff like that happen before in the

private sector and it's because basically it's allowed. If you allow it then chances are that at some point down the road somebody is going to do it. It doesn't mean that it will happen tomorrow or in twenty years but if we are having an issue where we are having a lot of issues with landlords for whatever reason, rather than give warnings we want to change the policy to just fine people automatically. Nothing in this ordinance prevents that from happening. Nothing in this ordinance gives that landlord an opportunity to state their case and not pay the fine other than going to court and as we've said earlier tonight, that's an expensive process. I don't think that this ordinance is ready for prime time. I think that there are other things that we need to do as a city to go after the big offenders. This is not going to have any impact, other than raising the rent on the poorest of individuals in this city and it won't do anything else other than that and I guarantee you that the rents will rise if we pass this, they will because they are going to build it in because their business model is not a business model of renting rooms, nice rooms to people so that they have a safe place to live; the business model of our worst offenders is to collect the money and hope that the city doesn't come in and hope that the people that we are renting to don't come and complain to code enforcement. That's what immoral people do.

#### Alderman Wilshire

Landlords can increase their rents, and they are going to have vacancies if they do so. This is not going to affect 99 percent of the landlords in this city. It's that other one percent that this is going to affect. We need to pass this ordinance to start making change here in the city. I agree with everything Alderman Siegel has said and everything Alderman Lopez has said. It's time we, as a city, start making some changes so the housing quality in this city improves. I'm going to support this.

#### Alderman Lopez

I just want to point out that if rents raise, that would be the deliberate decision on the part of landlords, regardless of whether they are being affected or not. Rents have been raising; rents are going to continue to rise. If a landlord in this room decides, I'm upset the city did this. I'm going to pump my rent up, that's one way of looking at it. The landlords that are being specifically addressed by this legislation it is not intended to impact every person in the City of Nashua. It is intended to directly impact the people who are being non-responsive to the city's attempts at code enforcement. They're the ones who seem to have set the bar as low as possible for rent. I'm not sure they are going to start to try to compete with other landlords and other businesses to try to get back at us or try to improve their conditions because as soon as that happens, anybody who could afford their rental properties is probably going to pick someone else. I don't think necessarily rent is automatically going to be raised across the board. I do know that you made a good point that if we allow something to happen, it probably will happen. My issue with this is it is happening right now. We can talk about what could happen or what might happen with the assumption for some reason by the way that every future board of aldermen is going to be completely negligent of this issue and they are not going to respond to constituent complaints; if a landlord is being mistreated, nobody is going to do anything. If that happens, that's a day that hasn't happened yet. What is happening right now is there are landlords that are doing this that need to be addressed. It's not even really just 23 Temple Street. There are other landlords that aren't as frequent or as ridiculous offender but we heard public comment in the last meeting about issues at 243 Main Street that should probably be looked at too. There are other substandard living condition locations. I think if we pass this ordinance, it creates a disincentive for people to continue doing business that way because it changes the dynamic of what they can get away with and what they can't.

#### Alderman Moriarty

I was going to make a motion to re-refer, but I've decided not to. I'll let somebody else make that motion. I heard what Alderman Clemons had to say, and I'll just let him have that opportunity if he wants to. Thank you.

Alderman Clemons

I'll be brief; I know it's getting late. When you're renting to people who basically are the poorest people in Nashua, maybe a step above being homeless, living in 23 Temple Street or the Country Barn Motel or wherever else there's issues like that, if you raise their rent by \$15 or \$20 a week, they can go somewhere else. They can walk to the woods. There is no other place. All you are doing is taking money out of their pocket. I guarantee you that the business moral of these places are slumlords. This isn't going to change that. This will not change that. All this is going to do is raise rents on the people that can't afford it the most. It's going to do nothing. I agree, 99 percent, probably all of these people, it's not going to affect them at all, one way or the other. At least not right now, but it could. But it's that potential where it could that I have a problem with. You shouldn't pass legislation that could be menacing in the future. I'm just going to leave it at that.

Alderman Dowd

I am going to disagree with the Alderman that just spoke on several points. One, they are not going to raise their rents to pay fines because if they don't correct the faults, the fines are going to increase to the point where it's going to hurt them. It has nothing to do with rents because those fines will far exceed rents. I've talked to several of the department heads. For years, their hands have been tied trying to enforce things. They've said if the landlords are known for taking care of these things on a timely basis or tell them that it's going to take me three weeks to get a contractor, they are not going to have an issue with that. They are after the repeat offenders. The ones that time after time just ignore the code enforcement. As far as the mandatory warnings, I equate that to having a police car at Exit 5 stopping cars and saying if you don't slow down, there's a cruiser at Exit 6 and he is going to pull you over and give you a ticket. You would have to be pretty stupid to go speeding by Exit 6 because you are going to get a ticket. That's what mandatory warnings are, the same thing. I trust that our employees, especially working under the department heads and the mayor that we have, are not going to abuse this. Is this a perfect ordinance? No. It's very difficult to write perfect ordinances. We can address it over time and see if there are tweaks that need to be made. But we need to do something now, not later. This has been back and forth to committees on several occasions. It has had several screenings, several opportunities. The legislation that is before us right now is what we have. Let's give it a shot and make sure that the intent of this ordinance is followed. The mayor and the department heads will do that. If we get feedback from the landlords that it is being abused, we can change it right here again.

Alderman McGuinness

I think as most of you know, I won't be supporting this legislation. But I did want to mention with respect to the sponsors and the supporters of it, that their hearts are in the right place. They're sincere and genuine in what they are trying to do to solve a problem. I don't like this legislation. I think it is poorly written and could be very harmful to the citizens that are property owners of Nashua. I do understand we are trying to solve a problem here. The proponents of the legislation, your intentions are good, but I just think it's really a flawed bill. One thing I would like to say about intentions, we've heard a lot of testimony from some of the department heads about how they are going to practice good will and restraint and good intentions. I'd just like to remind everybody that this is legislation and we're legislators. I think good intentions are meaningless. The road to somewhere is filled with them. I think that some of the testimony that was brought up, it's black and white. We're making law here. We're not talking about good intentions and friendly administrations and unfriendly administrations. I just wanted to set that there. Thank you for listening; I will not be supporting this bill.

Alderman Wilshire

I think one of the things that really are important to me is people like NeighborWorks came out to speak in favor of this legislation. They provide housing for low income individuals, and they are good at it. They

are very good at it. They have a lot of low income apartments, not just in Nashua but in southern New Hampshire. I am very respectful of the work they do. They came tonight to make sure that we knew that they were in support of this type of legislation, as did one of the commissioners from the Nashua Housing Authority, who is probably the biggest landlord in the City of Nashua. We also got a communication from Bob Keating, who we all know in this Chamber, who is one of the strongest advocates for low income people. He's with the Granite State Organizing Project, and he was in support of this. That's pretty telling to me, that these organizations and individuals came here to talk to us about this tonight. This is what these people do. They advocate for low income people. They came tonight to tell us that. I'll be supporting it.

Alderman Schoneman

I appreciate the advocacy for low income tenants in the City of Nashua and elsewhere. The gentleman who spoke from NeighborWorks and others who would speak in favor sounds like they are good landlords.

*(Alderman Moriarty was disconnected and no longer participated via teleconference call.)*

There's no issue with their compliance or their provision of good services. Landlords at the two locations that we are really concerned with don't appear to be in that category. I share the view that I don't think we're going to change their character. The gentleman that spoke from NeighborWorks seemed to exhibit a character where he had legitimate and genuine concern. The landlords or the owners at the two places that we are primarily concerned with, I don't know if they are going to be legitimately affected by this. If they don't have that character already, I don't see it happening. I think the likelihood of them raising rent just from an economic standpoint based on the low vacancy rate that we heard from the gentleman from NeighborWorks at 2 percent, there appears to be no pressure to keep rates low. If he was able to raise them to collect the fines, maybe they could simply do that from an economic standpoint. Maybe that's the answer in a sense because if everything is complied with internally to that building at 23 Temple, there could still be issues with those folks across the street that wanted to develop the property but didn't because 23 Temple exists as it is. This isn't going to change what 23 Temple is. I'm concerned about that. I'm also wanted to address the comment that there's no effect on those sitting out here. There may be no fine coming in the next week or two or whenever, but there is an effect. That's what they are here speaking about. One gentleman said he had anxiety. As a landlord he owns one building and he expressed a fear of what this might mean for him. I think that's a serious concern. I don't like it when any citizen in the city is afraid of this government. I think the folks at 23 Temple, the owners of 23 Temple should be afraid, but I don't think they are. The legitimate people who are good landlords, they are the ones that are fearful. Whether or not this will affect them today is hard to say, but it could. It could affect them a year from now or two years from now or whenever when this legislation lies there ready to be picked up and enforced perhaps punitively. Who knows, we don't know that now. We know the character of the people that are administering it today within code enforcement. We don't know beyond that. It seems to me that it opens a door that I think causes potential grief in the future, certainly causes a level of anxiety and fear today. I question what real effect it will have on the two properties we're concerned with. Thank you.

Alderman Lopez

I want to say I am sensitive to the anxiety that a business owner feels really. I understand what it's like to be concerned about the future and what it might hold. I am also sensitive to the first woman who testified here. Her son died in the room next door. She received an eviction notice the day before Thanksgiving. No organizations or help was going to be available for her to get anything. She was very anxious. She was very upset. Her son's room was rented out the day after. The discussion about when it was being rented out was happening right in front of her while this is all happening. His belongings were kept in a closet that someone else was renting out, so she couldn't even get her son's stuff. This is not behavior

the city should tolerate. I hate to say this, but it's not the only time it's happened. If more people came and testified to the substandard living conditions and talked about the conditions that they endure in the landlords that we're talking about, just one or two buildings, if we talk about the human misery that they cause, I think most of the people in this room would be completely appalled because it is a different level of living that they are anywhere used to living. That's why it is substandard living. People feel anxiety. They feel depression. They feel hopelessness. They can't move out. They can't make any changes. The physical building that they are living in is not basic living conditions. It's something that needs to be done now. I'm very sensitive to the position that this is putting landlords in because this is change. This is a new effort by the city, and yes, we should all be very anxious about how it could go unintended and how it could go poorly, but I think that anxiety has driven the development of it in the first place. I think everybody who has looked at this has taken a conscientious approach at it, and said I want to make sure we don't do this wrong. I even understand Alderman Clemons' approach because he is trying to make sure that this does what it is supposed to do. Everybody in the room is very, very conscience of how this could go wrong. I just want to remind everybody that it is going wrong for people right now. We're all still going to be in this room next month, the month after, maybe a year and a half from now, who knows. We're going to be available. If something is going wrong, we can do something about it. We're all open. You all know now which one of us is your ward alderman, which one of us is your at-large. I am very much in favor of maintaining the communication that we've started here regardless of how the vote goes because I think that's the best way to cooperatively move forward with this. I don't think this legislation is going to be the solution to every problem, but I think it is start that we need to make. It's a stepping point to move forward collectively in trying to address a real issue with the city that most of us aren't directly affected by. It's just hypothetical, but it's happening and there are people that need to be spoken for.

Alderman Clemons

Mr. President, to Alderman Lopez, if I could. Could you explain how this legislation is going to help somebody who is sleeping in a bedbug infested bed tonight?

Alderman Lopez

As was already described by the staff at both of the meetings of the substandard living conditions committees, it provides a disincentive to just carrying on business as usual. As the Mayor said at the beginning of this meeting, a lot of code violations that are happening in specific buildings, they are not being reviewed in advance because there is no consequence. If the code enforcement officer comes and says fix this then they have to fix it. If the code enforcement officer says this is broken, you have to fix it or there's a fine, now they only have ten days to fix it. The concern that is being voiced by the other landlords here becomes a driving factor. It's also a documentation trail so if the landlord is a repeat offender and is constantly causing difficulty, now at least we have something that we can bring to court. A lot of this was covered in the meetings that you were sitting at. Maybe reviewing the minutes would be helpful.

Alderman Clemons

If I could continue, respectfully, I guess I just don't understand how a fine is going to clean up a building that we haven't been able to clean up for 30 years.

Alderman Lopez

Is that a question?

Alderman Clemons

It's not a question; it's a statement.

Alderman Siegel

First of all, let's remember this is code enforcement. It does not deal with just 23 Temple. We get sucked into this rabbit hole of using 23 Temple as the litmus test for this legislation. It is not intended to be such. It is more wide ranging than that. I gave the specific example of improper contractor actions, which is the specific thing which led to us not wanting to put the mandatory warnings in there. Yes, dealing with 23 Temple would be highly desirable. This legislation is not exclusive to that nor should it be judged exclusively on its success or failures in dealing with 23 Temple. With regard to people walking out and sleeping in the woods, the people that are in those situations have housing vouchers. Those housing vouchers don't go away depending on whether somebody raises the rent. The housing vouchers are to provide for those people so we don't have people walking in the woods. By the way, one of those people that would be walking in the woods is the previously mentioned Kathy Tucker. I was the person sitting there with her the morning her son died. I was the guy whose shoulder she was crying on trying to help her from being evicted on the morning that her son died. Even that said this legislation is not influenced by that. That's a very bad situation. But this legislation is not part of some social justice warrior attempt at dealing with it although that is clearly something we care about. That's not what this legislation is about. It's wide ranging. It's code enforcement, not landlord-tenant issues.

Alderman LeBrun

Mr. President, would a motion to re-refer to the committee be in order at this time?

President McCarthy

Yes, it would. Are you making one?

Alderman LeBrun

So moved.

**MOTION BY ALDERMAN LEBRUN TO RE-REFER TO COMMITTEE**

ON THE QUESTION

President McCarthy

Discussion which is limited to the expedience of re-referring to committee.

Alderman Siegel

Which I assume it would be re-referred to my committee, I see nothing further to be gained by re-referring to committee. We've exhaustively discussed this. I think if it's going to pass or fail, I think it should do so on the merits as it is presented right now. Some may object; others may not. We've had a lot of discussion. I would like to see this voted on now. I adamantly object to re-referring it to committee.

Alderman O'Brien

As a member of the committee and clerk, I would like to reiterate exactly what Alderman Siegel has said. I don't see any other future work to can come. This needs to go to a vote tonight.

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

Yea: Alderman Clemons, Alderman Schoneman, Alderman McGuinness , Alderman LeBrun 4

Nay: Alderman Wilshire, Alderman Dowd, Alderman Caron, Alderman Siegel, Alderman O'Brien, Alderman Lopez, Alderman McCarthy 7

**MOTION FAILED**

President McCarthy

The motion fails. The motion before us is for final passage. Is there any further discussion?

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

Yea: Alderman Wilshire, Alderman Dowd, Alderman Caron, Alderman Siegel, Alderwoman Melizzi-Golja, Alderman O'Brien, Alderman Lopez, Alderman McCarthy 8

Nay: Alderman Clemons, Alderman Schoneman, Alderman McGuinness, Alderman LeBrun, 4

**MOTION CARRIED**

Ordinance O-16-003 declared duly adopted as amended.

**O-16-010**

Endorser: Alderman-at-Large David W. Deane

**ADOPTION OF AMENDMENTS TO MERIT EMPLOYEE RULES AND REGULATIONS EFFECTIVE JULY 1, 2016**

given its second reading;

**MOTION BY ALDERMAN CLEMONS FOR INDEFINITE POSTPONEMENT OF O-16-010**

ON THE QUESTION

Alderman Clemons

With regards to the indefinite postponement, this was discussed at length in committee as well as with the Personnel Advisory Board and with input from the Mayor as well as Mr. Griffin and Mr. Budreau. In committee, it was discussed that we should probably look at a real comprehensive overhaul of the merit schedule. Therefore, the committee recommends indefinite postponement.

**MOTION CARRIED**

Ordinance O-16-010 declared indefinitely postponed.

**O-16-011**

Endorsers: Alderman Don LeBrun  
Alderman Ken Siegel  
Alderman David Schoneman  
Alderman Tom Lopez

**ADOPTING PROVISIONS FOR REDUCED TAXATION FOR CERTAIN CHARTERED  
PUBLIC SCHOOL FACILITIES**

- Tabled at Full Board Level – 5/10/16

**O-16-012**

Endorser: Mayor Jim Donchess

**MOVING PARKING OVERSIGHT AND MANAGEMENT FROM THE TRANSPORTATION  
DEPARTMENT IN THE COMMUNITY DEVELOPMENT DIVISION TO THE OFFICE OF  
ECONOMIC DEVELOPMENT IN THE MAYOR'S OFFICE**

given its second reading;

**MOTION BY ALDERMAN CLEMONS FOR FINAL PASSAGE OF O-16-012  
MOTION CARRIED**

Ordinance O-16-012 declared duly adopted.

**NEW BUSINESS – RESOLUTIONS**

**R-16-039**

Endorsers: Mayor Jim Donchess  
Alderman Mary Ann Melizzi-Golja  
Alderman Tom Lopez  
Alderman-at-Large Michael B. O'Brien, Sr.  
Alderman Don LeBrun  
Alderman-at-Large Lori Wilshire

**AUTHORIZING THE CITY OF NASHUA TO ENTER INTO CONTRACTS WITH NASHUA  
COMMUNITY COLLEGE, RIVIER UNIVERSITY, DANIEL WEBSTER COLLEGE, TOWN OF  
HUDSON, TOWN OF MERRIMACK, SOUHEGAN VALLEY TRANSPORTATION  
COLLABORATIVE, AND THE PLUS COMPANY FOR TRANSIT SERVICES**

Given its first reading; assigned to the FINANCE COMMITTEE by President McCarthy

**R-16-040**

Endorsers: Alderman Mary Ann Melizzi-Golja  
Alderman-at-Large Lori Wilshire  
Alderman Benjamin M. Clemons  
Alderman Richard A. Dowd  
Alderman June M. Caron  
Alderman Ken Siegel  
Alderman-at-Large Michael B. O'Brien, Sr.  
Alderman Tom Lopez  
Alderman-at-Large Brian S. McCarthy

**AUTHORIZING THE MAYOR AND CITY TREASURER TO ISSUE BONDS NOT TO EXCEED  
THE AMOUNT OF ONE MILLION SIX HUNDRED FIFTY THOUSAND DOLLARS (\$1,650,000)  
FOR THE SPIT BROOK ROAD FIRE STATION 3 BUILDING RENOVATIONS**

Given its first reading;

**MOTION BY ALDERMAN DOWD TO ACCEPT THE FIRST READING OF R-16-040 BY ROLL CALL, ASSIGN IT TO THE BUDGET REVIEW COMMITTEE AND THAT A PUBLIC HEARING BE SCHEDULED FOR MONDAY, JUNE 27, 2016, AT 7:00 PM IN THE ALDERMANIC CHAMBER**

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

Yea:	Alderman Wilshire, Alderman Clemons, Alderman Dowd, Alderman Caron, Alderman Siegel, Alderman Schoneman, Aldерwoman Melizzi-Golja, Alderman McGuinness, Alderman LeBrun, Alderman O'Brien, Alderman Lopez, Alderman McCarthy	12
Nay:		0

**MOTION CARRIED**

**R-16-041**

Endorsers: Mayor Jim Donchess  
Alderman June M. Caron  
Aldерwoman Mary Ann Melizzi-Golja  
Alderman-at-Large Lori Wilshire  
Alderman Richard A. Dowd  
Alderman Ken Siegel  
Alderman Don LeBrun  
Alderman-at-Large Michael B. O'Brien, Sr.  
Alderman-at-Large Brian S. McCarthy

**RELATIVE TO THE TRANSFER OF \$25,000 FROM DEPARTMENT 159 – OTHER PUBLIC SAFETY, ACCOUNTING CLASSIFICATION 54 – PROPERTY SERVICES, HYDRANT FEES TO DEPARTMENT 109 – CIVIC & COMMUNITY ACTIVITIES, ACCOUNTING CLASSIFICATION 56 – OUTSIDE AGENCIES FOR THE PURPOSE OF DONATING TO THE NASHUA ASSOCIATION FOR THE ELDERLY**

Given its first reading; assigned to the BUDGET REVIEW COMMITTEE by President McCarthy

**R-16-042**

Endorser: Mayor Jim Donchess  
**ESTABLISHING POLLING TIMES FOR THE STATE PRIMARY ELECTION ON SEPTEMBER 13, 2016 AND THE STATE GENERAL ELECTION ON NOVEMBER 8, 2016**

Given its first reading;

***There being no objection, President McCarthy suspended the rules to allow for a second reading of R-16-042***

*Resolution R-16-042 given its second reading;*

**MOTION BY ALDERMAN CLEMONS FOR FINAL PASSAGE OF R-16-042  
MOTION CARRIED**

Resolution R-16-042 declared duly adopted.

**R-16-043**

Endorsers: Mayor Jim Donchess  
Alderman-at-Large Lori Wilshire  
Alderwoman Mary Ann Melizzi-Golja  
Alderman Richard A. Dowd  
Alderman June M. Caron  
Alderman Ken Siegel  
Alderman-at-Large Michael B. O'Brien, Sr.  
Alderman Tom Lopez

**RELATIVE TO THE ACCEPTANCE AND APPROPRIATION OF \$63,648 FROM THE DEPARTMENT OF HOMELAND SECURITY INTO FIRE GRANT ACTIVITY "FY2015 ASSISTANCE TO FIREFIGHTERS GRANT"**

Given its first reading; assigned to the HUMAN AFFAIRS COMMITTEE by President McCarthy

NEW BUSINESS – ORDINANCES

**O-16-013**

Endorser: Mayor Jim Donchess  
Alderman Richard A. Dowd  
Alderman June M. Caron  
Alderman-at-Large Lori Wilshire  
Alderwoman Mary Ann Melizzi-Golja  
Alderman Sean M. McGuinness  
Alderman Don LeBrun  
Alderman-at-Large Michael B. O'Brien, Sr.  
Alderman Tom Lopez

**INCREASING THE COMPENSATION OF ELECTION OFFICIALS**

Given its first reading; assigned to the PERSONNEL/ADMINISTRATIVE COMMITTEE by President McCarthy

PERIOD FOR GENERAL PUBLIC COMMENT

Mr. Jim Cutter, 86 Palm Street

Dear Alderman McCarthy,

You have heard me talk many times about the city error that gave a large part of our driveway/clothesline area to the Gilbertson's. We would like it very much if the Board of Aldermen helped us. But, as far as I know, it appears easier if Mayor Donchess helped because an ordinance would not be needed. I have found in Section 45 of the City charter, the Mayor "shall" enforce the ordinances of the city. Enclosed is a copy of "1949 Plat Plan Error at 88 Palm Street" for Mayor Donchess. Sincerely, Jim.

Mr. Joseph Haas

I'm sorry I messed up the "election" for "elected" officials. But complaint still that is lodged here is the RSA 444:6 is not being addressed. I sat as a former landlord to hear all of this stuff on ordinances and having an ordinance enforcer to do something and right now you have the police officer is charged with law enforcement. So we already have the law on the books but I put into my e-mail that you all didn't get and I'm sorry that the other two Aldermen didn't share it with you but what happened was I went over to McLaughlin Transportation, the Mayflower because he was contracted by Uncle Sam to hold an auction for my friend, Ed Brown's, personal property up there in Plainfield; he and his wife Dr. Elain Brown. I went there to do a First Amendment, Freedom of Association, Freedom of Speech, to bid, to talk with other people and I was told by two of the three detail officers of the police that the feds paid to keep the

peace there and they prevented me from going on the property. I got there about five minutes to ten and it started at ten and they said no. As I was standing by the property and would have trespassed on the property if I came back, two people in a truck came by and they said they wanted to go to and the guy said no, it started at ten and if you weren't here by ten then skedaddle. I don't know what your power is over the police chief, I think he is appointed but is he elected?

Alderman McCarthy

He is appointed by the independent police commission.

Mr. Haas

Oh that's right, I forgot about that. I just want to get to the bottom and the bottom line in the auctioneer, the federal auctioneer who wasn't licensed by Dave Gardner of Secretary of State's Office. Even the RSA says that all auctioneers, not exempting the federal auctioneers, have to submit an accounting of what happened over there to the city clerk. So either he pushes it to the city clerk's office or she ought to be able to pull it by sending a notice to the Ward Alderman, Dowd and that's why I wrote to him. I wrote to the other guy because he is the Ward Alderman for where the auction took place. I thought they would have some type of feedback to me on what to do. I come down here to spend money and I was prevented from spending money so you would think that you would say that we will straighten it out so it doesn't happen next time and in the meantime, we will issue a reprimand or something like that that something wasn't done and the law was not complied with. I went to the commission over there and there was a public hearing and they said too bad, those guys paid and whoever pays us gives the command and I said no, you took an oath of office to abide by the Constitution and my rights were violated and so what I am doing is I am giving you notice to correct the situation and if you don't then I might sue the city because that's a violation of my rights. I am not doing this for myself, I am doing this for Ed Brown too because the money that could have been collected....I went to a coin shop and he said that if he had known about it he would have gone there too and other people would have gone and it would have increased the price. His debt that he owes to Uncle Sam would have been paid off more with money coming in so for not even advertising it...The city clerk said yes, they can advertise on the city's website but that opportunity was not even presented to them and maybe they didn't even know about it. Maybe McLaughlin, I don't know what his problem is over there of not complying with the law because the only place that I saw it was on the federal website. There was no advertisement.

Alderman Siegel

Your five minute time limit is up.

Mr. Haas

Well I leave it up to you, please would you do something about it. I spent some time coming down here and like I said, stuff should have been done in writing and I'm not getting any feedback from the Mayor, from the city clerk and the two Aldermen. I will send you all of the e-mails if you want. Do I give it to someone to distribute it to someone else, I don't know, I mean come on, please. Thank you.

REMARKS BY THE MEMBERS OF THE BOARD OF ALDERMEN

Alderman Lopez

I want to comment that next Monday at 8:00 p.m. at Rotary Commons we are holding a vigil for everyone we have lost to substance abuse and addiction. It's the summer solstice and it's meant to reflect the one day at a time that people make to remain sober. Tonight Positive Street Art held a vigil for the Orlando victims and they committed to free style dancing after their class.

Alderwoman Melizzi-Golja

Tomorrow evening, Science Café at 6:00 p.m. and the topic is Local Hydroelectric Power and it's specifically focused on Nashua and it's held at the Holiday Inn.

Alderman Siegel

I'd like to offer my condolences to the Cookson family and in light of horrible tragedies I would like to remind everyone how great Nashua is and that's what happened to the Ivory family at Nashua North, it's truly a wonderful story and how wonderful our city is.

Alderman Caron

I too would like to send out my condolences to the Cookson family and the Kleiner family as well. One other thing concerning this landlord issue, I want to say that any of these laws that we put in, if there is an issue or a problem then we can bring it back and change it but I would rather see this go in place because I know that the good landlords are not going to get fined and we could have turned around and do what Manchester does and charge each and every one of these landlords for the apartments that they have so we can go in and inspect them and I think that would have been a bigger hardship for the good landlords. I think we tried to do our due diligence and hopefully we can work on this and I am sure that code enforcement will be very well represented in taking care of this.

Alderman Dowd

I just want to congratulate Justin Kates, Emergency Management Department, for their award.

Alderman Wilshire

On June 23<sup>rd</sup> the Nashua Police Department will be holding a pre-4<sup>th</sup> of July holiday blood drive at the police department classroom from noon to 5:00 p.m. The Club National is holding their annual golf tournament to benefit the Nashua Children's Home; thank you Alderman Chasse! My condolences also go to the Cookson and Kleiner families.

President McCarthy

I would express my condolences also the Cookson and Kleiner families and I'd also like to thank my wife of 41 years today and her tolerance of the 23 of those 41 years that I've spent with you instead of her.

Committee announcements:

Alderman Dowd

We are having a budget wrap-up on Thursday and that's where motions can be made. I would ask that if you have a specific motion you have in mind please write it down so Alderman McGuinness won't have to recreate the motion. Also one week from Thursday is the School Construction Projects Committee and the Joint Special and it's going to be at Sunset Heights Elementary School and at 6:30 p.m. there will be a tour so the contractor can show us the progress made to date.

Alderwoman Melizzi-Golja

There will be no Planning and Economic Development Committee next week as we have no business.

ADJOURNMENT

**MOTION BY ALDERMAN WILSHIRE THAT THE JUNE 14, 2016, MEETING OF THE BOARD OF  
ALDERMEN BE ADJOURNED  
MOTION CARRIED**

The meeting was declared adjourned at 10:38 p.m.

Attest: Patricia D. Piecuch, City Clerk

LAW OFFICE OF  
NICOSIA & ASSOCIATES, P.C.

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**MEMORANDUM IN OPPOSITION TO**  
**PROPOSED NASHUA ORDINANCE O-16-003, CHAPTER 74**  
**(Board of Aldermen Meeting June 14, 2016)**

The Petitioners<sup>1</sup> oppose proposed Ordinance O-16-003, Chapter 74 on the grounds that it is unconstitutional for lack of due process and vagueness. In that regard, the Petitioners respectfully request that the Board of Alderman reject the enactment of the proposed Ordinance in its current form.

***Procedural Status and Request to Table Discussion***

The Petitioners, by and through legal counsel, attended the Substandard Housing Sub-Committee Meetings on the proposed Ordinance on April 14, 2016 and May 26, 2016. At both meetings the Petitioners raised all of the arguments set forth below. The meeting was also attended by various representatives of the City Inspectional Departments. Some of the Aldermen in attendance as well as some of the Inspectional Representatives even agreed with some of the points set forth below. Petitioners' counsel also volunteered to work with City legal staff and the Sub-Committee to essentially re-write the proposed Ordinance to address the most significant concerns of the Petitioners. Such offer and all comments below were rejected. The Sub-Committee then voted on May 26, 2016 to send the originally proposed Ordinance version back to the Board of Alderman with **no changes** for a full vote.

Since learning second hand of the impending Aldermen Meeting Agenda, the undersigned counsel has requested that the Aldermen table the 6.14.16 impending vote on the Ordinance until 6.28.16 as counsel for these Petitioners cannot attend. The pre-meeting request for this brief extension of time was emailed to the President of the Board and the Substandard Housing Sub-Committee and has been rejected by Alderman Siegel. As such, Petitioners' counsel is circulating this Memorandum now to the Board for inclusion in the Administrative Record and will send another lawyer from the firm to represent the Petitioners in the event that the Board does not table the discussion in accordance with this request.

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<sup>1</sup> The Petitioners are comprised of thirty-two (32) Nashua property owners whom have retained this law firm to oppose the proposed Ordinance. For purposes of this advisory committee hearing the property owners can be identified as the 'Association of Nashua Property Owners Opposed to Proposed Ordinance O-16-003 Chapter 74.'

### *Standard of Review*

RSA 31:39-c adopted in 2010 along with the state zoning-enabling act grants municipalities broad authority to pass zoning ordinances for the health, safety, morals and general welfare of the community. *Boulders at Strafford, LLC v. Town of Strafford*, 153 N.H. 633, 636, 903 A.2d 1021 (2006) (citing *Taylor v. Town of Plaistow*, 152 N.H. 142, 145, 872 A.2d 769 (2005); RSA 674:16, 1 (1996)). Although a town generally has the authority under its police power to enact zoning and other related laws in the interest of the general welfare, this authority is not unlimited. *Loundsbury v. City of Keene*, 122 N.H. 1006, 1009, 453 A.2d 1278 (1982.)

### *Due Process*

A substantive due process challenge to an ordinance questions the fundamental fairness of an ordinance both generally and in the relationship of the particular ordinance to particular property under particular conditions existing at the time of litigation. *Caspersen v. Town of Lyme*, 139 N.H. 637, 642, 661 A.2d 759 (1995). In determining whether an ordinance is a reasonable exercise of the municipality's police powers and, therefore, can withstand a substantive due process challenge, the Courts have consistently applied the rational basis test. Under this test, we consider whether the ordinance bears a reasonable relationship to its objective and does not unduly restrict fundamental rights. *Powers v. Town of Hampton*, 125 N.H. 273, 276, 480 A.2d 143 (1984).

Although an ordinance may be facially valid because it promotes the public health, safety and the general welfare, this does not end the matter. In order to respect the property owner's rights, it is also necessary to determine whether the ordinance is nevertheless arbitrary and unreasonable as applied to the plaintiff's land." *Metzger v. Town of Brentwood*, 117 N.H. 497, 501, 374 A.2d 954 (1977) (emphasis added). To determine whether an ordinance is arbitrary and unreasonable, the injury or loss to the landowner must be balanced against the gain to the public." *Buskey v. Town of Hanover*, 133 N.H. 318, 323, 577 A.2d 406 (1990).

### *Vagueness*

The vagueness doctrine rests upon the Due Process Clauses of the Fifth and Fourteenth Amendments and applies solely to legislation which is lacking in clarity and precision." *State v. Gaffney*, 147 N.H. 550, 553, 795 A.2d 243 (2002). Due process requires that an ordinance proscribing conduct not be so vague as to fail to give a person of ordinary intelligence a reasonable opportunity to know what is prohibited." *Webster v. Town of Candia*, 146 N.H. 430, 434, 778 A.2d 402 (2001) (quoting *In re Justin D.*, 144 N.H. 450, 453, 743 A.2d 829 (1999)). An ordinance is unconstitutionally vague when people of common intelligence must necessarily guess at the statute's meaning and differ as to its application. *State v. Pike*, 128 N.H. 447, 449, 514 A.2d 1279 (1986).

## ARGUMENTS

1. The City of Nashua already has a mechanism for enforcement of building, fire and health code violations pursuant to RSA 502-A:11-a and RSA 676:6. Inclusive in those statutory protections is the ability to also fine non-compliant property owners. As such, the proposed ordinance is duplicative. Moreover, the adoption of the ordinance will not eliminate the need for a future District Court proceeding if a property owner wants to contest the violation.
2. Unlike the current statutory scheme referenced in paragraph 1, the proposed ordinance does not afford a property owner due process prior to imposition of and obligation to pay the fine imposed. An inspector determines the merits of an alleged code violation, issues the citation and the fine is then due and payable under the current wording of the ordinance without any form of due process. If a property owner wants to contest the fine the property owner must pay it within the time allotted or be faced with additional fines for non-payment as the matter proceeds into a District Court litigation.<sup>2</sup>
3. The proposed ordinance fails for vagueness and due process as it relates to the City's determination of the 'person responsible' for the violation. The current wording of the ordinance does not define 'person responsible' and presumes that it is simply the record title owner of the property that should be obliged to pay the fine. What if the alleged code violation were caused by a tenant, negligent contractor or act of mother nature and not the property owner? Shouldn't the fine then be imposed upon the actual person that caused the violation? A property owner should not be assessed a fine without a due process evidentiary hearing to determine who ultimately caused the alleged code violation. It is inherently unfair for a property owner to pay a contested administrative fine up front, force them into a District Court appeal process and then also force them to chase whoever the ultimate responsible party is for such property condition. What if the property owner is successful in the contest and has already paid the administrative fine? There is no mechanism written into the proposed ordinance to prescribe a refund of said monies.
4. The proposed ordinance fails for vagueness and due process as it relates to a 'reasonable time to comply.' The way the ordinance is currently written appears to impose a ten (10) day time line to comply or pay the designated fine. Depending upon the nature and cause of the alleged fire, building or health code

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<sup>2</sup> Contrast the proposed Nashua ordinance with the town of Durham NH and others. In that community, a similar ordinance was adopted pursuant to RSA 31:39-c. However, after issuance of a citation the aggrieved property owner is afforded with an Administrative Appeal to the town council prior to the ultimate imposition of the fine. Here there is no Administrative Appeal structure proposed that would be specifically related to this ordinance. Within the Nashua Housing Code Blue Book there is reference to a Board of Housing Appeals and Appeals from a Condemnation Order but nothing that would relate to Appeals from these types of Citations. What if it is a commercial property? What if it is a fire or health code violation? An Administrative Appellate process would need to be written into the proposed Ordinance to afford due process.

violation such a time frame is patently unreasonable. There needs to be an Administrative Appeal mechanism that allows a property owner to provide evidence to justify expansion of the time frame to comply on a case-by-case basis. One size does not fit all here. What if the job is complex? A contractor is unavailable? A property owner is out of state/communication? A natural disaster occurred? There are insurance or tenant issues? The way the proposed ordinance is written does not comport with a fair analysis of what reality is likely to be here.

5. The way the table of fines is currently proposed in the ordinance will result in unfair penalties that are in direct violation of RSA 31-39-III in that the totality of a fine for an 'offense' cannot exceed One Thousand Dollars (\$1,000.00.) The way the ordinance is currently drafted it defines offense as 'each day' being a new offense as opposed to each code violation 'occurrence or existence.' Offense should be redefined to an event occurrence tied to the merits of the violation and not the calendar days of which the one-time violation continues to exist. Moreover, the proposed ordinance should contain 'warning' provisions and it does not. The fines are also excessive in 'amount' for limited resource property owners that are already paying substantial real estate taxes to the City. Moreover, the proposed ordinance references the ability to impose 'reduced' fines but there is no further designation or uniformity to that in application.
6. The proposed ordinance as written lends itself to selective enforcement and abuse by third parties. The ordinance needs to be revised to set forth whether inspections are 'complaint' based or whether there will be a 'set schedule' of inspections for all property owners—residential and commercial. There should also be a 'reasonable advance notice' provision as it relates to these inspections. As written, this ordinance would allow the relevant inspector discretion to engage in surprise inspections and selective enforcement as to who they may choose to fine and who they don't. The wording of the ordinance is framed with the word 'may' as it relates to a fine. There is too much discretion afforded to a potential inspector to impose or not impose fines in an arbitrary and capricious manner. Moreover, such an ordinance will arm residential and commercial tenants with retaliatory measures to abuse the process by intentionally damaging property, notifying a relevant inspector resulting in an administrative fine being imposed upon a property owner without due process and not as the true responsible party.
7. The 'description section' of the proposed ordinance is overly vague. Although the offense categories are tied to other City or State statutes and ordinances there is the opportunity for an inspector to impose multiple fines for the same violation as the description of the violation can fall into multiple categories. For example, an alleged violation of 'exterior standards' may also qualify for a 'building violation.' There needs to be a 'definitions' section to the proposed ordinance to avoid vagueness and arbitrariness in its application.

**CONCLUSION**

In light of the foregoing, the Petitioners respectfully request that the proposed Ordinance be rejected in its current form by the Board of Aldermen.

Respectfully submitted,  
PETITIONERS BY THEIR COUNSEL,  
Peter J. Nicosia, Esquire

**Good morning Aldermen & Mayor Donchess,**

**You have all received on Monday June 13, 2016 the Memorandum referenced below from Attorney Nicosia email. Once you read it, you will realize that it lists the same concerns that were presented to you back at the last meeting by Attorney Nicosia. This is the same meeting where I was naively under the impression you were willing to all actually work on the redraft with Attorney Nicosia. I actually had hope that this poorly written legislation would be redone the right way; where it actually considered all its effects on All Nashua Citizens/Constituents and All Nashua Property Owners (single family residence owners, all forms of residential rental properties owners, all forms of commercial properties owners, all business owner renters, all renters from all forms of residential rental properties).**

**Believe me, I was totally blown away when I found out that the ordinance came back as originally written. Are you kidding me? This is like the federal government where the republican party constantly refuse to reach across the aisle to compromise with the democratic party or vice versa because they are the better party. When it should be about doing what is best for All Americans not just a few! My parents raised me to not slap stick my work or treat others unfairly. But that in everything you do everyday, to always do your out most best, and keep in mind always how it will effect others around you.**

**This ordinance as currently written:**

**-. Has loop holes, may be easily misinterpreted, lacks clear written procedural steps to be understood by all.**

**-. Will increase court proceedings rather than lower them between city and property owners. No savings to city there. Thus, force property owners to have no choice but to raise prices on cost of goods sold or raise rents to cover these extra business costs not currently budgeted (court costs, fines, etc). These then will make cost of goods sold and housing even more unaffordable for low income families.**

**-. will unfairly fine property owners for damage cause by mother nature, negligent contractor, or code violations caused by a tenant. Instead of allowing due process to property owner, will cause them to go to court. In the town of Durham, NH and others, there is an administrative Appeal to town council prior to the ultimate imposition of the fine for aggrieved property owners who have been issued a citation. The Nashua housing code blue book references a board of Housing Appeals and Appeals for a condemnation order but it has nothing that relates to appeals from these types of citations.**

**-allows only 10 days to comply. What if job is complex? Contractor is unavailable? Insurance or tenant issues? Even section 8 allows for 30 days for non life threatening issues.**

**-allows selective enforcement and may be abused by third parties. Will arm residential and commercial tenants with retaliatory measures to abuse process by intentionally damaging property, notifying inspector resulting in administrative fine imposed on property owner without due process and not as the true responsible party. Especially**

-----Original Message-----

From: Siegel, Ken [<mailto:SiegelK@nashuanh.gov>]

Sent: Friday, June 10, 2016 7:50 PM

To: Peter Nicosia <[Nicosia@Nicosia-Associates.com](mailto:Nicosia@Nicosia-Associates.com)>; Lovering, Susan <[LoveringS@nashuanh.gov](mailto:LoveringS@nashuanh.gov)>

Cc: Clemons, Benjamin <[ClemonsB@nashuanh.gov](mailto:ClemonsB@nashuanh.gov)>; Cookson, Mark <[CooksonM@nashuanh.gov](mailto:CooksonM@nashuanh.gov)>;

McCarthy, Brian <[mccarthvb@nashuanh.gov](mailto:mccarthvb@nashuanh.gov)>; [doodlebugs5@comcast.net](mailto:doodlebugs5@comcast.net)

Subject: RE: RE: Request for Continuance (Proposed Nashua Ordinance O-16-003, Chapter 74) Aldermen Meeting June 14

Attorney Nicosia,

The Board of Aldermen is not a court of law. The decision of whether to postpone debate on this legislation rests solely with the members of the board as a whole and not with any one member or subset of members. Should the majority of members of the full board vote to table this legislation till the next meeting then that will happen. If that does not happen then the legislation will be debated and voted on at the meeting on June 14th.

Best regards,

Ken

Ken Siegel  
Alderman Ward 9

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From: Peter Nicosia [[Nicosia@Nicosia-Associates.com](mailto:Nicosia@Nicosia-Associates.com)]

Sent: Friday, June 10, 2016 3:31 PM

To: Lovering, Susan

Cc: Clemons, Benjamin; Cookson, Mark; Siegel, Ken; McCarthy, Brian; [doodlebugs5@comcast.net](mailto:doodlebugs5@comcast.net)

Subject: RE: RE: Request for Continuance (Proposed Nashua Ordinance O-16-003, Chapter 74) Aldermen Meeting June 14

Hello again:

Having not received any response, I'm following up on the prior email below.

Please advise as to whether you will grant this brief professional courtesy of a two week extension.

Regards,

Peter J. Nicosia, Esquire  
Nicosia & Associates, P.C.

PO Box 721

259 Middlesex Road,

Tyngsboro, MA 01879

T: 978-649-4300

F: 978-649-9306

E: [nicosia@nicosia-associates.com](mailto:nicosia@nicosia-associates.com)<<mailto:nicosia@nicosia-associates.com>>

## LETTERS TO THE EDITOR

### Trump and Clinton are not in same boat

Ms. Hubley is correct in her letter "Trump and Clinton are hardly equals" (June 1). Trump has succeeded in leveling the playing field by being a politically incorrect nonpolitician and that's driving liberal progressives and democratic socialists out of their minds.

Trump eliminated the race, woman, sex, gender, etc., cards that Democrats have used for years to garner votes. To me, that's refreshing. Trump has a following equal or arguably more grassroots than Hillary Clinton and, if I'm not mistaken, Iran, ISIS and Russia have taken notice, so the "dangerous" card won't work, either.

Trump actually has a successful record of accomplishment relating to economic development and has learned from his failures using established laws.

Clinton doesn't want to distinguish between legal and illegal immigration because her voting bloc doesn't want to obey legal immigration laws and policies. Building the wall says it all for Trump followers. Clinton's slogan is tired.

Finally, anyone who signs a nondisclosure affidavit but doesn't comply with it is culpable. Anyone who fails to secure possessed classified information is culpable. Anyone who mixes personal and government classified information without prior approval is culpable. Anyone who destroys government property is culpable. Furthermore, anyone who mishandles classified information shouldn't be granted a security clearance, which is required to perform most presidential duties.

To me, all of the above clearly make Trump more qualified than Clinton.

Timothy C. Tiches  
Nashua

### If Trump were still in middle school

If Donald Trump were a middle school student, he would have been expelled from school long ago for repeated bad behavior.

Imagine your 13-year-old daughter came home from school complaining a boy made fun of her because she menstruates.

What if your son asked, in confusion and shame, whether dad was a rapist because he was not a legal immigrant?

How would you feel if you learned your child was being publicly mocked because his disability caused his hands to shake?

You would be livid, and rightly so.

You would demand the school discipline the perpetrator and ensure the bullying stopped.

Unfortunately, we have no principal to call and must endure Mr. Trump's bad behavior until November.

Hopefully he will then be expelled from the political process and return to reality television.

David S. Robbins  
Nashua

### Landlord change would be harmful

Regarding the change to the way the city handles landlords: Giving landlords only 10 days to make non-safety repairs (cracked glass, chipped paint, dented vinyl, old weather stripping, etc.) before a \$50 fine is levied is cruel and unusual treatment. Ever had a contractor start a job and then disappear? Or even get one to give a quote on 10 days' notice? The urgency to prevent daily new fines from piling up after 10 days skyrockets the repair costs, which forces landlords to raise rents for the money, hurting consumers.

All landlords are asking for is 30 days to correct repairs that

are not life-threatening, but the aldermanic committee refused. So if the aldermen vote for passage, the fine for repeated daily minor infractions would be the same for a leaky gas line or dangerous wiring. Minor repairs and ones that are critical should not be on the same timetable.

Instead of the city taking a landlord to court to determine guilt prior to issuing a fine, which is now the law, this new law will allow the city to issue a fine at the code officer's discretion, which allows selective enforcement. Then the landlord will have to take the city to court to prove innocence. The city will have shifted legal costs onto the landlord to defend himself or herself.

The ramifications of the bill, because of two bad local landlords, will be massive for good, hard-working landlords and tenants who are struggling.

Bradley Whitney  
Nashua

**Lovering, Susan**

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**From:** Bob <rhkkeating@yahoo.com>  
**Sent:** Monday, June 13, 2016 10:26 PM  
**To:** Lovering, Susan  
**Subject:** in support of 0-16-003 Adm. Enf. Ordinance

To the Nashua Board of Aldermen,

My name is Bob Keating. I live in Nashua at 5 Coburn Woods. As I am not able to attend tomorrow night's meeting, I wanted to write to all of you to ask for your support of adopting 0-16-003, Administrative Enforcement of Ordinances. The ordinance gives a much needed tool for increasing compliance in the cases where repeated attempts to get needed repairs completed have not occurred. As you are aware, the state legislature has enabled this kind of ordinance to be implemented and we should take this opportunity to enact this ordinance so as to assist the work of the code enforcement officers in getting needed repairs done.

I believe there has been sufficient time to get input from all parties. My wife Hilary and I volunteer with Granite State Organizing Project in its work on safe housing and this, along with our experience as owners of rental property for over 30 years, have helped shape our viewpoint. Thanks for your consideration of supporting adoption of this new ordinance.

Sincerely,  
Bob Keating

Sent from [Mail](#) for Windows 10

From: James B. and Mary E. Cutter  
86 Palm St., P.O. Box 69-Nashua, NH 03061 Ph. 889-4246  
Date: June 14, 2016  
To: Alderman-At-Large Brian S. McCarthy, President  
Cc: Jim Donchess, Mayor, Steve Bolton, Corporaion Counsel,  
Thomas Lopez, Alderman, Ward 4.  
Subject: 1949 Plat Plan error at 88 Palm Street.

Dear Alderman McCarthy,

You have heard me talk many times about the City error that gave a large part of our driveway/clothesline area to the Gilbertsons. We would like it very much if the Board of Aldermen helped us.

But, as far as I know, it appears to be easier if Mayor Donchess helped because an ordinance would not be needed. I have found in Section 45 of the City Charter, the Mayor 'shall enforce the ordinances of the city.'

Enclosed is a copy of, '1949 Plat Plan Error at 88 Palm Street.' for Mayor Donchess.

Sincerely,

